Kern Water Bank Authority Conservation and Storage Project Environmental Impact Report

Prepared for:

Kern Water Bank Authority

Prepared by:

ICF

SCH #2012021041

November 2018

KERN WATER BANK AUTHORITY CONSERVATION AND STORAGE PROJECT ENVIRONMENTAL IMPACT REPORT

SCH # 2012021041

PREPARED FOR:

Kern Water Bank Authority
1620 Mill Rock Way, Suite 500
Bakersfield, CA 93311
Contact: Jon Parker
661.398.4900

PREPARED BY:

ICF
630 K Street, Suite 400
Sacramento, CA 95814
Contact: Brad Norton
916.736.3000

November 2018

ICF. 2018. *Kern Water Bank Authority Conservation and Storage Project Environmental Impact Report*. November. (ICF 00145.12.) Sacramento, CA. Prepared for Kern Water Bank Authority, Bakersfield, CA.

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Acronyms and Abbreviations

AF	acre-feet
AFY	acre-feet per year
Bakersfield	City of Bakersfield
Cawelo	Cawelo Water District
CCR	California Code of Regulations
CEQA	California Environmental Quality Act
cfs	cubic feet per second
CVC	KWB Canal
CVP	Central Valley Project
DBCP	dibromochloropropane
Declaration	Fully Appropriated Stream Declaration
DWR	Department of Water Resources
DWR KWB Model	DWR Kern Water Bank Model
EDB	ethylene dibromide
EIR	Environmental Impact Report
EPA	U.S. Environmental Protection Agency
ESA	federal Endangered Species Act
Flood Policy	Policy Re-Utilization of Isabella Lake Reservoir Flood Releases
GHG	greenhouse gas
GSA	groundwater sustainability agency
GSP	groundwater sustainability plan
HCP/NCCP	Habitat Conservation Plan/Natural Community Conservation Plan
ID4	Kern County Water Agency Improvement District No. 4
Interim Plan	Rosedale Projects
Intertie	Kern River–California Aqueduct Intertie
IS/NOP	initial study and notice of preparation
Joint Plan	Project Recovery Operations Plan Regarding Pioneer Project, Rosedale-Rio Bravo Water Storage District, and Kern Water Bank Authority Projects
KCWA	Kern County Water Agency
Kern Flow Program	Kern River Flow and Municipal Water Program
Kern Flow Program EIR	2012 Bakersfield Kern Flow and Muncipal Water Program EIR
KWB	Kern Water Bank
KWBA	Kern Water Bank Authority
Long-Term Operations Plan	Long-Term Project Recovery Operations Plan Regarding Kern Water Bank Authority Project
M&I	municipal and industrial
MBHCP	Metropolitan Bakersfield Habitat Conservation Plan
MCL	maximum contaminant level

mg/L	milligrams per liter
MOU	memorandum of understanding
NOP	Notice of Preparation
PCL v. DWR	Planning and Conservation League v. Department of Water Resources
POUs	places of use
project	Kern Water Bank Conservation and Storage Project
REIR	Monterey Plus Revised EIR
Rosedale	Rosedale-Rio Bravo Water Storage District
SGMA	Sustainable Groundwater Management Act
SJVAB	San Joaquin Valley Air Basin
State Water Board	State Water Resources Control Board
study area	biological study area
SWP	State Water Project
TDS	total dissolved solids
Tehachapi	Tehachapi Cummings County Water District
USACE	U.S. Army Corps of Engineers
UWMP	Urban Water Management Plan
µg/L	micrograms per liter

Chapter 1
Introduction

This document, together with the draft EIR for the Kern Water Bank Authority Conservation and Storage Project circulated in January and February 2018, constitutes the final Environmental Impact Report (EIR) for the Kern Water Bank Conservation and Storage Project. This final EIR has been prepared pursuant to the California Environmental Quality Act (CEQA) and the State CEQA Guidelines (14 California Code of Regulations 15000 et seq.). CEQA requires that state and local government agencies consider the environmental consequences of projects over which they have discretionary authority before taking action on those projects (California Public Resources Code 21000 et seq.). This final EIR addresses the environmental effects of the Kern Water Bank Authority Conservation and Storage Project, a water diversion, storage, and recovery project proposed for the Kern Water Bank (KWB). In September 2007, the Kern Water Bank Authority (KWBA), on behalf of five of its six member entities (Dudley Ridge Water District, Semitropic Water Storage District, Tejon-Castac Water District, Westside Mutual Water Company, and Wheeler Ridge-Maricopa Water Storage District [the KWBA participating members]), filed a water right application (Application 31676) with the State Water Board to appropriate and store up to a maximum of 500,000 acre-feet per year (AFY) of water from the Kern River to the KWB only in high-flow years when unappropriated surplus water is available. Appropriated water will serve beneficial uses, including irrigation, municipal and industrial (M&I) uses, underground storage, and fish and wildlife habitat enhancement.

1.1 Purpose and Format of Final EIR

An EIR is an informational document used in state, regional, and local planning and decision-making processes to meet the requirements of CEQA. The purpose of an EIR is to analyze the environmental impacts of the proposed project, indicate ways to reduce or avoid potential environmental damage resulting from the proposed project, and to identify feasible alternatives. CEQA requires that each public agency mitigate or avoid the significant environmental effects of projects it approves or implements, whenever feasible. It is not the purpose of the EIR to recommend either approval or denial of a project. The EIR must disclose environmental effects, including those that cannot be avoided; growth-inducing effects; effects found not to be significant; and significant cumulative impacts of all past, present, and reasonably anticipated future projects. This final EIR has been prepared to meet the requirements of CEQA and the State CEQA Guidelines. As such, it will serve as a decision-making aid for the KWBA's consideration of the proposed project, Water Right Application 31676. In addition, as a state responsible agency, the State Water Resources Control Board (State Water Board) may choose to use this EIR to inform decisions related to KWBA's Water Right Application No. 31676.

To meet the requirements of CEQA and the State CEQA Guidelines, the final EIR incorporates the draft EIR, which was circulated separately in January and February 2018, by reference, and includes the public and agency comments received during the public review period on the draft EIR, as well as responses to those comments, and edits and clarifications to the draft EIR text as outlined below. Copies of the draft EIR and final EIR are available for viewing at the KWBA website (http://www.kwb.org/). Copies of the draft and final EIR documents are also available for viewing

during normal business hours (8:30 a.m. to 5 p.m.), Monday through Friday, at the KWBA office, located at 1620 Mill Rock Way, Suite 500, Bakersfield, CA 93311.

1.2 Opportunities for Public Involvement

CEQA does not require formal hearings at any stage of the environmental review process (State CEQA Guidelines Section 15202[a]). However, it does encourage "wide public involvement, formal and informal … in order to receive and evaluate public reactions to environmental issues" (State CEQA Guidelines Section 15201). CEQA requires the lead agency for a proposed project, after completion of a draft EIR, to consult with and obtain comments from public agencies with legal jurisdiction governing a proposed project and to provide the general public with the opportunity to comment on the draft EIR. Public involvement in this project's CEQA process was achieved as described below.

1.2.1 Notice of Preparation and Public Scoping Meeting

KWBA, as lead agency, prepared and circulated an initial study and notice of preparation (IS/NOP) of a draft EIR (SCH #2012021041) for the proposed project on February 16, 2012. The IS/NOP was distributed for a 30-day comment period that ended on March 22, 2012. In addition, KWBA held a public scoping meeting on February 28, 2012, to solicit input on the scope and focus of the EIR. Comments received on the IS/NOP and during the public scoping meeting were considered in the preparation of the EIR.

1.2.2 Draft EIR Public Review and Meeting

KWBA prepared and circulated a draft EIR incorporating public and agency responses to the NOP. The draft EIR was circulated for review and comment by appropriate agencies, as well as organizations and individuals who have requested notification, for a 45-day period, from January 12, 2018, to February 26, 2018. KWBA held a public meeting at the KWBA office on January 31, 2018, to obtain public, organization, and agency comments on the draft EIR. No agencies, organizations, or individuals attended the meeting and therefore no verbal comments on the draft EIR were received. The written comments received during the draft EIR public review period are included in this final EIR.

1.3 Contents and Organization of the Final EIR

Under CEQA and the State CEQA Guidelines, the lead agency is also required to respond to significant environmental points raised during the review and consultation process. The contents and organization of this final EIR are intended to meet the requirements of CEQA and the State CEQA Guidelines (Section 15132), which require a final EIR to consist of a revision of the draft EIR; comments and recommendations received on the draft EIR; a list of persons, organizations, and

public agencies commenting on the draft EIR; and the responses of the lead agency to significant environmental points raised in the review and consultation process.

This final EIR includes the following chapters.

- Chapter 1, *Introduction*, describes the intent of the final EIR, summarizes the opportunities for public involvement to date, and outlines the contents of the final EIR.
- Chapter 2, *Comments*, provides the written comments of all agencies, organizations, and individuals that commented on the draft EIR. Each comment letter is presented with brackets that divide it into individual, numbered comments. Each letter is labeled according to the type of commenter (agency, organization, or individual), followed by the letter number and comment number. For example, comments in the first agency letter are numbered A1-1, A1-2, A1-3, and so on.
- Chapter 3, *Responses to Comments*, presents the written responses to all written comments reproduced in Chapter 2. Responses are grouped by comment letter and number, corresponding to the numbering system used in Chapter 2. If the topic of one response relates closely to another, the text provides the reader with a cross-reference to the relevant comments and responses.
- Chapter 4, *Draft EIR Errata*, contains changes made to the text of the draft EIR in response to comments received during the public review period, or for purposes of clarification or correction. Changes to the draft EIR text are shown typographically by means of ~~strikethrough~~ of text that has been deleted and <u>underlining</u> of new text that has been inserted. The revisions contain clarifications and corrections that have been identified, either through public comments or by KWBA, since publication of the draft EIR. The text revisions do not result in substantive changes to either the analyses or conclusions presented in the draft EIR.

Chapter 2
Comments

This chapter provides the written comments of all agencies and organizations that commented on the draft Environmental Impact Report (EIR). During the public review period for the project, January 12, 2018, to February 26, 2018, the Kern Water Bank Authority (KWBA) received a total of 7 comment letters from agencies and organizations. KWBA received no comments on the draft EIR from individuals. A public meeting was held on January 31, 2018, to solicit comments on the draft EIR; no comments were received at that meeting because no agencies, organizations, or individuals attended the meeting.

In accordance with Section 15088 of the State CEQA Guidelines, KWBA has evaluated the comments received on the draft EIR for the Kern Water Bank Authority Conservation and Storage Project, and has prepared written responses to these comments. This chapter contains copies of the comments received during the public review process, with each letter and comment numbered as follows. Each commenter was assigned a category: A for agency and O for organization. Each commenter was then assigned a number, in chronological order. For example, the first agency letter is A1 and the second agency letter is A2, the first organization letter is O1 and the second organization letter is O2. Within each letter, the comments are delineated and numbered sequentially, with the first comment in letter A1 being numbered A1-1, followed by comments A1-2, A1-3, and so on. Likewise, the comments in letter A2 begin with A2-1 and proceed in numerical order.

Chapter 3, *Responses to Comments*, provides the KWBA's written responses, following the same numbering pattern, to each of the comments shown in this chapter.

2.1 List of Agencies and Organizations Commenting on the Draft EIR

KWBA received comments on the draft EIR from the following agencies and organizations. Each commenter is listed below, along with its assigned letter number, which corresponds to the comment letters in this chapter and to the responses to comments provided in Chapter 3.

Table 2-1. Comments Received on the Draft EIR

Letter Number	Commenter	Date Received
Agencies		
A1	Central Valley Flood Protection Board	February 20, 2018
A2	California Department of Conservation, Division of Oil, Gas, and Geothermal Resources, Inland District	February 23, 2018
A3	State Water Resources Control Board	February 26, 2018
A4	City of Bakersfield	February 26, 2018

Letter Number	Commenter	Date Received
Organizations		
O1	Rosedale-Rio Bravo Water Storage District	February 26, 2018
O2	Kern Fan Authority	February 26, 2018
O3	North Kern Water Storage District	February 26, 2018

2.2 Written Comments

KWBA received the following written comments on the draft EIR for the Kern Water Bank Authority Conservation and Storage Project.

2.2.1 Letter A1 Central Valley Flood Protection Board

RECEIVED
FEB 2 0 2018

STATE OF CALIFORNIA – CALIFORNIA NATURAL RESOURCES AGENCY EDMUND G. BROWN JR., GOVERNOR

CENTRAL VALLEY FLOOD PROTECTION BOARD
3310 El Camino Ave., Ste. 170
SACRAMENTO, CA 95821
(916) 574-0609 FAX: (916) 574-0682

January 30, 2018

Letter A1

Mr. Jonathan Parker
Kern Water Bank Authority
1620 Mill Rock Way, Suite 500
Bakersfield, California 93309

Subject: Kern Water Bank Authority Conservation and Storage Project, Draft Environmental Impact Report, SCH Number: 2012021041

Location: Kern Water Bank Authority

Dear Mr. Parker,

Central Valley Flood Protection Board (Board) staff has reviewed the subject document and provides the following comments:

The proposed project is within the Kern River, a regulated stream under Board jurisdiction, and may require a Board permit prior to construction. A1-1

The Board's jurisdiction covers the entire Central Valley including all tributaries and distributaries of the Sacramento and San Joaquin Rivers, and the Tulare and Buena Vista basins south of the San Joaquin River.

Under authorities granted by California Water Code and Public Resources Code statutes, the Board enforces its Title 23, California Code of Regulations (Title 23) for the construction, maintenance, and protection of adopted plans of flood control, including the federal-State facilities of the State Plan of Flood Control, regulated streams, and designated floodways. A1-2

Pursuant to Title 23, Section 6 a Board permit is required prior to working within the Board's jurisdiction for the placement, construction, reconstruction, removal, or abandonment of any landscaping, culvert, bridge, conduit, fence, projection, fill, embankment, building, structure, obstruction, encroachment, excavation, the planting, or removal of vegetation, and any repair or maintenance that involves cutting into the levee.

Permits may also be required to bring existing works that predate permitting into compliance with Title 23, or where it is necessary to establish the conditions normally imposed by permitting. The circumstances include those where responsibility for the works has not been clearly established or ownership and use have been revised. A1-3

Mr. Jonathan Parker
January 30, 2018
Page 2 of 2

Other federal (including U.S. Army Corps of Engineers Section 10 and 404 regulatory permits), State and local agency permits may be required and are the applicant's responsibility to obtain. A1-3 cont'd

Board permit applications and Title 23 regulations are available on our website at http://www.cvfpb.ca.gov/. Maps of the Board's jurisdiction are also available from the California Department of Water Resources website at http://gis.bam.water.ca.gov/bam/. A1-4

Please contact James Herota at (916) 574-0651, or via email at James.Herota@CVFlood.ca.gov if you have any questions.

Sincerely,

Andrea Buckley
Environmental Services and Land Management Branch Chief

cc: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

2.2.2 Letter A2 California Department of Conservation, Division of Oil, Gas, and Geothermal Resources, Inland District

State of California • Natural Resources Agency
Edmund G. Brown Jr., *Governor*
Department of Conservation
Division of Oil, Gas, and Geothermal Resources
Inland District
4800 Stockdale Highway • Suite 100
Bakersfield, CA 93309
(661) 322-4031 • FAX (661) 861-0279

Letter A2

February 23, 2018

Mr. Jonathan Parker
Kern Water Bank Authority
1620 Mill Rock Way, Suite 500
Bakersfield, CA 93311

Subject: Kern Water Bank Authority Conservation and Storage Project
SCH# 2012021041

Dear Mr. Parker:

The Department of Conservation, Division of Oil, Gas, and Geothermal Resources (Division) regulates oil and gas production facilities in addition to supervising the drilling, maintenance, and plugging and abandonment of oil, gas, and geothermal wells in California. The Division has received and reviewed the above Environmental Impact Report and submits the following evaluation.

The project is located in Kern County, outside of and covering portions of the Canal, Canfield Ranch, Coles Levee, North, Strand, and Ten Section oil fields. Division records indicate there are **two hundred thirteen known** abandoned, **nineteen** idle, and **thirty-three** active oil and gas wells within the Kern Water Bank Authority's property boundaries. Production facilities are also within the property boundaries. Flowlines are present. As the notice indicates no specific construction or ground disturbance is proposed, further review of these wells will be done upon request. All oil and gas well operations are subject to the Division's well permitting process, and all oil and gas operations must abide by any pertinent Division statute or regulation. A2-1

If during project operations, any unknown wells are encountered the project developer or property owner shall immediately notify the Division's Inland District office for consultation. Remedial plugging and abandonment operations may be required. A2-2

Thank you for the opportunity to comment on this project. Should any questions arise, please contact me in the Bakersfield district office at **(661) 334-3662**.

Sincerely,

Michael Toland
Senior Oil and Gas Engineer
Environmental Unit Supervisor

2.2.3 Letter A3 State Water Resources Control Board

State Water Resources Control Board **Letter A3**

FEB 26 2018

In Reply Refer to:
MSM:A031676

Kern Water Bank Authority
Attn: Jon Parker
jparker@kwb.org

Dear Mr. Parker:

COMMENTS TO THE DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE KERN WATER BANK AUTHORITY CONSERVATION AND STORAGE PROJECT (SCH 2012021041) OF KERN WATER BANK AUTHORITY IN KERN COUNTY

The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) appreciates the opportunity to comment, as a responsible agency, on the draft Environmental Impact Report (EIR) circulated for the Conservation and Storage Project (Project) proposed by the Kern Water Bank Authority (Authority). The Project proposes the direct diversion or diversion to storage of up to 500,000 acre feet of Kern River water per year for irrigation, municipal, industrial, and fish and wildlife habitat enhancement uses.

On August 26, 2007, the Authority filed water right application A031676 in support of the Project. The State Water Board is a California Environmental Quality Act responsible agency for purposes of considering whether to approve the application, therefore the State Water Board must consider the final EIR, and any other relevant evidence in the record, and reach its own conclusions on whether and how to approve the Project. A thorough environmental analysis with appropriate mitigation and monitoring is an important part of the process; however additional hydrologic analyses and other considerations may be required before the State Water Board can make a decision regarding water right Application A031676. A3-1 A3-2

If you have any questions, please contact Mitchell Moody at (916) 341-5383 or mitchell.moody@waterboards.ca.gov. Written correspondence or inquiries should be addressed as follows: State Water Resources Control Board, Division of Water Rights, Attn: Mitchell Moody, P.O. Box 2000, Sacramento, CA, 95812-2000.

Sincerely,

ORIGINAL SIGNED BY:

Matt McCarthy, Senior
Coastal Lahontan Permitting Unit
Division of Water Rights

cc: See next page.

ec: Kern Water Bank Authority
c/o Downey Brand LLP
Attn Kein O'Brien
kobrien@downeybrand.com

Samuel Boland-Brien
State Water Resources Control Board
samuel.boland-brien@waterboards.ca.gov

Nichole Morgan
Central Valley Regional Water Quality Control Board
nichole.morgan@waterboards.ca.gov

Annette Tenneboe
California Department of Fish and Wildlife
annette.tenneboe@wildlife.ca.gov

2.2.4 Letter A4 City of Bakersfield

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ALLIANCES IN MEXICO AND SRI LANKA

Letter A4

February 26, 2018

VIA E-MAIL

Jonathan Parker
General Manager
Kern Water Bank Authority
Suite 500
1620 Mill Rock Way
Bakersfield CA 93309
jparker@kwb.org

Re: City of Bakersfield's Comments to Kern Water Bank Authority's Environmental Impact Report for "Kern Water Bank Conservation and Storage Project"

Dear Mr. Parker:

I am outside water counsel for the City of Bakersfield (hereinafter "City" or "Bakersfield"). On behalf of Bakersfield, I submit the following comments to the Kern Water Bank Authority's ("KWBA") January, 2018, Environmental Impact Report ("EIR") for the "Kern Water Bank Authority Conservation and Storage Project" ("Project").

Bakersfield previously submitted comments on March 22, 2012 regarding the Notice of Preparation ("NOP") issued by KWBA for the EIR. As stated in the City's comments on the NOP, the City supports many of the objectives of the Project, including, in particular, increased quantities of water flowing in the Kern River channel. The City agrees with KWBA's determination that increased flows of water in the Kern River will provide multiple benefits to the region, including increasing groundwater recharge, enhancing riverine and wetland ecology and habitats, improving water quality, and improving the aesthetic quality of the River. The City also supports efforts by local water districts to secure and provide an efficient, reliable and environmentally sound water supply. A4-1

DUANE MORRIS LLP
SPEAR TOWER, ONE MARKET PLAZA, SUITE 2200
SAN FRANCISCO, CA 94105-1127
PHONE: +1 415 957 3000 FAX: +1 415 957 3001

Bakersfield has a high level of interest in the Project, and the potential impacts of the Project, based on the City's role as the operator and record keeper on the Kern River within the First Point service area. The City also holds historic pre-1914 appropriative water rights on the Kern River, which rights would be significantly impacted by the Project. A4-2 A4-3

The EIR purports to support and analyze the impacts of KWBA's application to appropriate Kern River water filed with the California State Water Resources Control Board ("SWRCB"). The City, as well as several other local entities, has filed a competing application to appropriate much of the same water sought by KWBA. Bakersfield also recently prepared and certified a programmatic EIR in support of the City's application to appropriate, and the project proposed in connection with the City's application, the Kern River Flow and Municipal Water Project ("KRFMWP"), which would use some of the same water proposed for use in KWBA's Project. A4-4

The City has a number of concerns with and objections to KWBA's application to appropriate. The City expects it will raise those concerns and objections in future proceedings before the SWRCB involving the Kern River. The City therefore reserves its right to raise all appropriate objections to KWBA's application until the proper time and forum. A4-5

The City welcomes the opportunity to provide the following general and specific comments regarding the EIR for KWBA's Project.

1. GENERAL COMMENTS

The fundamental purpose of an EIR is "to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment." (Public Resources Code § 21061.) Full and candid disclosure, and an honest assessment of the environmental consequences of governmental action, is the foundation of the CEQA process. The foremost principle under CEQA is that the Legislature intended the act "to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language." (*Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d 247, 259.) A4-6

EIRs should be organized and written in a manner that will make them "meaningful and useful to decision-makers and to the public." (Public Resources Code §21003(b).) Applying this statutory policy, the CEQA Guidelines require that EIRs be written in plain language. (14 Cal Code Regs §15140.) An EIR must be prepared with a sufficient degree of analysis to provide decision-makers with the information needed to make an intelligent decision concerning a project's environmental consequences. (14 Cal Code Regs § 15151.) An EIR must contain facts and analysis, not just an agency's bare conclusions or opinions. (*Citizens of Goleta Valley v Board of Supervisors* (1990) 52 Cal.3d 553, 568.) A4-7

In sharp contrast to the underlying purpose and principles of CEQA, KWBA has attempted, through the EIR, to obscure and hide the details of the Project, to avoid addressing the actual goals and purpose of the Project, and to avoid or minimize any real analysis of the Project's impact on the environment. It seems apparent that KWBA is proposing to undertake a project that could have a significant impact on the Kern River, the environment and natural resources of Kern County and the southern San Joaquin Valley. KWBA is essentially attempting to undertake this significant project in secret, and to change the use of up to 500,000 acre-feet ("af") of water in an area that has recently experienced significant water shortages, without any meaningful public review or participation. A4-7 (cont.) A4-8

Bakersfield therefore has significant concerns with the EIR. As explained herein, the City maintains that the EIR does not comply with the policy, purpose or specific requirements of CEQA. The entire approach, and scope, of the EIR, is flawed and erroneous, and not in compliance with CEQA. KWBA has erred as a matter of law by failing to comply with basic, essential and necessary CEQA requirements. The EIR also contains a number of errors, omissions, and misstatements, and is misleading and confusing. A4-9 A4-10

At the outset, KWBA fails to provide a clear, complete or accurate description of the Project. The EIR project description focuses almost entirely on just one aspect of the Project, the diversion of up to 500,000 af of Kern River water into the Kern Water Bank ("KWB"), while ignoring the later extraction and use of that water by KWBA's member agencies. The EIR also contains an erroneous, limited description of the Project area, as the EIR improperly fails to include the Kern River corridor, and the service areas for its member agencies, where the water subject to the Project will eventually be used. A4-11 A4-12

In addition to and based in large part on the flawed and incomplete project description, the EIR fails to properly or sufficiently consider the impacts of the Project on the local environment. The EIR focuses only on alleged benefits of diversion of up to 500,000 af of water into the KWB. The EIR, however, does not address or identify impacts associated with later extraction of that water, and more importantly, the use of that water by members of KWBA within their separate districts. A4-13

The EIR accordingly ignores or obscures the fact that the Project will have a significant negative impact on surface water supplies, the critically overdrafted local groundwater basin, the City and other entities that currently use the water subject to use in the Project, and the local environment, including, in particular, the environmentally sensitive Kern River corridor and riparian habitat. The EIR also fails to consider secondary impacts associated with the change in use of up to 500,000 af of Kern River water, including impacts associated with increased pumping, environmental damage and replacement water supplies, in the areas and districts that formerly utilized the up to 500,000 af of water proposed for use in the Project. A4-14 A4-15

The EIR also fails to properly consider reasonable, feasible alternatives for the Project, including the "no project" alternative, fails to properly or sufficiently review cumulative impacts arising from the Project, and fails to provide any meaningful discussion or analysis of mitigation measures and known "areas of controversy." A4-16

The EIR completely fails to serve as an informational document, or as a document which accurately and completely assesses the impacts of the Project on the environment. The EIR instead appears intended to act primarily as an advocacy document, or as a brief to the SWRCB to support and advocate for KWBA's application to appropriate. The EIR violates the principle that "[a]n EIR is not a document of advocacy but of information." (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App 4th 713, 738.) A4-17

Bakersfield is particularly concerned with KWBA's failure to comply with CEQA in connection with the EIR because of KWBA's recent efforts to avoid CEQA review for its overall water banking project. In recent litigation, the Superior Court for Sacramento County found that an EIR prepared for the KWB by the California Department of Water Resources ("DWR"), in conjunction with KWBA, violated CEQA. (See *Rosedale-Rio Bravo Water Storage District v. California Department of Water Resources*, Sacramento Superior Court Case No. 34-2010-80000703; *Central Delta Water Agency v. California Department of Water Resources*, Sacramento County Superior Court Case No. 34-2010-80000561.) A4-18

In the *Rosedale* action, the Superior Court found that the EIR for the KWB "fails to adequately describe, analyze and (as appropriate) mitigate the potential impacts of the Project associated with the anticipated use and operation of the Kern Water Bank, particularly as to potential groundwater and water quality impacts. The failure to include relevant information regarding Kern Water Bank operations precluded informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process." (Ruling on Submitted Matter, March 5, 2014, p. 18.)

The EIR for the current Project is similarly deficient, and fails to comply with CEQA in the same manner. As with the EIR for the KWB, the EIR for the Project once more fails to adequately describe, analyze and mitigate the potential impacts of the Project. The failure to include relevant information regarding the Project precludes and thwarts informed decision making and public participation.

A February 5, 2018 article in KCET's online magazine, moreover, described the Kern Water Bank as "the most controversial water storage project to date" in the State of California. (See *The Trouble with Cadiz*, by Kim Stringfellow and Julia Sizek, KCET, 2/5/18, https://www.kcet.org/shows/artbound/the-trouble-with-cadiz.) KWBA has further perpetuated that controversy by preparing a woefully deficient, invalid and deceptive EIR for the Project. A4-19

DuaneMorris

2. PROJECT DESCRIPTION

A. The Project Description is Incomplete and Misleading

The EIR fails to provide a clear, complete or accurate description of the Project. The description and characterization of the Project in the EIR is incomplete, inconsistent, and not in compliance with CEQA requirements, principles, and policies. A4-20

The EIR utilizes a very brief, incomplete description of the Project which omits important features and components of the Project. The EIR fails to identify or describe significant, necessary, and critical details regarding the Project. Most importantly, the EIR fails to provide sufficient information regarding the storage, extraction and eventual use of the 500,000 af water that would be diverted by the KWBA from the Kern River in connection with the Project. The EIR fails as an informational document, as it fails to inform the public of important details of the Project. As described herein, the EIR consequently fails to properly or sufficiently review the impacts of the Project, and the components of the Project, on the local environment, based on its incomplete and misleading description of the Project.

The EIR states that the Project "is to directly divert up to 500,000 AF of water per year from the Kern River for recharge and storage within the KWB through existing diversion works and recharge facilities located on the KWB lands, and/or to deliver water directly to KWBA's participating members' service areas via the KWB Canal or Cross Valley Canal (CVC)." (p. 2-6.) That description is misleading and incomplete, as the description only refers to the diversion, storage and transportation of up to 500,000 af of Kern River water. The EIR makes it very clear, however, that the Project will also involve the extraction and pumping of the 500,000 af of Kern River water from groundwater storage and the use of that water supply by KWBA's member agencies within their districts, and within neighboring districts.

The EIR states, for example, that "[t]he water stored within the KWB would ultimately be recovered using existing electric pumps and put to reasonable and beneficial uses primarily irrigation uses by KWBA's participating members." (p. 2-6.) The EIR later states: "This EIR evaluates the environmental impacts of diversion of up to 500,000 AF of Kern River water for recharge, storage, and **recovery** for participating member entities' **use**." (Id., emphasis added.)

The EIR therefore indicates that the Project actually involves (1) the diversion of 500,000 af of water from the Kern River, (2) the storage of that water within the KWB, (3) the extraction and pumping of that water from storage, (4) the transport of that water to KWBA's member agencies, and (5) the use of that water by the KWBA member agencies within their districts. The Project Description, however, only refers to and discusses three of those five Project components: the diversion, storage and transportation of that water. The Project Description ignores and fails to r discuss the remaining components of the Project: The extraction and pumping of the water from storage, and the use of the water by KWBA's member agencies. A4-21

KWBA's failure to identify and discuss two of the five primary components of the Project does not comply with basic, important CEQA requirements. The entire project being proposed for approval (and not some smaller aspect of it) must be described in an EIR. This requirement reflects the CEQA Guidelines' definition of a "project" as "the whole of an action" that may result in either a direct physical environmental change or a reasonably foreseeable indirect change. (14 Cal Code Regs § 15378. See *Habitat & Watershed Caretakers v City of Santa Cruz* (2013) 213 Cal.App.4th 1277, 1297; *Banning Ranch Conservancy v City of Newport Beach* (2012) 211 Cal.App.4th 1209, 1220.)

An accurate, finite project description "is indispensable to an informative, legally adequate EIR." (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192.) Without an accurate description on which to base the EIR's analysis, CEQA's objective of furthering public disclosure and informed environmental decision making are stymied. "An accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed project." (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus*, 27 Cal.App.4th at 730.)

A4-21 (cont.)

A complete project description is necessary to ensure that all of the project's environmental impacts are considered. (*City of Santee v County of San Diego* (1989) 214 Cal.App.3d 1438, 1454.) An accurate and stable project description is necessary so that the lead agency and the public have enough information to "ascertain the project's environmentally significant effects, assess ways of mitigating them, and consider project alternatives." (*Sierra Club v. City of Orange* (2008) 163 Cal.App.4th 523, 533; *Save Round Valley Alliance v County of Inyo* (2007) 157 Cal.App.4th 1437, 1448.)

A project description in an EIR must therefore include all relevant parts of a project, including reasonably foreseeable future expansion or other activities that are part of the project. (*Laurel Heights Improvement Association v. Regents of University of California* (1988) 47 Cal.3d 376, 396.) A lead agency may not split a single large project into small pieces so as to avoid environmental review of the entire project. (*Orinda Association v. Board of Supervisors* (1986) 182 Cal.App.3d 1145, 1171.) Instead, an EIR must examine all components necessary to a project, including those that will have to be approved by another agency. (*Riverwatch v. County of San Diego* (1999) 76 Cal.App.4th 1428.)

A4-22

If a project description is incomplete or inadequate, the environmental analysis will necessarily be incomplete and inadequate. (*Laurel Heights Improvement Association*, 47 Cal.3d at 399-400; *San Joaquin Raptor/Wildlife Rescue Center*, 27 Cal.App.4th at 729.) In *County of Amador v. El Dorado County* (1999) 76 Cal.App.4th 931, for example, the court found that an EIR for a water supply project was deficient for not providing information on historic water release schedules from storage lakes, so that parties could determine if the project would alter the historic "baseline" pattern of water releases. An accurate and complete description of a project is required under CEQA to allow for "an intelligent evaluation of the potential environmental

A4-23

effects of a proposed activity." (*See also McQueen v. Board of Directors* (1988) 202 Cal.App.3d 1136, 1143, in which the court stated that the term "project" under CEQA "is given a broad interpretation in order to maximize protection of the environment.")

An EIR that omits integral components of the project is deficient since it prevents a disclosure and review of the actual impacts of a project. (*Cadiz Land Co. v. Rail Cycle, L.P.* (2000) 83 Cal.App.4th 74, finding an EIR failed to provide a sufficient description of the environmental setting of a project because it failed to "discuss the volume of water contained in an aquifer or the size of the aquifer," as knowledge of the volume of groundwater that might be affected by the project is "crucial" to determining whether and when the project might deplete groundwater resources; *Santiago County Water Dist. v. County of Orange* (1981) 118 Cal.App.3d. 818, 829, finding a project description for a sand and gravel mine inadequate under CEQA for omitting mention and discussion of water pipelines that would serve the project.)

A4-23 (cont.)

If the description is inadequate because it fails to discuss the entire project, the environmental analysis will probably reflect the same mistake. (*See Laurel Heights Improvement Ass'n v Regents of Univ. of Cal., supra* (EIR failed to describe or analyze project accurately).) Similarly, in *Communities for a Better Environment v City of Richmond* (2010) 184 Cal.App.4th 70, 80, an EIR contained conflicting statements about whether an oil refinery equipment upgrade and replacement project would substantially increase the production of higher-sulfur crude oil types at the refinery. The court held that, as a result, the EIR failed to provide an accurate analysis of project impacts. (*See also San Joaquin Raptor/Wildlife Rescue Ctr. v County of Stanislaus, supra.*)

The incomplete and misleading Project description therefore establishes that the EIR is deficient both as a public informational document, and as a document that reviews the impacts of the Project on the environment. Bakersfield can only conclude that KWBA is attempting to hide and obscure the actual components and details of the Project from the public, in direct violation of the requirements and principles of CEQA. It additionally appears that KWBA has utilized an incomplete and misleading Project description to justify its decision to avoid reviewing all of the significant impacts of the Project.

A4-24

Even the title of the Project (the "Conservation and Storage Project") is misleading. The EIR does not indicate that any part of the Project involves or calls for conservation of water resources. The EIR does not identify or discuss any conservation measures associated with or as part of the Project. The Project objectives additionally do not mention or refer to conservation, or any conservation measures. Conversely, the title of the Project does not reflect the primary component of the Project, involving KWBA's application to appropriate, and its proposed diversion and change in use of up to 500,000 af of Kern River water.

A4-25

The EIR does not contemplate or propose any additional, more specific CEQA review for the remaining components of the Project, involving the extraction and use of the 500,000 af of

A4-26

water proposed for use in the Project. The EIR instead states "this EIR is a standalone EIR that evaluates all physical changes in the environment that might occur as a result of this project and the State Water Board's approval of KWBA's appropriative water right Application 31676." (p. 2-3.) Because KWBA does not propose or contemplate any CEQA review for the extraction of water stored pursuant to the project, or the eventual end use of that water by participating member districts, KWBA all but admits it has failed to consider the impacts of those elements of the Project on the environment, and that it does not intend to undertake such review. A4-26 (cont.)

B. The Project Description in the EIR Fails to Describe or Include Critical, Important Information Regarding the Project A4-27

In addition to utilizing an incomplete and misleading Project description, the EIR omits and fails to disclose or discuss important, necessary information regarding the Project, and the components of the Project.

(i) Failure to identify proposed use of water from the Project

Most importantly, the EIR fails to describe and discuss the proposed use of the 500,000 af of water by KWBA's member agencies. The EIR, in fact, only briefly mentions KWBA's member agencies (Dudley Ridge Water District, Semitropic Water Storage District, Tejon-Castaic Water District, Westside Mutual Water Company, and Wheeler Ridge-Maricopa Water Storage District.), in passing, in the EIR. The EIR does not provide any material details regarding those water districts. The EIR does not identify the crops grown within the member districts, the current water supplies serving those districts, groundwater conditions within the districts, or other details regarding the use of water within the districts. A4-28

The EIR also fails to provide sufficient information and details regarding the use of water diverted pursuant to the Project by the KWBA member districts. The EIR only provides very general, broad information with regard to the use of water by the districts. The EIR states: "the purpose of use for the appropriated water would include groundwater storage for municipal, industrial, irrigation and water quality uses and direct diversion for municipal, industrial, and irrigation uses." (p. 2-10.) The EIR further states: "Although the participating members' service areas support a wide variety of crops (e.g., alfalfa, cotton, fruits, grain/pasture, grapes, nursery, nuts, and vegetables), primarily in Kern County, high-value perennial tree crops predominate in the service areas." (Id.) A4-29

The EIR fails to provide any further information regarding the member districts, or the intended use of water diverted through the Project by the districts. The EIR does not indicate how much water will be sent to each member agency, how water will be allocated to those agencies, or how the water will be used within each agency. The EIR does not indicate which crops the water will be applied to within the districts, and how and why the water will be used in connection with those crops. The EIR does not identify or discuss which crops are grown within

each district, the water supplies that currently irrigate those crops, and how the shift to water diverted pursuant to the Project will change the use of that water supply. Absent that information, it is impossible for the EIR to properly identify and consider impacts associated with the use of the water. A4-29 (cont.)

The EIR later states: "A portion of the stored water would also be used for municipal and industrial uses; one of the participating members would supply developments in southern Kern County, and all of the member entities, including the participating members, would continue to provide a back-up supply to a power plant in southern Kern County." (p. 2-10.) That sentence is particularly problematic, and contrary to the purpose and intent of CEQA.

Bakersfield does not understand why the EIR only refers to the proposed use of the water by "one of the participating members," as well as a reference to the use of "a portion" of the water, without disclosing the identity of that participating member, or any further information regarding the quantity of water from the Project that will be used for municipal and industrial purposes. Why would the EIR avoid disclosing the identity of the participating member? In addition, the EIR should have identified the "developments in southern Kern County" that would use the water, as well as the "power plant in southern Kern County" that would obtain and utilize some of the water. The EIR also fails to disclose the quantities of water that would be used for developments in Kern County, and the unnamed power plant, or the timing, extent and circumstances that would result in the use of Project water for those purposes. A4-30

The EIR further states: "Kern River water can also be rediverted into the California Aqueduct via the KWB Canal and Cross Valley Canal and then delivered either directly to KWBA participating members through California Aqueduct turnouts or by exchange (Figure 2-4). The purpose of use for these diversions would be the same: municipal, industrial, and irrigation uses." (p. 2-10.) Once again, the EIR fails to provide specific, necessary details regarding the use of the water diverted pursuant to the Project. The EIR does not identify how, why, when and in what quantities water will be diverted into the California Aqueduct. The EIR also does not provide any information regarding the "exchanges" that might facilitate the delivery of the water to member agencies. The EIR further fails to identify how much water will be used for each of the identified uses. The EIR also fails to identify the specific intended uses of the water by each member agency, the purpose of the use, and the quantity of water used by each member district. A4-31 A4-32 A4-33

The EIR also generally states that the Project will result in instream benefits to vegetation and wildlife, without providing any specific details or information regarding the use of the water for environmental and instream purposes. (p. 2-10.) The EIR does not discuss or disclose how much water will be set aside for environmental and instream uses, where the water will be applied for those uses, and how that water will impact those resources. Without that information the EIR cannot properly or sufficiently analyze the impacts of the Project, and the use of water in connection with the Project. A4-34

(ii) Failure to disclose information regarding extraction of water stored pursuant to the Project.

The EIR also fails to disclose important and necessary information regarding the intended extraction of the 500,000 af of water from groundwater storage. The EIR does not disclose or discuss when the water will be extracted, how it will be extracted, why it will be extracted, and the purpose, or reason, for the extraction of the water. The EIR does not discuss, for example, whether the water will be extracted when requested by the member agencies, or based on some other standard or criteria. It is also not clear if groundwater conditions, including groundwater levels, other pumping in the region, or pumping for other purposes, will impact the extent and timing of the extraction of the water diverted and stored in connection with the Project. A4-35 A4-36

The EIR's failure to discuss the extraction of the water stored in connection with the Project is particularly troubling, and contrary to CEQA, because the Kern Subbasin is currently in a critical state of overdraft. As a result of recent litigation, KWBA's pumping and extraction of water from storage is additionally subject to a number of restrictions and limitations. (See p. 2-13, Appendix C and E.) A4-37

The timing and extent of the extraction of 500,000 af of water from an overdrafted basin could therefore have significant impacts on the environment, including groundwater conditions and water supplies in the region. Without any details regarding the extraction of the water, however, it is impossible to determine or review the potential adverse impacts associated with the extraction of 500,000 af of water from the basin.

(iii) Failure to identify the water proposed for use in the Project

The EIR is also deficient, and not in compliance with CEQA, because it fails to disclose or discuss important details regarding the 500,000 af of water proposed for use in the Project. The EIR discusses when the quantities of water proposed for use in the Project were previously available in the past, but the EIR provides no helpful or relevant information regarding the current use, availability or existence of the 500,000 af of water proposed for use in the Project. A4-38

The EIR does not disclose or discuss the entities that are currently using, or which have historically used, the 500,000 af of water proposed for use in the Project. The EIR does not disclose the current and historical uses of that water supply, and does not disclose the extent, timing, and purpose of the current use of that water supply. The EIR does not disclose how the water is currently diverted, stored or applied to various uses. The EIR does not discuss replacement water supplies that might replace the water transferred to the KWBA, or the availability of such alternate water supplies. The EIR therefore fails to discuss or identify any impacts arising from the transfer of up to 500,000 af of water from the entities that have used, or are currently using the water, to the KWBA and its member agencies. A4-39

It is also not clear from the EIR what particular water supply KWBA proposes to use in the Project. The EIR states: "The EIR does not consider the appropriation of the Kern Delta forfeited water (i.e., the water that is the focus of the City of Bakersfield's *Kern River Flow and Municipal Water Program Final Environmental Impact Report*)." (p. 2-6.) In the very next sentence, however, KWBA states: "The State Water Board has not yet determined whether the Kern Delta water, or other Kern River water, is unappropriated. KWBA may conduct additional CEQA review should the State Water Board (or other entities) decide that other Kern River Water is available for appropriation." (Id.)

A4-40

Those statements are contradictory, and inconsistent. If KWBA's Project does not include or call for the use of Kern River water supplies forfeited by Kern Delta, then there would not be any need to conduct further CEQA review, even if the SWRCB later determines that the water forfeited by Kern Delta is unappropriated water available for appropriation. The EIR should have more accurately stated that the Project **will** utilize Kern Delta's forfeited water supplies **if** the SWRCB determines that the water is available for appropriation. The EIR should have further reviewed all impacts associated with and arising out of the potential use of the forfeited Kern Delta water in the Project. The EIR should have additionally compared and considered the competing applications to appropriate the forfeited Kern Delta water supply, including Bakersfield's application.

The EIR, moreover, fails to sufficiently identify and describe the water supplies referenced in this section, and specifically the distinction, if any, between the "500,000 AF of Kern River floodwater" and the water forfeited by Kern Delta. (p. 2-6.) The EIR does not explain the distinction between those two water supplies, nor does the EIR explain how KWBA, or the SWRCB, will separate or segregate those water supplies. The EIR does not quantify the forfeited Kern Delta water, describe when and how it is available, or identify the current uses of the water. Since the EIR does not explain or describe the difference between those water supplies, the EIR fails as an informational document.

A4-41

(iv) The EIR's characterization of the water supplies for the Project is misleading and inconsistent

The project description is further confusing, and contradictory, because the EIR sometimes claims that the Project does not involve a change in its operations, or an increase in the diversion of water into the KWB, while at other times claiming that the Project involves the additional, increased diversion of up to 500,000 af of water into the KWB.

A4-42

At various places in the EIR, KWBA claims that the Project would only continue current activities by the KWBA. The EIR states, for example, that "the project would result in a State Water Board permit for the continuance of a pre-existing activity through use of existing facilities in contrast to an entirely new activity." (p. 2-1, fn. 1.) The EIR further states that "the diversion amount that would be allowed under the permit would not necessarily represent an

increase in annual diversions relative to diversions that have historically occurred in the project area." (p. 2-8.)

KWBA also states, however, that "This EIR addresses the appropriation of high flow Kern River water that otherwise would have: (1) been diverted to the Intertie, (2) flooded farmlands, or (3) left Kern County." (p. 2-6.) That statement clearly indicates that the water proposed for use in the Project constitutes a new water supply for the KWBA, and its member districts, which otherwise would not have been diverted into the KWB.

A4-42 (cont.)

Throughout the EIR, KWBA additionally addresses and discusses the impact of the appropriation or diversion of up to 500,000 af of Kern River water, which indicates that water diverted pursuant to the Project represents a new, additional, water supply for the KWBA. The EIR states, for example, that "The project would allow KWBA to appropriate water in the Kern River found to be unappropriated water by the State Water Board." (p. 3.6-26.) KWBA further states that water acquired through its application to appropriate for use in the Project would "supplement" KWBA's current water supply. (Id.)

In the section on impacts, KWBA claims: "Under baseline conditions, KWBA has diverted and stored 447,148 AF of water in a single year. The project could, under ideal conditions, increase diversions to 500,000 AF in a single year, which amounts to an increase of 52,852 AF of water (11.8%)." (p. 3.5-7.) That claim is inaccurate and misleading. KWBA admits that most of the water it diverts into its territory is not Kern River water. KWBA states: "In 14 of the 22 years that the KWB has been operational, no water was obtained from the Kern River." (p. 3.6-20.) The most Kern River water that KWBA has diverted into the KWB in a single year was 216,000 acre-feet, in 2017. (Table 3.6-5, p. 3.6-21.)

A4-43

KWBA does not claim that the water it seeks through its application would act as an alternate or replacement water source. Instead, the EIR and the application to appropriate indicate that KWBA seeks to obtain rights to water supplies in addition to its current water supplies. The EIR therefore should have indicated that the Project would increase and add to KWBA's diversion and use of water, so that diversions could total a combined 947,148 in a year, based on the additional diversion of 500,000 af of water, in addition to the baseline diversion of 447,148 af of water in prior years. In other words, the EIR contemplates the possibility that KWBA could divert 447,148 of water from other sources, such as the State Water Project, and the 500,000 af of water from the Kern River, in a single year.

A4-44

It certainly does not appear that the Project would merely continue the current activities and actions by the KWBA. If so, KWBA would not have filed an application to appropriate an additional 500,000 af of water into the KWB in connection with the Project. The potential diversion of 500,000 af of water in a single year in connection with the Project would therefore certainly represent a significant new, increased diversion and use of Kern River water by KWBA.

The claim that the Project merely continues pre-existing actions and activities by KWBA seems largely intended to obscure or avoid addressing impacts from KWBA's increased diversion and use of water, as well as the change in use of up to 500,000 af of Kern River water. By claiming that the diversion of up to 500,000 af of Kern River water would not constitute a new or increased use of water, KWBA apparently seeks to justify and excuse its clear failure to review and consider the impact of the Project on the environment. A4-44 (cont.)

In addition to being inaccurate and misleading, the contradictory, inconsistent statements in the EIR regarding the diversion of 500,000 af of water into the KWB clearly violate CEQA requirements. An EIR's project description, and the accompanying analysis, must be consistent throughout the EIR. If the project description is inconsistent (e.g., if a project is described differently in different sections of the EIR), these shifts prevent the EIR from serving as a vehicle for intelligent public participation in the decision-making process. (*County of Inyo v City of Los Angeles*, 71 Cal.App.3d at 197.) A4-45

An unstable or shifting project description may also indicate that an EIR is attempting to minimize the project's impacts by not discussing reasonably foreseeable aspects of the project. In *San Joaquin Raptor Rescue Ctr. v County of Merced* (2007) 149 Cal.App.4th 645, 655, for example, an EIR for expansion of an existing mine was inadequate because it stated that the expansion would not substantially increase mining production, but elsewhere indicated that production would be substantially higher.

(v) The EIR fails to provide necessary information regarding proposed points of diversion and conveyance facilities for the water used in the Project

The description of "the proposed points of diversion" at pages 2-8 and 2-9, is incomplete, confusing and misleading. The EIR identifies a number of proposed points of diversion without providing necessary and important information regarding the current use of those diversion points, the owners of the diversion points, and KWBA's right and ability, if any, to utilize those diversion points. A4-46

The EIR does not identify the entities that own and currently use the various points of diversion proposed for use for the Project. It is not clear if KWBA or its member agencies own or currently utilize any of the points of diversion. There is no description of the timing, extent, and circumstances surrounding and arising out of the proposed use of those points of diversion. The EIR does not identify the terms, conditions, limits, or parameters for KWBA's use of the points of diversion. That information represents an important component of the Project, yet the EIR provides very little information regarding that portion of the Project. A4-47

The EIR is also deficient for failing to identify the current uses of the various points of diversion, and the impacts associated with the additional use of those points of diversion to divert A4-48

water pursuant to the Project. The EIR does not indicate or explain how much water is diverted at those points, when and how water is diverted, the capacity of the diversion points, or any issues involving rights, access or impacts on the environment arising from the use of the diversion points. A4-48 (cont.)

The EIR further does not indicate which of the many listed points of diversion would be first, or primarily used by the KWBA, or why it would utilize certain points over other points of diversion. Most of the points of diversion are outside of the boundaries of the KWB, but the EIR provides little, if any, information regarding KWBA's ability to use and transport water from the diversion points to the KWB. It is clear, however, that the use of the points of diversion and related facilities would have impacts outside of the boundaries of the KWB, and outside the project, and study, area. The EIR is deficient for failing to identify and review those impacts. A4-49 A4-50 A4-51

The EIR does disclose that at least some of the diversion points are owned and utilized by other entities. The EIR, for example, indicates that KWBA intends to use some of Bakersfield's Kern River facilities (such as the Kern River Canal, and "the City of Bakersfield's 2,800-acre recharge facility's Basin 9 and 10," for diversion and delivery of the 500,000 af of water into the KWB. (p. 2-8.) The EIR, however, does not explain how, when, why and under what circumstances the KWBA could utilize the City's facilities in connection with the Project. The EIR cannot reasonably or practically review the impacts of the Project, including the impacts associated with the use of the various diversion points, without that information. A4-52

To the extent that KWBA and its members do not own or hold rights to use the points of diversion, the EIR is further deficient for failing to identify and review impacts associated with KWBA's acquisition of rights to use the points of diversion, and the KWBA's later use of those points of diversion. A4-53

The EIR similarly fails to provide necessary, important information regarding the canals that would transport the 500,000 af of water into the KWB, including the Kern River Canal East, the Pioneer Canal, the Cross Valley Canal, and the Kern River Canal West. (p. 2-9.) The EIR does not identify the owners of those canals, or the current uses of those canals. The EIR consequently fails to review and consider impacts that would arise as a result of KWBA's use of those canals, including secondary impacts on other water users and entities within Kern County. A4-54

At page 2-9, the EIR states: "Kern River water can also be rediverted into the California Aqueduct via the KWB Canal and Cross Valley Canal, and then delivered either directly to KWBA participating members through California Aqueduct turnouts or by exchange." The EIR, however, fails to provide any further details regarding the potential rediversion of water into the California Aqueduct. The EIR does not describe the amount of water that might be rediverted into the Aqueduct, or the timing, circumstances and reasons for such rediversion. The EIR further fails to identify and consider any impacts that might arise from the rediversion of water A4-55 A4-56

into the Aqueduct, including any impacts that would arise from the end use of that water by entities outside of Kern County. A4-56 (cont.)

(vi) The EIR fails to properly disclose or discuss the place of use for water diverted in connection with the Project.

The description of the "Place of Use" of water proposed for use in the Project, at page 2-9, is also misleading, confusing, and deficient. The EIR broadly states that water diverted pursuant to the Project will be used "throughout KWBA's participating members' service areas and lands in Kern and southernmost Kings Counties." (p. 2-9.) The EIR further states that water diverted pursuant to the Project will be used not just in the service areas of KWBA's member agencies, but also within the boundaries of additional water districts "in which KWBA participating members and their water users have land holdings." (p. 2-9.) That includes 13 separate districts identified for the first, and only time, in the EIR, at pages 2-9, and 2-10, including districts located far from the KWB. A4-57

The EIR should have identified the circumstances, timing and extent of the use of water diverted pursuant to the Project by the various districts listed at page 2-9. The EIR should have also included those districts within the Project area, or the study area for the Project, since some of the water will be used within those districts. The EIR's failure to provide that necessary information regarding the use of the water in those areas, and the failure to consider any impacts associated with the use of the water in those areas, constitutes a clear and obvious violation of CEQA. A4-58

The EIR, for example, admits that water from the Project may be used within the boundaries of the North Kern Water Storage District ("North Kern"). The EIR, however, provides no further information on North Kern. The EIR does not describe the circumstances under which water might be transferred to North Kern, including the quantity of water sent to North Kern, and the timing, extent and method for the use of water within North Kern. A4-59

The EIR further fails identify or review the impact of the use of the water within the other districts, including impacts on groundwater supplies, surface water demands, agricultural production, and related impacts. Without that information, the EIR necessarily fails as an informational document, and clearly violates CEQA. A4-60

(vii) The EIR fails to disclose or discuss the SWRCB application process.

The EIR indicates that it is intended to support KWBA's application to appropriate Kern River water. A4-61

The EIR states: "In addition to lead agency use of this EIR, regulatory agencies may rely on this document, in whole or in part, for the renewal and/or re-issuance of regulatory permits for the project." (p. 2-17.) The EIR further states: "The only permit required for the project would

be a permit from the State Water Board to allow for the appropriation of unappropriated high flows from surface water sources, granting approval to divert water for direct diversion to storage for municipal, industrial, and irrigation uses." (Id.)

A4-61 (cont.)

Despite that statement, the EIR fails to provide any information regarding the SWRCB's intended use of the EIR. KWBA also fails to identify or describe the SWRCB permit and application process. KWBA further does not describe how the EIR will be used by KWBA, the SWRCB, or any other entity, in connection with the application. Without that information, the EIR does not comply with CEQA, as it fails to provide important information regarding the purpose and use of the EIR.

A4-62

(viii) The discussion of project objectives is misleading and confusing

The discussion of project objectives is incomplete, misleading, and confusing. Among other things, the EIR indicates that the objectives of the Project include "Continue to allow Kern River water to be diverted to the KWB during times of excess Kern River flows for recharge and later recovery by KWBA." (p. 2-11.) That is particularly confusing, because the reference to continuing diversions implies that the Project will not involve new diversions of water, or diversion of additional amounts of water. That contradicts other portions of the EIR, which focus on the diversion and use of an additional amount (500,000 af) of Kern River water.

A4-63

The EIR also indicates that one of the objectives of the Project is "Preservation and enhancement of fish and wildlife resources, including rare and endangered species on the Kern Water Bank and upstream in the Kern River." (p. 2-11.) The EIR, however, provides virtually no further information or details regarding the use of water for those purposes. The EIR does not identify the quantities of water that would be devoted for the preservation and enhancement of fish and wildlife resources, where the water would be used, or how water would be allocated for those uses. The EIR also fails to consider the impact of the supply of water for those purposes.

A4-64

(ix) The description of water rights does not comply with CEQA

The description of water rights in the EIR is incomplete and confusing. The EIR addressees the "status" of Kern River water rights, at page 2-4, primarily by discussing the competing applications to appropriate Kern River water. The EIR does not identify the type, extent or nature of the Kern River water rights, or the current Kern River right holders. The EIR does not identify what Kern River rights, if any, are held by the KWBA and its member agencies.

A4-65

A4-66

The EIR also states: "KWBA member entities have historically acquired CVP water through short-term programs with the Bureau of Reclamation and Kern River water either through purchases from existing rights holders (primarily the City of Bakersfield) or through agreements with the Kern River Watermaster for floodwaters." (p. 2-4.) The EIR, however,

A4-67

fails to provide any information regarding the prior purchases and agreements for the acquisition of Kern River water supplies. The EIR does not indicate which entities have sold water to the KWBA, or its members, the quantity of water acquired, the timing and circumstances surrounding the purchases, and agreements, involving the acquisition of Kern River water supplies. A4-67 (cont.)

Without relevant or accurate information regarding the status and extent of Kern River water rights, it is not possible to determine how the Project will impact the existing Kern River water rights, or water right holders. It is also impossible to determine from the EIR how the Project will actually impact Kern River water supplies. The EIR is therefore woefully incomplete and deficient, and fails to comply with basic CEQA requirements. A4-68

C. The EIR Does Not Comply with CEQA Requirements Involving Water Supplies and the Use of Water.

The brief, general and vague description of the water supplies to be used in the Project violates requirements for the description of water supplies in an EIR. In *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 432, the court explained that "future water supplies" identified and analyzed in an EIR "must bear a likelihood of actually proving available; speculative sources and unrealistic allocations ("paper water") are insufficient bases for decisionmaking under CEQA." The court further explained that an EIR for a land use project "must address the impacts of likely future water sources, and the EIR's discussion must include a reasoned analysis of the circumstances affecting the likelihood of the water's availability." (*Id.*) A4-69

Pursuant to *Vineyard* and related cases, the EIR does not provide necessary and required details regarding the water supply for the Project. KWBA cannot avoid providing details regarding future water supplies and sources even if there is some uncertainty regarding the future availability of the potential water sources. Pursuant to the holding in *Vineyard*, and related, cases, the EIR must have included "a reasoned analysis of the circumstances affecting the likelihood of the water's availability," and "possible replacement sources or alternatives to use of the anticipated water, and of the environmental consequences of those contingencies." (*Vineyard*, 40 Cal.4th at 432.)

The EIR in particular does not provide the public, and decisionmakers, sufficient information to determine (1) the pros and cons of supplying the amounts of water needed for the Project from various sources, (2) long term water demands, and potential supplies, (3) the likelihood that the identified water sources will actually be available, and (4) possible replacement or alternative sources if the identified water sources are not available. A4-70

Similarly, in *San Joaquin Raptor/Wildlife Rescue Center*, the court found that an EIR for a large residential development project was inadequate because it did not disclose the specific A4-71

location and extent of a riparian habitat adjacent to the project site, inadequately investigated the possibility of wetlands on the site, understated the significance of the project's location adjacent to the San Joaquin River, and failed to discuss a nearby wildlife preserve. (27 Cal.App.4th at 729.) The court found that because the description was deficient, consequently the impact analysis and mitigation findings were legally inadequate. (*Id.*)

An EIR must provide "enough information to ascertain the project's environmentally significant effects, assess ways of mitigating them, and consider project alternatives." (*Sierra Club v. City of Orange, supra.*) California courts have frequently stated that "only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal … and weigh other alternatives in the balance" and that "[a]n accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR." (*County of Inyo*, 71 Cal.App.3d at 192-193; *Santiago County Water Dist. v. County of Orange*, 118 Cal.App.3d. at 830.)

A4-71 (cont.)

An inconsistent project description prevents the EIR from serving as a vehicle for intelligent public participation in the decision making process. (*County of Inyo*, 71 Cal.App.3d at 197.) An unstable or shifting project description also typically indicates that an EIR is attempting to minimize the project's impacts by not discussing reasonably foreseeable aspects of the project. (*San Joaquin Raptor Rescue Center v. County of Merced*, 149 Cal.App.4th at 655.)

Courts have previously invalidated EIRs that did not contain sufficient information and details about water supplies proposed for use in a project, and which did not adequately discuss uncertainties associated with water supplies. (*See e.g., Planning & Conservation League v. Department of Water Resources* (2000) 83 Cal.App.4th 892, 908, fn. 5, noting that State Water Project entitlements represent nothing more than "hopes, expectations, water futures or, as the parties refer to them, 'paper water'"; *Santa Clarita Organization for Planning the Environment v. County of Los Angeles* (2003) 106 Cal.App.4th 715, 722, holding that an EIR's water supply discussion was inadequate because of its assumption that 100 percent of a party's SWP entitlement would be available; *California Oak Foundation v. City of Santa Clarita* (2005) 133 Cal.App.4th 1219, 1238–1239, 1244, in which the court rejected an EIR for an industrial park because the water supply analysis relied, without adequate consideration of the uncertainties of SWP supplies, on the party's purchase of 41,000 af in imported SWP water.)

In *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859, 864, 881, for example, the court held that a water agency violated CEQA by certifying an EIR which did not properly analyze the environmental impacts of a project increasing the agency's withdrawal of water from the Russian River. The agency abused its discretion by, among other things, failing to discuss a separate federal proceeding which would have reduced the flow of water in the Russian River, and hence affected the supply of water for the project. (*Id.*, at 881.)

In *California Oak Foundation*, 133 Cal.App.4th at 1226, the court held that although an EIR for a development project acknowledged that water entitlements could fluctuate from year-to-year, it did not present a reasoned analysis or discussion of the issue and thus did not comply with CEQA. Although the EIR acknowledged that water supply "could potentially be limited" by ongoing legal challenges, without a detailed discussion of the nature of the challenges, "it is impossible to know the contours of the potential limitation on the water supplies." (*Id.*, at 1239.) A4-71 (cont.)

D. The EIR Fails to Accurately Identify the Project Location and Setting

The project description in an EIR must state the precise location and boundaries of the proposed project. (14 Cal Code Regs §15124(a).) The location must be shown on a detailed, preferably topographic, map as well as on a regional map. (14 Cal Code Regs §15124(a).)

The EIR states: "The study area for purposes of the environmental analysis in this EIR depends upon the nature and type of resource topic being analyzed." (p. 2-6.) The "study area" for some impacts is limited to the "KWB facilities and physical boundary," while for other impacts "the study area includes the participating members' service areas or the appropriate watershed or air basin." (Id.) A4-72

The project location, or Study Area, identified in the EIR does not comply with those CEQA requirements. KWBA's election to only review certain Project impacts within a limited, restricted Project area, while failing to review and ignoring impacts that occur outside the project location, or Study Area, violates the principles and standards for review of impacts in an EIR.

The EIR should have reviewed all Project impacts throughout the region, wherever the impacts would occur. The study area for any impacts should not be limited to the physical KWB boundaries. The EIR instead should have reviewed any and all impacts from the Project throughout the region, including, in particular, within the entire Kern River corridor and within the service areas of KWBA's members.

The EIR's failure to include the service areas for KWBA's member district as part of the Project location, or Study Area, is a particularly glaring error and violation of CEQA. The EIR states that the Project includes deliveries to KWBA's member districts, and the use of the water appropriated and extracted by KWBA. The EIR also indicates that the member districts will transfer some of the water diverted and recovered pursuant to the Program to a number of other entities in the region, including the entities listed at pages 2-9 and 2-10 of the EIR. There is no excuse or justification for KWBA's failure to include the service area of those districts, and the service areas of KWBA's member districts, in the Study Area. A4-73

The errors in the description of the Project location carry over into the impact section, and contribute to the EIR's failure to properly identify and review the impacts of the Project. In the Environmental Setting section of the discussion of Project impacts, the EIR only refers to the boundaries of the KWB, and not the service area of KWBA's members and the entities that A4-74

would also receive water from the Project from KWBA members. The EIR thereafter only considers project impacts, or at least certain project impacts, within the KWB. A4-74 (cont.)

3. THE EIR'S DESCRIPTION OF "BASELINE" CONDITIONS IS INCOMPLETE AND INADEQUATE

The EIR also fails to comply with CEQA in its description of "baseline" conditions in the Project area, and in areas impacted by the Project.

An EIR must describe existing environmental conditions in the vicinity of the proposed project, which is referred to as the "environmental setting" for the project. (14 Cal Code Regs §15125.) The description of existing environmental conditions ordinarily serves as the "baseline" for measuring the changes to the environment that will result from the project and for determining whether those environmental effects are significant. (14 Cal Code Regs §§15125, 15126.2(a).) As the California Supreme Court has noted, to provide the impact assessment that is a fundamental purpose of an EIR, the EIR "must delineate environmental conditions prevailing absent the project, defining a 'baseline' against which predicted effects can be described and quantified." (*Neighbors for Smart Rail v Exposition Metro Line Constr. Auth.* (2013) 57 Cal.4th 439, 447.) A4-75

Establishment of the baseline is critical to a meaningful assessment of the environmental impacts of a project, because the significance of environmental impacts cannot be determined without setting the baseline. (*Save Our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99, 119.) The description should place special emphasis on environmental resources that are rare or unique to the region and that would be affected by the project. (14 Cal. Code Regs. § 15125(c); *San Joaquin Raptor/Wildlife Rescue Center*, 27 Cal.App.4th at 722.)

The EIR fails to meet these standards. The EIR either fails to provide any information on certain baseline conditions in the Project area, or only provides a brief, general and incomplete description of baseline conditions. The EIR does not set forth a clear or comprehensive description of baseline conditions surrounding the Kern River, the diversion and use of water from the river, the local groundwater basin, or irrigation and agricultural operations within the KWB and within the boundaries of the member agencies of KWBA. The EIR fails to describe current flow conditions in the Kern River, the environment in and around the river, and the timing and frequency of diversions from the River. Absent such information, the EIR cannot possibly, properly or completely assess the impact of the Project on the river and the environment in and around the river. A4-76

A. The EIR fails to Describe Baseline Conditions in Sufficient Detail

The EIR's description of baseline conditions is improper and flawed because it only focuses on KWBA's diversion and use of water. To properly consider project impacts, however, A4-77

the baseline should consist of all diversions and use of Kern River water. The EIR cannot assess impacts on other water users, or on Kern River itself, without proper, complete and up to date information on baseline diversion and use of water on the entire river. A4-77 (cont.)

The EIR's failure to identify current baseline conditions in and around the Kern River, within the KWB and its members, and in areas that will be impacted by the Project, is a fatal flaw to the EIR. It is inconceivable that the EIR for such a significant water supply project, which calls for and contemplates the change in use of up to 500,000 af of Kern River water, would fail to identify current baseline conditions for the Kern River. Absent that description, the EIR cannot possibly properly consider the impacts of the Project on the local environment, and the local water supply.

The failure to describe such conditions is glaring, and clearly not in compliance with CEQA, since the EIR identifies the Kern River as the primary water source for the Project. The Kern River is also the primary source of recharge for groundwater in the Project area. The EIR nevertheless fails to describe current flow conditions in the Kern River, the environment in and around the river, and the timing and frequency of diversions from the river. Absent such information, the EIR cannot possibly, properly or completely assess the impact of the Project on the environment, and on local water supplies and sources. A4-78

The EIR also fails to provide any information regarding the nature, extent and yield of the Kern River water potentially available for use in the Project. There is absolutely no discussion of the Kern River water rights held by Bakersfield and other entities. The EIR does not disclose how much water is diverted from the Kern River by Bakersfield and other Kern River right holders and interests, and how those diversions would be impacted by the Project. A4-79 A4-80

The EIR also fails to identify baseline conditions within KWBA's member agencies, despite the fact that the water diverted pursuant to the Project will eventually be used within those districts. The EIR does not describe conditions within the member districts, or describe the quantities of water currently used within those districts, the source of the water, how the water is used, and how that will change as a result of the Project. Absent that information, the EIR cannot possibly consider Project impacts within the member districts. A4-81

The EIR fails to accurately or properly describe current, baseline groundwater conditions within the KWB. The EIR claims "Approximately 910,000 AF of water is currently stored within the KWB." (p. 2-12.) The EIR does not explain how it calculated that number, nor does the EIR explain whether that figure depicts current, baseline groundwater conditions. Since the Kern Basin is in a critical state of overdraft, it seems unlikely that such water is actually available for extraction, at least in that amount. A4-82 A4-83

The EIR otherwise fails to provide baseline information on groundwater. The EIR does not provide information regarding groundwater levels, well depths, rates of extraction, current trends regarding extraction, or migration or loss of water stored by KWBA. The EIR, for A4-84

example, claims that "1.5 MAF" of water has been pumped from KWB during the time of its existence. The EIR fails to provide any information on losses, migration, well depths, pumping in and around the KWB that might impact groundwater conditions, quality of the water extracted, or any other details regarding pumping, and groundwater conditions. A4-84 (cont.)

The EIR further does not sufficiently describe groundwater recharge and banking operations already in place in the KWB. The description of those programs is general, vague and lacking in necessary and specific details. The EIR cannot consequently determine the impact of the Project, and the additional recharge of up to 500,000 af of water, based on the lack of details regarding groundwater conditions in the Project area. A4-85

KWBA also fails to provide important, necessary information regarding the condition of the Kern Subbasin, the basin underlying the KWB and the San Joaquin Valley portion of Kern County. In the discussion of the environmental setting, and baseline conditions for the Project, KWBA only discusses, very generally, certain conditions within the KWB. The EIR does not, however, describe conditions in the basin. The EIR does not discuss groundwater levels throughout the basin, nor does it discuss quantities of water recharged and extracted in other parts of the basin, and in other nearby water banking projects. The EIR largely ignores the fact that the basin is in a critical state of overdraft. Without that information, the EIR cannot make a valid, accurate and meaningful assessment of Project impacts. A4-86 A4-87

Similarly, in *Cadiz Land Co.*, the court found that the description of the environmental setting for a large landfill was deficient because the EIR did not quantify the size of the aquifer that underlay the proposed landfill site. (83 Cal.App.4th 74.) That decision is directly relevant to the present Project, as Kern Delta claims that the Project is necessary, in part, to prevent or alleviate overdraft conditions. (EIR, p. 2-11.) The EIR, however, does not contain specific detailed information regarding the groundwater aquifer, the quantity of water in the aquifer, or the nature and extent of the overdraft conditions. A4-88

Furthermore, the EIR does not provide enough information about the demands for water within KWBA's member agencies, where the water that is subject to the Project will actually be used. The EIR, provides very little information regarding water rights held and utilized by KWBA's member agencies, as well as quantities of water historically and currently used, overall water demands, including agricultural, municipal and environmental demands, and available, alternate sources of water for those districts. A4-89

The EIR also fails to provide information regarding quantities of water used within KWBA's member agencies, the types of uses, the nature and extent of any rights associated with water utilized by the districts, and the overall demand for water within each member district. The failure to provide basic, specific information regarding the use of and demand for water within the member agencies by itself establishes a CEQA violation. Since the Project is intended to provide a supplemental water supply for KWBA's members, the EIR cannot accurately and A4-90

properly determine the impacts of the Project without information on existing, baseline water supply conditions within those districts. A4-90 (cont.)

The EIR also fails to disclose the number of wells within KWBA's member agencies, including private wells, the location of various wells within those districts, and the quantity of water produced by those wells. Absent that information, it is not possible to determine project impacts within the KWB and its members, and in general. It is also not possible to reasonably determine the impact of the Project on the local environment in connection with existing, baseline, groundwater pumping and use, absent detailed information about current groundwater pumping by KWBA's members within their districts. A4-91

B. The EIR Uses an Outdated, Improper Date for Determining Baseline Conditions.

The EIR's use of a 2012 baseline which does not take into account significant events and changed circumstances since 2012, and current conditions, is contrary to CEQA principles and requirements, and results in an incomplete, deceptive and erroneous environmental analysis.

CEQA, and the CEQA Guidelines, do not "mandate a uniform, inflexible rule for determination of the existing conditions baseline." (*Neighbors for Smart Rail v. Exposition Metro Line Construction Authority*, 57 Cal.4th at 449.) Instead, a lead agency must decide "exactly how the existing physical conditions without the project can most realistically be measured," with the aim of employing "a realistic baseline that will give the public and decision makers the most accurate picture practically possible of the project's likely impacts." (*Id. citing Communities for a Better Environment v. South Coast Air Quality Management District* (2010) 48 Cal.4th 310, 322, 325, 328.)

The KWBA cannot "essentially turn back the clock and insist upon a baseline that exclude[s] existing conditions." (*Citizens for East Shore Parks v. State Lands Commission* (2011) 202 Cal.App.4th 549, 559.) In *Fat v. County of Sacramento* (2002) 97 Cal.App.4th 1270, 1260-1281, an appellate court upheld a county's choice of a baseline reflecting present-day conditions to evaluate the impact of a proposed airport expansion, even though the airport had developed over a period of nearly 30 years without county authorization, as the court held that the county acted within its discretion by using current airport operations as the baseline for CEQA review. A4-92

The impacts of the Project must be measured against "real conditions on the ground;" the environmental analysis "must focus on impacts to the existing environment, not hypothetical situations." (*Save Our Peninsula Committee v. Monterey County Board of Supervisors*, 87 Cal.App.4th at 121-122.)

4. IMPACTS

Kern County has recently experienced significant impacts from drought conditions, global warming and regulatory limitations on imported supplies, all of which has severely impacted the availability of local water supplies. At the same time, demand for water within Kern County has increased substantially in recent years as a result of increased agricultural production and population growth. Those conditions have resulted and contributed to a critically overdrafted basin, water shortages, subsidence, water quality degradation, and has severely strained local environmental conditions, including fish, animal and plant species, and their habitats.

Within this environment, KWBA proposes to change the place of use and type of use of up to 5000,000 af of Kern River water, and proposes to allow its members to use that water for undefined needs and purposes. The Project would therefore constitute and involve a dramatic shift in the use of a substantial quantity of water within Kern County. The change in that quantity of water will necessarily have a significant impact on a number of resources, regions and entities within and outside of Kern County. A4-93

Despite this significant shift in water supplies and use, the EIR presents a very limited, narrow and incomplete analysis of the Project's impacts, and only considers limited, narrow project-specific impacts. The EIR fails to properly or completely consider the impact of the Project on the local environment, including the Kern River, flows of water in the river, and the environment in and around the river.

An EIR must describe and analyze the significant environmental effects of a project, and discuss ways of mitigating or avoiding those effects. (14 Cal. Code Regs. § 15362.) Among other things, an EIR must identify direct, indirect and long-term environmental effects, and cumulative impacts. (14 Cal. Code Regs. §§ 15126.2(a), 15130.) An EIR must provide public agencies, and the public in general, with detailed information about the effects a proposed project is likely to have on the environment. (Public Resources Code §§ 21060.5, 21061; *Environmental Planning and Information Council v. County of El Dorado* (1982) 131 Cal.App.3d 350, 354.)

An EIR must be prepared with a sufficient degree of analysis to provide decision-makers with the information needed to make an intelligent judgment concerning a project's environmental impacts. (14 Cal. Code Regs. §15151; *Napa Citizens for Honest Government. v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 356.) An EIR should, when looked at as a whole, provide a reasonable, good faith disclosure and analysis of the project's environmental impacts. (*Laurel Heights Improvement Assn.*, 47 Cal.3d at 392.) A4-94

The EIR does not come close to complying with those standards. As previously indicated, the omission of basic, required information regarding the Project, and baseline conditions in the Project area, prevents the EIR from making any meaningful, complete analysis

of the impacts of the Project on the local environment, as well as on the Kern River, the City, and the local groundwater basin. A4-94 (cont.)

KWBA's failure to properly describe the Project, and the Project area, has necessarily rendered the discussion of Project impacts deficient and incomplete. The EIR consequently fails to review impacts on resources, entities and areas that will be significantly impacted by the Project. In addition, the EIR fails to properly or completely review the impacts on resources which are identified and discussed in the EIR.

The EIR also fails to sufficiently consider or analyze the impacts of the Project on the local groundwater basin and water supply, including impacts that would result from the shift of 500,000 af of Kern River water to the KWBA and its members. A4-95 Similarly, the EIR fails to accurately or properly analyze the impacts of the Project on the City, including the City's competing project for the same surplus, unappropriated water identified in KWBA's Project. A4-96

The EIR fails to review and analyze the impact of the uses of the potential water sources on the environment, other water users, and local water supplies. A4-97 The EIR fails to even come close to satisfying CEQA requirements concerning the identification and discussion of the impacts of a large water supply and storage project, as articulated in *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova, supra.* and related cases. A4-98

The EIR is also deficient because, to the extent it does attempt to review the impacts of the Project on the environment, it dismisses or minimizes a number of potential impacts to the environment without explanation and based on unsupported or unexplained conclusions. That is not appropriate, as a bare conclusion without an explanation of the factual and legal basis is not a sufficient analysis of an environmental impact. (*Laurel Heights Improvement Assn.*, 47 Cal.3d at 404.) The discussion of environmental impacts must instead contain an explanation of the reasoning supporting the EIR's impact findings, and the supporting evidence. (*Association of Irritated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383.)

Courts have frequently held that a lead agency failed to comply with CEQA requirements where the EIR's discussion and analysis of a mandatory EIR topic, such as impacts on water supply resources, was nonexistent or so cursory it clearly did not comply with the legal requirement that the issue be discussed and analyzed. A4-99 (*Californians for Alternatives to Toxics v Department of Food & Agric.* (2005) 136 Cal.App.4th 1, 15 (EIR failed to evaluate potential impacts of project and simply assumed compliance with regulations would prevent impacts from occurring); *San Joaquin Raptor Wildlife Rescue Ctr. v County of Stanislaus, supra* (discussion of project description, environmental setting, alternatives, and cumulative impacts inadequate as matter of law); *El Dorado Union High Sch. Dist. v City of Placerville* (1983) 144 Cal.App.3d 123, 132 (EIR contained no discussion of impacts on school district).)

A. The EIR Improperly Dismisses Consideration of Impacts on a Number of Resources

The EIR states that it has already determined that the Project "would result in either no impact or impacts that are less than significant for the following topics: Aesthetics, Agricultural and Forestry Resources, Cultural Resources, Hazards and Hazardous Materials, Land Use and Planning, Mineral Resources, Noise, Population and Housing, Public Services, Recreation, and Transportation and Traffic." (p. 3.1-1.) The EIR further states: "No comments were received on the NOP (Appendix A) or during agency scoping meetings that indicated these topics should be addressed further in this EIR."

A4-100

Bakersfield maintains that the EIR improperly dismisses and fails to analyze a number of resources that will be substantially affected by the Project. In particular, the EIR is deficient and in violation of CEQA because it fails to review Project impacts on agricultural and forestry resources, land use and planning, and population and housing.

In addition, the EIR should have also considered or reviewed potential Project impacts on aesthetics and recreation in comparison to Bakersfield's competing project involving the use of unappropriated water. The final EIR in support of Bakersfield's project addressed impacts on aesthetics and recreation arising from the use of the unappropriated water proposed for use in KWBA's Project. KWBA's EIR should have compared the impacts from its Project in comparison to the positive impacts that City's project would produce in connection with aesthetics and recreation.

A4-101

Bakersfield additionally maintains that it was not appropriate for KWBA to decline to review impacts associated with certain resources because it did not receive comments during the scoping or NOP process that indicated that the topics should be reviewed in the EIR. That is not the standard, or an appropriate criteria, for the review of project impacts pursuant to CEQA.

KWBA should have reviewed the and considered all impacts and potential impacts caused by the Project, irrespective of whether a request was made in comments to the NOP, or in a scoping meeting, to review those impacts. A lead agency is under an obligation to comply with CEQA and review all project impacts, and cannot avoid or excuse compliance with CEQA based solely on public comments, or a lack of public comments.

A4-102

The CEQA Guidelines additionally provide: "The EIR shall focus on the significant effects on the environment. The significant effects should be discussed with emphasis in proportion to their severity and probability of occurrence. Effects dismissed in an Initial Study as clearly insignificant and unlikely to occur need not be discussed further in the EIR unless the Lead Agency subsequently receives information inconsistent with the finding in the Initial Study. A copy of the Initial Study may be attached to the EIR to provide the basis for limiting the impacts discussed." (14 Cal. Code Regs. § 15143.)

That regulation establishes that the EIR must review significant effects on the environment, based on the initial study, not based solely and entirely on public comments during the NOP process. The regulation indicates that comments received during the scoping or NOP process can add to or increase the issues considered in an EIR, but such comments cannot negate a lead agency's duty to review significant impacts on the environment. A4-102 (cont.)

It is also not appropriate for KWBA to avoid reviewing impacts on certain resources based on a February 2012 analysis. (p. 3.1-1.) That outdated analysis does not properly consider or take into account more recent events in the region which significantly impact the Kern River, and the Kern groundwater basin. Reliance on an outdated, six year old analysis improperly avoids any consideration of conditions and impacts caused by recent drought conditions, increased use and reliance on groundwater, exacerbation of critical overdraft conditions in the basin, and increased municipal and agricultural demands. Use of a February 2012 analysis also unnecessarily avoids consideration of new laws and regulations, including the Sustainable Groundwater Management Act ("SGMA"), and emergency drought regulations issued by the SWRCB. A4-103 A4-104

(i) Agricultural and Forestry Resources

The EIR claims that it does not need to review Project impacts on agricultural and forestry resources because the Project "would be located entirely with the existing KWB and would use existing facilities." (p. 3.1-1.)

The EIR further claims:

> "Because the project would use existing KWB facilities to divert Kern River water into the existing KWB recharge ponds for recharge and recovery, it represents a continuation of existing water banking activities on the project site and would potentially improve the reliability of the agricultural water supply for existing KWB participants rather than convert agricultural land to non-agricultural use, affect Williamson Act contracts, or conflict with existing agricultural or timberland use or zoning. There would be no impact." (p. 3.1-1.) A4-105

That claim is erroneous, misguided and, quite simply, ludicrous. It is inconceivable that KWBA could claim that a project that involves the change in use and diversion of up to 500,000 af of water formerly used, in part, for agricultural production, and the future use of that quantity of water within the service area of the five agricultural water districts which are "participating members" of the KWBA, would not have any impact on agricultural resources.

The EIR should have identified and reviewed potential significant impacts on agricultural resources within KWBA's member agencies. The EIR admits that water diverted pursuant to the Project will be used within those districts, primarily for agricultural purposes. The EIR should

have therefore considered how the increase in waters supplies from the Project could impact agricultural resources within those districts, including through increased agricultural production, conversion of undeveloped land to farmland, changes in cropping patterns, and changes in water consumption and use. Increases in agricultural production within KWBA's member agencies would also have secondary, related impacts that should have been identified and reviewed in the EIR. A4-105 (cont.) A4-106

The EIR should have also considered secondary impacts on agricultural resources within water districts that would no longer enjoy the benefit of the use of the 500,000 af of water proposed for use in the Project. The Project will certainly have impacts outside the service area of KWBA and its member agencies, as the shift in the use of up to 500,000 af of water from various, unknown water districts to KWBA's member districts would produce significant direct and secondary impacts. A4-107

The EIR should have also considered impacts associated with KWBA's acquisition of rights to the 500,000 af of unappropriated water, at the expense of other competing applications to appropriate. Several of the competing applications, including North Kern's application, also proposed using the unappropriated water for agricultural purposes. The EIR should have compared and considered impacts associated with the award of the unappropriated water to the KWBA for agricultural use with the proposed use of the water for agricultural purposes by the other applicants for the water. A4-108

(ii) **Land Use and Planning**

The EIR claims that it does not have review Project impacts on Land Use and Planning because the Project will not prompt development within the KWB. The EIR states: "The KWB is in a rural area surrounded by largely agricultural uses, with residential communities one or more miles to the northeast, east, and southwest. No new facilities are proposed as part of the project, and it would not divide any established community. There would be no impact." (p. 3.1-3.)

That consideration is too narrow and limited. The EIR must review and consider all impacts associated with the Project, and not just limit its review to impacts within the KWB. That conclusion, most importantly, ignores Project impacts on land use and planning outside of the KWB. A4-109

As discussed below, in the section on population and housing, the water diverted and stored pursuant to the Project may be ultimately used for municipal purposes. That would necessarily have some impact on land use and planning, which impacts must be reviewed in the EIR.

Water used in the Project would also not be available for use by Bakersfield for municipal purposes. The loss of that water supply could have an impact on land use and A4-110

planning decisions by the City, and other entities within Kern County. The EIR should have studied and considered impacts associated with its Project on land use and planning, instead of summarily dismissing the need for such review without any proper analysis or discussion. A4-110 (cont.)

(iii) Population and Housing.

KWBA similarly claims that the EIR does not need to review impacts on population and housing because "[t]he project would not directly induce population growth as no construction or expansion is proposed." (p. 3.1-4.)

The EIR further states: "The project could indirectly induce population growth through increased availability of banked groundwater; however, water stored within the KWB by the participating members is used primarily for agricultural irrigation in existing areas, and not for urban use. In addition, the project is intended to increase water reliability for existing agricultural uses and existing populations rather than to accommodate increased water use or urban growth." (Id.)

Those contentions, however, are contradicted by statements in other parts of the EIR which indicate that water banked and stored in KWB pursuant to the Project **will** be used, or at least available, for urban supplies and new development in the region, and in Southern California. The EIR states that KWBA intends to utilize the up to 500,000 af of water proposed for use in the Project "for underground storage for **municipal**, industrial, irrigation, and water quality uses." (p. 2-7, emphasis added.) In the Project Description section of the EIR, KWBA later states "the purpose of use for the appropriated water would include groundwater storage for **municipal**, industrial, irrigation and water quality uses and direct diversion for municipal, industrial, and irrigation uses." (p. 2-10, emphasis added.) The EIR further states: "A portion of the stored water **would also be used for municipal and industrial uses**; one of the participating members would supply developments in southern Kern County, and all of the member entities, including the participating members, would continue to provide a back-up supply to a power plant in southern Kern County." (Id., emphasis added.) A4-111

Those unequivocal statement indicate that water stored in the KWB pursuant to the Project for municipal purposes, along with other purposes. In addition to those general statements, the EIR states above that it has already been determined that some of the diverted water would be sent to a housing development in southern Kern County. The availability of stored water for domestic purposes, and the plan to provide water to a development in southern Kern County establishes that the EIR should have reviewed population and housing impacts.

The Project would also have an impact on population and housing by taking water from Bakersfield which has been allocated and committed for future housing and municipal needs. The City's competing application to appropriate also propose to use at least some of the water A4-112

proposed for use in KWBA's Project to meet municipal and domestic needs, which would have an impact on population and housing in the region. A4-112 (cont.)

B. The Discussion of Project Impacts is Incomplete and Deficient

In addition to those omissions, the EIR's discussion of impacts of the Project on various resources is incomplete, limited, flawed and in violation of CEQA requirements. A4-113

(i) Air quality impacts

The EIR's discussion of air quality impacts is incomplete, inconsistent, and not in compliance with CEQA.

The EIR claims: "No direct or indirect air quality impacts are expected from the project because of the absence of construction or annual operational changes between the project and baseline conditions." (p. 3.2-14.) The EIR earlier, however, identified a number of impacts that would occur as a result of agricultural operations in the region. The EIR states: "These agricultural activities generate various types of emissions from land preparation, harvesting, mobile agricultural equipment, agricultural burning, windblown dust from agricultural land, paved and unpaved roads, and other sources." (p. 3.2-12.)

As indicated earlier in the EIR, water diverted pursuant to the Project would primarily be used for agricultural purposes by KWBA's member agencies. An increase in the supply of water available to KWBA's member agencies would certainly, and necessarily, have an impact on agricultural resources within those districts.

A4-114

The availability and use of an additional 500,000 af of water by KWBA's member agencies would almost certainly increase agricultural operations, and production, within those districts. That would consequently result in increased emissions, and related impacts on air quality, based on increased agricultural operations and production.

In particular, the availability of an increased supply of water could increase activities that generate various types of emissions, including "emissions from land preparation, harvesting, mobile agricultural equipment, agricultural burning, windblown dust from agricultural land, paved and unpaved roads, and other sources." An increase in water supplies available to KWBA's member districts would also likely increase agricultural production within the districts, or could change the type of crops grown in the districts, or the timing and extent of agricultural production within the districts. Those increased agricultural activities would also result in increased emissions, and potentially significant impacts on air resources and the environment.

The EIR also claims: "Further, no air quality impacts are expected from the operation of pumps and lift stations for recovery operations related to the project. KWBA owns and operates pumps and lift stations used to recover water from storage for the purpose of fulfilling water A4-115

demand. Under the project, the KWB may store a greater volume of water, but recovery is not expected to exceed baseline conditions in any given year, which include the maximum amount of water actually recovered over an extended drought, in a single year and in any single month, with existing recovery facilities." (p. 3.2-14.)

That is not accurate, and does not make sense. The new, increased diversion of up to 500,000 af of Kern River water for storage within KWB above historic levels will certainly and necessarily increase use of pumps and lift stations for recovery operations, which will increase air quality impacts. It only seems logical that the diversion and recharge of an additional 500,000 af of water into the KWB would later require or necessitate the pumping and extraction of that water. The pumping of an additional 500,000 af of water would necessarily increase air quality impacts in the region. A4-115 (cont.)

The EIR in fact, states: "The enhanced water supply reliability could potentially contribute to the conversion of additional land for agricultural operations or changes in crop types or amounts, potentially resulting in new and/or changed indirect criteria air pollutant emissions that could exceed established and adopted thresholds of significance criteria. Any new and/or changed agricultural activities would affect agricultural-related emissions resulting from land preparation, harvesting, mobile agricultural equipment, agricultural burning, windblown dust from agricultural land, paved and unpaved roads, and other sources. (p. 3.2-15.)

That statement admits and reveals that the Project will have significant air quality impacts. The EIR identifies the agricultural related actions that would lead to increases in air quality impacts. An increase in the supply of water available to the KWBA and its members would certainly result in increased agricultural production. The EIR cannot properly avoid reviewing those impacts by claiming, without any support or reference that the impacts are speculative and not feasible to quantify. A4-116

In general, it is inaccurate and misleading to claim that air quality impacts will be less-than-significant. (p. 3.2-15.) An increase in farming operations based on acquisition of additional 500,000 af water supply would be substantial and would result in significant impacts to environment, including to air quality.

The EIR could have relatively easily identified, reviewed and considered air quality impacts associated with the project. KWBA could have figured out to what extent the increase in water supplies would increase agricultural production within its member agencies, based on available acreage, cropping patters, current water supplies, and related issues. KWBA could have also determined how many acres of agricultural land could be produced or supported by an additional supply of up to 500,000 af of water. A4-117

The EIR also does not take into account the fact that water districts and other entities that lost or no longer can use the water proposed for use in the Project will likely have to increase their pumping and use of groundwater to make up for the A4-118

loss of the up to 500,000 af of water, based on loss of surface water. That increase in pumping will necessarily increase adverse air quality impacts. A4-118 (cont.)

(ii) Biological resources

The EIR also fails to properly consider or account for Project impacts on biological resources. The EIR claims that impacts on biological resources, including on special-status species such as the Buena Vista Lake Shrew ("BLVS") will be less than significant. (p. 3.3-19.) A4-119

That is in error, and is not logical or reasonable. It is clear that diversion of up to 500,000 af by KWBA out of Kern River channel will have a substantial impact on biological resources in and around the Kern River.

Bakersfield's competing application to appropriate calls for most of the available unappropriated water to remain in the Kern River channel for multiple beneficial uses, including protecting and enhancing the environment and biological resources within and around the Kern River channel. Implementation of the Project, and the diversion and new use of up to 500,000 af of Kern River water, at the expense of Bakersfield's application, would certainly have a negative impact on biological resources in and around the Kern River. A4-120

In general, the shift in up to 500,000 af of water from the Kern River into the KWB would have a substantial impact on the Kern River, and the biological resources in and around the River. The Project would have a significant impact on wildlife and vegetation in the City's 2800 Acres recharge facility, including on the BLVS. The Project would have a significant impact on riparian vegetation and habitat in and along the Kern River. A4-121

The EIR improperly attempts to limit or reduce consideration of Project impacts on biological resources by utilizing to an unreasonably narrow and limited biological resources "study area." The EIR states: "For the purposes of this EIR, the biological resources study area (study area) consists of the KWBA property and its existing facilities encompassing approximately 20,500 acres. In order to assess potential indirect impacts to biological resources outside the property boundaries, the study area also includes portions of the Kern River and associated riparian habitat south of the first KWB point of diversion." (p. 3.3-8.) The EIR further states: "This portion of the Kern River is included in the study area because the project has a potential to affect the timing and quantity of water flowing through this area which could result in impacts to existing vegetation and habitat." (Id.) A4-122

That study area is too limited, and narrow. The study area should be broader and cover the entire Kern River corridor within the San Joaquin Valley portion of Kern County, since the project could affect "the timing and quantity of water flowing through this area," and not just the portion of the river channel within or in the vicinity of the KWB. The EIR should review Project impacts within the entire Kern River channel, and adjacent wildlife and habitat areas, such as the City's 2800 Acre Recharge Facility, and not just "the KWBA property and its existing facilities."

KWBA's statement that "the project has a potential to affect the timing and quantity of water flowing through" the portion of the Kern River channel within the KWB serves as an admission that the Project could have significant impacts throughout the entire Kern River channel.

Through the Project, KWB proposes to divert substantial quantities of water out of the Kern River well upstream from KWB's territory, depriving the Kern River channel of water needed to restore and maintain flows of water. The Kern River could continue to dry up every year based on KWBA's diversions from the River. At the very least, the diversion of up to 500,000 af of water from the Kern River could have significant impacts on biological resources in and around the entire River corridor and channel. A4-123

As KWBA admits, the diversion of water well upstream from KWBA's territory could significantly impact "the timing and quantity of water" flowing through the entire Kern River channel above the KWB, and outside of the EIR's study area. The EIR should have reviewed and identified impacts on the timing and quantity of water flowing throughout the entire Kern River channel, which could be significant, instead of arbitrarily and summarily concluding that the Project will not impact biological resources.

The EIR also states, that "Reduction of flood flows under project conditions is not likely to affect survival and growth of the riparian vegetation, as they are likely dependent on groundwater." (p. 3.3-22.) There is no factual support for that statement, and the City questions the accuracy of that claim. It would seem much more likely and logical that riparian vegetation, or the vast majority of riparian vegetation within and around the Kern River channel would be significantly affected by the quantity of water flowing in the river channel. A4-124 That statement also ignores potential impacts on aquatic species and fish and wildlife in the Kern River, as well as vegetation in and around the river which is not dependent on groundwater. A4-125 The Project would also appear to significantly impact habitat for species in and around the river. A4-126

An EIR must contain facts and analysis, not just an agency's bare conclusions or opinions. (*Citizens of Goleta Valley v Board of Supervisors*, 52 Cal.3d at 568.) An EIR must set forth the bases for its findings; a bare conclusion regarding an environmental impact without an explanation of its factual and analytical basis is not sufficient. (*Laurel Heights*, 47 Cal.3d at 404; *Whitman v Board of Supervisors* (1979) 88 Cal.App.3d 397; *People v County of Kern* (1974) 39 Cal.App.3d 830, 841. Also see 14 Cal Code Regs §15151.) A4-127

The use of the term "flood flows" is misleading and confusing. It is not clear what the EIR means when it refers to flood flows. The Project calls for the diversion and use of up to 500,000 af of Kern River water when it is available. The EIR does not define "flood flows" or indicate that only quantities of water defined as "flood flows" will be used in the project. A4-128

The use of the phrase "flood flows" is additionally confusing and misleading because the SWRCB has already determined, in Water Rights Order 2010-0010, that quantities of water that A4-129

exceeded established rights on the Kern River, and which historically had flown into the Kern River Intertie, constituted unappropriated water. The SWRCB did not define or limit the unappropriated water to "flood flows." Instead, it is up to the parties to establish the extent, and amount of unappropriated water on the Kern River. A4-129 (cont.)

The EIR also admits that "changes in hydrology of the Kern River could indirectly affect special-status plants that rely on high water flows. Of the 21 special-status plants that are known or have the potential to occur in the study area (Appendix K)." (p. 3.3-2.) The EIR still concludes: "No mitigation is required because the project is not expected to result in significant impacts on special-status wildlife or plants." (p. 3.3-21.) A4-130

That statement appears to be in error, and misguided. The diversion of an additional up to 500,000 af of water from the Kern River would necessarily and logically have a significant impact on wildlife and vegetation in and around the river channel, including special status wildlife and plants. It is a violation of CEQA for the EIR not to acknowledge and review those impacts.

The EIR also improperly and erroneously concludes that impacts on "state or federally protected wetlands" will be less than significant. (p. 3.3-22.) That statement is not supported by any credible or actual data, research or studies. KWBA instead admits that "Project operations would in some years reduce peak flows to the Kern River and associated riparian areas within the study area." (p. 3.3-22.) KWBA also admits that "BVLS is known to occur within the study area, adjacent to the KWB within the City of Bakersfield's 2,800-acre recharge facility." (p. 3.3-17.) A4-131

The EIR, however, dismisses any possibility of significant impacts from the loss of Kern River flows on wetlands, and riparian vegetation, by claiming that "existing habitat is likely dependent on groundwater or seepage from adjacent detention ponds." (p. 3.3-11.) In support of that claim, KWBA relies entirely on an alleged "personal communication" from a biologist consultant. KWBA offers no actual data, studies, reports or facts to support that vague, illogical claim. KWBA claim of less than significant impacts is therefore unsupported by any actual evidence or data, and is therefore in error.

KWBA also makes the unsupported and unsubstantiated claim that "riparian wetland habitat and associated values would be enhanced by the project operations." (p. 3.3-23.) That claim is misleading, and in error, as it is not supported by any evidence, data or information. It instead seems clear and obvious that the diversion of an additional 500,000 af of water each year from the Kern River would not enhance riparian wetland habitat in and around the Kern River channel, but would negatively impact the riparian wetland habitat by significantly reducing flows of water in the river. A4-132

KWBA claims that "the project would not conflict with any local policies or ordinances protecting biological resources. Therefore, there would be no impact from the project." (p.3.3- A4-133

23.) That claim overlooks the fact that the Project would conflict with several policies of Bakersfield intended to protect biological and other environmental resources in and around the Kern River, as well as Kern River water supplies. Those policies were identified in Bakersfield's Final Recirculated EIR for its KRFMWP, at pages 2-21 and 22. Such polices include the following:

- Kern River water shall not be utilized outside the boundaries of the San Joaquin Valley Portion of Kern County.
- When irrigated lands now being served by Kern River water become urbanized, the water rights related to these lands shall be protected to insure that such water will continue to be available to satisfy the water requirements of said lands.
- The City shall continue to encourage conservation, recycling, and reclamation of all water resources to make available for beneficial uses in a safe and efficient manner.

A4-133 (cont.)

The diversion of up to an additional 500,000 af from the Kern River channel would directly conflict with and adversely impact those policies by taking water away from all of the referenced uses and demands. The EIR is not in compliance with CEQA as a result of KWBA's failure to identify and review the City's impacted policies.

The EIR further claims that the Project will not conflict "with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan." (p. 3.3-23.) In support of that statement, however, KWBA only refers to the "KWB HCP/NCCP," which apparently only applies to areas within the KWB. The EIR fails to identify and consider Project impacts on HCPs, and other habitat plans, **outside** of the KWB. Those plans include Bakersfield's Habitat Management Plan for the BVLS, which applies to the City's 2800 Acre Recharge Facility, as well as the Kern County Valley Floor Habitat Conservation Plan and the Metropolitan Bakersfield Habitat Conservation Plan.

A4-134

Those plans would necessarily be impacted, and impacted significantly, by a project which calls for a reduction in up to 500,000 af of water from the Kern River. KWBA violates CEQA by failing to acknowledge or review Project impacts on those plans.

Finally, the EIR should have indicated or acknowledged that Project impacts on biological resources would be particularly significant when compared with Bakersfield's environmentally superior project, the KRFMWP. Bakersfield's project would retain additional water supplies in the Kern River channel for numerous environmental purposes and benefits. KWBA's proposal to divert up to 500,000 af of water from the Kern River would logically and necessarily have an opposite effect, by reducing the quantities of water available to meet various environmental demands, including demands involving fish and wildlife species, riparian vegetation, and habit for wildlife in and around the River.

A4-135

(iii) Greenhouse gases, climate change and energy

The EIR indicates that it reviews and considers Project impacts on greenhouse gases, climate change and energy based entirely "on the incremental increase in pumping that is reasonably expected to occur to recover stored Intertie water (as opposed to other sources of stored water)." (p. 3.4-9.) Based on that limited methodology, the EIR ultimately concludes that the Project would have a less than significant impact on the generation of greenhouse gas (GHG) emissions, and would not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing GHG emissions. (p. 3.4-13.)

The EIR claims that the Project would only result in an "incremental" increase in pumping, and energy consumption and GHG emissions. (p. 3.4-14.) The EIR therefore concludes that "any incremental increases over the life of the project is not anticipated to result in substantial amounts of GHG emissions, either under the applied threshold or other bright-line thresholds commonly applied in California." (Id.) A4-136

That analysis, however, overlooks and ignores additional impacts on GHG emissions, including, in particular, increased emissions as a result of the loss of 500,000 af of Kern River water to the Project. As a result of the Project, up to 500,000 af of Kern River water would be put to a new use in a different part of Kern County, and would no longer be available for diversion and use by other Kern River interests and right holders.

The entities that no longer have the right or ability to use the 500,000 af of Kern River water allocated to the Project would almost certainly have to pump additional amounts of groundwater to replace the water lost to KWBA and the Project. That increased pumping and energy consumption could be significant, given the quantity of water lost to the Project and the lack of available additional or supplemental water supplies.

The EIR similarly claims that impacts on energy consumption would be less than significant because groundwater pumping within the KWB would only increase incrementally as a result of the Project, and diversions of additional water supplies into the KWB would not generate electricity. (p. 3.4-16.) The EIR also claims that "Under the project, the KWB may store a greater volume of water, but recovery is not expected to exceed baseline conditions in any given year." (p. 3.4-18.) A4-137

That conclusion is illogical and not supported by any evidence or data. Instead, it seems apparent that an increase in KWBA's water supply by 500,000 af will necessarily result in and involve the need to pump the additional 500,000 af of water out of storage within the KWB. KWBA's member agencies would also likely increase pumping, and the rate of pumping, in order to acquire the additional 500,000 af of water brought into the KWB. That increased pumping would likely generate additional GHG. It is not appropriate for the KWBA to ignore and fail to review and consider those impacts.

An EIR's analysis should assess relevant construction, transportation, and operational energy impacts that are identified as potentially significant. (*California Clean Energy Comm. v City of Woodland* (2014) 225 Cal.App.4th 173, 211.) An EIR should not rely solely on compliance with Title 24 standards to mitigate operational and construction energy impacts and should not assume that mitigation for GHG emissions will serve as a substitute for an analysis of energy use impacts. (*Ukiah Citizens for Safety First v City of Ukiah* (2016) 248 Cal.App.4th 256, 264.) A4-138

The type of cursory, incomplete GHG analysis contained in the EIR has been invalidated in prior cases. (See *Spring Valley Lake Ass'n v City of Victorville* (2016) 248 Cal.App.4th 91, 102 (EIR's finding of no significant GHG impacts not supported by evidence that project's energy efficiency goal would be reached); *Friends of Oroville v City of Oroville* (2013) 219 Cal.App.4th 832 (agency properly adopted AB 32 consistency as significance threshold but improperly applied that threshold by limiting evaluation to proposed retail building without considering emissions from traffic generated by project).)

(iv) Geology and seismicity

The EIR claims that the Project would have "no impact" on land subsidence, and a less than significant impact on the risk of liquefaction and related ground failures. (p. 3.5-7.) Those conclusions are not reasonable or supported by the evidence, and further demonstrate that the EIR is deficient and not in compliance with CEQA. A4-139

KWBA claims "Under baseline conditions, KWBA has diverted and stored 447,148 AF of water in a single year. The project could, under ideal conditions, increase diversions to 500,000 AF in a single year, which amounts to an increase of 52,852 AF of water (11.8%)." (p. 3.5-7.) That claim is inaccurate and misleading. KWBA admits that most of the water it diverts into its territory is not Kern River water. KWBA does not claim that the water it seeks through its application would act as an alternate or replacement water source. Instead, the EIR and the application to appropriate indicate that KWBA seeks to obtain rights to additional water supplies, in addition to its current water supplies. The EIR therefore should have indicated that the Project would increase and add to KWBA's diversion and use of water, so that diversions could total a combined 947.148 af in a year, based on the additional diversion of 500,000 af of water, in addition to the baseline diversion of 447.148 af of water in prior years. A4-140

The diversion of an additional 500,000 af of water into the KWB would logically and practically result in increased risks of "liquefaction and related ground failures." The EIR fails to comply with CEQA by failing to acknowledge or consider those risks, and by summarily dismissing such risks without any review or consideration. A4-141

The EIR also fails to consider or properly review the impact of the Project on the possibility, or risk, of subsidence. The shift in up to 500,000 af of water to the KWB from other A4-142

parts of the region, and the inevitable increase in pumping by other entities to make up for and replace the water lost to the Project, would create a substantial risk of subsidence and similar geological impacts.

The EIR concedes that "[m]any areas in the Central Valley have experienced subsidence," particularly as a result of groundwater overdraft. (p. 3.5-5.) The EIR further states: "Efforts to slow or stop subsidence have been largely successful, but resumption of groundwater overdraft would quickly cause groundwater levels to drop and result in further subsidence." (Id.) A4-142 (cont.)

Since the Kern Basin is already in a critical state of overdraft, even a minor increase in pumping by other entities to replace water lost to the Project could result in subsidence. The EIR is deficient, and not in compliance with CEQA, for failing to identify and consider those impacts.

(v) Hydrology and water quality

The EIR fails to properly or sufficiently review the impacts of the Project on water supplies, and water right holders, in Kern County. The EIR instead relies on an arbitrary and unclear description of water proposed for use in the Project as "flood water" to justify its failure to identify impacted and potentially impacted water supplies, and water rights, within Kern County. A4-143

It should be undisputed that water in Kern County is a valuable, important and typically scarce resource. KWBA's proposed change in the use of up to 500,000 af of Kern River water would necessarily have some impact on water supplies and other water right holders in the region. The EIR's failure to acknowledge such impacts, and its failure to review and consider such impacts, constitutes a clear and obvious violation of CEQA. KWBA's artificial reliance on the undefined term "flood water," and its failure to consider Project impacts on water resources and water rights in Kern County, renders the EIR essentially useless as an informational document. A4-144

The section of the EIR addressing impacts on hydrology and water quality if filled with errors, omissions and misstatements. The EIR also improperly understates and fails to account for substantial and significant Project impacts on hydrology and water quality in the region, including adverse impacts on surface water supplies, groundwater levels and supplies, and water quality.

(vi) Failure in rely on or refer to accurate, up to date information in EIR

The EIR does not present accurate, complete or up to date information on water resources in the Project area and the region. In the Regulatory Setting section of the EIR for water resources, for example, the EIR refers to Urban Water Management Plans ("UWMP") issued in 2010 by the Kern County Water Agency's Improvement District No. 4 ("ID4") and the North of A4-145

the River Municipal Water District ("NORMWD"). The EIR however, fails to acknowledge or refer to separate UWMP's prepared by Bakersfield, and Bakersfield's largest municipal water supplier, the California Water Service Company ("Cal Water"). Bakersfield and Cal Water serve the vast majority of residents in the region impacted by the Project. Bakersfield additionally proposes to use some of the same water proposed for use in the Project to serve City residents, so the UWMPs for Bakersfield and Cal Water would have considerably greater relevance than any other UWMPs, including UWMPs prepared by ID4 and NORMWD. A4-145 (cont.)

The EIR should have also referenced and considered more recent UWMPs issued by ID4 and NORMWD, and Bakersfield and Cal Water, in 2015. The EIR's failure to reference or consider relevant and up to date information on water resources reveals that the entire analysis of Project impacts on water resources is deficient and incomplete. A4-146

The EIR later states: "The canals and weirs downstream of the First Point of Measurement are used to divert Kern River water for various uses, primarily irrigation and groundwater recharge." (p. 3.6-10.) That statement fails to disclose that substantial quantities of Kern River water are diverted downstream of the First Point of Measurement for delivery to water treatment plans that serve Bakersfield residents. A4-147

The EIR states: "The Intertie has the capacity to divert 3,500 cubic feet per second (cfs) of Kern River flow into the California Aqueduct, where the water is then routed further south (U.S. Army Corps of Engineers 1974)." (p. 3.6-11.) That statement is incomplete and deficient, because it does not identify where water diverted into the Intertie has been transferred, how it has been used, and the quantities of water diverted into the Intertie and thereafter transmitted for further use. The EIR does not and cannot properly consider Project impacts on water resources without providing basic baseline information regarding the former and current use of the water that KWBA seeks to obtain through its application for use in the Project. A4-148

At page 3.6-11, the EIR states: "Monthly flow data reported for the First Point of Measurement is available from the Kern River 2011 Hydrographic Report (City of Bakersfield 2011) for water years 1894 through 2011. Regulated flows released from Lake Isabella Dam are also reported for water years 1954 through 2011." That statement is misleading, and incomplete, because Bakersfield has monitored, measured and recorded Kern River flows on a daily, monthly and annual basis every year since it acquired its Kern River rights and assets in 1976. The EIR should indicate that Bakersfield's monitoring and recording of flow information has continued past 2011, up to and through the present day. A4-149

The flow information, tables, charts and related data set forth and discussed in this section of the EIR should also utilize more current information regarding the Kern River, and not just rely on information from 2011 and before. Otherwise, the EIR is deficient, and incomplete, based on its use of outdated, limited information on water resources. KWBA's failure to use more current, available information calls into question the accuracy and relevance of all of the

data, information and conclusions in this section of the EIR. The EIR, for example, fails to properly consider or account for recent statewide drought conditions. Available data from the years after 2011 would reflect those drought conditions, and the EIR should have considered and factored in those conditions. A4-149 (cont.)

At page 3.6-13, the EIR similarly only references Kern River flow information below the First Point of Measurement up to 2010. The EIR should have considered and included more recent flow data from the years after 2010. A4-150

At page 3.6-18, the EIR is again deficient for failing to use and rely on more current data. The EIR discusses and reviews August 2012 groundwater levels as "a single snapshot in time of groundwater conditions." (Id.) The EIR should have considered current, or more recent groundwater data, which data is readily available. The EIR's consideration of groundwater data from August 2012 is particularly misleading because that data does not take into account the significant drought conditions in the region from 2012 through 2016, which conditions had significant adverse effects and impacts on groundwater conditions in the region. A4-151

The discussion of KWBA's purported diversion locations, at pages 3.6-24 and 25, as in the Project Description section, is incomplete and misleading. The EIR does not explain whether KWBA actually has a right to use those diversion locations, nor does the EIR describe the conditions and circumstances under which KWBA might use those diversion points.

Many of the diversion points and facilities are located far outside the boundaries of the KWB. The discussion of Project impacts is therefore incomplete, as the EIR does not consider Project impacts involving the use of the diversion points, KWBA's acquisition of rights to use the listed diversion points and facilities, or secondary impacts on other entities that own or utilize those same diversion points, such as Bakersfield. A4-152

The EIR states, at p. 3.6-25: "Pursuant to the 1962 Kern River Water Rights and Storage Agreement, the Kern River Watermaster prepares records of Kern River flows, storage, and releases from Lake Isabella." That statement is not accurate. Bakersfield, and not the Watermaster, prepares and distributes the historic record of Kern River flows, diversions, releases and storage in Lake Isabella. The Kern River Watermaster, at most, only acts as a liaison for the Kern River interests and the US Army Corps of Engineers, the operator of Isabella Dam. Bakersfield otherwise operates the Kern River, and the structures, canals and diversion points along the river. A4-153

The Kern River Watermaster has no authority to regulate, control or monitor diversions from the Kern River. The Watermaster further does not have any right or ability to limit or regulate the actions of any Kern River water right holder. The discussion of the Kern River Watermaster's "Flood Policy" (at p. 3.6-25) is therefore misleading. The purported Flood Policy is not binding on any party, since the Watermaster has no authority over any of the Kern River interests. The Flood Policy, even it did have any force or effect, would also have been A4-154

superseded and invalidated by SWRCB Order 2010-0010, as the SWRCB has declared that all Kern River "flood water" is unappropriated water. Accordingly, only the SWRCB has authority over the diversion, use and regulation of that water supply, and no other entity or individual has any right to establish a "policy" for the use of that water. A4-154 (cont.)

The EIR also fails to identify and discuss quantities of Kern River water, if any, diverted and acquired by KWBA's member agencies. The EIR only discusses quantities of water diverted into the KWB, but provides no information regarding quantities of Kern River water, or other water supplies, diverted and used within KWBA's member agencies. That is necessary and critically important information, since water diverted pursuant to the Project would only be used within the service areas of those member agencies, instead of within the KWB. Without information on actual water use within the member agencies, the EIR cannot even attempt to properly and sufficiently review the impacts of the Project on the local environment, and the local water supply. A4-155

(vii) Failure to review impacts on the Kern River and Bakersfield

To assess the impacts of a proposed project on the environment, an EIR must examine the changes to the existing environmental conditions that would occur if the project is implemented. (14 Cal. Code Regs. § 15126.2(a); *San Joaquin Raptor Rescue Center v. County of Merced*, 149 Cal.App.4th at 676.)

The EIR inexplicably fails to provide any analysis, explanation or discussion of the impacts of the Project on the Kern River, including impacts on flows of water in the Kern River, the environment in and around the Kern River, the aquifer underlying the Kern River, and the patterns of diversion and use of water from the River. The sections of the EIR that review impacts on water resources focus almost entirely on conditions within the KWB. The EIR does not even acknowledge that the Kern River will be impacted by the Project, let alone review and determine the significance of the Project's impact on the Kern River. A4-156

The EIR therefore does not discuss or analyze the impact of the Project on the quantity and timing of flows in the Kern River. The DEIR does not review Project impacts on the Kern River environment, including plant and animal life in and around the River. The EIR further does not describe the impacts of the Project on recharge from operation of the river and groundwater supplies in and around the river channel. A4-157 A4-158 A4-159

California courts have frequently rejected or invalidated environmental review documents for failing to properly and adequately review the impact of a project on a local water supply or source. (*See Napa Citizens for Honest Government*, 91 Cal.App.4th at 386, rejecting an EIR for failing to provide sufficient information on the effect a project would have on a region's water supply and the need for treatment of wastewater; *County of Amador*, 76 Cal.App.4th at 948, setting aside an EIR for a new water diversion for failing to "adequately A4-160

assess the project's impacts on fishery resources and lake levels;" *Friends of the Santa Clara River v. Castaic Lake Water Agency* (2002) 95 Cal.App.4th 1373, finding an EIR for the acquisition of supplemental state water pursuant to the Monterey Agreement deficient for failing to completely assess the impacts of the water transfer.)

In *Santiago County Water District*, the court similarly concluded that an EIR did not adequately assess the environmental impact of the delivery of water to a proposed sand and gravel operation. (118 Cal.App.3d at 831.) The court noted that "even if the Water District does have the ability to meet the requirements of the project, the EIR is silent about the effect of that delivery on water service elsewhere in the Water District's jurisdiction." (*Id.*) The court further stated "the conclusion that one of the unavoidable adverse impacts of the project will be the 'increased demand upon water availability from the Santiago County Water District' is only stating the obvious. What is needed is some information about how adverse the adverse impact will be." (*Id.*)

A4-160 (cont.)

In *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, the court similarly found that an EIR was defective because it did not discuss in sufficient detail the environmental impacts of a pipeline project on the reduction of surface flow in local streams. For the same reasons, the EIR's failure to discuss the impact of the Project on the Kern River is clearly incomplete and inadequate, if not nonexistent.

The EIR also does not provide any meaningful, accurate or comprehensive discussion of the impacts of the Project on Bakersfield. The limited, general discussion of impacts on the City is instead incomplete, inaccurate and misleading. The EIR misstates and mischaracterizes the actual nature of the City's water rights, the City's diversion and use of water, and the City's proposed future use of water. Such errors and omissions would prevent or preclude a proper discussion of the impacts of the Project on the City, even if the EIR had attempted to review and analyze such impacts.

A4-161

The DEIR similarly provides virtually no information about "baseline" conditions within Bakersfield, as well as the City's baseline water rights. The EIR also fails to provide any information with regard to Kern River water rights held by other parties, or Kern River water supplies utilized by other parties. It is inexplicable that the EIR would not identify and discuss such Kern River water rights.

A4-162

A4-163

The operation of the Project, most importantly, including the transfer of City supplies for use in the Project, and the apparent significant anticipated pumping and extraction of groundwater as a result of the Project, would necessarily impact the City's water supply, and the City's operation of the nearby 2800 Acre Recharge Facility.

A4-164

(viii) Failure to accurately review or consider water quality impacts

The discussion of groundwater quality, at page 3.6-19 is also deficient and incomplete. The EIR should not just focus on groundwater quality within the KWB. Instead, the EIR should review and consider water quality in and along the Kern River channel, and in all of the areas that would be affected by the Project. A4-165

The EIR's claim that "baseline water quality is very good" is inaccurate and misleading. (p. 3.6-19.) Some of Bakersfield's drinking water wells in the vicinity of the Kern River, for example, have been contaminated by arsenic, TCP 1, 2 and 3 and other constituents. As explained herein, the loss and transfer of up to 500,000 af of Kern River water to the KWBA in connection with the Project would necessarily impact the quality of groundwater conditions in the region, including in the vicinity of wells that have been impacted by adverse water quality conditions. (p. 3.6-33.) A4-166 A4-167

The claim that the Project will not have an adverse impact on water quality, but will actually "benefit" water quality is misguided, in error. (p. 3.6-39.) The EIR claims that "The project does any water quality standards or waste discharge requirements." That is too narrow of a consideration. The Project could still negatively impact water quality by reducing recharge in other areas of the region that formerly enjoyed the benefit of the water that would be diverted and used by KWBA. A4-168

The loss and change in use of up to 500,000 af of Kern River water could also lead to increases in concentrations of contaminants in groundwater within Kern County. The Project could affect groundwater movement, and patterns of use, based on changes in water levels and the amount of pumping. If for example, certain entities had to pump more water to make up for the loss of up to 500,000 af of water, that could impact the movement of groundwater, and the movement of contaminants in the water. The Project could also increase concentrations of contaminants based on increased pumping in response to the Project. A4-169 A4-170

(ix) Failure to accurately or properly review groundwater impacts

The EIR erroneously and inexplicably claims that the Project will have a less than significant impact on groundwater supplies and recharge activities. (p. 3.6-36.) That claim is simply not credible, and does not make any practical or logical sense.

It should instead be apparent that a new project which involves the new, increased and changed use of up to 500,000 af of water within a critically overdrafted basin, in an area that has experienced dramatic drops in groundwater levels, water shortages, and increasing demands for water, will have significant impacts on local groundwater resources. To claim otherwise, without any credible or relevant evidence, defies logic and common sense. A4-171

The EIR improperly ignores and fails to consider impacts on groundwater resources arising out of KWBA's acquisition of rights to up to 500,000 af of Kern River water, and the consequential loss of such water by other entities within Kern County. The water proposed for use in the Project by KWBA could otherwise, without the Project, be used for recharge purposes in other parts of the basin, or be used in lieu of groundwater extractions, for the benefit of groundwater supplies and levels throughout the basin. A4-172

Entities that formerly used the 500,000 af of water that would be used by KWBA in the Project will likely have to increase their pumping and use of groundwater to replace the water supplies lost to KWBA. That water would also not be available to other districts for recharge and groundwater basin replenishment purposes. The Project would therefore have significant negative impacts on groundwater resources and supplies, contrary to the conclusion in the EIR.

The Project, for example, would clearly have a significant negative impact on Bakersfield, and the City's water supply. The water used in the Project would not be available to the City for recharge and banking purposes. The City would have to pump more groundwater to replace some of the 500,000 af of water lost to KWBA, or divert and use more Kern River surface water. Groundwater levels within City limits would likely decrease further as a result of the shift in 500,000 af of water to KWBA. A4-173

In addition to its analysis of direct effects, 'an EIR must identify and describe the 'significant indirect environmental' impacts that will result from the project. (14 Cal Code Regs §15.126.2(a).) An indirect environmental impact is a change in the physical environment that is not immediately related to the project but that is caused indirectly by the project. (14 Cal Code Regs § 15064(d)(2).) Indirect effects are changes to the physical environment that occur later in time or farther removed in distance than direct effects. (14 Cal Code Regs §15358(a)(2).)

Indirect effects include secondary effects. (14 Cal Code Regs §15358(a)(2).) If a direct change in the' physical environment resulting from a project causes another change in the environment, the secondary effect is treated as an indirect effect of the project. (14 Cal Code Regs §15064(d)(3).) Indirect effects can include growth-inducing effects and other effects relating to a change in' the pattern of land use, population density, or growth rate induced by a project. (14 Cal Code Regs § 15358(a)(2).) A4-174

Despite these obvious and apparent negative impacts, KWBA hides it head in the sand and assumes that the Project will not negatively impact groundwater resources. KWBA claims, for example, that: "[t]he project would not interfere with water already allocated to other uses (including any beneficial uses), and recharging this water would raise the local groundwater table level and result in a net increase in aquifer volume." (p. 3.6-37.) That statement ignores and fails to account for secondary impacts on groundwater resources through the pumping of groundwater supplies by the City and other districts to replace the water proposed for use in the Project. The EIR does not provide or refer to any evidence, studies, models or reports to support A4-175

that claim. The EIR instead assumes the Project will not cause any negative or adverse impacts on groundwater levels, without any proper discussion or analysis.

A4-175 (cont.)

CEQA does not support such bare, unsupported conclusions. An EIR must set forth the basis for its findings on a project's environmental impacts; a bare conclusion without an explanation of its factual and analytical basis is not a sufficient analysis of an environmental impact. (*Laurel Heights Improvement Ass'n.*, 47 Cal3d at 404; *City of Maywood v Los Angeles Unified Sch. Dist.* (2012) 208 Cal.App.4th 362, 393.)

Instead of acknowledging or analyzing the obvious adverse Project impacts on groundwater resources, the EIR claims that the Project will benefit or positively impact groundwater resources. The EIR states, at page 3.6-36, that the "incremental increase in diversion and storage" as a result of the Project "would benefit groundwater recharge." The EIR does not provide any studies, models or analysis to support that claim.

An EIR must be prepared with a sufficient degree of analysis to provide decision-makers with the information needed to make an intelligent judgment concerning a project's environmental impacts. (14 Cal Code Regs §15151; *Napa Citizens for Honest Gov't v Napa County Bd. of Supervisors*, 91 Cal.App.4th at 356.) An EIR should, when looked at as a whole, provide a reasonable, good faith disclosure and analysis of the project's environmental impacts. (*Laurel Heights Improvement Ass'n.*, 47 Cal3d at 392.)

Even if the EIR only considered Project impacts within the KWB, it could not reasonably conclude or assume that the Project would benefit groundwater storage and supplies. The EIR indicates that water diverted and placed into storage in the groundwater basin pursuant to the Project will thereafter be extracted and transferred to KWBA's member districts for later use. The EIR cannot and should not assume that the extraction of up to 500,000 af of groundwater from a critically overdrafted basin, shortly after one of the worst droughts in recorded history, will not have any adverse impacts on groundwater resources.

A4-176

The EIR cannot reasonably conclude that the Project will not negatively impact groundwater resources without providing information regarding the timing, circumstances, justification and procedure for extraction of the 500,000 af of water diverted and placed into storage in the KWB. Absent that information, there is no way to determine how and to what extent the extraction of water placed into storage pursuant to the Project will impact groundwater supplies, or the region in general. It is certainly possible, for example, that KWBA's member districts will try to extract the 500,000 af of water quickly, or as soon as possible, which could result in significant adverse impacts on the local environment.

It is also impossible to determine the actual Project impacts on groundwater resources because the EIR fails to provide relevant, accurate or complete information on groundwater conditions within the KWB, and within the region. KWBA claims, for example, that "current storage" in various groundwater banking projects in the region "exceeds 2.5 million acre-feet

A4-177

(MAF)." (p. 3.6-20.) That statement does not take into account more recent drought conditions. That statement also ignores the fact that the Kern Basin is critically overdrafted, according to the California Department of Water Resources Bulletin 118. A4-177 (cont.) A4-178

The claim that current storage exceeds 2.5 million af also fails to consider or account for migration of recharged and banked water supplies, and pumping by other entities outside of the KWB. The recent increased pumping and reliance on groundwater in the region as a result of drought conditions and decrease in the availability of surface water, in fact, has drastically reduced groundwater levels, produced a number of undesirable results, and increased and exacerbated critical overdraft conditions. A4-179

The EIR also claims that "KWBA member agencies have also historically maintained a significant surplus groundwater balance." (p. 3.1-8.) That is misleading because the basin is considered to be in a critical state of overdraft, so how can there be a "surplus" within KWB or its members? The EIR also provides no facts, information or data to support or explain that dubious claim. A4-180

The EIR does not provide current, detailed information with regard to groundwater supplies in and in the vicinity of the KWB. The EIR provides no information on groundwater levels in and around the KWB, currently and in prior years, the timing and extent of pumping within and around the KWB, as well as subsidence, water quality issues, or well depths. A4-181

The EIR cannot and should not assume that all of the water recharged and placed into groundwater storage through the Project will remain available for extraction and use in the same amount. Those water supplies could easily be lost as a result of groundwater movement and migration, and pumping by other entities in the vicinity of the KWB. Those events certainly caused or contributed to the critical overdraft conditions in the basin. It is also apparent that more entities and individuals have been pumping water from the basin, in greater quantities, than the quantities of water that entities such as the KWBA have been able to recharge and place into storage. A4-182

It is therefore apparent that the extraction of water supplies diverted into the KWB through the Project would necessarily have a negative impact on local groundwater resources. At the very least, the EIR cannot assume that extraction and pumping of water diverted through the Project will not have any significant or negative impact on groundwater resources. It is not reasonable or credible to assume that pumping large quantities of water from an overdrafted basin will not have adverse, negative impacts on water supplies, and groundwater resources, in the basin.

The claims in the EIR that the Project would only benefit groundwater levels in the basin, and that there is a plentiful supply of groundwater, and high water levels in the basin, is contradicted by actual, credible evidence that indicates otherwise. A4-183

The EIR explains, for example, that KWBA is subject to a number of plans, agreements and policies that are intended to "'prevent, eliminate or mitigate significant adverse impacts' resulting from cumulative recovery operations of KWBA and Rosedale projects." (p. 3.6-36.) The EIR states: "Most recently, KWBA entered into a joint plan, Project Recovery Operations Plan Regarding Pioneer Project, Rosedale-Rio Bravo Water Storage District, and Kern Water Bank Authority Projects (Joint Plan) (Appendix F). The recovery operations plans all include a joint committee that regularly monitors potential groundwater level impacts of banking project recovery operations on neighboring agricultural and domestic wells based on groundwater modeling and specified triggers for potential mitigation actions, with significant impacts being avoided, eliminated, or mitigated by implementing one or more corrective actions, including investigation of any claims and pump lowering, well replacement, and/or reduction or adjustment of groundwater levels. That information reveals that past operation of the KWB, including recharge, storage and pumping of water, caused adverse and negative impacts which resulted in years of litigation. The resolution of that litigation produced agreements and operational plans intended to avoid negative impacts from KWBA's operations. Yet the EIR inexplicably claims that an increase in diversion of up to 500,000 af of water from other parts of the basin, and the pumping of up to an additional 500,000 af of water within the KWB, will not have any negative impacts on water supplies, and groundwater conditions, within the basin.

A4-183 (cont.)

The discussion of the Joint Plan for the operation of the KWB states that one of goals of the Plan is to monitor impacts of banking operations on "neighboring agricultural and domestic wells." That statement indicates that any pumping within the KWB could have negative impacts on neighboring and adjoining properties, and groundwater supplies. The EIR, however, dismisses and fails to review or consider impacts on neighboring and adjoining properties as a result of the Project, despite the fact that the Project calls for the extraction of significant quantities of water from groundwater storage. That reveals a clear inconsistency in the EIR, and further establishes that the EIR has improperly failed to consider or review actual negative and adverse impacts on groundwater supplies.

A4-184

The EIR also claims that the Project will have a less than significant impacts on raised groundwater levels. (p. 3.6-37.) The EIR, however, refers to an agreement between KWBA and KCWA to "monitor shallow groundwater conditions and conduct several proactive measures to prevent damage to the Cross Valley Canal including: monitoring shallow groundwater conditions on a weekly/monthly basis, coordinating water operations with KCWA, and managing recharge operations to help ensure that groundwater gradient is away from the Cross Valley Canal during shallow groundwater conditions." (Id.)

A4-185

Given the need for an agreement to address potential negative impacts from occasional raised groundwater levels, it is clearly not appropriate for the EIR to fail to acknowledge or consider potential project impacts on raised groundwater levels. In light of that agreement and the prior concerns over raised groundwater levels, it does not seem reasonable and appropriate for the EIR to conclude that the potential increase in water supplies for recharge by up to

500,000 af will not have significant impacts on raised groundwater levels. At the very least, the EIR should not have summarily dismissed the possibility of raised groundwater levels without any study, model or analysis. A4-185 (cont.)

The discussion of other water banking projects in Kern County, at pages 3.6-19 and 20, and the map showing water banking facilities in Kern County, should have also included and accounted for Bakersfield's ongoing efforts to recharge water in the Kern River channel through regulated and managed flows in the river channel. Those recharge efforts have created significant groundwater supplies owned and utilized by Bakersfield. A4-186

(x) Failure to review impacts on water resources and entities that use water resources in the region

The EIR's discussion of available water supplies in Kern County, and the impact of the Project on those supplies, is incomplete and deficient. (p. 3.6-27.) The EIR should have identified and considered Project impacts on all Kern River water diverted and used in the region, and all Kern River right holders. Without information regarding diversion and use of Kern River water by the Kern River right holders, the EIR cannot practically and accurately consider impacts on those entities, and on the environment in the region, from the Project. Consequently, the EIR fails to address impacts on other Kern River water right holders, and other water supplies, as a result of the transfer of up to 500,000 af of water to KWBA, through the Project.

The EIR states, at p. 3.6-27, that its consultants prepared a Water Availability Analysis ("WAA") to "estimate how much excess water could have been delivered to the KWB, based on past hydrology, after rights of existing users were satisfied." The EIR, and the WAA, however do not identify or discuss the "rights of existing users" on the Kern River. The EIR should have identified all of the prior Kern River water rights, and the entities that hold those rights, in order to properly consider the impact of the Project on those water resources. Absent that information, the reference to the "rights of existing users" on the Kern River is incomplete, unhelpful, and misleading. The EIR cannot validly or accurately quantify "flood flows" over and above existing Kern River water rights without quantifying, identifying and reviewing all existing, prior rights on the river. A4-187

The EIR also fails to consider impacts associated with the use of water diverted pursuant to the Project by KWBA's member districts. In Table 3.6-5, at page 3.6-21, and Table 36-11, at p. 3.6-28, the EIR lists diversion of various water supplies into the KWB. The 500,000 af of water diverted pursuant to the Project, however, will not be put to beneficial use within the KWB. The water instead will only be temporarily stored within the KWB, and then transferred to KWBA's member agencies for various uses. A4-188

California courts will invalidate EIRs that attempt to avoid reviewing and assessing impacts through a limited, incomplete project description. A court, for example, invalidated An EIR for a groundwater pumping and water export project that failed to describe or to analyze groundwater exports and instead improperly sought to characterize expanding groundwater exports as a separate, ongoing project. (*See County of Inyo v City of Los Angeles*, 71 Cal.App.3d at 193.)

A4-188 (cont.)

The EIR should have therefore identified the quantities and sources of water currently used within KWBA's member districts, and reviewed and analyzed all of the impacts associated with the increased availability of Kern River water supplies within each of those districts as a result of the Project. The EIR should have also identified all of the Kern River water rights held by other entities in Kern County, and the quantities of water used by those entities, in order to properly review and consider the impacts of the Project on those water supplies, and those entities.

A4-189

Even if KWBA truly proposes to only divert Kern River water that otherwise would not be used by other entities and agencies within Kern County, the EIR should have still considered and reviewed impacts associated with the use of that water supply by KWBA's member agencies on water resources and supplies in Kern County, and on other entities that use Kern River water. If KWBA's member districts are able to utilize a new Kern river supply of up to 500,000 af within their districts, that would necessarily have some kind of impact on local water supplies, the availability and use of local water supplies, and other entities that use and rely on Kern River water supplies. The Project could, for example, cause secondary impacts within various districts as a result of increased availability and use of Kern River water within KWBA's member districts.

A4-190

To the extent the EIR does attempt to review Project impacts on hydrology and water quality, the analysis is limited, incomplete and deficient. At pages 3.6-28 and 29, for example, the EIR discusses at some length potential Project impacts on the Buena Vista Water Storage District ("Buena Vista"), a nearby water district that holds appropriative "pre-1914" Kern River water rights. The EIR, however, fails to provide any similar analysis or discussion of Project impacts on other Kern River water right holders, specifically, Bakersfield, the Kern Delta Water District and the Kern County Water Agency ("KCWA"). The EIR also fails to address Project impacts on entities and districts that regularly use Kern River water pursuant to various agreements, including North Kern and the Rosedale-Rio Bravo Water Storage District ("Rosedale").

A4-191

A4-192

It was additionally important and necessary for the EIR to review Project impacts on the entities that have submitted competing applications to appropriate Kern River water, including Bakersfield, KCWA, North Kern and Rosedale. In fact, Rosedale's application claims to seek to obtain right to the same "flood water" loosely defined and identified in KWBA's application. It was therefore particularly important that the EIR consider Project impacts within Rosedale.

A4-193

Approval of KWBA's Project by the SWRCB, at the expense of Rosedale's application, would logically and certainly cause negative impacts within Rosedale by denying Rosedale use of the same water proposed for use in the Project. The EIR's failure to consider those impacts, or any impacts at all, within Rosedale, is inexplicable, erroneous, and in clear violation of CEQA requirements. A4-193 (cont.)

The EIR also clearly violates CEQA by failing to identify and consider potential impacts on KCWA. In addition to submitting a competing application to appropriate, KCWA holds junior "high flow" Kern River water rights that are only triggered and available when Kern River flows reach a certain level. (See KCWA Application to Appropriate No. 31677.) Since KWBA claims it only seeks high flow Kern River water, or "flood water," through its application and in connection with the Project, it certainly appears that KWBA's application, and Project, will have some impact on KCWA and KCWA's water rights. There is simply no excuse or justification for the EIR's failure to even acknowledge the potential impacts of the Project on KCWA. A4-194

The EIR also fails to identify or review secondary impacts on entities that are currently using Kern River water that would be used in the Project. Presumably those entities will have to obtain replacement water supplies, which could produce further impacts, such as increased groundwater pumping and use in the impacted districts. A4-195

An EIR's analysis of significant environmental impacts must identify and describe the significant direct environmental impacts that will result from the project in both the short term and the long term. (14 Cal Code Regs §15126.2(a).) The emphasis of the discussion of significant effects should be in proportion to their severity and probability of occurrence. (14 Cal Code Regs § 15143.) Given the importance and significance of groundwater supplies in the region, the EIR should have gone out of its way to provide accurate, complete information regarding groundwater conditions in KWB and the region, and accurately and properly considered Project impacts on such groundwater resources. A4-196

KWBA has additionally violated CEQA by improperly restricting the Project area, and the study area, in its review of the Project's impacts on hydrology and water quality. KWBA also inconsistently, and selectively, limits the Project area. On some occasions, as with surface water quality and the discussion of water banking operations, KWBA discusses areas, and impacts, outside of the boundaries of the KWB. On other occasions, such as with groundwater quality, KWBA arbitrarily only considers conditions, and impacts, within the boundaries of the KWB. A4-197

As a result of all of the above mentioned omissions, errors and CEQA violations, the EIR's assessment of impacts on water resources lacks any credibility, authority, or value. (p. 3.6-35.) The EIR only offers the broad, unsupported conclusion that the Project will not have a significant impact on "available water supply." That is illogical and unsupported by the record, or applicable CEQA law. That is also ridiculous, as the diversion and change in use of up to A4-198

500,000 af of Kern River water would certainly have impacts on the local water supply, as well as a number of other related direct and indirect impacts. A4-198 (cont.)

When the basis for an EIR's finding that an impact is less than significant is not apparent from the facts and circumstances, the EIR must explain the reasons for the finding. An unsubstantiated conclusion that an impact is not significant, without supporting information or explanatory analysis, is insufficient; the reasoning supporting the determination of insignificance must be disclosed. (*See City of Maywood v Los Angeles Unified Sch. Dist.*, 208 Cal.App.4th at 393; *Protect the Historic Amador Waterways v Amador Water Agency*, 116 Cal. App.4th at 1111; *Citizens to Preserve the Ojai v County of Ventura* (1985) 176 Cal.App.3d 421, 432.) A4-199

The EIR found that "The project would not alter drainage patterns of the area or substantially increase the rate or amount of surface runoff that would result in flooding onsite or offsite." (P. 3.6-38.) Yet, a change in use of up to 500,000 af of Kern River water would necessarily have an impact on drainage patterns in and around the Kern River. Instead of concluding there will be no impacts, without any supporting evidence, model documentation or report, should have reviewed actual impacts of the Project on drainage patterns.

(xi) Utilities and service systems

The EIR claims that: "Implementation of the project would not result in impacts on utilities and service systems because there would be no construction under the project, and there would be no substantial changes to operations that could affect wastewater management or stormwater drainage in the project area." (p. 3.7-5.)

That analysis is too narrow and limited, and does not consider other potential impacts on utilities and service systems. The EIR, for example, fails to consider potential adverse water quality impacts caused by the Project on domestic drinking water supplies. That analysis also does not consider or account for adverse Project impacts on Bakersfield's domestic water supply. A4-200

Bakersfield's domestic water demands are satisfied by a combination of banked Kern River water, and direct diversions of Kern River surface water. Bakersfield has historically used at least some portion of the 500,000 af of water proposed for use in the Project to meet its domestic water demands. The loss of that water to the KWBA would therefore have significant, or potentially significant, impacts on the City's drinking and domestic water supply.

The EIR is deficient for not accounting for or reviewing those potential adverse impacts on Bakersfield's drinking water supply. The EIR also fails to review or consider additional secondary impacts resulting from Bakersfield's need and efforts to obtain water to replace the water supplies lost to the KWBA. A4-201

It is also clear that KWBA did not consider all relevant information in assessing impacts on utilities and service systems. The EIR indicates that KWBA considered the 2010 UWMPs prepared for of ID4 and the North of the River MWD. The EIR does not indicate, however, that KWBA reviewed or consider the UWMPs for Bakersfield, or Cal Water, the primary water purveyor within Bakersfield. Those UWMPs discuss at length the nature and source of the City's domestic water supply, and identify Kern River banked and surface water supplies as the primary, and typically only, water source, for the City's domestic water demands. The loss of some, or any portion of that water supply as a result of the Project would necessarily result in significant negative, adverse impacts on the City's domestic water supply. A4-202

The EIR should have also referred to and considered more current 2015 UWMPs for Bakersfield and Cal Water, as well as ID4 and NORMWD.

(xii) Additional comments regarding Project impacts

The WAA claims that any quantities of water in the Kern River above 3165 cubic feet per second ("cfs") is unappropriated flood water. (Appendix L.) The EIR fails to disclose or discuss that theory, which undercuts and negates the EIR's function as an informational document, and which indicates that the EIR fails to properly assess actual impacts associated with the change in use of up to 500,000 af of Kern River water. A4-203

The EIR, and the WAA, also fail to disclose that the WAA, moreover, only sets forth a theory, or an argument, regarding the quantity and availability of unappropriated water. Bakersfield, for example, does not agree that unappropriated water is limited to water over 3165 cfs. The City maintains that the water forfeited by Kern Delta is no longer part of the water rights structure on the Kern River, as it is instead a new "block" of water that is under the jurisdiction and authority of the SWRCB as unappropriated water, and only the SWRCB can determine rights to and the proper, legal use of that water.

The court in the Kern River forfeiture litigation imposed diversion "caps" on some of Kern Delta's rights in certain months of the year. Water available over and above the caps is forfeited, unappropriated water that is subject to the SWRCB's jurisdiction. The water cannot and does not automatically fill or pass to junior rights on the River, as only the SWRCB can make any determination as to the ownership and use of that water supply. That forfeited water additionally cannot automatically flow to or accrue to the rights used by North Kern pursuant to the terms of North Kern's agreement with the City, and prior judgments and orders in the Kern River litigation that established that the forfeited water was separate and distinct from the water North Kern is allowed to use pursuant to its agreement with the City. A4-204

It is therefore very possible, if not likely, that some of the water requested by KWB's application will consist of the unappropriated water forfeited by Kern Delta. The City also submitted a WAA to the SWRCB which demonstrated that up to an average of approximately

104,000 af of unappropriated water is available each year on the Kern River, based on Kern Delta's forfeiture of water. Since KWBA's application seeks up to 500,000 af of unappropriated Kern River water, the first 104,000 af of that water would presumably and likely consist of the water forfeited by Kern Delta. A4-204 (cont.)

The EIR is therefore deficient for failing to consider the other competing applications to appropriate as alternatives to KWBA's project, and for not considering and reviewing impacts involving the other projects proposed in some of the other applications to appropriate, such as Bakersfield's KRFMWP. A4-205

5. ALTERNATIVES

The consideration and discussion of alternatives to the Project in the EIR is incomplete, deficient and not in compliance with CEQA. One of an EIR's major functions "is to ensure that all reasonable alternatives to proposed projects are thoroughly assessed by the responsible official." (*Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190, 197.) An EIR must therefore "describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." (14 Cal. Code Regs. § 15126.6(a).) A4-206

The EIR does not satisfy those requirements. The only alternatives considered in the EIR are the "no project" alternative, and the diversion and use of a slightly reduced quantity of water (375,000 af instead of 500,000 af). As explained herein, those are not valid, viable alternatives to the Project. The EIR also violates CEQA by failing to propose and consider a reasonable range of actual, viable and practical alternatives to the Project.

A. The Proposed Alternatives are not Viable or Accurately Described

An EIR must contain a discussion and evaluation of the no project alternative. (14 Cal. Code Regs. § 15126.6(e).) The CEQA Guidelines explain that "[t]he purpose of describing and analyzing a no project alternative is to allow decision makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project." (14 Cal. Code Regs. § 15126.6(e)(1).) Among other things, the EIR must discuss "what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services." (14 Cal. Code Regs. § 15126.6(e)(2).) The no project alternative is a fact based forecast of the environmental effects of maintaining the status quo. (*Planning and Conservation League*, 180 Cal.App.4th at 247.) A4-207

KWBA's description and review of the no project alternative is inaccurate and misleading, and does not comply with CEQA requirements. KWBA does not accurately

describe what would be reasonably expected to occur in the future if it does not approve or implement the Project. A4-207 (cont.)

The EIR states that under the no project alternative, "KWBA would not divert unappropriated flood flows in the Kern River for groundwater recharge. Instead, the surplus water that is available in wet water years after all water diversion needs have been met would flow downstream and either (1) be diverted at the Intertie and conveyed toward southern California via the California Aqueduct; or (2) flood farmlands in the Tulare Lake Basin." (p. 4-5.) The EIR later states: "Under the No Project Alternative, the KWBA would not divert flood water for groundwater recharge. Instead, the flood water that is available in wet water years after all water diversion needs have been met would flow into the Intertie and toward southern California via the California Aqueduct." (p. 4-6.)

Those statements are not accurate. If KWBA did not adopt or implement the Project, the 500,000 af of water proposed for use in the Project would not be diverted at the Intertie and conveyed toward southern California via the California Aqueduct, or flood farmlands in the Tulare Lake Basin. Instead, the water would be subject to the jurisdiction and authority of the SWRCB. The SWRCB would presumably award the water to one of the other applicants.

None of the other applications to appropriate propose diverting the unappropriated water into the California Aqueduct for delivery to southern California. None of the applications propose using the water to flood farmlands in the Tulare Lake Basin.

In addition, even if the SWRCB does not award the unappropriated water to one of the other applicants, the water would not be diverted into the Intertie, delivered to southern California, or used to flood farmland. Instead, the water would continue to be used by the current Kern River water right holders.

The discussion of the no project alternative is therefore flawed and deficient. A proper, credible review of the "no project" alternative would have considered and compared the other applications to appropriate, and the projects and proposed uses of the unappropriated water contemplated in connection with those applications, as well as the impacts associated with those applications. It is inevitable that without KWBA's application to appropriate and Project, the SWRCB will allocate the unappropriated Kern River water, including water available more often during high flow conditions to one of the other applicants for the water, or for some other purpose or use within the jurisdiction and control of the SWRCB.

Based on the misguided, erroneous characterization of the no project scenario, the entire discussion of the no project alternative, and impacts from the no project alternative is in error, and not helpful or relevant. The EIR states, for example, that "[t]he No Project Alternative would not make increased Kern River water available for groundwater recharge." (p. 4-6.) The A4-208

EIR also claims: "Under the No Project Alternative, high quality Kern River water would flow out the Intertie instead of into groundwater recharge."

Those statements are not accurate. All of the competing applications to appropriate call for using at least some of the unappropriated water for groundwater recharge. Bakersfield's application, for example, contemplates and calls for recharge of the unappropriated water primarily in the Kern River channel, as well as the City's 2800 Acre Recharge facility. Those recharge locations would provide much greater environmental benefits to the region than the recharge efforts proposed by KWBA, as the water would recharge in an area where natural recharge of the groundwater basin has historically occurred, and where the recharged water would provide greater benefits to groundwater levels, groundwater supplies, water quality, and the environment in and around the Kern River. A4-208 (cont.)

The EIR also claims: "No impacts on utilities or service systems are expected due to implementation of the No Project Alternative." (p. 4-7.) That statement is also inaccurate. Under the no project alternative the unappropriated water would necessarily be awarded to another competing applicant for the water. Pursuant to the City's application to appropriate, a significant portion of the unappropriated water would eventually be available to serve City residents either through the City's water utility, or through Cal Water. The no project alternative would therefore provide more positive benefits, and reduce adverse impacts, on utilities and service systems. A4-209

Some of the other applications to appropriate would also make more water available for utility demands by keeping more of the water in the vicinity of the City. It is impossible to make those determinations and assessments at this time, however, since the EIR fails to provide any meaningful information or make any review and comparison of the competing applications. The EIR therefore fails to properly consider the no project alternative, and the EIR once again fails as an informational document.

B. The EIR Fails to Propose a Reasonable Range of Alternatives

The discussion and consideration of alternatives in the EIR is also incomplete and deficient because the EIR does not propose a reasonable range of alternatives, and does not identify or review other practical, viable alternatives to the Project. A4-210

In addition, the only alternative proposed and discussed in the EIR, other than the no project alternative, is not a valid, credible or actual alternative to the Project. The purported alternative is not really a true alternative to the Project, but merely a reduced, lesser version of the Project, involving a reduction in the quantity of unappropriated water diverted and used in the Project. "Alternative 2" calls for diversion of up to 375,000 af of unappropriated water, instead of 500,000 af, but the Project would otherwise be unchanged. A4-211

The discussion of Alternative 2 and the comparison of that alternative to the Project is entirely flawed and unhelpful, since the EIR grossly understates and mischaracterizes the impact of the Project on the environment. Since the EIR fails to recognize or discuss the significant adverse impacts that would arise through the Project, the EIR fails to make a valid comparison of the Project and Alternative 2. That entire discussion is unhelpful and irrelevant, and should be discarded. A4-212

A valid, accurate comparison of the Project and Alternative 2 would have determined that Alternative 2 is a preferred alternative, and is "environmentally superior alternative," in comparison to the Project. Adverse impacts to the local environment, water supply and groundwater conditions would be reduced under Alternative 2 because less water would be diverted into the KWB, more water would remain in the river channel, and more water would be available for other beneficial uses, including environmental and instream uses, or for groundwater recharge in areas that would provide advantages and greater benefits that recharge within the KWB, in the far western portion of Kern County. Alternative 2 would therefore have a more beneficial and positive impact on biological resources, air quality, greenhouse gases, aquatic resources, wildlife resources and hydrology and water quality. A4-213

As indicated above, the EIR also improperly fails to consider or even contemplate the competing applications to appropriate as alternatives to the Project. Those other applications, including, in particular, Bakersfield's application and Rosedale's application, provide actual, valid alternatives to the Project which will be considered by the entity with jurisdiction over the water proposed for use in the Project, the SWRCB. A4-214

The EIR also fails to consider or discuss the use of the City's KRFMWP as an alternative to the Project. That omission is particularly improper, as the City's project proposes to utilize some of the same water that would be used in KWBA's Project to achieve many of the same goals as KWBA's Project, but with greater benefits to the local environment and water supply, including Kern River flows, with significantly less adverse impacts. A4-215

Recharge in the Kern River channel, independent of the City's flow and recharge project, is also not considered as an alternative. Increased stream flows and recharge in the Kern River would provide numerous benefits to KWBA and its members and would achieve some of the goals of the Project, again with a reduction in adverse impacts on the environment and other water users. A4-216

The EIR once again is not just deficient in its analysis, but is misleading and deceptive for ignoring the actual alternatives to the Project, and for presenting a false and misleading characterization of alternatives to the public. A4-217

The EIR also fails to comply with CEQA by failing to consider or review other actual, practical alternatives to the Project. The EIR should have considered alternatives involving a A4-218

range of alternative water supplies, such as State Water, reclaimed waste water, or water purchased, exchanged or transferred from other entities in Kern County, or outside of Kern County. A4-218 (cont.)

The EIR does not even mention other options for increasing KWBA's water supply, or reliability. There is no discussion or explanation as to why KWBA did not even consider alternatives involving conservation and recycled water. The omission of any those alternatives is particularly glaring, and erroneous, because it very possible, and even likely, that the KWBA and its member agencies will have to limit pumping and institute conservation measures in the near future as a result of the Sustainable Groundwater Management Act ("SGMA").

An alternative that would substantially reduce the project's significant environmental impacts should not be excluded from the analysis simply because it would not fully achieve the project's objectives. (*Habitat & Watershed Caretakers v City of Santa Cruz*, 213 Cal.App.4th at 1304.) The CEQA Guidelines assume that the alternatives described in an EIR will not necessarily attain all of the project's objectives. (*Watsonville Pilots Ass'n v City of Watsonville* (2010) 183 Cal.App.4th 1059, 1087.) There is no requirement that the alternatives included in an EIR satisfy every basic objective of the project. (*California Native Plant Society v City of Santa Cruz* (2009) 177 Cal.App.4th 957, 991; *See also County of Inyo v City of Los Angeles*, 71 Cal.App.3d at 203 (EIR for expansion of groundwater extraction program failed to consider water conservation as alternative to increased groundwater extraction).) A4-219

The EIR does indicate that KWBA considered but rejected an alternative identified as "banking via transfers," which the EIR describes as follows: "KWBA could bank additional water by letting Kern River flows arrive at the Intertie, then working with DWR or other SWP participants, arrange to bank these surplus flows through future water transfers." (p. 4-3.) That description is confusing and unclear, as it is not clear how obtaining Kern River water through "future water transfers," as opposed to direct diversion into the KWB, would serve as an actual alternative to the Project.

It is also not clear how or why "DWR and other SWP participants" would be involved with that alternative. DWR will no longer have any right or role in the use and allocation of unappropriated Kern River water. DWR has not submitted an application to appropriate that water, and the unappropriated water is now under the jurisdiction of the SWRCB. The EIR further does not indicate that State Water would be utilized in the Project through this alternative, so it is not clear why other SWP participants would be involved in this alternative. A4-220

In any case, KWBA eliminated the "banking via transfers" alternative from consideration because "it does not achieve the primary project objectives," and "because it requires complicated and uncertain water transfers, which could conflict with competing water rights/water demands and have unanticipated indirect environmental impacts which cannot be analyzed at this point." (p. 4-3.)

The EIR fails to recognize, however, that the Project itself would directly conflict with competing water rights and demands on the Kern River. In fact, this alternative would conflict far less with competing water rights and demands than the Project because water transfers would at least be voluntary and subject to mutual agreement, as opposed to an allocation of the unappropriated water in a competing, contested SWRCB water rights proceeding.

A4-220 (cont.)

In addition, the claim that KWBA cannot analyze impacts from this alternative at this point does not makes sense and lacks credibility. All EIRs involve some level of forecasting, and the EIR could have generally reviewed and discussed potential environmental impacts involving water transfers in order to consider the viability, and merits, of this alternative. The EIR could have additionally proposed that future water transfers would be subject to further, presumably more limited environmental review, including CEQA review which could have "tiered off" of this EIR.

The EIR additionally should have considered alternatives that involved changes in operations and policies within the KWB, including alternatives involving conservation, in lieu recharge, more efficient irrigation methods, pumping moratoriums, changes in location of groundwater pumping, reduction in demands within KWBA's member districts, and other operational changes. In fact, it is very likely that KWBA will be required to implement some or all of those actions, and significantly change its groundwater banking and extraction practices, in connection with the eventual implementation of SGMA in the basin.

A4-221

The EIR should have also considered and reviewed alternatives involving changes in activities, or alternatives available to all of KWBA's member districts. Since the water diverted pursuant to the Project would be used within KWBA's member districts, a valid, proper discussion of alternatives would have considered changes in operations, alternative water supplies and sources, and other options available to those districts as alternatives to the Project.

A4-222

The EIR also does not properly consider the use of other, existing banking projects in the region as an alternative to the Project. It is not clear why the existing banking projects could not meet most, if not all, of the objectives of the Project, with decreased adverse impacts. Increased recharge using lined canals, or increased recharge and recovery by KWBA's member districts, are also viable, practical alternatives to the Project.

A4-223

The EIR also does not properly consider the use of other, existing banking projects in the region as an alternative to the Project. It is not clear why the existing banking projects could not meet most, if not all, of the objectives of the Project, with decreased adverse impacts. Increased recharge using lined canals, or increased recharge and recovery by KWBA's member districts, are also viable, practical alternatives to the Project.

contingencies." (40 Cal.4th at 432; *see also Napa Citizens for Honest Government*, 91 Cal.App.4th 342. holding that an EIR's discussion of possible alternative water sources did not comply with CEQA requirements because the EIR cannot simply label the possibility that other water sources will not materialize as "speculative" and decline to address such water sources.)

Courts will reject an EIR's analysis of alternatives when an alternative that would reduce significant impacts and achieve most project objectives is omitted from the analysis and the EIR fails to include a reasonable explanation of the decision to exclude it. (*See North Coast Rivers Alliance v Kawamura* (2015) 243 Cal.App.4th 647 (EIR on program to eradicate invasive insect failed to evaluate long-term control as alternative to eradication, even though it approved control program after concluding eradication was infeasible); *Habitat & Watershed Caretakers v City of Santa Cruz* (2013) 213 Cal.App.4th 1277 (EIR that did not include any environmentally superior alternatives to project designed to provide water and sewer service failed to support its conclusion that no alternatives were available with adequate evidence and analysis).) A4-223 (cont.)

Finally, the EIR's discussion of the environmentally superior alternative is flawed and erroneous because the EIR fails to accurately consider the actual impacts of the Project. As indicated, it is still apparent that the no project alternative and Alternative 2 would provide greater benefits to the region, reduce adverse impacts associated with the Project, and each serve as environmentally superior alternatives. A4-224

The projects and uses proposed in the other competing applications to appropriate would also generally serve as environmentally superior alternatives. Since the EIR fails to consider or review the competing applications and projects as alternatives to the Project, however, it is not possible to determine the environmentally superior alternative among the competing applications. A4-225

As indicated above, it is still possible to determine that Bakersfield's application and proposed use of the unappropriated water would provide the most benefits to the environment, and in general. Bakersfield has submitted the only application that calls for use of all of the unappropriated water for environmental, public trust purposes, and which calls for the broadest, most beneficial use of the water. Bakersfield's project would have significantly less negative impacts than KWBA's project, as the City would replenish the groundwater basin, reduce pumping and contribute directly to the environment and other public trust uses. Bakersfield's project would also have a substantially greater positive impact on aquatic, botanical and wildlife resources. A4-226

6. CUMULATIVE IMPACTS

An EIR must discuss a cumulative impact if the project's incremental effect combined with the effects of other projects is "cumulatively considerable." (14 Cal Code Regs §15130(a).) This determination is based on an assessment of the project's incremental effects "viewed in A4-227

connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." (14 Cal Code Regs §15065(a)(3); *Banning Ranch Conservancy v City of Newport Beach* (2012) 211 Cal.App.4th at 1228; See also 14 Cal Code Regs §15355(b).)

The purpose of the cumulative impacts analysis is to avoid considering projects in a vacuum, because failure to consider cumulative harm may risk environmental disaster. (*Whitman v Board of Supervisors*, 88 Cal.App.3d at 408.) Without this analysis, piecemeal approval of several projects with related impacts could lead to severe environmental harm. (*San Joaquin Raptor/Wildlife Rescue Ctr. v County of Stanislaus*, 27 Cal.App.4th 713, 720; *Las Virgenes Homeowners Fed'n v County of Los Angeles* (1986) 177 Cal.App.3d 300, 306.) An adequate analysis of cumulative impacts is particularly important when another related project might significantly worsen the project's adverse environmental impacts. (*Friends of the Eel River v Sonoma County Water Agency, supra.*)

A4-227 (cont.)

The CEQA Guidelines define cumulative impacts as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." (14 Cal Code Regs §15355.) The individual effects may be changes resulting from a single project or more than one project. (14 Cal Code Regs § 15355(a).) Cumulative impacts may result from individually minor but collectively significant projects taking place over a period of time. (14 Cal Code Regs §15355(b).)

An adequate cumulative analysis requires a list of projects producing related or cumulative impacts. (14 Cal. Code Regs. § 15130(b)(1).) In formulating those projects to be considered and each cumulative analysis, the lead agency has "a duty to interpret the guidelines so as to afford the fullest possible protection to the environment." (*San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal.App.3d 61, 74.) An EIR is further required to assess the cumulative impact of the project on not just related existing projects, but also "probable future projects." (14 Cal. Code Regs. § 15130(b)(1)(A).)

The EIR does not comply with the requirements for the review of the Project's cumulative impacts on the environment. Among other problems, the cumulative impact discussion fails to properly identify the Project's impacts, adverse or otherwise, fails to provide sufficient details regarding other projects, and potential projects, in the region, and fails to properly identify and discuss the cumulative impacts of the Project in connection with other projects. The same errors and omissions in the "impact" section of the EIR are carried over and compounded in the cumulative impact section of the EIR.

The EIR also fails to provide any meaningful discussion or analysis of the cumulative impact of the Project on the Kern River, and other local water supplies and sources. Once again, KWBA cannot provide a proper or sufficient analysis of the cumulative impacts of the Project on the Kern River, and other local water supplies, because the EIR fails to provide basic, essential

A4-228

information on baseline conditions in the Kern River, and the impact of the Project on the Kern River. A4-228 (cont.)

The cumulative impact discussion is also flawed and not in compliance with CEQA requirements because the EIR fails to provide relevant, accurate or helpful information with regard to other projects, and activities, in the region which would cause or contribute to cumulative impacts. The EIR fails to provide data, information or details with regard to other activities and projects in the region which would contribute to or cause cumulative impacts. The EIR instead consistently summarily dismisses a number of potential cumulative impacts without providing or referring to any supporting facts or data, and without providing any accurate or reasonable explanation of the impacts. The analysis of cumulative impacts is therefore prejudicially and unreasonably understated, and is based primarily on speculation and wishful thinking. A4-229

In *Whitman v. Board of Supervisors*, 88 Cal.App.3d at 408, the court noted that the full environmental impact of a project "cannot be gauged in a vacuum." Instead, the EIR must provide a list of projects producing related or cumulative impacts, a brief summary of the expected environmental impacts to be produced by the projects and a reasonable analysis of the combined or cumulative impacts of all the projects. (*Id.* at 409.) The court in *Whitman* found that the cumulative impact section of the EIR did not comply with the statutory authority because it "lacks even a minimal degree of specificity or detail." (*Id.*, at 411.)

In *Citizens to Preserve the Ojai v. County of Ventura*, 176 Cal.App.3d at 431, the court stated that "it is vitally important that an EIR avoid minimizing the cumulative impacts. Rather, it must reflect a conscientious effort to provide public agencies and the general public with adequate and relevant detailed information about them." The court therein further stated: "A cumulative impact analysis which understates information concerning the severity and significance of cumulative impacts impedes meaningful public discussion and skews the decisionmaker's perspective concerning the environmental consequences of the project, the necessity for mitigation measures, and the appropriateness of project approval." (*Id.*)

A. The EIR Unreasonably and Improperly Excludes Resources from the Cumulative Impact Analysis

At the outset of the cumulative impact section, KWBA excludes a number of resources "for which there are no significant cumulative impact" from the cumulative impact analysis. (p. 5-2.)

The EIR, however, should not have excluded from the cumulative impact analysis the following resources: Utilities, surface water quality, and groundwater quality, as well as aesthetics, agricultural and forestry resources, cultural resources, land use and planning, recreation, public services and population and housing. The Project will have adverse impacts A4-230

on all those resources, as explained above. In general, the Project would adversely impact those resources, and contribute to adverse cumulative impacts in the region, because implementation of the Project would result in increased diversions from the Kern River, a decrease in flows of water in the Kern River, and a loss of water, with consequential impacts, by entities that are presently using the water that KWBA seeks for the Project through its application. A4-230 (cont.)

The EIR does not provide any valid justification or explanation for the exclusion of those resources from the cumulative impact analysis. The EIR states, at p. 5-3, that "As indicated in the analysis in Chapter 3 of this EIR, the project would affect a limited range of resources. Further, among those resources, only those impacts that have the potential to incrementally contribute to the cumulatively significant impacts of other relevant projects in the region are analyzed." Those conclusions, without any supporting analysis, and based on the erroneous analysis in Chapter 3 of the EIR, do not comply with or comport with CEQA requirements. The EIR should not have assumed or predicted that there will not be significant impacts, or cumulative impacts, involving those resources, without undertaking any review or analysis of those resources, and cumulative impacts. A4-231

In addition, all of those resources would benefit from Bakersfield's alternative and competing application, and project. Adopting and implementing KWBA's Project in place of the City's project would necessarily result in adverse impacts on those resources, and further contribute to adverse cumulative impacts on the environment and local water supply. A4-232

The EIR should have also considered cumulative impacts arising from North Kern's application to appropriate, and other applications, including the City's application and North Kern's application. As with Bakersfield's application, SWRCB approval of KWBA's application at the expense of the other competing applications could further contribute to adverse cumulative impacts in the region, including adverse impacts involving utilities, surface water quality, and groundwater quality, as well as aesthetics, agricultural and forestry resources, cultural resources, land use and planning, recreation, public services and population and housing. A4-233

KWBA further alleges that its application and North Kern's application, and some of the other applications, are complementary and seek to obtain different "blocks" of water. Assuming that were true, which the City doubts, that indicates that the SWRCB could approve KWBA's application at the same time that it approves North Kern's application, or other applications. The approval of multiple applications could significantly increase cumulative impacts arising from KWBA's application, including the resources which KWBA declined to review in this section. A4-234

The EIR is flawed, and not in compliance with CEQA, since it fails to discuss, review or acknowledge the possibility of any of those cumulative impacts on all impacted resources, including the resources arbitrarily dismissed from consideration by KWBA. A4-235

B. The Cumulative Impact Analysis is Understated, Inaccurate and Not In Compliance with CEQA

The EIR does review, and indicates that its cumulative impact analysis focuses on, air quality, greenhouse gases, climate change and energy, biological resources, and water resources and supply. (p. 5-3.) The review and discussion of cumulative impacts involving those resources, however, is understated, deficient and not in compliance with CEQA. A4-236

The cumulative impact analysis is flawed from the beginning because the EIR erroneously and improperly ignores or downplays the impact of the Project on those resources, in the Chapter 3 impact section of the EIR. The EIR also fails to provide relevant or helpful information with regard to other projects, events and impacts within the region, including the water banking and water supply projects listed at pages 5-5 and 5-6 of the EIR. A4-237 The EIR fails to provide any analysis or discussion of groundwater levels, pumping volumes and rates, water quality or patterns of use in those other facilities or projects, and provides virtually no details regarding those projects. A4-238 Those omissions make it impossible to review the cumulative impacts associated with or arising from those projects, when combined with KWBA's Project.

KWBA's failure to properly identify, consider or review cumulative impacts is particularly problematic because of the critical overdraft conditions in the basin, the recent severe drought conditions in the region, which conditions are starting to recur this year, and increasing demands for surface water and groundwater in the region. Those conditions exacerbate and amplify adverse water and groundwater impacts, particularly when combined with other projects. Those conditions, and CEQA requirements in general, call for a close, honest, practical and data driven review of cumulative impacts on a number of important resources in Kern County, including air quality, climate change, biological resources and water resources. A4-239

The EIR, however, takes the opposite approach, and provides a very cursory and incomplete analysis of cumulative impacts associated with those resources.

In the air quality section of the cumulative impact discussion, KWBA initially recognizes that the Project could create adverse cumulative impacts on air quality, but immediately thereafter undercuts and discounts that potential impact. The EIR states: "Overall recovery volumes may increase by extending pumping for a longer period during a multi-year drought but are not expected to change substantially because no new recovery facilities would be constructed and KWB member entities have historically maintained a significant surplus groundwater balance." (p. 5-6.) In further support of that claim, the EIR states "the project would not increase recovery pumping beyond current quantities in any given year." (p. 5-7.) A4-240

KWBA's arguments regarding a lack of cumulative air quality impacts are not supported by any evidence, studies, or models. The arguments are also not credible, and are contrary to

evidence and information regarding the Project, and conditions in the region. The claim that KWBA members have maintained a "significant surplus groundwater balance" is contradicted by the critical overdraft conditions in the basin, the evidence of lower groundwater levels, subsidence, and groundwater shortages in the region. The claim that the Project would not increase recovery pumping also lacks credibility. As indicated previously, the diversion of up to 500,000 af of additional water supplies into the KWB would necessarily require the extraction of that quantity of water in the future. The evidence, and the EIR, therefore clearly indicate that pumping within the KWB will increase by up to 500,000 acre feet. A4-240 (cont.)

In the section addressing cumulative impacts on greenhouse gases, climate change and energy, KWBA again initially recognizes that the Project could create adverse cumulative impacts, stating: "Increased recovery operations over a longer period during a multi-year drought could, in turn, result in incremental increases in GHG emissions and energy consumption from recovery pumping in certain years." (p. 5-7.) The EIR, however, immediately thereafter discounts and undercuts that assessment, stating that "these increases are not anticipated to result in any substantial changes in GHG emissions and energy consumption over the life of the project or even in any given year." (Id.) A4-241

As in the air quality cumulative impact section, the EIR provides no evidence, studies, reports or models to support its claims regarding a lack of cumulative impacts. Again, those claims are undercut by actual evidence, information and studies regarding the critical overdraft conditions in the basin. The EIR further fails to recognize or account for the necessary and inevitable increase in groundwater pumping, and generation of GHG emissions, to recover the additional water supplies diverted into the KWB in connection with the Project.

The discussion of cumulative impacts on biological resources is flawed because the EIR does not acknowledge or address the significant adverse impacts on biological resources that could result from implementation of the Project. KWBA claims the Project "could result in increased wetted area during banking periods and an expansion of habitat and cumulative benefits to wintering waterfowl. Riparian areas are expected to remain unaffected because water would remain within the Kern River for later diversion downstream by senior water right holders." (p. 5-7.) The EIR concludes that "because the project provides beneficial effects on biological resources, it is not contributing to these incremental effects and thus is not expected to contribute to cumulative impacts on biological resources." (p. 5-8.) A4-242

Those statements are misleading and not based on any facts or evidence. Those contentions also fail to consider or recognize that the diversion of up to 500,000 af of water from the Kern River could have significant adverse impacts on biological resources, particularly when combined with negative impacts associated with other similar projects in the region. North Kern's application, for example, calls for diversion of up to 500,000 af of water from Kern River channel that otherwise would enhance and protect biological resources by remaining in the river channel. (p. 5-8.)

The EIR also fails to recognize that adoption of the Project in lieu of or instead of the City's project could result in significant negative impacts on biological resources in the Kern River, and in the region. If the SWRCB elects allows KWBA to divert up to 500,000 af from the Kern River, while rejecting the City's application, biological resources would definitely be adversely impacted as a result of the City's inability to implement its project. A4-242 (cont.)

The EIR also summarily concludes that "the project is not expected to reduce or diminish the quality of nearby Buena Vista Lake Shrew ("BVLS") habitat because these areas are dependent on year-round and consistent water supplies, which do not occur in this river segment, and there would be limited opportunities to take water in most water year types besides wet years." (p. 5-7, 5-8.) The EIR, however, fails to provide any analysis, information or evidence to support that claim. The EIR further fails to consider impacts on the BVLS, and its habitat, in connection with other projects in the region which could adversely impact the BVLS and its habitat. Those type of unsupported conclusion are not sufficient for CEQA. A4-243

The EIR also claims, without any supporting evidence, that the Project will not contribute to adverse cumulative impacts on water resources and supply in the region. That claim on its face lacks credibility. It instead seems obvious and apparent that the diversion of an additional 500,000 af of water from the Kern River, and a change in the use of that water, would significantly impact water supplies and resources in the Region, particularly when combined with other projects involving the diversion and use of water in the region. A4-244

In the cumulative impact section on water resources, the EIR lists the other projects, and applications which seek to obtain rights to unappropriated Kern River water. (p. 5-8.) These projects, with the exception of Bakersfield's project, all would involve the diversion of significant quantities of water from the Kern River. The implementation of some or some portion of those applications, when combined with KWBA's application and Project, could therefore dramatically and significantly reduce flows of water in the Kern River, and change the use of substantial quantities of water in the region. A4-245

In light of those facts, the EIR's conclusion that cumulative impacts on water resources would not be significant, makes no sense. It is instead obvious and apparent that impacts from KWBA's Project, when combined with some or all of the other projects tied to applications to appropriate, would have significant negative cumulative impacts on water supplies, water quality, stream flows and water resources in Kern County.

The EIR further claims that the Project will not produce cumulative impacts on the Kern River or local water supplies because "the flow conditions in the Kern River in high-flow conditions or mandatory release conditions are not expected to change significantly and would not be cumulatively considerable." (p. 5-9.) The other projects listed in the EIR, however, are not all "high flow" projects. Diversions of water from the Project, when combined with diversions by other projects during both regular flow and high flow conditions, could still have A4-246

significant cumulative adverse impacts on the Kern River and on Kern River flows. The EIR cannot summarily dismiss those cumulative impacts without any consideration or discussion. It is not sufficient for the EIR to list other similar projects in the area, and then fail to actually identify or review any impacts associated with those projects, and the cumulative impacts associated with those projects and KWBA's Project. A4-246 (cont.)

Table 5-2, which present of an "overview of Projects Requesting Entitlement on the Kern River, and which lists other applications to appropriate Kern River water, is incomplete. The Table does not list the application to appropriate Kern River water filed by the KCWA, which application seeks to appropriate 2,279,000 af of water. (See SWRCB application No. 31677.) That omission further indicates that KWBA failed to consider the cumulative impacts associated with at least one potential water supply project, which renders the entire cumulative impact section incomplete and deficient. A4-247

The EIR claims that "the project would not contribute to decreased water quality and its implementation is not anticipated to be cumulatively considerable and would be less than significant." (p. 5-9.) As discussed previously, that conclusion is erroneous, as it ignores the negative impacts on water quality arising from the Project as a result of increased pumping, and related migration and concentration of contaminated water supplies in the region, and also completely ignores and fails to consider cumulative adverse impacts on water quality that could arise from the other projects listed in this section, in combination with KWBA's Project. The bare, unsupported conclusion, without any discussion of other projects, does not comply with CEQA. A4-248

The EIR further claims: "Because the project seeks to divert and store water at a location below the points of diversion for all other water rights applicants and in only the wettest year types, its potential for contributing to cumulative impacts is not anticipated to be cumulatively considerable." (p. 5-9.) It is inconceivable that a Project calling for the diversion of and change in use of up to 500,000 af of Kern River water, when combined with other projects, and proposed projects, that divert substantial quantities of water from the Kern River, would not have significant or cumulatively considerable impacts on Kern River water supplies. A4-249

The claim that the point of diversion would negate those impacts is erroneous and not supported by any evidence, studies or reports. Irrespective of KWBA's point of diversion, the allocation of an additional 500,000 af of Kern River would clearly have substantial impacts on the Kern River. In addition, the claim that KWBA's points of diversion are located below other points of diversion is in error. Many of the proposed points of diversion for KWBA's project are located within, among and above points of diversion for Bakersfield and other entities that divert and use Kern River water, such as Rosedale, Buena Vista, and KCWA. (See p. 2-8.)

Similarly, the claim that the Project will not have adverse cumulative impacts on groundwater resources, and will instead "result in a net benefit to groundwater supplies and A4-250

water levels," is misguided and erroneous. (p. 5-10.) The EIR fails to actually consider any impacts on groundwater resources associated with other projects in the region, and proposed projects.

As previously indicated, the Kern Basin in a state of critical overdraft, with increased demands, decreasing water supplies, drought and climate change impacting groundwater supplies in the region. Any increase in pumping, or any significant change in use of groundwater, could have significant negative cumulative adverse impacts. The failure of the EIR to acknowledge, discuss or review such impacts, when combined with impacts on groundwater associated with other projects in the region, is a clear and obvious violation of CEQA. The EIR simply ignores and fails to acknowledge potential adverse impacts, and cumulative adverse impacts, associated with and arising from KWBA's intended extraction of up to an additional 500,000 af of water diverted and stored pursuant to the Project, particularly when combined with pumping, and increased pumping, associated with other projects in the region.

A4-250 (cont.)

The cumulative impact analysis is therefore not in compliance with CEQA because it does not consider other factors that will exacerbate and compound the adverse Project impacts, including the drought, overdraft conditions, and increased groundwater production leading up to limits on pumping imposed pursuant to SGMA. An EIR's analysis of cumulative impacts should consider all sources of related impacts, not just similar sources or projects. (14 Cal Code Regs § 15130(a)(1); *City of Long Beach v Los Angeles Unified Sch. Dist.* (2009) 176 Cal.App.4th 889, 907.) When the list-of-projects approach is used, the lead agency should consider the nature of the resource affected and the location of the project as well as the type of project under review. (14 Cal Code Regs §15130(b)(2).) For example, when the cumulative impact being considered is water runoff from logging operations, the EIR should evaluate all projects that contribute to runoff and erosion problems, not only other logging projects, but new subdivisions as well. (*See Laupheimer v State* (1988) 200 Cal.App.3d 440, 465.)

A4-251

In addition, an EIR may not conclude that a cumulative impact is insignificant solely because the project's contribution to an unacceptable existing environmental condition is relatively small. In *Kings County Farm Bureau v City of Hanford* (1990) 221 Cal.App.3d 692, 718, the EIR concluded that a proposed cogeneration plant's air emissions were not a significant cumulative impact, based on a determination that the plant's emissions would be less than 1 percent of area emissions of the relevant pollutants. The court held that this conclusion improperly focused on the project-specific impacts and did not properly consider the collective effect of the relevant projects on air quality. The court characterized the EIR analysis as a "ratio theory" that masked the seriousness of the cumulative problem; under such a theory, the larger the existing problem, the more likely that any proposed project would have an insignificant impact. The court in *Los Angeles Unified Sch. Dist. v City of Los Angeles* (1997) 58 Cal.App.4th 1019, came to a similar conclusion. The EIR in that case reasoned that, because the noise level around two schools was already beyond the maximum specified by Department of Health guidelines, an expected addition of five decibels of traffic noise from development envisioned by

A4-252

the proposed specific plan would have an insignificant impact. The court rejected this approach, finding that it trivialized the project's impact. The relevant issue, in the court's view, was not the relative amount of project-generated traffic noise compared with existing traffic noise. Rather, the key question was whether the additional traffic noise should be considered significant in light of the serious existing noise problem. Because the EIR did not consider this issue, the court found its discussion of noise impacts inadequate.

A4-252 (cont.)

The cumulative impact section of the EIR also fails to consider cumulative impacts arising out of secondary impacts triggered by the Project. As indicated previously, implementation of the Project would necessarily increase pumping in other parts of Kern County by entities that previously used some of the 500,000 af of water requested in KWBA's application. Bakersfield, for example, historically has used some of that water for either direct delivery to water treatment plans, or for recharge and banking in its 2800 Acre Recharge Facility. The transfer of the 500,000 af of water to KWBA would likely increase pumping, and the volume of pumping, by the City to replace those water supplies.

A4-253

The EIR similarly understates and fails to properly consider cumulative growth-inducing impacts. An EIR must describe any growth-inducing impacts of the proposed project. (Public Resources Code §21100(b)(5); 14 Cal Code Regs §15126(d).) An EIR must discuss the ways in which the project could directly or indirectly foster economic or population growth or the construction of new housing in the surrounding environment. (14 Cal Code Regs §15126.2(d).) The discussion should also describe growth-accommodating features of the project that may remove obstacles to population growth. Characteristics of the project that may encourage and facilitate other activities that could have a significant effect on the environment, either individually or cumulatively, should also be discussed. An EIR must discuss growth-inducing effects even though those effects will result only indirectly from the project. (*Napa Citizens for Honest Gov't v Napa County Bd. of Supervisors*, 91 Cal.App.4th at 368.)

A4-254

The EIR claims that the Project will not produce or result in cumulative growth inducing impacts, because: "While the project would entitle new water supplies, it is not expected to directly or indirectly induce economic or population growth within the study area because the project seeks only to improve the reliability of existing supplies to fulfill existing demands. It is not designed to accommodate residential or commercial expansion." (p. 5-10.)

That conclusion is contradicted by substantial evidence that water banked and stored in KWB could be used for urban supplies and new development in the region, and in Southern California. The EIR states that KWBA intends to utilize the up to 500,000 af of water proposed for use in the Project "for underground storage for municipal, industrial, irrigation, and water quality uses." (p. 2-7.) In the Project Description section of the EIR, KWBA later states: "the purpose of use for the appropriated water would include groundwater storage for municipal, industrial, irrigation and water quality uses and direct diversion for municipal, industrial, and irrigation uses." (p. 2-10.) The EIR further states: "A portion of the stored water would also be

used for municipal and industrial uses; one of the participating members would supply developments in southern Kern County, and all of the member entities, including the participating members, would continue to provide a back-up supply to a power plant in southern Kern County." (Id.) The EIR additionally states: "A portion of the stored water would also be used for municipal and industrial uses; one of the participating members would supply developments in southern Kern County, and all of the member entities, including the participating members, would continue to provide a back-up supply to a power plant in southern Kern County." (Id.) A4-254 (cont.)

KWBA's conclusions is also not supported by the evidence because the EIR fails to identify or review growth inducing impacts associated with the other related or similar projects in the region, and fails to consider whether those projects, when combined with KWBA's project, would cumulatively have an impact on growth and development. A4-255

Finally, the entire analysis of cumulative impacts is flawed and incomplete because the EIR fails to consider impacts, and cumulative impacts, associated with the use of the up to 500,000 acre-feet of water within the service areas of KWBA's member districts. The EIR fails to provide any information regarding potential use of water delivered to KWB's member for urban or municipal use. The EIR also fails to address whether development has occurred or may occur within the member districts, and whether the addition of new water supplies pursuant to the Project will impact that development. A4-256

The EIR cannot properly purport to consider thecumulative impacts associated with one aspect of the Project (the diversion of water by KWBA), while ignoring cumulative impacts arising from another aspect of the Project (the use of the water within KWBA's member districts). An EIR's cumulative impacts analysis must include future aspects of the project that are reasonably foreseeable consequences of project approval. (*Del Mar Terrace Conservancy, Inc. v. City Council* (1992) 10 Cal.App.4th 712, 738.) The EIR does not comply with that requirement, as the EIR fails to discuss the probable future aspects and impacts of the Project, including the loss of Kern River water to the region, decreases in Kern River flows and water available for diversion, decreases in groundwater resulting from a potential decrease in recharge from the use of unlined canals, and adverse water quality impacts. A4-257

The failure to provide any information regarding the proposed end use of the water within the member districts, and the related failure to consider any impacts associated with that use, cumulative or otherwise, is a clear violation of CEQA. For all those reasons, the EIR's conclusion that "There are no significant and unavoidable impacts associated with the project" (p. 5-12.) is erroneous, misleading, and contrary to CEQA requirements. A4-258

7. THE EIR DOES NOT SUFFICIENTLY ADDRESS POTENTIAL AREAS OF CONTROVERSY.

An EIR must identify and summarize "[a]reas of controversy known to the Lead Agency including issues raised by agencies and the public." (14 Cal. Code Regs. § 15123(h)(2).) Even the lead agency disagrees with objections to and complaints about the Project, an EIR must still summarize the main points of disagreement regarding a project. (14 Cal. Code Regs. § 15151; *Browning-Ferris Indus. v. City Council* (1986) 181 Cal.App.3d 852.) An agency may choose among differing opinions or conclusions as long as the EIR identifies the competing arguments correctly and in a responsive manner. (181 Cal.App.3d at 863.)

A4-259

The EIR does not come close to satisfying those requirements. The EIR only provides a list of "issues" or "concerns" raised during the NOP scoping period, without any further explanation or details, in the Executive Summary section of the EIR. (ES-8.) That is not sufficient. The EIR fails to summarize or provide any details or information regarding the listed "issues."

The CEQA regulations and guidelines also require the lead agency to identify and discuss areas of controversy known to the lead agency, not just issues raised by agencies and the public. The list of issues consequently fails to mention or discuss several major areas, including the recent litigation against KWBA with regard to the operations of the KWB, and the pending dispute, and the controversies arising out of the competing applications to appropriate Kern River water.

The recent litigation regarding the operation of the KWB is mentioned in passing at various places in the EIR, but the EIR fails to provide a clear or complete description of the litigation, or the resolution of the litigation and its effect on the Project, and KWBA's operations. The litigation clearly has a great deal of relevance to the Project and the operation of the KWB, as the EIR identifies and attaches to the EIR as an exhibit the "Interim Project Recovery Operations Plan" that arose out of that litigation. The EIR still fails, however, to summarize or explain the allegations, substance, impact, history and resolution of the litigation.

A4-260

The EIR additionally should have also discussed the competing applications to appropriate, and expected issues, arguments, policies and procedures that will impact the SWRCB's review and consideration of the competing applications. The EIR does not satisfy CEQA's general, overriding principle of informing the public of the details of a project, and the impacts of a project, without providing a summary of the issues and arguments that will determine whether KWBA will actually obtain any rights to the water proposed for use in the Project. Simply listing all of the competing applications to appropriate, without any further explanation, does not satisfy CEQA's requirement that an EIR summarize, and not just identify, areas of controversy known to the lead agency.

The EIR also fails to disclose and address disagreements and disputes arising out of Bakersfield's competing application to appropriate. KWBA filed two separate legal challenges to the EIR prepared by Bakersfield in support of its application to appropriate. Those actions have been resolved, but an accurate, complete discussion of potential controversies surrounding the Project would have disclosed the related litigation over the City's EIR, and the very real possibility that litigation will accompany and follow all of the CEQA documents prepared by the applicants in support of their applications to appropriate. A4-261

8. THE EIR DOES NOT SUFFICIENTLY PROPOSE OR ADDRESS MITIGATION MEASURES

Pursuant to Public Resources Code section 21002.1, "Each public agency shall mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so." An EIR must include a detailed analysis of mitigation measures that will minimize the significant effects of a proposed project on the environment. (Public Resources Code § 21100(b)(3).) An EIR specifically must identify and describe "Mitigation measures proposed to minimize significant effects on the environment, including, but not limited to, measures to reduce the wasteful, inefficient, and unnecessary consumption of energy." (Id.) A4-262

Here, the EIR is deficient because it does not identify, propose or discuss any potential measures or programs to mitigate the significant environmental impacts that would result from the Project. The EIR, most significantly, does not identify or propose measures to mitigate or replace reduced flows of water in the Kern River.

The EIR, in fact, fails to discuss or even mention potential mitigation measures. In Table ES-1, at pages ES-9 and 10, the EIR lists the purported Project impacts identified in the EIR, as well as the level of significance of the impact, the proposed mitigation measure, and the level of significance after mitigation. Under the proposed mitigation measure heading, for every impact KBWA states "none required." A4-263

KWBA mentions mitigation measures, again in passing, in the impact section, but again without any explanation or consideration of actual mitigation measures. The EIR also minimizes any need or requirement for mitigation measures by ignoring or failing to properly account for significant impacts resulting from the Project. A4-264

9. CONCLUSION

KWBA prejudicially abused its discretion by deliberately turning a blind eye to the competing demands for water in the Kern River system and the serious adverse consequences that will result from its appropriation of another 500,000 af of water annually for storage, extraction and later use in water districts throughout Kern County, and outside of Kern County. A4-265

Based on KWBA's clear and blatant failure to comply with CEQA throughout the EIR, the City urges KWBA to comply with the requirements, spirt and intent of CEQA and withdraw the EIR from further consideration by KWBA, and the public. KWBA should thereafter, if it intends to proceed with the Project and continue to pursue its application to appropriate, prepare a new, more comprehensive and complete EIR which addresses and corrects all of the errors and violations of CEQA set forth herein. A4-266

We thank you for your consideration of these comments. Please let us know if you have any questions with regard to these comments.

Very truly yours,

Colin Pearce

Colin L. Pearce

CLP

cc: Virginia Gennaro, City Attorney, City of Bakersfield
Alan Tandy, City Manager, City of Bakersfield
Art Chianello, Water Resources Manager, City of Bakersfield

2.2.5 Letter O1 Rosedale-Rio Bravo Water Storage District

ROSEDALE - RIO BRAVO
WATER STORAGE DISTRICT
849 Allen Road • P.O. Box 20820 • Bakersfield, California 93390-0820 • (661) 589-6045 • FAX (661) 589-1867

Letter O1

February 26, 2018

Via U.S. Mail & Electronic Mail
Honorable Board of Directors
Kern Water Bank Authority
Attn.: Jon Parker
1620 Mill Rock Way, Suite 500
Bakersfield, CA 93311
Email: jparker@kwb.org

Re: Comments on Draft Environmental Impact Report for the Kern Water Bank Authority Conservation and Storage Project (State Clearinghouse No. 2012021041)

Honorable Board of Directors:

I am writing this letter on behalf of the Rosedale-Rio Bravo Water Storage District (District) with respect to the above-referenced Draft Environmental Impact Report (EIR). This letter is intended to supplement the comment letter sent on behalf of the Kern Fan Authority on February 23, 2018, which is incorporated herein by reference. The District has concerns about the apparent scope of the project that is envisioned by the EIR and, therefore, we offer the following comments. O1-1

CEQA defines a "project" as the "whole of the action" (State CEQA Guidelines ("Guidelines"), § 15378(a)), and requires that an EIR's project description be accurate, stable, consistent and finite. (*E.g., County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185.) "Project" is given a broad interpretation in order to maximize environmental protection, and an improperly curtailed or distorted project description violates CEQA. (*Id.; San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 729-30.) An EIR must contain sufficient information about the project to allow for an evaluation and review of its environmental impacts by the public and relevant agencies. (*Id.; Citizens for a Sustainable Treasure Island v. City & County of San Francisco* (2014) 227 Cal.App.4th 1036, 1055; *Dry Creek Citizens Coalition v. County of Tulare* (1999) 70 Cal.App.4th 20.) When the project description is inadequate, as here, the EIR's analyses cannot be relied upon to provide a full disclosure of potential impacts, or adequate analysis of alternatives or mitigation measures. O1-2

The precise nature and scope of the project are not clearly described in the EIR. More specifically, it is unclear to the District whether the proposed project will change the historical O1-3

"Flood Policy" procedure in a manner that will displace or relocate recharge activities and water use that have historically occurred within the District. As you know, both before and after the construction of the Intertie and implementation of the "Flood Policy," significant quantities of Kern River water, including Kern River "flood flows" and "release" water, have been recharged within the District for the benefit of the District's project. Any change in such operations as a result of the Kern Water Bank Authority's project would result in a violation of the Memorandum of Understanding Regarding Operation and Monitoring of the Kern Water Bank Groundwater Banking Program, Article 2.b.(3), which states, "Operators of projects within the Kern Fan Area will avoid operating recharge projects in a fashion so as to significantly diminish the natural, normal and unavoidable recharge of water native to the Kern Fan Area as it existed in a pre-project condition." Moreover, if the project will diminish the natural, normal and unavoidable recharge of water that would have occurred in the District in a pre-project condition, it will cause significant adverse impacts within the District, none of which are disclosed, described or discussed within the EIR. With the advent and requirements of the Sustainable Groundwater Management Act, it is critical that you disclose such impacts if you intend that the project will displace historical recharge activities within the basin or relocate the use of such recharged water to areas which do not overlie usable groundwater supplies.

O1-3 (cont.)

O1-4

O1-5

Thank you for the opportunity to comment on the EIR. The Kern Water Bank Authority should address the issues raised by these comments and provide further analysis, information and clarifications in the EIR, before any consideration of approval of the proposed project. You may contact me with any questions or if you require additional information about the District's comments.

O1-6

Sincerely,

Eric Averett, General Manager

2.2.6 Letter O2 Kern Fan Authority

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GENE R. McMURTREY *
ROBERT W. HARTSOCK
JAMES A. WORTH
ISAAC L. ST. LAWRENCE
DANIEL N. RAVIS

* RETIRED OF COUNSEL

LAW OFFICES
McMURTREY, HARTSOCK & WORTH
A PROFESSIONAL CORPORATION

2001 22ND STREET, SUITE 100
BAKERSFIELD, CALIFORNIA 93301

AREA CODE 661
TELEPHONE 322-4417
FAX 322-8123

February 23, 2018

Letter O2

Kern Water Bank Authority
1620 Mill Rock Way, Suite 500
Bakersfield, California 93309

Attention: Jon Parker

Re: Kern Water Bank Conservation and Storage Project
Comments on Draft Environmental Impact Report

Dear Mr. Parker:

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the proposed Kern Water Bank Conservation and Storage Project (CSP). The following comments are provided by the Kern Fan Authority, a joint powers authority composed of Buena Vista Water Storage District, Rosedale-Rio Bravo Water Storage District, Kern Delta Water District, and Henry Miller Water District. Please note that each of said member entities may choose to provide comments on the DEIR in addition to the collective comments contained herein.

The comments of the Kern Fan Authority are:

1. The Project Description is Fatally Flawed:

An accurate, stable and finite project description is an essential element of an informative and legally sufficient EIR. [*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192-193.] If a project description is incomplete or inadequate, the environmental analysis will necessarily be incomplete and inadequate. [*Laurel Heights Improvement Association v. Regents of University of California* (1988) 47 Cal.3d 376, 399-400.] More particularly, a project description that omits integral components of the project is deficient since it prevents disclosure and review of the actual impacts of the full project. [*Cadiz Land Co. v. Rail Cycle, L.P.* (2000) 83 Cal.App.4th 74; *City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1450; *Santiago County Water District v. County of Orange* (1981) 118 Cal.App.3d 818, 829.] O2-1

Here, the failure of the Kern Water Bank Authority (KWBA) to incorporate, consider, discuss or analyze the existence or potential effect of 2nd priority rights in and to the use of KWBA recharge and recovery facilities held by certain Kern River interests renders the project description incomplete and wholly inadequate. To this point, the following is noted:

a. Pursuant to the CSP, the KWBA seeks to appropriate "wet year" or "high flow" Kern River water. This water is described as "... Kern River water that otherwise would have: (1) been diverted to the Intertie, (2) flooded farmlands, or (3) left Kern County" (DEIR, p. 2-6).

b. By definition, this water only comes available after the needs, uses or purposes of current Kern River water right holders have been met. As stated in the DEIR: "The project seeks new and expanded water supply entitlements to surplus water flood flows on the Kern River *once existing Kern River rights have been satisfied* ..." (DEIR, p. 3.6-35; emphasis added). Again, the "... KWBA would only divert available surplus Kern River water *which cannot otherwise be used or stored by existing Kern River water right holders* ..." (DEIR, p. 3.6-35; emphasis added). O2-1 (cont.)

c. Since "surplus" Kern River water only exists after the uses, needs or purposes of Kern River water right holders have been met, the CSP must fairly and accurately assess such uses, needs and purposes. This it fails to do. Notably, the CSP fails to take into account the existence and effect of 2nd priority rights in and to the use of KWBA recharge and recovery facilities existing in favor of certain Kern River water right holders. For example, Buena Vista Water Storage District (Buena Vista) is a Kern River water right holder entitled to use the KWBA recharge and recovery facilities on a 2nd priority basis. In any year of potential Kern River surplus, Buena Vista can and would use all available recharge capacity of the KWBA before offering water to the Intertie, flooding farmlands, or allowing water to leave the County. Under such circumstances, the exercise of Buena Vista's 2nd priority right would either (1) fully utilize all available surplus Kern River water or (2) full occupy all available recharge capacity of the KWBA lands. In either event, no surplus Kern River water would be available for CSP purposes. The DEIR needs to address this critical issue and provide a detailed analysis of how the CSP is expected to function without invasion of or detriment to existing 2nd priority rights of Kern River water right holders. O2-2 O2-3

2. <u>The DEIR Fails to Adequately Discuss or Analyze Potential Significant Environmental Impacts Associated with the Change in Place of Use and Purpose of Use of Substantial Amounts of Kern River Water</u>:

The DEIR describes various beneficial effects of the proposed Project. For example, it is said that: O2-4

> "Utilizing water from the Kern River would provide multiple benefits to KWBA's participating members and the region. Such benefits include increasing groundwater recharge, enhancing riverine and wetland ecology and habitats, improving water quality, and improving the aesthetic quality of the river and KWB. Kern River diversions would also be beneficial because they would provide an efficient, reliable, and environmentally

> sound water source for both municipal water supplies and hundreds of thousands of acres of essential crops, including fruits, vegetables, nuts, fiber, and livestock. Groundwater storage would also provide for the preservation and enhancement of wildlife. The recharge ponds provide intermittent wetland habitat along the Pacific Flyway, benefiting thousands of water birds and wetland-dependent upland birds and wildlife" (DEIR, p. 2-11).

O2-4 (cont.)

The DEIR should recognize that virtually all such regional benefits will occur whenever "surplus" Kern River water is diverted to the KWBA facilities – regardless of whether such diversion is generated by the KWBA under the CSP or by existing Kern River water right holders exercising 2nd priority rights to use such facilities. The significant difference between the former and the latter is what happens to the water after it has been salvaged from the Intertie and recharged into the groundwater basin. According to the DEIR, any such water recharged by the KWBA will be used "to increase reliability and enhance the dry-year and multi-dry-year water supplies to KWBA's participating members" (DEIR, p. 3.2-14). However, the DEIR fails to provide any analysis of the potential environmental impacts associated with shifting ownership, place of use, and purpose of use of a substantial amount of Kern River water from existing water right holders to KWBA Participating Members.

O2-5

3. The DEIR Fails to Adequately Address Areas of Controversy:

The DEIR must identify and summarize "[a]reas of controversy known to the Lead Agency including issues raised by agencies and the public." [14 Cal. Code Regs. § 15123(b)(2).] Here, the only mention of the subject is a bullet list appearing in the Executive Summary section of the DEIR (DEIR, p. ES-8). The bullet list is an inadequate "summary" of actual controversies and fails to include any mention of the 2nd priority right issue outlined above.

O2-6

4. The DEIR Fails to Adequately Consider Alternatives to the Project:

The DEIR states: "Due to the project's lack of significant environmental impacts as proposed, the effort to develop a range of alternatives was uniquely challenging" (DEIR, p. 4-2). In fact, only two alternatives are actually discussed, namely, (1) the required "No Project" alternative and (2) a reduced quantity alternative.[1] An obvious third alternative, and one which might well be environmentally superior, would be a Project premised on the recharge of surplus Kern River water by Kern River water right holders exercising 2nd priority rights.

O2-7

[1] Two potential alternatives (Off-Site Banking and Banking Via Transfers) are summarily dismissed (DEIR, p. 4-3).

Thank you for the opportunity to comment on the DEIR. As noted, we believe that the DEIR is insufficient in its current form to satisfy the requirements of the California Environmental Quality Act (CEQA). O2-8

Sincerely,

Robert W. Hartsock

RWH:gg

cc: Kern Fan Authority

2.2.7 Letter O3 North Kern Water Storage District

P.O. Box 81435
Bakersfield, CA 93380-1435
Administration
Telephone: 661-393-2696
Facsimile: 661-393-6884

RECEIVED
FEB 26 2018

33380 Cawelo Avenue
Bakersfield, CA 93308-9575
Water Orders and Operations
Telephone: 661-393-3361
www.northkernwsd.com

NORTH KERN WATER STORAGE DISTRICT

Letter 03

February 26, 2018

Mr. Jonathan Parker, General Manager
1620 Mill Rock Way, Suite 500
Bakersfield, CA 93311

Re: Written Comments on Draft Environmental Impact Report for the Kern Water Bank Authority Conservation Storage Project (January 2018); (SCH # 2012021041)

Dear Jon:

Thank you for providing the opportunity for North Kern Water Storage District ("North Kern") to provide written public comments on the Kern Water Bank Authority ("Authority") Draft Environmental Impact Report for the Kern Water Bank Authority Conservation Storage Project ("DEIR").

North Kern strongly supports and encourages the Authority in its efforts to develop a mutually beneficial water management program which will continue the Authority's current practice to maximize to the fullest extent possible the conservation and beneficial use of Kern River water consistent with historic Kern River water rights and priorities. In particular, North Kern supports the Authority in its effort to design and operate a Project which will provide significant environmental benefits while avoiding or minimizing adverse environmental impacts to the region. O3-1

As explained in greater detail in North Kern's March 22, 2012 comment letter responding to the Authority's Notice of Preparation for the Project, North Kern and several other water agencies and small municipalities located north of Kern River all depend, in large measure, on Kern River water to conserve and maintain groundwater resources in the region for various beneficial uses. For example, the Poso Creek Integrated Regional Water Management Plan (Updated June 2014, amended 2016 [Second Amendment to The Poso Creek Integrated Regional Water Management Plan (IRWMP) Region Memorandum of Understanding]; Please review the incorporated link: http://www.semitropic.com/Documents.html) addresses the coordinated water management and conjunctive use of groundwater and surface water from local sources (Kern River, Poso Creek) and supplies from the Federal Central Valley Project and State Water O3-2

Project. The irrigated area is managed by seven water agencies (Cawelo Water District, Delano-Earlimart Irrigation District, Kern-Tulare Water District, Semitropic Water Storage District, Southern San Joaquin Municipal Utility District, and North Kern.) Approximately 78% of the irrigated area is dedicated to permanent crops, principally deciduous fruits and nuts and vineyards. The region also includes four small cities (Delano, McFarland, Shafter and Wasco) which provide municipal and industrial water supplies to over 25,000 people. O3-2 cont'd

These agencies and rural communities all share and rely on groundwater existing in a common and interconnected groundwater basin. For over 145 years that portion of the Kern Subbasin has annually been replenished and sustained in substantial part from tens of thousands of acre-feet of pristine Kern River waters diverted and used under historic Kern River water rights.

Any plan or project which proposes to reduce or otherwise alter the historic Kern River supply in this region has the potential of causing significant environmental impacts. In particular, reductions in Kern River water supply have the potential to cause direct, indirect and cumulative effects within North Kern and the broader region: to wit, effects from increased pumping or reduced recharge of groundwater in the currently overdraft Kern Subbasin; an accelerated rate of decline in depth to groundwater and reduced storage levels; land subsidence; deterioration of groundwater quality due to increased concentration of salts or other minerals; operational expenses to replace reduced Kern River supplies including increased operation of wells, pumps and any commensurate increase in consumption of energy and potential for air quality and greenhouse gas impacts; changes in agricultural land and land uses; and impacts to domestic, municipal and industrial water use and associated socio-economic impacts. O3-3, O3-4, O3-5, O3-6, O3-7, O3-8, O3-9, O3-10

North Kern appreciates and supports the Authority's acknowledgement that "[t]he natural flow of the Kern River has been apportioned among various water users pursuant to a series of court decisions and agreements including, but not limited to the following: (1) the California Supreme Court decision in *Lux v. Haggin* (1886) 69 Cal. 255; (2) the 1888 Miller-Haggin Agreement (and the 1930, 1955, and 1964 amendments thereto); (3) the 1900 decree of the Kern County Superior Court in *Farmers Canal Company, et. al. v. J.R. Simmons, et. al.*, Case No. 1901; (4) 1962 Kern River Water Rights and Storage Agreement; and (5) the Lake Isabella Recreation Pool Agreement." (DEIR, p. ES-1, Appendix L, Water Availability Analysis, p. 1.) The DEIR states that the Authority only seeks to obtain a permit under Application No. 031676 to divert up to 500,000 acre-feet of Kern River flood flows delivered into the Kern River-California Aqueduct Intertie ("Intertie") determined by the State Water Board to be unappropriated and which is after existing Kern River water rights have been met. (ES-3 to 4, 2-6 to 2-8, 3.6-35, Appendix L, Water Availability Analysis, p. 2.) More specifically, the DEIR assumes that the only Kern River water supply to be appropriated under No. 031676 is water which "would O3-11

have: (1) been diverted into the Intertie, (2) flooded farmlands, or (3) left Kern County." (DEIR, p. 2-6.)

In recognition of these conditions, the DEIR does not include an analysis of potential environmental impacts to North Kern and the region north of Kern River arising from a reduction in the diversion and use of Kern River water currently made by North Kern, and others, north of the Kern River. In the event the proposed appropriation of Kern River water reduces the water currently apportioned, diverted and used by North Kern according to prior court decisions and agreements, then North Kern requests that the Authority first complete a comprehensive environmental study in compliance with CEQA before any permit is considered and approved by the State Water Board. O3-11 (cont.)

Additionally, in several provisions of the DEIR the Authority acknowledges that the environmental analysis in the report "does not consider appropriation of the Kern Delta forfeited water." (DEIR, pp. ES-2.) The Authority confirms that the State Water Board did not determine that the judgment finding a partial forfeiture of Kern Delta Water District's water rights ("Forfeiture Judgment") created any unappropriated water. (DEIR, Appendix L, Water Availability Analysis, p. 2.) However, the DEIR also mentions that if the State Water Board determines other water is available for appropriation that the Authority "reserves the right to make claim for that water." (Id.) O3-12

Since 2007, the Forfeiture Judgment has been enforced for over ten years (April 2007 to the present). Daily records of its enforcement demonstrate that the Forfeiture Judgment does not create any allocable excess of Kern River water which is unappropriated and that can be awarded to the Authority or any applicant through the statutory permitting system administered by the State Water Board. Instead, releases to the Kern River required by the Forfeiture Judgment are used in full by existing junior right holders, such as North Kern and others, under existing entitlements just as delineated in *North Kern Water Storage District v. Kern Delta Water District* (2007) 147 Cal.App. 4th 555. (See for example, "Annual Distribution of Diversion and Use of Forfeiture Judgment Releases For The 10-Year Period Extending From 2007 to 2016" and related "Kern River First Point Flow & Diversion Records" (2007-2017).) This of course is the exact same conclusion that the Authority, North Kern and others advanced in the joint exhibits, expert testimony and legal briefs presented to the State Water Board prior to its decision. (Orders WR-2010-0010, WR-2010-0016.)

Additionally, North Kern and City of Shafter's prior Application No. 031673 (filed April 2007) seeks to fully appropriate all Kern River water that may be determined by the State Water Board to be unappropriated as a result of the Forfeiture Judgment. The Authority's reservation to "make a claim for that water" remains subject to North Kern's prior Kern River water rights, Application No. 031673 and furthermore will require a comprehensive evaluation of all the environmental impacts which potentially could result O3-13

from any reallocation of the long-standing diversion and use of this Kern River water supply from North Kern to the Authority in order to comply with CEQA. O3-13 (cont.)

Finally, there are certain instances in the DEIR where references to North Kern's Kern River water rights are not complete or clear so we request they be revised prior to the Authority proceeding with its environmental review and adopting a final EIR for the Project. Specifically, North Kern requests that the Authority revise the DEIR as follows:

1. Table 3, "Recharge and Spreading Projects That Use Kern River Water" in the Water Availability Analysis (Appendix L, p. 8) should be revised to correct the first sentence regarding North Kern to state: "North Kern Water Storage District has the perpetual right, to divert, transport and use all water accruing to certain water rights as stated in the 'Agreement For Use of Water Rights', dated January 1, 1952, which rights include both First and Second Point entitlements under provisions of the Miller-Haggin Agreement of 1888 (as amended and supplemented), and the Shaw Decree of 1900. Kern River water is diverted and transported by North Kern through the Beardsley and Calloway Canals, and the Pioneer Canal Inlet to Cross-Valley Canal." O3-14

2. The third paragraph in the Water Availability Analysis (Appendix L, p. 9) section "3.2 Kern River Pre-1914 Water Right Allocations" should be revised and corrected with regard to First Point entitlements diverted and used by North Kern, City of Bakersfield, and Kern Delta Water District to state: "The First Point rights are allocated in order of priority according to the diversion rights identified on the "Kern River First Point Flow and Diversion Record." Allocations are made on a daily basis in accordance with the provisions of the Miller-Haggin Agreement of 1888 (as amended and supplemented), the 1900 Shaw Decree, and the 1962 Kern River Water Rights and Storage Agreement. Depending on the month, all the waters of the Kern River are first divided and apportioned each day between the two parties to the Miller-Haggin Agreement on a percentage basis depending on the total unregulated natural flow measured at the First Point of Measurement. The First Point parties are entitled to divert and use all the water divided and apportioned to the First Point parties each day of each month under the Miller-Haggin Agreement in the order of priority stated in the "Kern River First Point Flow and Diversion Record", provided that any such water which the First Point parties are entitled that passes the Second Point of Measurement shall, upon passing, belong to the Second Point parties. This typically only occurs in very wet years." O3-15

3. The first paragraph in the Water Availability Analysis (Appendix L, p. 11) section "3.3 Pre-1914 Water Right Holders" should be revised and corrected with regard to North Kern to state: "The City of Bakersfield, North Kern and Kern Delta Water District hold all of the First Point water rights. North Kern Water Storage O3-16

District holds the perpetual right, to divert, transport and use all water accruing to certain water rights as stated in the 'Agreement For Use of Water Rights', dated January 1, 1952." O3-16 cont'd

4. The second paragraph in the Water Availability Analysis (Appendix L, p. 11) section "3.3 Pre-1914 Water Right Holders" should be revised and corrected with regard to North Kern to state: "In 1976, Bakersfield entered into long-term contracts to sell a portion of its Kern River water supply to four agricultural districts. Bakersfield proposes to take back significant quantity of this water both to meet increasing demand and to discharge water to the Kern River (Core, 2009). In 2014, the Ventura County Superior Court entered a final judgment (affirmed by the Court of Appeal, Second Appellate District) that the Extension Term of Agreement 76-89 between North Kern and Bakersfield is a valid and enforceable contract, in full force and effect. The City of Bakersfield is permanently enjoined from taking any action inconsistent with Agreement 76-89 and the Final Statement of Decision of the judgment." O3-17

5. The third paragraph in the Water Availability Analysis (Appendix L, p. 11) section "3.3 Pre-1914 Water Right Holders" should be revised and corrected with regard to North Kern to state: "North Kern Water Storage District uses Kern River water for irrigation, stock watering, groundwater replenishment, and municipal and industrial purposes. The District makes diversions from the Kern River through the Beardsley and Calloway Canals, and the Pioneer Canal Inlet to Cross-Valley Canal for irrigation, stock watering, and groundwater replenishment for irrigation and municipal and industrial purposes. The District also has spreading basins that are filled using Kern River, Poso Creek and other available supplies including flood waters from the Kern River." O3-18

Thank you for the opportunity to comment on the DEIR. Should you have any questions please contact me at your convenience.

Very truly yours,

Richard A . Diamond
General Manager

Enc.
"Annual Distribution of Diversion and Use of Forfeiture Judgment Releases For The 10-Year Period Extending From 2007 to 2016".
Kern River First Point Flow & Diversion Records (2007-2017).

2111-105\00079332.002

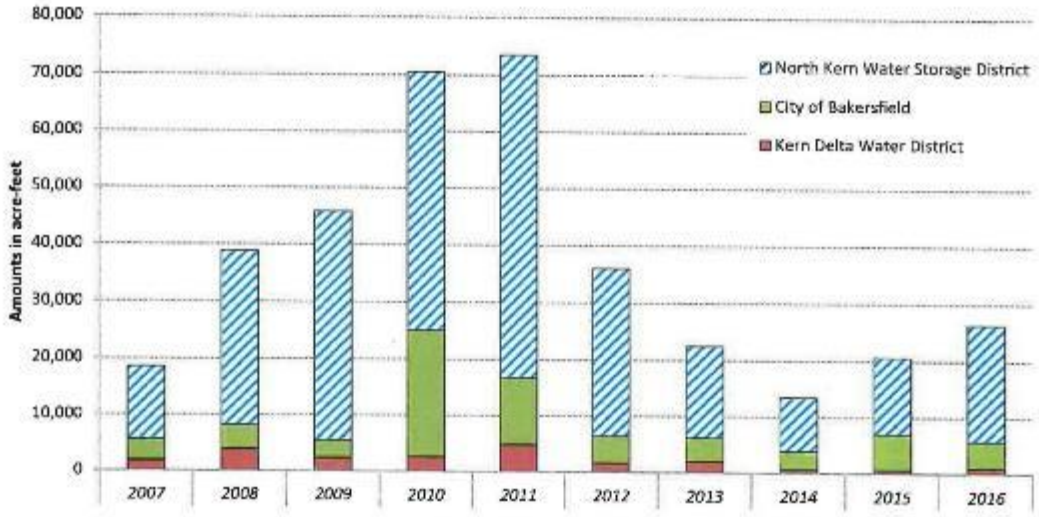
Annual Distribution of Diversion and Use of Forfeiture Judgment Releases
for the 10-Year Period Extending from 2007 through 2016

(values in acre-feet)

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	TOTAL
North Kern WSD	12,862	30,688	40,243	45,433	56,740	29,462	16,244	9,528	13,594	20,661	275,455
City of Bakersfield	3,826	4,196	3,253	22,538	11,866	4,891	4,256	3,471	6,507	4,809	69,613
Kern Delta WD	1,809	3,944	2,321	2,572	4,918	1,639	2,000	523	525	937	21,190
TOTAL:	**18,497**	**38,828**	**45,817**	**70,543**	**73,524**	**35,992**	**22,500**	**13,522**	**20,626**	**26,407**	**366,258**

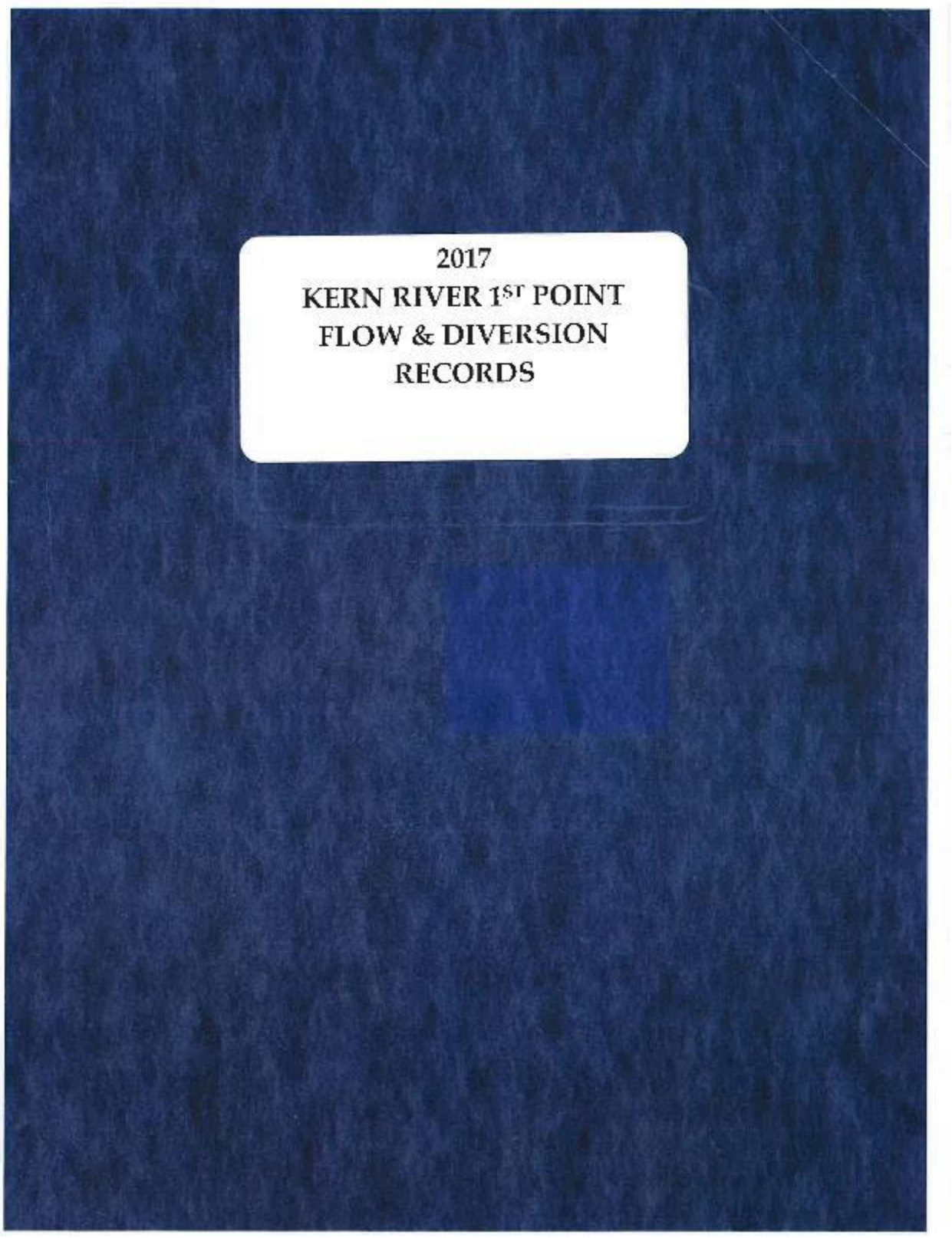
Source: Kern River First Point Flow and Diversion Records prepared by the City of Bakersfield.

Note: Old South Fork and KRC&IC are included in the numbers shown for the City of Bakersfield.



PRELIMINARY - SUBJECT TO REVISION

January 19, 2018


2017
KERN RIVER 1ST POINT
FLOW & DIVERSION
RECORDS

CITY OF BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: January 2017 Return

QUANTITIES IN ACRE-FEET

CONVEYED NATURAL FLOW AT FIRST POINT..... 372869
LESS NON-CONTRACTING CANALS..... 16284
PER CHEMS AND FIRST POINT CANALS..... 356585
TO BE CONVEYED BY OTHER CANALS..... 31610
TO BE USED BY OTHER CANALS TO RECEIVE..... 227624
EACH OTHER CANAL TO RECEIVE..... % OF IT'S DIVERSION RIGHT

K.C.W.A. CO. ENTITLEMENT AT SPECIAL POINT (4.932%) 1422
K.W.B.A. 0.0 ENTITLEMENT 27564
STORAGE LOSS 878
KERN RIVER CONSUMPTIVE ENTITLEMENT 0
HALLIDAY W.D. ENTITLEMENT AT FIRST POINT 0
TOTAL 31862

DIVERSION RIGHT					RELEASES			ENTITLEMENT LESS RELEASES			PERMANENT SALES OR PURCHASES			NET DIVERSIONS			WATER (WARD) LOSS		ISABELLA RESERVOIR			
MILES FROM START	DIST.	NAME OF CANAL	GROSS TAKEN	GROSS ENTL.	To River	To Diversion		... DIVERSIONS DISTRIBUTED PRO RATA ...			PLUS	LESS		NORTH	SOUTH		NORTH	SOUTH	BY	PREVIOUS MONTH	USE	CUMULATIVE BALANCE
		KERN RIVER (1-3/10)		1422				258	864													
3068	206	KERNVILLAND (1-3/10)	6015	28255	12454					7941						5293				1398	1265	13	0	2880
		EASTSIDE																						
		KERN RIVER CONDUIT																						
3068	28	CASTRO		309		29	29																	
		ASSEMBLY Co.		880		812	81													0	0	0	0	0
3068	28.5	SOUTH SIDE		879		85		1481			734	3006					33948			51341	37607	261	2557	44790
4113	83	WARD & KOPA (1-3/10)	4108	4128	4078	132						724				1100				0	450	0	0	595
4113	83	WARD & KOPA (1-3/10)		3240		132	132													347	898	8	0	1237
4113	83	WARD & KOPA (1-3/10)		3240		132	132	3000	8734	347													

CITY O[F] BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: August 2017 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT.....	70183
LESS NON-CONTRIBUTING CANALS.....	10446
FOR OTHERS AND FIRST POINT CANALS.....	51747
TO BE CONTRIBUTED BY OTHER CANALS.....	35559
TO BE USED BY OTHER CANALS.....	16247
EACH OTHER CANAL TO RECEIVE.....	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.552%)...	785
B.V.W.S.D. ENTITLEMENT.....	16481
SEEPAGE LOSS.....	675
KERN RIVER CONDUIT ENTITLEMENT.....	17574
HACIENDA W.D. ENTITLEMENT AT FIRST POINT.....	0
TOTAL.....	35515

DIVERSION RIGHT				GROSS DIVR	GROSS ENTL	RELEASES To River	RELEASES Distribution Direct	RELEASES Distribution Pro	ENTITLEMENT LESS RELEASES ...OR PLUS DISTRIBUTED RELEASES KRWD	KCC&M Co	KDWD	OTHER	EXCHANGES, SALES OR PURCHASES PLUS	EXCHANGES, SALES OR PURCHASES LESS	NET DIVERSIONS KRWD	KCC&M Co	KDWD	OTHER	WATER TRANS. LOSS DIR	WATER TRANS. LOSS PRO
		K.C.L. Co. INTL @ 300 FT.		783					783											
304.9	245	KERN ISLAND (1-57)		18035	18818	1406					17540			676			18020		179	
		ARTESIA		3810										3270			1540			
		KERN RIVER CONDUIT			17574					17574										
325.5	28	CASTRO			85		196													
		KCC&M Co.			254		681			7114				15033					1848	
336.5	48.5	SOUTH FORK			776		291					570								
416.5	92	BUENA VISTA (1-53)		2650	7359	712	400				1546			750			1900			
450.5	108	LAMPE (1-55)			2037		1537		3568											
530.5	29	ANDERSON (1-51)			339		75		414											
550.5	148	STOCKDALE		3614	2551		420				3624			728			2896			
730.5	39	BEACHAM			510		113		629											
850.5	148	HOBACK		2575	2406	1794					810						2073			
880.5	46	PLUMMER			538		144		672											
950.4	46	JUDD			456				456											
1036.5	46	JOHNSON			464				464											
1146.5	130	PIONEER (1-57)			1291				1291											
1180.5	80	BRAMBLETT (1-61)		1378	569							569		12				1170		
		LERDO (WWSC)		24211									15242	9388	11596			337		
1230.5	50	ANDERSON (2-63)			97				97											
1243.5	43	LAMPE & DIXON			345				340											
1283.5	33	WILSON			64															
		KCC&M Co.			64					88										
1318.5	25	McCAFFREY			228				228											
		MACORD	LERDO 30%		242				242											
1378.5	108		BRAWLEY 70%		573							573								
		CALLOWAY	CENTRAL 25%	5837	335					335							5837			
1234.5	848		WWSD 80%		1382				1382											
		RAILROAD	KCC&M Co. 20%																	
2428.5	320		WWSD 80%																	
2618.5	50	BUENA VISTA (2-58)																		
2638.5	450	LAMPE (2-62)																		
2658.5	470	PIONEER (2-58)																		
2728.5	240	BRAWLEY (2-62)																		
2788.5	90	KERN ISLAND (2-58)																		
		ARTESIA WWSD		12416										9647		2575				
		TRUXTON LAKES		435												435				
		KERN PARK		97										97						
		COUNTY OF KERN														174				
		CALIFORNIA WATER SERVICE CO.														385				
		DIOCESE RD														173				
		THE PARK AT RIVER WALK		143												143				
		WILSON DITCH		654										654						
		3000 ACRES SPREADING		5034										2601		2595				
		PIONEER PROJECT		7059										3856		3805				
		HMD FOR KCWA											16019					10952		
		HMD FOR OTHERS																		
		FIRST POINT PUMPING SECOND POINT																		
		WWSD YOU FOR OTHERS											20043							
		WWSD YOU FOR KRWB											4424							
		KERN WATER BANK CANAL		837																
		WWSD VIA PIONEER PROJECT											1087							
		KDWD VIA PIONEER PROJECT																		
		PIONEER WEST																		
		PANORAMA PRESERVE		8												8				
		WWSD FOR LA HACIENDA, INC.											155	155						
TOTALS			9335	88514	82066	2975	3835	0	30628	19101	21727	3700	86571	45419	17596	16654	28419	1605	12889	0
		LOSS		13266	676														12889	
FLOW AT FIRST POINT			1216	90779	65732															

ISABELLA RESERVOIR					
IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE	
556	5341	132	2047	3500	
0	0	0	0	0	
4772	21126	377	19357	6526	
570	1334		0	7566	
503	2939	85	1357	2000	
540	1035	33	653	1149	
216	2265	51	1678	750	
321	33445	1552	708	34005	
10090	11439	742	4175	24900	
22647	97580	2993	30606	74948	

TOTAL CHANGE IN STORAGE = -7442

NOTES:

Kern Island Each. Loss: from WWSD(MWD)= 676
Stockdale Each. Loss: from BVWSD(MWD)= 1219
Buena Vista Each. Loss: from BVWSD(MWD)= 700
Olive Each. Loss: from WWSD(MWD)= 774

KRWB/ID: City to BVWSD= 2072
KRWB/ID: BVWSD to WWSD= 3641

KCC&M Each. Loss: City to BVWSD (MWD)= 4500
Lerdo Each. Loss: City to WWSD(ID), Wheat= 3000
Lerdo (WWSD) - Other: BVWSD to CWD= 3000
Lerdo (WWSD) - Other: KWDD 20% to Co. 750

Cnty. (Central): City to K.T.W.D.= 5459

River Loss: from KWD for KCWA= 10952
Lake Park: from KWD for KCWA= 97
2000 Acres: from KWD for KCWA= 2342
3000 Acres: from WWSD= 809
Pion. Proj. Each. Loss: from BVWSD= 4562

Pion. Proj.: Each. Loss: KWD for KCWA= 2269
Pion. Proj.: City to BVWSD= 3805
Wilson Ditch: from BVWSD= 654

CITY OF BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: September 2017 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	26151
LESS NON-CONTRIBUTING CANALS	17051
FOR OTHERS AND FIRST POINT CANALS	10300
TO BE CONTRIBUTED BY OTHER CANALS	655
TO BE USED BY OTHER CANALS	17645
EACH OTHER CANAL TO RECEIVE	N/A % OF 17'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.561%)	0
B.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	655
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	655

DIVERSION RIGHT			GROSS DIVR.	GROSS ENT'L.	RELEASES To River	RELEASES Distribution Direct	RELEASES Distribution Exc.	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES MWSD	KCCBW Co.	KWD	OTHER	EXCHANGES, SALES OR PURCHASES PLUS	EXCHANGES, SALES OR PURCHASES LOSS	NET DIVERSIONS MWSD	KCCBW Co.	KWD	OTHER	WATER TRANS. LOSS Dir.	WATER TRANS. LOSS Exc.
		K.C.L. Co. ENT'L @ 2ND PT.																		
265.0	260	KERN ISLAND (1-57)	8388	17651	9390					8461							8388			
		EASTSIDE	2266										2266							
		KERN RIVER CONDUIT																		
293.0	39	CASTRO		297																
		KCCBW Co.		841		52			1180				5917	5500					448	
293.5	193	SOUTH POINT		598		39					625									
418.8	83	BUENA VISTA (5-57)	2388	4050	2466					2104							2555			
539.5	120	JAMES (1-57)		5027		7607		7140												
568.3	29	ANDERSON (6-57)		928		587		1180												
708.8	198	STINE	3868	3503	2926	6				533			3609				1031		383	7749
728.8	24	MCALLISTER		405		7380		4788												
826.5	168	PUMPER	7879	1137	354	46				268			7409				472		193	754
926.5	45	RUNNER		67		2201		2338												
966.5	85	JOYCE				2182		2182												
1008.5	46	JOHNSON				2808		1853												
1126.5	124	PIONEER (1-57)				4509		4033												
1196.5	59	MAHSLEY (1-57)	892			966						966	9917					892		
		LEVEE DIVERSION	23169										4203	5193	12383					
1209.5	16	ANDERSON (2-NO)				739		173												
1248.5	49	JOYCE & DIXON				206		206												
1268.8	18	WILSON				24														
		KCCBW Co.				16			40											
1276.5	25	McCOMPHET				302		103												
		McCORD LEVEE 20%				210		105												
1318.8	109	BEARDSLEY 80%				529						739								
		CALLOWAY CENTRAL 20%	4028			6			5					4034						
2276.5	836	MOORE 80%																		
		RAILROAD KCCBW Co. 20%																		
2434.8	200	MWSD 80%																		
2914.5	80	BUENA VISTA (3-NO)																		
2946.5	130	JAMES (2-NO)																		
2988.8	170	PIONEER (2-NO)																		
3008.8	240	BEARDSLEY (2-NO)																		
3492.8	20	KERN ISLAND (3-NO)																		
		ROSEDALE RWSD	1468										1468							
		TRACTION LAKES	433												432					
		AERA ENE	178										178							
		COUNTY OF KERN													127					
		CALIFORNIA WATER SERVICE CO.													542					
		OILDALE ID1													76					
		THE FARM AT SAGE WALK	118										118							
		WILSON (OTH)	704										704							
		2800 ACRES SPREADING	2135										2135							
		ARVIN ENTRANCE	4411										4411							
		WMD FOR KCWA											17642					10024		
		WMD FOR OTHERS											5292					1164		
		FIRST POINT PASSING SECOND POINT																		
		BVWSD WMP FOR OTHERS											3337	2000						
		BVWSD WMP FOR IDID											5547							
		KERN WATER BANK CANAL																		
		BVWSD WMP PIONEER PROJECT											7121							
		CITY to WMD (Trans. Loss Assignment)											3000							
		PIONEER INLET																		
		PANORAMA PROPERTIES	14												14					
		BVWSD FOR La NACIENDA, INC.											95	95						
TOTALS		1957	47132	25886	15974	19878	0	29114	1226	11416	1730	60451	28063	12383	1504	12456	592	12534	0	
		LOSS	1248	655														12534		
FLOW AT FIRST POINT		1957	60327	36151																

ISABELLA RESERVOIR				
IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
63	2590	62	0	2590
0	0	0	0	0
3835	6536	252	6192	9967
625	2564		0	3189
39	2000	45	490	1990
383	7749	24	831	677
193	754	16	402	534
729	24995	713	39930	23466
12382	26449	329	141	37006
25282	74948	1944	18287	79919

TOTAL CHANGE IN STORAGE = 4781

NOTES:

Rosedale Bank, Const. from BVWSD/WCD to 226
Stine Exch. Loss: Exch MWSD/pWD - 2628
Pioneer Bank, Const. from BVWSD/WCD to 1406
MWSD: BVWSD to BVWSD to 1468
KCCBW Exch. Plus: Dlp to MWSD (pw) 2800
Conn (MWSD) - Other: BVWSD to CWD 1100
Lan to TRACTION - Other: MWSD to WSATER 2030
Calc. (Control): WMD for KCWA 4028
Park at River Walk: from WMD for KCWA 120
River Loss: from WMD for KCWA 10024
River Loss: from WMD for WMD 1164
Aera Park: from WMD for KCWA 178
2800 Acres: from WMD for KCWA 2034
2800 Acres: from BVWSD 112
Pion. Proj. Exch. Loss: from MWSD 7121
Pion. Proj. Exch. Loss: WMD for KCWA 3000
Wilson Ditch: WMD for KCWA 537
Wilson Ditch: from BVWSD 537

CITY OF BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: October 2017 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT..... 28955
LESS NON-CONTRIBUTING CANALS..... 16446
NON OTHERS AND FIRST POINT CANALS..... 6008
TO BE CONTRIBUTED BY OTHER CANALS..... 676
TO BE USED BY OTHER CANALS..... 7053
EACH OTHER CANAL TO RECEIVE..... 164

S. OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.563%)..... 0
B.V.W.S.D. ENTITLEMENT..... 0
SEEPAGE LOSS..... 676
KERN RIVER CONDUIT ENTITLEMENT..... 0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT..... 0
TOTAL..... 676

DIVERSION RIGHT					RELEASES			ENTITLEMENT LESS RELEASES ...OR PLUS DISTRIBUTED RELEASES			EXCHANGES, SALES OR PURCHASES		NET DIRECTIONS			WATER TRANS. LOSS		ISABELLA RESERVOIR			
RIVER STATUS	PART	NAME OF CANAL	GROSS DIVR.	GROSS ENTL.	To River	Advance Direct	Adv.	MONTH	ACCUM'TN	YEAR	OTHER	PLUS	MINUS	MONTH	ACCUM'TN	YEAR	OTHER	DAY	MO	Previous BALANCE	LOSS	OUT	Current BALANCE
		K.C.L. CO. ENTITLEMENT	7074	16446	11487					6889			359			7021				43	2800	83	35	2688
8868	25	KERN ISLAND (1-15)	7074	16446	11487					6889			359			7021				43	2800	83	35	2688
		BEARTRAP	139										899										
2253	25	KERN RIVER CANAL	139										899										
2253	25	CROSS		362		6														0	0	0	0
		POSO CANYON		815		769				1236			4954					5704		5153	5567	256	9234	4268
3115	38.5	SOUTH POSO		592		46						641								641	3169		0	3810
4103	62	KERN WATER (1-15)	8043	4307	725	359		2077		3782						3362			388	144	1600	32	113	1483
3818	150	JAMES (1-30)		1622		4419		1004															
5555	20	ANDERSON (1-30)		38		1251		1004															
5576	180	STINE	1958	246	246	1380				1380			768			1469			66	869	697	28	630	356
7718	75	BEALVILLE				1348		1343															
8818	185	KERNVILLE	1456			1356				2124			336			1770				1380	304	78	426	1472
8824	45	PLUMMER				79		79															
9825	45	JOHNS				79		79															
10823	65	JOHNSON				79		79															
11818	150	PIONEER (1-30)				99		99															
12565	90	BEARDSLEY (1-30)	7032										4969				7032						
		LERDO PASSING	15461											15461						0	33486	978	8995	16276
13058	70	ENDERBY (2-30)																		287	37036	850	8998	26938
13058	40	JONES & LAYNE																						
13258	15	NELSON																					
		ASSEMP Co.																					
13758	70	BUCKPASSY																		7359	78859	1888	21230	62072
		RECORD	LASTING 30%																				
13758	55		INDUSTRIAL 20%																	TOTAL CHANGE IN STORAGE =		-16637	
		CALIFORNIA	CENTRAL 20%	4042									4042					1173					
13758	85		MUNICIPAL 30%																				
		RAILROAD	KERN Co. 30%																				
2438.2	330		IRRIGATION 40%																				
3918.2	90	BUENA VISTA (3-30)																					
3958.2	180	JAMES (2-30)																					
3958.2	120	PIONEER (2-30)																					
3958.2	240	BEARDSLEY (2-30)																					
7458.2	90	KERN ISLAND (2-30)																					
		DISTRIBUTARIES	3783													3783							
		TRUXTUN LAKES	1487													1487							
		ALEXANDER	448										153			448							
		COUNTY OF KERN	150													150							
		CALIFORNIA WATER SERVICE CO.														653							
		OLCESE NO.														70							
		THIS POINT AT KERN AVENUE	123										123										
		WILSON DITCH	137										137										
		2000 ACRES EXCHANGE	3449										3415										
		PIONEER PROJECT	6993										6938										
		FROM POSO RIVER											11576			647							
		FROM OTHERS											5214					3416					
		FIRST POINT PASSING SECOND POINT																					
		BUSINESS OF POSO CREEK																					
		DURESS WATER BOARD											2190										
		KERN WATER BANK CANAL																					
		DURESS VIA PIONEER PROJECT											3927										
		REMAINDER VIA PIONEER PROJECT																					
		PROMPTED INLET																					
		PANORAMA PRESERVE	13													13							
		PUMPED FOR LA HACIENDA, INC.																					
TOTALS			3783	28214	28179	12439	12939	0	19193	1230	14278	641	28266	21766	15461	3834	12644	1092	12884	445				
		LOSS		13448	676														12373				
FLOW AT FIRST POINT			3783	64202	28855																		

CITY OF BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: November ... Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	24869
LESS NON-CONTRIBUTING CANALS	17851
FOR OTHERS AND FIRST POINT CANALS	7018
TO BE CONTRIBUTED BY OTHER CANALS	655
TO BE USED BY OTHER CANALS	6363
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (LESS%)	0
B.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	655
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	655

DIVERSION RIGHT			GROSS DIVTE	GROSS ENTL	RELEASES To River	RELEASES Distribution Direct	RELEASES Distribution Pro	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES MWSD	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES KCCSW Co.	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES KCWD	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES OTHER	EXCHANGES, SALES OR PURCHASES PLUS	EXCHANGES, SALES OR PURCHASES LESS	NET DIVERSIONS MWSD	NET DIVERSIONS KCCSW Co.	NET DIVERSIONS KCWU	NET DIVERSIONS OTHER	WATER TRANS. LOSS GIR	WATER TRANS. LOSS PWD
		K.C.L. Co. ENT'L @ 2ND PT.																	
2000.0	200	KERN ISLAND (1-ST)	5002	17851	14476					2375							5002		
		BARTHOW																	
		KERN RIVER CONDUIT																	
2000.0	20	CUSTMO		274		24													
		KCCSW Co.		786		132				1739		3654						224	1
2376.3	30.5	SOUTH FORK		647		57					624		3554						
415.8	80	BUENA VISTA (1-ST)	1020	3150	2592	79				239							1020	729	
506.5	130	JAMES (1-ST)		7653		5578		7141											
636.5	30	ANDERSON (1-ST)		61		1103		1164											
706.5	160	STINE	88	4	4	22				22							88	69	
726.5	20	MEACHAM				1666		1666											
856.5	665	FARMERS	1188			1238				7239							1188		
902.5	46	FLOWER				2016		2016											
950.5	48	JOICE				1533		1533											
1000.5	48	JOHNSON				1233		1233											
1126.5	126	PIONEER (1-ST)				2739		2739											
1166.5	40	BEARDSLEY (1-ST)	635			44						44						635	
		LONDO (WWSD)	3473										764	6715					
1206.5	70	ANDERSON (2-ND)																	
1246.5	40	JAMES & DOSTA																	
1290.5	10	WILSON																	
		KCCSW Co.																	
1276.5	30	MACCHENY																	
		McCORD LONDO 30%																	
1376.5	100	BEARDSLEY 70%																	
		CALLOWAY CENTRAL 20%	3307										3257					1115	
1223.5	150	MWWSD 80%																	
		WILLIAMS KCCSW Co. 20%																	
2425.5	200	MWWSD 80%																	
2515.5	90	BUENA VISTA (2-ND)																	
2695.5	180	JAMES (2-ND)																	
2865.5	170	PIONEER (2-ND)																	
3105.5	240	BEARDSLEY (2-ND)																	
3192.5	88	KERN ISLAND (2-ND)																	
		BOS DALE ASHED																	
		TRUXTUN LAKES	224												224				
		AERA PARK	24										24						
		COUNTY OF KERN													68				
		CALIFORNIA WATER SERVICE CO.													713				
		OLCESE MD													24				
		THE PARK AT RIVER WALK	719												719				
		WILSON DITCH																	
		2500 ACRES SPREADING																	
		POWERS PROJECT	285										285						
		HWD FOR KCWA										7749						1440	
		HWD FOR ISWI										4352							
		FIRST POINT PASSING SECOND POINT																	
		BWWSD WA/FOR OTHERS										734							
		BWWSD WA/ FOR KDWD																	
		KERN WATER BANK CANAL																	
		BWWSD WA PIONEER PROJECT																	
		CITY to HWD (Trans. Loss Assignment)																	
		PIONEER INLET																	
		PANORAMA PROJECTS	77												77				
		BWWSD FOR La HACIENDA, WD.																	
TOTALS		831	31208	34214	17477	17477	0	17088	1165	4873	668	16739	8154	8719	1165	7233	686	3971	1
		LOSS	1627	655														2572	
FLOW AT FIRST POINT		831	29015	24859															

ISABELLA RESERVOIR				
IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
122	2405	27	1700	741
0	0	0	0	0
3886	4266	729	234	7791
404	3830	0	2834	600
0	1493	13	907	574
15	866	12	181	718
175	1472	24	125	1498
7	16910	269	640	15008
4946	20528	532	278	39962
12855	82072	1656	7925	81992

TOTAL CHANGE IN STORAGE = 4921

NOTES:

Londo (WWSD) - Other BVWSD re CWD= 764

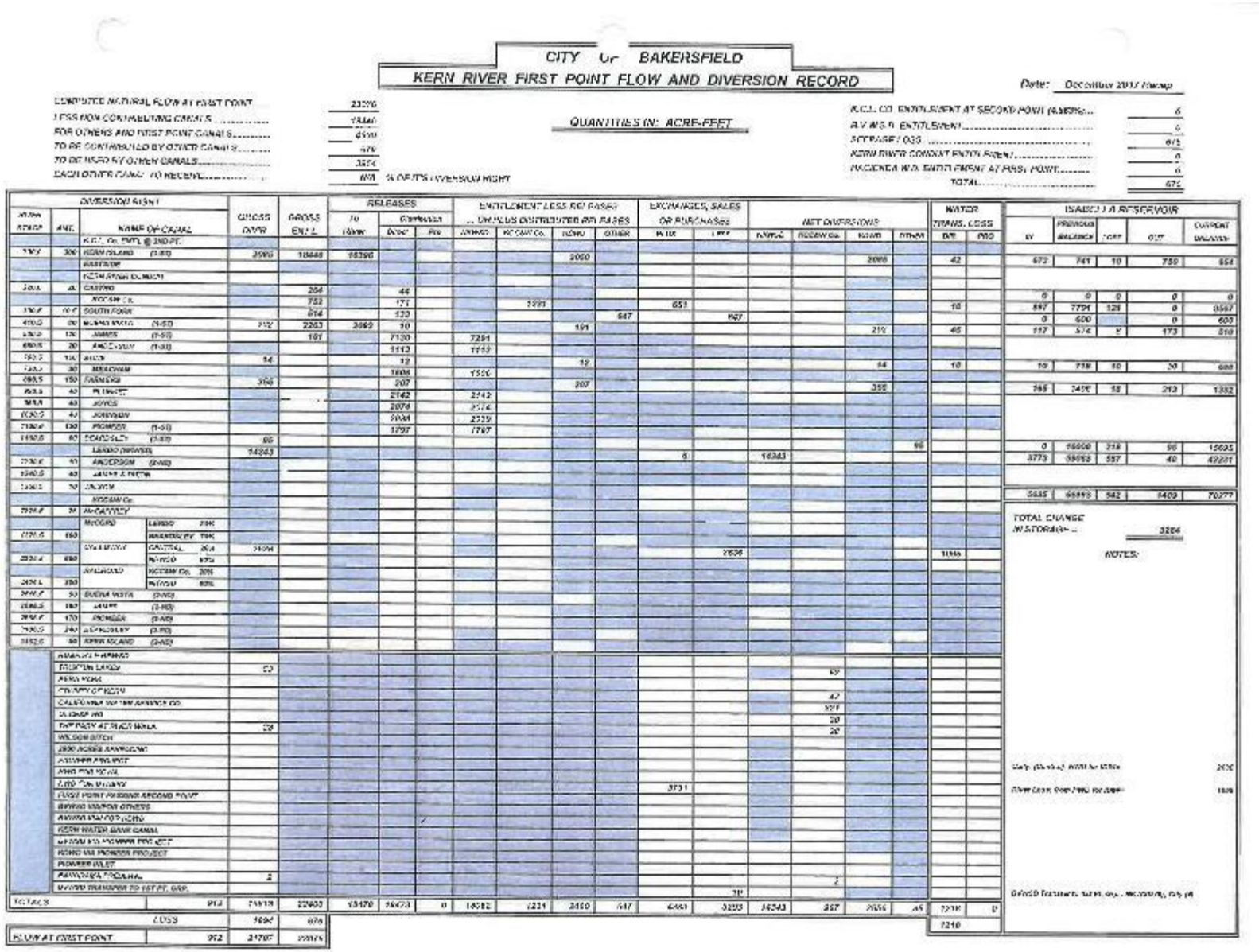
Cally. (Corona): HWD for Dist= 3307

Wtwr Loss. from HWD for KCWDs 1440

Wtwr Loss from HWD for ISWI= 1115

Aera Park: from HWD for KCWDs 24

Pkts. Proj. Each. Loss: HWD for KCWDs 285



CITY OF BAKERSHELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: October 2017 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	23209
LESS NON-CONTRACTING CANALS	7444
FOR OTHERS AND FIRST POINT CANALS	6599
TO BE CONTROLLED BY OTHER CANALS	676
TO BE USED BY OTHER CANALS	3824
EACH OTHER CANAL TO RECEIVE	NA

% OF ITS OVERSHOT RIGHT

K.C.I. CO. ENTITLEMENT AT SECOND POINT (4.935%)	6
K.V.W.S.D. ENTITLEMENT	0
SEEPAGE / OSS	615
KERN RIVER CONSENT ENTITLEMENT	0
INCIDENTAL W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	621

DIVERSION RIGHT		NAME OF CANAL	GROSS DIVR	GROSS ENT.	RELEASES To Users	Conveyance Direct	Conveyance Pro	ENTITLEMENT LESS RD BASED ... OR PLUS DISTRIBUTED RD BASES ANNEX	KCWD Co.	KCWD	OTHER	EXCHANGES, SALES OR PURCHASES W.I.D.	EXCHANGES, SALES OR PURCHASES I.I.D.C.	NET DIVERSIONS ANNEX	NET DIVERSIONS KCWD Co.	NET DIVERSIONS KCWD	NET DIVERSIONS OTHER	WATER TRANS. LOSS DIR	WATER TRANS. LOSS PRO
		K.C.I. Co. INTL @ 2ND PT.																	
1907	306	KERN ISLAND (1-50)	3999	18448	18390					3999						3999		42	
		WASTEWAY																	
		NOT AFFILIATED																	
2001	01	CASTRO		264		44													
		ROSAN Co.		752		171			3331			651						10	
1906	06	SOUTH FORK		914		120					647		907						
4105	05	NORTH KERN (1-50)	312	2263	3999	30				191						219		45	
4305	05	JAMES (1-50)		191		7130		7291										177	519
6905	20	ANDERSON (1-50)				1113		1113											
7905	10A	BEAR	84			12				12						84		10	
7905	30	MEADOWS				1606		1556										10	10
6905	150	FARMERS	396			207				207						396			
8005	40	PLANET				2142		2142											785
9905	40	JOYCE				2074		2074											
0305	40	JOHNSON				2004		2004											
7905	130	PIONEER (1-50)				2229		2229											
1405	60	BEARD SALT (1-50)	66			1797		1797											
		LAMBO (WWB)	14243														98		
7905	40	ANDERSON (SHB)										6		14243					
1905	40	[illegible]																	
		NORTH Co.																	
7905	30	McCARTNEY																	
		McCORD LAMBO 20K																	
0705	150	WASTEWAY 70K																	
		CALLOWAY CALITRAL 35A	3104																
2205	650	N-WD 97%											2636					1066	
		HALLWOOD NORTH Co. 30%																	
2405	350	N-WD 80%																	
2905	50	BUENA VISTA (SHB)																	
2805	180	[illegible] (2-50)																	
2905	170	PIONEER (SHB)																	
7905	240	[illegible] (3-50)																	
3105	50	KERN ISLAND (SHB)																	
		[illegible]																	
		[illegible]	53													69			
		[illegible]																	
		[illegible]														42			
		[illegible]														321			
		[illegible]														20			
		[illegible]	28													28			
		WILSON DITCH																	
		[illegible]																	
		[illegible]																	
		[illegible]																	
		[illegible]										3731							
		[illegible]																	
		[illegible]																	
		KERN WATER BANK CANAL																	
		[illegible]																	
		KERN RIV PIONEER PROJECT																	
		PIONEER INLET																	
		[illegible]	2													2			
		[illegible]											70						
TOTALS		912	23209	22493	18470	16073	0	16082	3331	3999	647	4383	3213	14243	357	3999	98	7210	0
		LOSS	1696	676														7210	
FLOW AT FIRST POINT		912	21707	21817															

ISABELLA RESERVOIR

BY	PREVIOUS BALANCE	IN	OUT	CURRENT BALANCE
672	741	10	759	654
0	0	0	0	0
897	7791	121	0	8967
0	600		0	600
197	574	2	173	510
10	738	10	20	688
785	2456	53	213	1382
0	15000	338	98	15635
3773	39058	557	40	42231
5535	65993	942	1409	70277

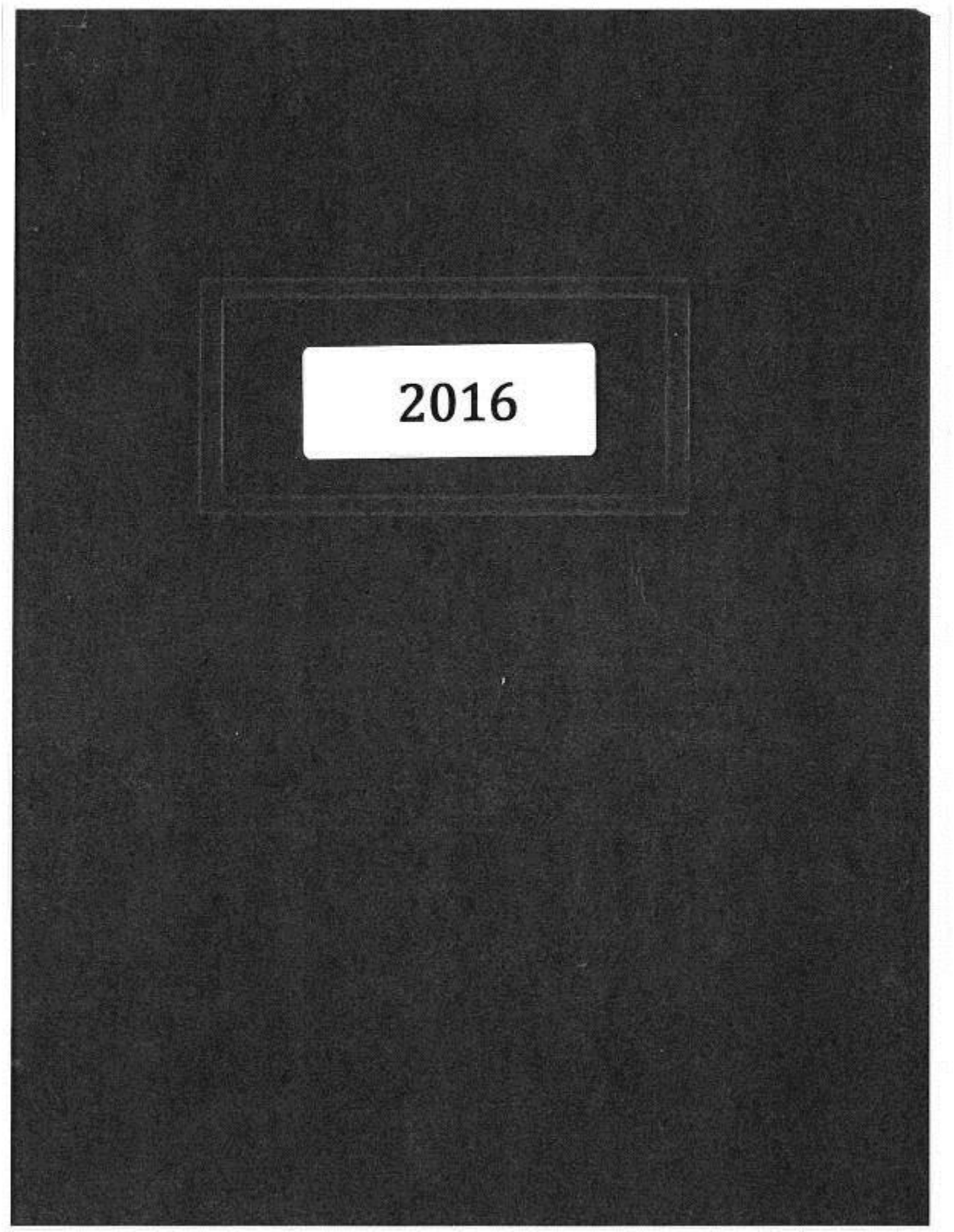
TOTAL CHANGE IN STORAGE = 3284

NOTES:

Daily (5-day) Allocation 200

Other Uses from Pine for June 1000

Gross Diversion Total (Dir. + Pro) 7210


2016

CITY OF BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: January 2018 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	27567
LESS NON-CONTRIBUTING CANALS	10423
FOR OTHERS AND FIRST POINT CANALS	5143
TO BE CONTRIBUTED BY OTHER CANALS	871
TO BE USED BY OTHER CANALS	4467
EACH OTHER CANAL TO RECEIVE	.1001 % OF IT'S DIVERSION RIGHT

K.C.W.C. CO. ENTITLEMENT AT SECOND POINT (4.96%)	0
R.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	676
KERN RIVER CONDUIT ENTITLEMENT	0
HAGEMAN W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	676

DIVERSION RIGHT				GROSS DIVR	GROSS ENTY	RELEASES To River	RELEASES Distribution Direct	RELEASES Distribution Pro	ENTITLEMENT LESS RELEASES OR PLUS DISTRIBUTED RELEASES KCWD	ENTITLEMENT LESS RELEASES OR PLUS DISTRIBUTED RELEASES KCC&W Co.	ENTITLEMENT LESS RELEASES OR PLUS DISTRIBUTED RELEASES RVWD	ENTITLEMENT LESS RELEASES OR PLUS DISTRIBUTED RELEASES OTHER	EXCHANGES, SALES OR PURCHASES PLUS	EXCHANGES, SALES OR PURCHASES LESS	NET DIVERSIONS KCWD	NET DIVERSIONS KCC&W Co.	NET DIVERSIONS RVWD	NET DIVERSIONS OTHER	WATER TRANS. LOSS DIR	WATER TRANS. LOSS PRO
RIVER STAGE	ANT.	NAME OF CANAL																		
		K.C.W.C. Co. ENT'L @ 2ND PT.																		
300.0	700	KERN ISLAND (1-ST)		8156	16423	7930					8493						8164			
		EASTSIDE																		
		KERN RIVER CONDUIT																		
320.0	20	CASTRO			737		175													
		KCC&W Co.			363		659			1223			760				879			
330.5	165	SOUTH FORK			252		285					647		647						
410.5	80	BUENA VISTA (1-ST)		251	1227	1115	731				347				392		68			
530.5	120	JAMES (1-ST)			382		5684		5478											
550.5	20	ANDERSON (1-ST)			163		420		572											
730.5	180	STINE		244	795		512				1307				244				1158	12
735.5	30	BEACHUM			68		359		427										281	203
823.5	40	FOWLER		40	201		40				331				40					
885.5	40	JEWETT			34		126		216											
1000.5	40	JOHNSON					159		159											
1030.5	30	PIONEER (1-ST)					45		85											
1130.5	80	BEARDSLEY (1-ST)					258		258											
		LEMOO (MOWSD)		7782			119					119		119					0	0
1180.5	50	ANDERSON (2-ND)					20		20						7782				2061	2708
1240.5	60	JAMES & DIXIE					79		79											
		KCC&W Co.					12			20									4454	4647
1270.5	30	BEACHUM					8													
		RECORD	LEMOO 30%				52		52											
1370.5	100		BEARDSLEY 70%				52		52											
		CALLOWAY	CENTRAL 20%																	
2235.5	650		MOWSD 80%																	
		WHITMAN	KCC&W Co. 20%																	
2435.5	200		MOWSD 80%																	
2545.5	80	BUENA VISTA (2-ND)																		
2685.5	160	JAMES (2-ND)																		
2855.5	170	PIONEER (2-ND)																		
2955.5	240	BEARDSLEY (2-ND)																		
3182.5	35	KERN ISLAND (2-ND)																		
		ASSUMED OLP RIVER																		
		TRUXTUN LAKES		227													227			
		ALTA PARK																		
		COUNTY OF KERN															80			
		KERN VALLEY GOLF COURSE																		
		CALIFORNIA WATER SERVICE CO.															750			
		OLCESE WD																		
		THE PARK AT RIVER WALK		105													105			
		WILSON DITCH																		
		2800 ACRES SPREADING																		
		MOWSD FOR CWD																		
		MOWSD FOR KDWD																		
		MOWSD VIA CWD																		
		MOWSD VIA FOR KDWD																		
		MOWSD VIA KDWD (BAND WATER)																		
		PANORAMA PRESERVE																		
TOTALS			780	16243	20197	3045	3045	0	8367	1249	10478	760	760	760	7782	1732	9730	0	348	0
		LOSS		1624	676														348	
FLOW AT FIRST POINT			780	17867	21566															

ISABELLA RESERVOIR				
IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
583	553	44	244	848
0	0	0	0	0
149	895	52	124	869
0	0		0	0
212	175	8	226	153
1158	12	20	95	1055
281	203	12	0	472
0	0	0	0	0
2061	2708	161	466	3763
4454	4547	257	1535	7109

TOTAL CHANGE IN STORAGE = 2622

NOTES:

CITY OF BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: August 2 nn

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	39621
LESS NON-CONTRIBUTING CANALS	8845
FOR OTHERS AND FIRST POINT CANALS	678
TO BE CONTRIBUTED BY OTHER CANALS	678
TO BE USED BY OTHER CANALS	0
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

K.C.I. CO. ENTITLEMENT AT SECOND POINT (K.SION)	0
A.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	576
KERN RIVER CONSERVATION ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	576

DIVERSION RIGHT		NAME OF CANAL	GROSS DIVR	GROSS ENTS	RELEASES To River	Distribution Short	Distribution Pro	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES A'DWSD	K'CAN Co.	KDWB	D'HAH	EXCHANGES, SALES OR PURCHASES P'HR	LESS	NET DIVERSIONS A'DWSD	K'CAN Co.	ALHAD	D'HAH	WATER TRANS. LOSS Dist	Pro
		K.C.I. Co. ENTS. @ 2ND PT.																	
330.8	800	KERN ISLAND (A-C)	9282	8845						8845		6932	800			12045			
		EASTSIDE	2583										1133			1778			
		KERN RIVER CONSERV.																	
320.8	20	CASTRO																	
		KCCAW Co.																	
330.8	48.5	SOUTH FORK																471	
490.5	80	BUENA VISTA (1-30)																	
500.8	203	JEWETT (1-27)																	
530.5	29	ANDERSON (1-31)																	
700.8	240	SUMNER																	
720.5	78	BRACKMAN																	
4800	158	FARMERS	1176													1776			
4930.8	48	POWERS																	
5045	40	JONES																	
5180.5	46	JOHNSON																	
5180.8	120	PEARSON (1-32)																	
5190.8	58	BEARDSLEY (A-C)	716											716					
	0	LERDO (WARGE)	12722										7829	4510					
5280.8	78	ANDERSON (2-A)																	
5240.5	40	JAMES & DIXON																	
5250.5	70	WILSON																	
		KCCAW Co.																	
5200.8	38	McCLAINRY																	
		INACTIVE LERDO 29%																	
5270.5	150	BEARDSLEY 71%																	
		CALLOWAY CENTRAL 29%	4582										3675		907			1489	
4235.5	650	LERDO 43%																	
		KCCAW Co. 30%																	
2425.5	240	WASCO 27%																	
2550.8	80	BUENA VISTA (2-WD)																	
2590.8	180	JAMES (2-AS)																	
2884.5	120	PACHECO (2-WD)																	
2965.5	240	BEARDSLEY (2-AS)																	
3167.8	55	MAIN CO./RD (2-RD)																	
		WHOLESALE (SHAC)																	
		TRUXTUN LAKES	276												276				
		AERA PART																	
		COUNTY OF KCAV													100				
		KERN VALLEY GOLF COURSE																	
		CALIFORNIA WATER SERVICE CO.													1005				
		OILDALE (M)													107				
		THP PARK AT RIVER WALK	123												123				
		WILSON DITCH																	
		2800 ACRES SPREADING																	
		INRWSD FOR CWD																	
		INRWSD FOR IDH																	
		INRWSD IDA CWD										7829							
		INRWSD IDA FOR KDWB										1972							
		INRWSD IDA KDWB (BAND WATER)																	
		INRWSD/BARREL FOR IDH										339						63	
		HACIENDA PROPERTY	28												28				
TOTALS		7292	33509	8845	0	0	0	0	0	8845	0	15001	13470	4300	8340	14697	0	2038	0
		LOSS	2712	576														2038	
R.OW AT FIRST POINT		7292	32221	3621															

ISABELLA RESERVOIR					
IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
50	7259	210	6724	2337
0	0	0	0	0
0	51896	2406	3851	42750
0	1413		0	1413
0	83	4	0	82
0	0	0	0	0
0	1481	30	1776	265
0	1606	76	0	1530
0	15429	819	4300	10306
50	79222	3366	14011	61895

TOTAL CHANGE IN STORAGE = -17397

NOTES:

Kern Island Canal Loss from K'CAN/Dix 830

Buena Vista Canal Loss from D'HAH/Dix 1120

Calif. Canal Loss: (D4 from Kern Island) 3381

River Loss: (D4 from Kern Island) 5498

Calif. (Tevis) - Old River (D4 Riverd 267

Lerdo Canal Loss: (Irrwsd via Calif) 7829

CITY OF BAKERSFIELD

KERN RIVER FIRST POINT / AND DIVERSION RECORD

Date: September 2018

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	5211	K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.5836)	0
LESS NON-CONTRIBUTING CANALS	5882	6 W.W.S.D. ENTITLEMENT	0
FOR OTHERS AND FIRST POINT CANALS	1691	SEEPAGE LOSS	555
TO BE CONTRIBUTED BY OTHER CANALS	556	KERN RIVER CONSERVATION ENTITLEMENT	0
TO BE USED BY OTHER CANALS	0	HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
EACH OTHER CANAL TO RECEIVE	NA % OF IT'S DIVERSION RIGHT	7074	556

DIVERSION RIGHT					GROSS DIVR	GROSS ENTL	RELEASES To River	RELEASES Distributed Lined	RELEASES Distributed Unl	ENTITLEMENT LESS RELEASES OR PLUS DISTRIBUTED RELEASES WSWD	ENTITLEMENT LESS RELEASES OR PLUS DISTRIBUTED RELEASES WSWD Co.	ENTITLEMENT LESS RELEASES OR PLUS DISTRIBUTED RELEASES KRWD	ENTITLEMENT LESS RELEASES OR PLUS DISTRIBUTED RELEASES OTHER	EXCHANGES, SALES OR PURCHASES PLUS	EXCHANGES, SALES OR PURCHASES LESS	KEY DIVERSIONS KRWD	KEY DIVERSIONS WSWD Co.	KEY DIVERSIONS KRWD	KEY DIVERSIONS OTHER	WATER TRANS. LOSS PLUS	WATER TRANS. LOSS MISC	ISABELLA RESERVOIR M	ISABELLA RESERVOIR PREVIOUS BALANCE	ISABELLA RESERVOIR LOSS	ISABELLA RESERVOIR OUT	ISABELLA RESERVOIR CURRENT BALANCE
		K.C.L. Co. ENTL @ 350 FT.																									
320.0	260	KERN ISLAND (1-50)			2036	5882						6882		6859	287				5529				387	5397	80	1374	77393
		POINSETT																									
		KERN RIVER (WIMPEY)																									
330.0	30	Lerdo																					0	0	0	0	0
		[illegible]																				389	0	15791	1894	2865	41047
330.0	16.5	SOUTH LERDO																					0	5473		0	5473
340.0	20	KERN ISLAND (1-50)																					0	89	8	0	97
350.0	120	JAMES (1-50)																									
360.0	70	ANDERSON (1-50)																									
370.0	450	[illegible]																					0	0	0	0	0
380.0	30	ALKALI																									
385.0	180	ASHLEY																					0	265	72	0	337
400.0	40	PLUMMER																									
410.0	40	JOYCE																									
420.0	40	JOHNSON																									
7140.0	130	PIONEER (1-50)																									
7150.0	60	BEARDSLEY (5-50)			556														551				0	1533	93	0	1670
		[illegible]			1796										420	1354							0	119636	3997	7384	47423
1200.0	10	ANDERSON (1-50)																									
1300.0	10	JAMES 8 DIVOR																									
1400.0	10	WILSON																					397	91835	3426	5123	56762
		ALLEN CO.																									
1270.0	20	McCURDY																									
		McCORD	LERDO	50%																							
1370.0	170		BEARDSLEY	70%																							
		CALLOWAY	CENTRAL	70%	3852										3853						1524						
2130.0	850		PIONEER	50%																							
		RAILROAD	POINSETT Co.	30%																							
3130.0	330		PIONEER	50%																							
2040.0	80	[illegible]	(1-50)																								
2080.0	50	JAMES	(1-50)																								
2090.0	170	PIONEER	(1-50)																								
3150.0	240	BEARDSLEY	(1-50)																								
3160.0	60	KERN ISLAND	(1-50)																								
		[illegible]																									
		TAUSTIN LAKES			287														287								
		KERN PARK																	128								
		COUNTY OF KERN																									
		KERN VALLEY GOLF COURSE																	837								
		CALI-CANADA WATER SERVICE CO.																	79								
		GLORIA HOA																	119								
		THE PARK AT RIVER WALK			113																						
		WILSON DITCH																									
		2000 ACRES SPREADING																									
		ARVIDO RIV CWD																									
		ARVIDO FOR IDA																									
		ARVIDO IDA CWD													430												
		ARVIDO IDA FOR ATWD													287												
		SWINGDOWN IDA CWD													7160												
		PANORAMA PREPARAT			16														16								
TOTALS			7716		9068	5882	0	0	0	0	0	6882	0	6215	4680	1384	2045	6636	0	1924	0						
		LOSS	2573		555															1924							
FLOW AT WEST POINT			5115		11341	5211																					

TOTAL CHANGE IN STORAGE = 7762

NOTES.

Kern Island Distr. Less. from Division 287

Calif. Aq. Less. Div from Kern Island 4547

Kern Island Div from WWSD 1516

Calif. Aq. Less. Div from Kern WWSD 831

Kern Lake Div from SWINGDOWN 348

Lerdo Aq. Less. Div from Kern Island 430

CITY OF BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: October 2018 Recap

QUANTITIES IN ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	7581
LESS NON-CONTRACTING CANALS	6085
FOR DIVERS AND FIRST POINT CANALS	676
TO BE CONTRIBUTED BY OTHER CANALS	671
TO BE USED BY OTHER CANALS	0
FROM OTHER CANAL TO RECEIVE	N/A

% OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.583%)	0
R.W.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	676
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	676

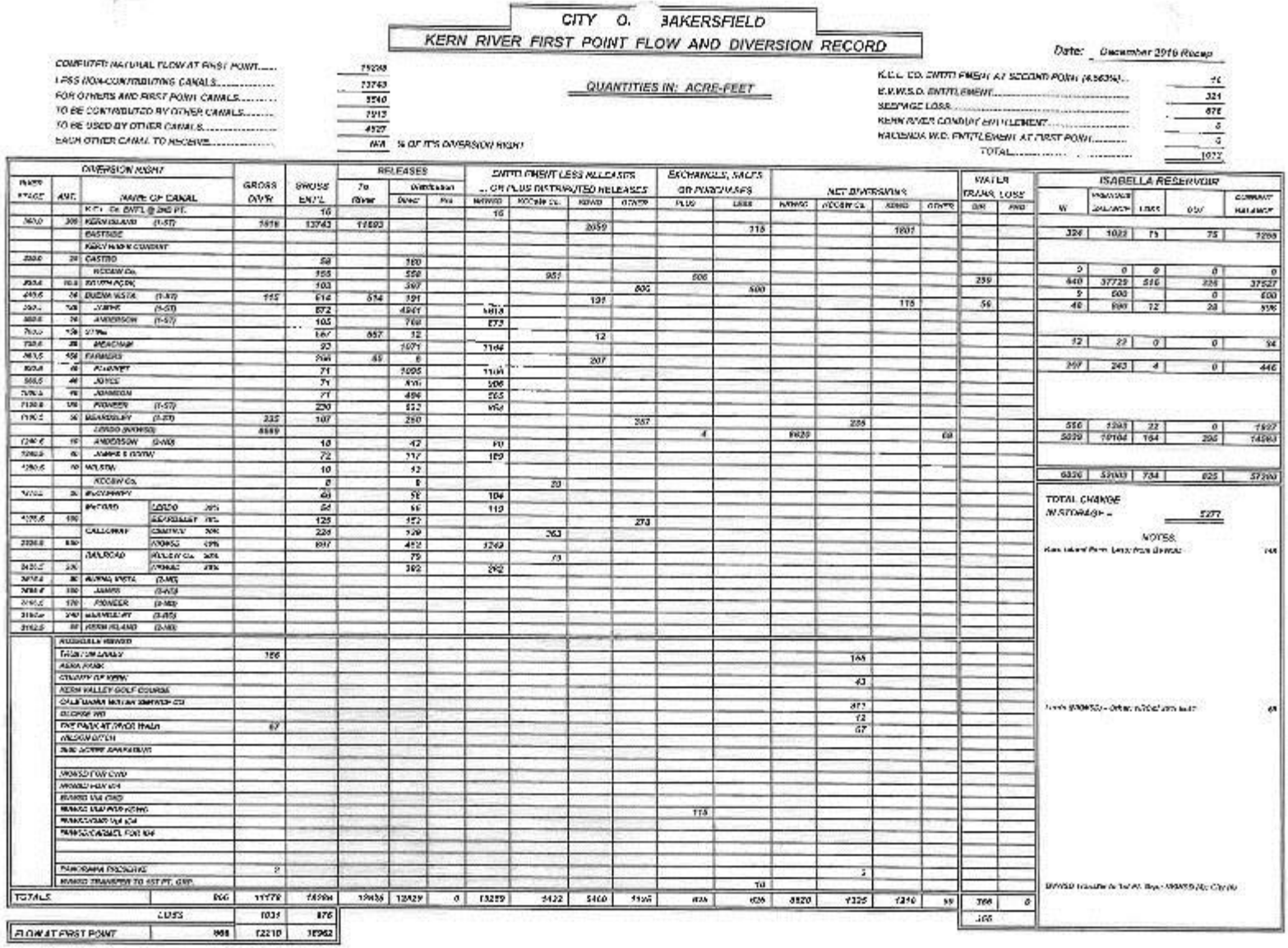
DIVERSION RIGHT						ACRE-FEET				ENTITLEMENT LESS RELEASES OR PLUS DISTRIBUTED AG FLASH			EXCHANGES, SALES OR PURCHASES		NET DIVERSIONS			WATER TRANS. LOSS		ISABELLA RESERVOIR			
STAN. RIVER	DIST.	NAME OF CANAL	GWORS DIV'N	GROSS ENTT.	To Diversions																%	PREVIOUS BALANCE	LOSS	CURRENT BALANCE
					Direct	Prio																		
		K.C.L. CO. ENT'T @ SECOND PT.																						
2800	3/3	KERN ISLAND	(1-67)	3811	1738				5749			1698	216			4497					1378	1000	63	737	2640
		EASTSIDE																						
		KERN RIVER CONDUIT																						
2700	39	EASTSIDE			27																0	0	0	0	0
3300	19.5	SOUTH FORK			235				382										403		0	47497	1901	1535	38787
4500	89	BUENA VISTA	(1-67)		160					160											196	7413		0	7573
5800	720	JAMES	(1-67)		693				698												222	85	4	0	874
6500	29	ANDERSON	(1-67)																						
7500	0.0	STINE																						
7500	33	NEWVIEW																			0	0	0	0	0
8700	510	KANSAS																							
9000	40	PLUMMER																			0	257	0	0	249
9500	43	STINE																							
9500.3	49	ASHWORTH																							
11200	720	POMAIRE	(1-67)																						
11900	60	MANSFIELD	(1-67)	698									698								0	1470	47	0	1423
12000	43	ANDERSON	(1-67)	698									698								0	8747	371	0	8470
12900	60	JAMES & POSO																							
13400	18	PALOMA																							
		KOSSEN Co.																			2172	54762	1482	2586	53352
13700	28	BUCKMAN																							
		M-COMP	LOSS	30%																	TOTAL CHANGE IN STORAGE =		-1491		
13700	50		UNACCT-FOR	70%																					
		EAST CANAL	CENTRAL	25%	3000										3000					1492	NOTES:				316
2800.3	459		MANNED	40%																					
		MAIN CANAL	KOSSEN Co.	25%																					
2400.6	280		WASCO	40%																					
2401.5	91	BUENA VISTA	(1-67)																						
2800.5	199	JAMES	(1-67)																						
2800.5	713	POMAIRE	(1-67)																						
2800.5	313	MILHAM	(1-67)																						
2400.5	60	KERN ISLAND	(1-67)																						
		RESERVE ACRES																							
		TOLOTO LANDS		234												234									
		CANAL PUMPS																							
		COUNTY OF KERN														102									
		KERN VALLEY RIVER COURSE																							
		CALIFORNIA WATER SERVICE CO.														451									
		CUCCIA HQ														451									
		THE PARK AT KERN VALLEY	111													111									
		MILHAM RIVER																							
		360 ACRES SPREADING																							
		INVERED FOR IDD																							
		INVERED FOR IDD																							
		BANKED KA CWD																							
		Banked Kern Fan Authority																							
		BANKED KCWA																							
		BANKED KCWA FOR KBF																							
		PANORAMA PROPERTIE		13												13									
TOTALS				1022	2830	6985	1738	1184	0	382	6242	160	8474	4442	0	7845	4481	0	2696	0					
			LOSS																		2696				
FLOW AT FIRST POINT				1022	2711	676																			
					13467	7661																			

CITY OF BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

QUANTITIES IN: ACRE-FEET

Date: November 2 2018



CITY O. BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: December 2018 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	79268
LESS NON-CONTRIBUTING CANALS	23763
FOR OTHERS AND FIRST POINT CANALS	5540
TO BE CONTRIBUTED BY OTHER CANALS	7913
TO BE USED BY OTHER CANALS	4527
EACH OTHER CANAL TO RECEIVE	WA % OF ITS DIVERSION RIGHT

K.C.W.A. CO. ENTITLEMENT AT SECOND POINT (4.563%)	16
E.K.W.S.D. ENTITLEMENT	324
SEEPAGE LOSS	676
KERN RIVER CONSERVATION ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	1017

DIVERSION RIGHT			GROSS DIVR	SWUSE ENTL	RELEASES To River	Wheeling Direct	Wheeling Pct	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES KRWD	KCCBW Co.	KCWD	OWSD	EXCHANGES, SALES OR PURCHASES PLUS	LESS	NET DIVERSIONS KRWD	KCCBW Co.	KCWD	OWSD	WATER TRANS. LOSS Dir	Ind
		KCC Co. Entl. @ 2nd Pt.		16				16											
3600	308	KERN ISLAND (1-57)	7618	13743	11893					2059			316				1801		
		EASTSIDE																	
		KERN WATER COMPANY																	
2000	28	CASTRO		58		180													
		KCCBW Co.		155		550			951			606							
3554	103	BUENA VISTA		103		307					805		500					259	
2455	24	BUENA VISTA (1-57)	155	614	514	191				191							115	56	
2001	198	JEWETT (1-57)		572		4941		5018											
3000	28	ANDERSON (1-57)		105		768		873											
7000	198	STINE		167	667	12				12									
7000	28	MEACHAM		93		1071		1164											
3615	458	FARMERS		3981	65	6				207									
1000	48	KUHNEY		71		1005		1076											
1000	48	JONES		71		435		506											
7000	98	JOHNSON		77		494		565											
7100	148	PIONEER (1-57)		220		612		956											
1100	58	BEARDSLEY (1-57)	235	107		280					287				235			556	
		LANDS (KRWSD)	8589									4		8629			68	5039	
1240	18	ANDERSON (2-MS)		18		42		70											
1200	68	JAMES (2-MS)		72		217		189											
1200	98	WILSON		10		52													
		KCCBW Co.		0		0			20									6326	57993
1100	38	BEARDSLEY		60		58		104											
		WATERS LOESS 20%		54		56		113											
1200	198	BEARDSLEY 10%		125		152					273								
		CALLOWAY CENTRAL 20%		226		729			263										
2200	330	KRWSD 15%		997		462		1249											
		RAILROAD WILLOW CO. 20%				75			19										
3400	328	KRWSD 25%				392		392											
3000	30	BUENA VISTA (2-MS)																	
3000	100	JAMES (2-MS)																	
3100	170	PIONEER (2-MS)																	
3100	340	BEARDSLEY (2-MS)																	
3125	88	KERN ISLAND (2-MS)																	
		ACCRUALS KRWSD																	
		TEJON / CM DAIRY	186												186				
		ALMA PARK																	
		COUNTY OF KERN													43				
		KERN VALLEY GOLF COURSE																	
		OILDALE MUTUAL WATER CO													872				
		OILDALE MS													72				
		PAT PARK AT RIVER WALK	67												67				
		WILSON DITCH																	
		BAR SCENIC SANITARIUM																	
		KRWSD FOR CWD																	
		KRWSD FOR KHI																	
		KRWSD FOR CMD																	
		KRWSD FOR KRWA										775							
		KRWSD FOR KHI																	
		KRWSD FOR CARMEL FOR KHI																	
		PANORAMA PROPERTIES	2												2				
		KRWSD TRANSFER TO 1ST PT. GWP											70						
TOTALS		800	11778	16994	13436	12829	0	13259	3422	5400	5195	1775	635	8820	9325	1240	68	766	0
		LOSS	1035	876														766	
FLOW AT FIRST POINT		968	12210	15962															

ISABELLA RESERVOIR

W	PREVIOUS BALANCE	LOSS	O/U	CURRENT BALANCE
324	1023	75	75	7298
0	0	0	0	0
640	37729	516	326	37527
5	500		0	500
40	980	12	28	996
12	22	0	0	34
397	243	4	0	446
556	1243	22	0	7927
5039	78104	184	396	74963
6326	57993	734	825	57360

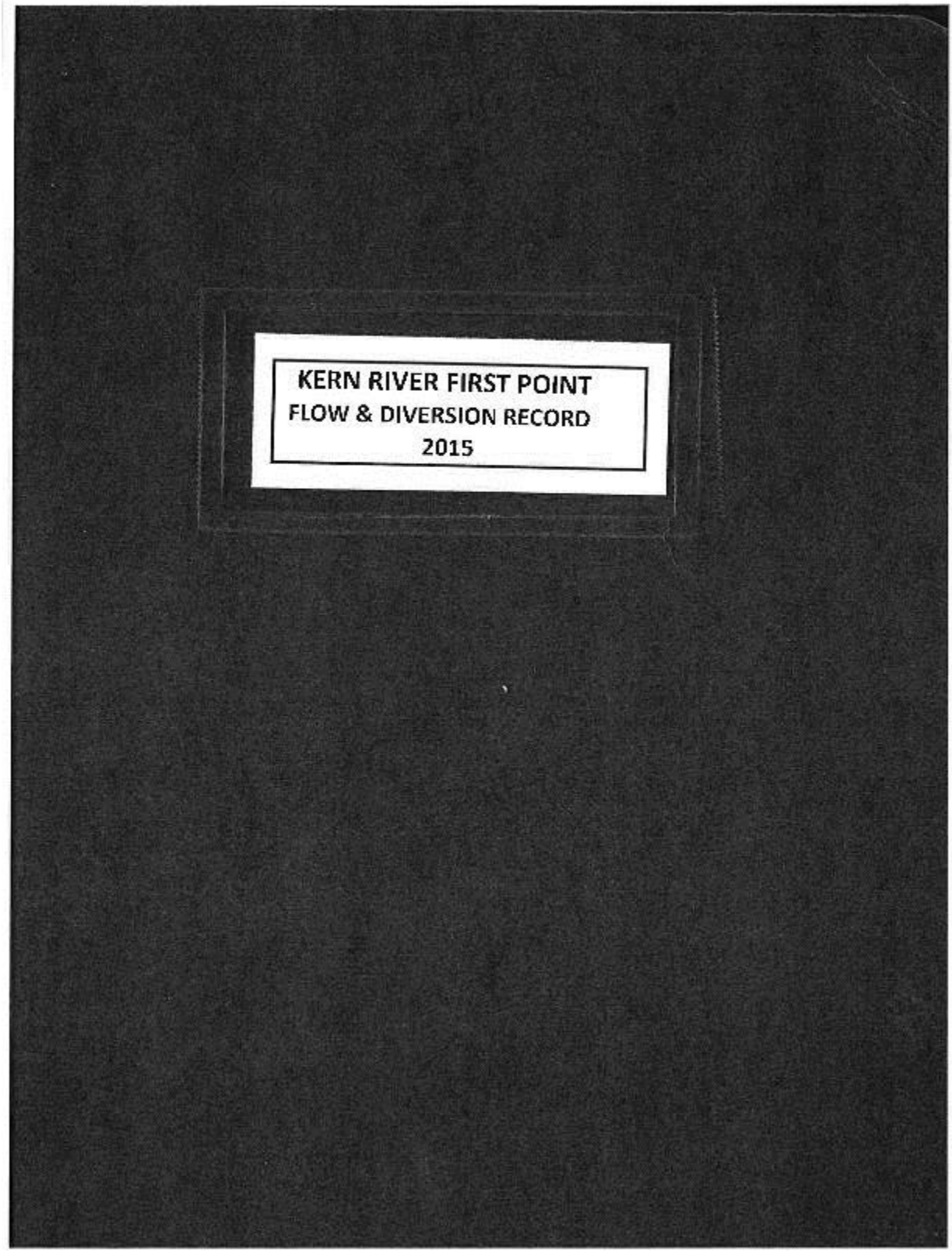
TOTAL CHANGE IN STORAGE = 5277

NOTES:

Kern Island Perm. Less Kern Delivd. 148

Lands (KRWSD) - Oildale, CMD and Kern Island 68

KRWSD Transfer to 1st Pt. Rpt. KRWSD to City (s)


KERN RIVER FIRST POINT
FLOW & DIVERSION RECORD
2015

CITY OF BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: January 2016 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	11614	
LESS NON-CONTRIBUTING CANALS	10328	
FOR OTHERS AND FIRST POINT CANALS	676	
TO BE CONTRIBUTED BY OTHER CANALS	676	
TO BE USED BY OTHER CANALS	0	
EACH OTHER CANAL TO RECEIVE	100	% OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.5235) ... 0
B.W.W.S.D. ENTITLEMENT ... 0
SEEPAGE LOSS ... 676
KERN RIVER CONDUIT ENTITLEMENT ... 0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT ... 0
TOTAL ... 676

Gage Station	Diversion Right Abbr.	Name of Canal	Gross Div'n	Gross Entl.	Releases To River	Releases Diversion Direct	Releases Diversion Pro	Entitlement less Releases ...or plus Diversions from Others KCWD	Entitlement less Releases ...or plus Diversions from Others KCC&W Co.	Entitlement less Releases ...or plus Diversions from Others Other	Exchanges, Sales or Purchases Plus	Exchanges, Sales or Purchases Less	Net Diversions KWWD	Net Diversions KCC&W Co.	Net Diversions KCWD	Net Diversions Other	Water Trans. Loss Bak	Water Trans. Loss Pro	Isabella Reservoir In	Isabella Reservoir Previous Balance	Isabella Reservoir Loss	Isabella Reservoir Out	Isabella Reservoir Current Balance
		K.C.L. Co. Entl. @ 2ND PT.																					
268.8	300	KERN BOARD (1-67)	6794	10328	3570					5758					6734		34		0	517	12	0	505
	-	EASTSIDE																					
	-	KERN RIVER CONDUIT																					
268.8	20	CASTRO				278																	
	-	KCC&W Co.				611		5083			504								0	0	0	0	0
268.8	10A	SOUTH FORK				104				864		864					566		282	8094	209	193	7984
268.8	30	BUENA VISTA (1-67)																	0	600		0	600
268.8	130	JAMES (1-67)																	0	228	6	0	222
268.8	30	ANDERSON (1-67)				1877		1877															
268.8	200	STINE																	0	97	2	0	95
268.8	30	KNIGHT																					
268.8	20	FARMERS																					
268.8	20	PLUMMER																	0	12	0	0	12
268.8	40	JOYCE																					
268.8	40	JOHNSON																					
268.8	130	PEARSON (1-67)																					
268.8	80	ROSEDALE (1-67)	4																				
		LAMONT (WWD)	1644										1644		4				0	0	0	0	0
268.8	30	ANDERSON (BAB)																	670	4870	111	177	4792
268.8	40	JAMES & DIXON																					
268.8	10	WASHINGTON																					
		KCC&W Co.																	802	14112	340	370	14204
268.8	20	MCCARTNEY																					
268.8	100	MCCOMB (LAMONT)	330																TOTAL CHANGE IN STORAGE =			92	
			20%																				
268.8	100	CRAIGMONT (BAKERSFIELD)	20%																NOTES:				
268.8	100	WATKINS	20%																				
	100	HART ROAD	875																				
		KCC&W Co.	20%																				
268.8	100	MANSOS	80%																				
268.8	50	BUENA VISTA (2-MS)																					
268.8	100	JAMES (2-MS)																					
268.8	100	PRUNEDALE (2-MS)																					
268.8	100	RICHARDSON (2-MS)																					
268.8	30	ROSEDALE (2-MS)																					
		ARVIN-EDISON																					
		TEJON-CASTAC																					
		TEJON LAKES	169																				
		AEWA PARK	16										105										
		COUNTY OF KERN											14										
		KERN VALLEY GOLF COURSE											30										
		CALIFORNIA WATER SERVICE CO.																					
		DUDLEY MD											676										
		THE POINT AT RIVER WALK	79										54										
		WILLOW SPRING											79										
		3800 ACRES SPRINKLER																					
		KWVWD FOR LVMD																					
		KWVWD FOR IDA																					
		DWSID #2A CMD																					
		DWSID #2A/FOR #2AWD																					
		DWSID #2A/KCWD (MWD WATER)																					
		KWVWD FOR La HACIENDA, INC.																					
		DWSID #2 AT ACT. 2ND POINT																					
		H2O KNOLL WELL																					
		GLEN GROUNDS																					
		DWSID TRANSFER TO 1ST PT. GWR.																					
TOTALS			720	8168	10328	3570	3570	0	1877	7695	6793	504	504	504	1644	828	6734	0	600	0			
		LOSS		720	676														600				
FLOW AT FIRST POINT				8168	11014																		

CITY OF BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

QUANTITIES IN: ACRE-FEET

Date: August 2016 Recap

COMPUTED NATURAL FLOW AT FIRST POINT	5038
LESS NON-CONTRIBUTING CANALS	4362
FOR USERS AND FIRST POINT CANALS	676
TO BE CONTRIBUTED BY OTHER CANALS	676
TO BE LISTED BY OTHER CANALS	0
EACH OTHER CANAL TO RECEIVE	.004 % OF 1/75 DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.583%)... 0
R.V.W.S.D. ENTITLEMENT... 0
SEEPAGE LOSS... 676
KERN RIVER CONSERVATION ENTITLEMENT... 0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT... 0
TOTAL... 676

RIVER STAGE	DIVERSION RIGHT ART.	NAME OF CANAL	GROSS DIVR.	RELEASES Gross ENTL.	Tn River	Conservation Cons'vt	Pro	ENTITLEMENT LESS RELEASES ...OR PLUS DISTRIBUTED RELEASES MONTH	KCWA	OTHER	EXCHANGES, SALES OR PURCHASES PLUS	(-) Pmt	NET DIVERSIONS MONTH	ACCUM CY	OTHER	WATER TRANS. LOSS DIV	PRO	ISABELLA RESERVOIR PREVIOUS BALANCE	IN	LOSS	OUT	CARRY BALANCE
2000	330	K.C.L. Co. CAP. & 2ND PT.																					
	330	KERN ISLAND (1-67)	2173	4362					4362		1975				2468				200	2065	93	343	370
	31	EASTSIDE	547												647								
	31	KERN RIVER CONTRACT																					
2256	31	CASTRO																	0	0	0	0	0
2365	170	Kiddem Co.									1975						1		0	1658	952	85	791
2415	40	SOUTH FORK																	0	741	0	0	741
2455	130	MESA VISTA (1-67)																	0	0	0	0	0
2455	130	JAMES (1-67)																					
2484	130	ANDERSON (1-67)																					
2484	130	STINE																	0	0	0	0	0
2525	30	WEINMAN																					
2565	30	FAHRENS																	0	0	0	0	0
2565	40	PLUMMET																					
2565	40	JOYCE																					
11555	40	JOHNSON																					
11525	130	PIONEER (1-67)																					
11555	30	MEADERS (1-67)	263																0	0	0	0	0
	10	LERDO (ANNEX)	157										263						0	210	53	157	0
11555	40	ANDERSON (2-67)											157										
12065	40	JAMES & STINE																					
12065	70	WILSON																					
		KCWA Co.																	200	3176	1128	485	1762
12175	20	MCFARLAND																					
12175	70	RECORD																	TOTAL CHANGE IN STORAGE =			-1414	
		LERDO 30%																					
12755	100	MEADERS 70%																					
		CALLOWAY CENTRAL 70%																					
2025.5	440	ARVIN 30%																					
2185.5	330	KERN ISLAND KCWA Co. 20%																					
2205.5	330	BUENA VISTA (2-67)																					
2245.5	760	JAMES (3-67)																					
2285.5	770	PIONEER (3-67)																					
2185.5	330	MEADERS (2-67)																					
2185.5	30	KERN ISLAND (3-67)																					
		RUDDICK & HOWARD																					
		TAUSTIN LANES																					
		ARVIN PARK																					
		COUNTY OF KERN																					
		PARK VALLEY GOLF COURSE																					
		CALIFORNIA WATER SERVICE CO.																					
		OLDFIELD																					
		THE PARK AT RIVER WALK																					
		WILSON DITCH																					
		2008 ACRES SPREADING																					
		ARVIN FOR GRID																					
		ARVIN FOR LOW																					
		PANORAMA RESERVE	70																				
		ARVIN TRANSFER TO CITY													10								
TOTALS			1056	3370	0	0	0	0	4372	0	1975	1276	367	1258	4325	0	1	0					
		LOSS		677													1	0					
FLOW AT FIRST POINT			1056	4047	5038																		

Kern Bank Loss for Eqn 3216

CITY OF BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: September 2015 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT..... 2513
LESS NON-CONTRIBUTING CANALS..... 2028
FOR OTHERS AND FIRST POINT CANALS..... 670
TO BE CONTRIBUTED BY OTHER CANALS..... 0
TO BE USED BY OTHER CANALS..... 485
EACH OTHER CANAL TO RECEIVE..... N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.63%)... 0
B.V.W.S.D. ENTITLEMENT..... 0
Seepage Loss..... 885
KERN RIVER CONDUIT ENTITLEMENT..... 0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT..... 0
TOTAL..... 885

DIVERSION POINT			RELEASES			ENTITLEMENT LESS RELEASES			EXCHANGES, SALES OR PURCHASES			NET DIVERSIONS			WATER TRANS. LOSS		ISABELLA RESERVOIR			
RIVER STAGE	ANT.	NAME OF CANAL	GROSS DIVR.	GROSS ENTTL.	To River	Distribution Direct	Pro	...OR PLUS DISTRIBUTED RELEASES			PLUS	LESS					W	PREVIOUS BALANCE	LOSS	END BALANCE
		K.C.L. CO. ENTT. @ 2.63% PT.						KERN RIVER	KCC&RP CO.	ARVMID			ARVMID	KCC&RP CO.	KERN	OTHER	ENT	DIR		
3300	45	KERN ISLAND (1-57)	1401	2858						2858		1053			2648			397	170	175	87	305
		EASTSIDE																				
		KERN RIVER CONDUIT																				
3300	39	CASTRO																				
		KCC&RP CO.																0	0	0	0	0
3335	85.5	SOUTH FORK										1794						745	795	845	295	674
4005	83	BUENA VISTA (1-57)										741						0	741		741	0
3330	164	JAMES (1-57)																0	0	0	0	0
3305	25	ANDERSON (1-57)																				
3305	138	SAVAGE																				
3305	16	BERGMAN																0	0	0	0	0
3305	140	PANAMA																				
3305	49	ELLIOTT																0	0	0	0	0
3305	49	JOYCE																				
3308	49	JEWETT																				
3305	135	PIONEER (1-57)																				
3305	65	SHAFTER (1-57)		238										169		122		0	0	0	0	0
		LERDO (ARVMID)																0	0	0	0	0
3305	10	ANDERSON (1-57)																				
3305	49	ANDERSON (1-57)																				
3305	19	WILSON																1148	3302	821	1664	979
		KCC&RP CO.																				
3305	26	MCCARTHY																				
3305	105	ARVIN (1-57)	365																			
		BEARDSLEY	205																			
3305	65	CALL CANAL	CENTRAL	205																		
		ARVMID	855																			
3305	35	KCC&RP CO.	210																			
3305	35	ARVMID	855																			
3305	84	BUENA VISTA (2-49)																				
3305	170	JAMES (5-49)																				
3305	170	FLOWER (5-49)																				
3305	330	BEARDSLEY (3-49)																				
3305	64	KERN ISLAND (5-49)																				
		ROSEDALE-RANNEY																				
		TRACTION LAND																				
		ALMA FARM																				
		COUNTY OF KERN																				
		KERN VALLEY GOLF COURSE																				
		CALIFORNIA WATER SERVICE CO.																				
		OLCESE WD																				
		THE PARK AT RIVER WALK																				
		WILSON DITCH																				
		2500 ACRES SPREADING																				
		ARVMID FOR CWD																				
		ARVMID FOR IDA																				
		ARVMID FOR CWD																				
		ARVMID FOR PORTERVILLE																				
		ARVMID FOR KERN WATER BANK																				
		ARVMID FOR LA HACIENDA WD.																				
		IRR. DISTRICT																				
		PANORAMA RESERVES		8										8								
		ARVMID TRANSFER TO CITY																				
TOTALS			1077	1723	2858	0	0	0	0	2858	0	1794	1794	0	1148	2648	123	0	0	0		
		LOSS		885	885													0				
FLOW AT FIRST POINT				1079	3743	2513																

TOTAL CHANGE IN STORAGE = -793

NOTE:

Arvin tank Users for CDs= 7794

CITY OF BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: October 2015 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	7875	
LESS NON-CONTRIBUTING CANALS	6899	
FOR OTHERS AND FIRST POINT CANALS	676	
TO BE CONTRIBUTED BY OTHER CANALS	676	
TO BE USED BY OTHER CANALS	0	
EACH OTHER CANAL TO RECEIVE	NA	% OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.583%)	0
B.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	676
KERN RIVER CONSUM ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	676

DIVERSION RIGHT				GROSS DIVR	GROSS ENTL	RELEASES To River	RELEASES Distribution Direct	RELEASES Distribution Pos	ENTITLEMENT LESS RELEASES OR PLUS DISTRIBUTED RELEASES NKWSD	ENTITLEMENT LESS RELEASES OR PLUS DISTRIBUTED RELEASES KCCAW Co.	ENTITLEMENT LESS RELEASES OR PLUS DISTRIBUTED RELEASES KDWD	ENTITLEMENT LESS RELEASES OR PLUS DISTRIBUTED RELEASES OTHER	EXCHANGES, SALES OR PURCHASES PLUS	EXCHANGES, SALES OR PURCHASES LESS	NET DIVERSIONS NKWSD	NET DIVERSIONS KCCAW Co.	NET DIVERSIONS KDWD	NET DIVERSIONS OTHER	WATER TRANS. LOSS DAF	WATER TRANS. LOSS PRO
RIVER STAND	ANN.	NAME OF CANAL																		
		K.C.L. Co. ENTL @ 2ND PT.																		
300.0	300	KERN ISLAND (1-ST)		6032	6899						6899		1058				6058			
		EASTSIDE																		
		KERN RIVER CONSUM																		
320.0	20	CASTRO																		
		KCCAW Co.												1058						
326.0	10.5	SOUTH FORK																		
410.5	80	BUENA VISTA (1-ST)																		
470.5	120	JEWETT (1-ST)																		
520.5	20	ANDERSON (1-ST)																		
700.5	180	STINE																		
720.5	20	MEADOWS																		
880.5	160	FARMERS																		
920.5	40	PLUMMET																		
960.5	40	JOYCE																		
1000.5	40	JOHNSON																		
1130.5	130	PIONEER (1-ST)																		
1190.5	60	BEARDSLEY (1-ST)																		
		LERDO (NKWSD)																		
1200.5	10	ANDERSON (2-ND)																		
1245.5	45	JAMES & OTTOM																		
1260.5	15	WILSON																		
		KCCAW Co.																		
1275.5	25	BELLEVUE																		
		WILLIAMS	LERDO 30%																	
1278.5	300		SCARSDALE 70%																	
		CALLOWAY	CENTRAL 25%																	
2266.5	990		NKWSD 20%																	
		RAILROAD	KCCAW Co. 70%																	
2628.5	360		NKWSD 30%																	
2696.5	90	BUENA VISTA (2-ND)																		
2938.5	240	JEWETT (2-ND)																		
3084.5	170	PIONEER (2-ND)																		
3169.5	340	BEARDSLEY (2-ND)																		
3182.5	55	KERN ISLAND (2-ND)																		
		NKWSD & KDWD																		
		TRUXTUN LAKES																		
		ARVIN PARK																		
		COUNTY OF KERN																		
		KERN VALLEY GOLF COURSE															112			
		CALIFORNIA WATER SERVICE CO.															937			
		OLCESE RD															62			
		THE PARK AT RIVER WALK																		
		VALLEY DITCH																		
		2669 ACRES SPREADING																		
		NKWSD FOR CWD																		
		NKWSD FOR IDV																		
		BVWSD VIA CWD																		
		KDWD VIA FOR KDWD																		
		BVWSD VIA KDWD (BVWD VIA TVL)																		
		PANORAMA PRESERVE		5													0			
TOTALS			1068	5038	6899	0	0	0	0	0	6899	0	1058	1058	0	1059	6058	0	0	0
		LOSS		676	676														0	
FLOW AT FIRST POINT			1068	5714	7875															

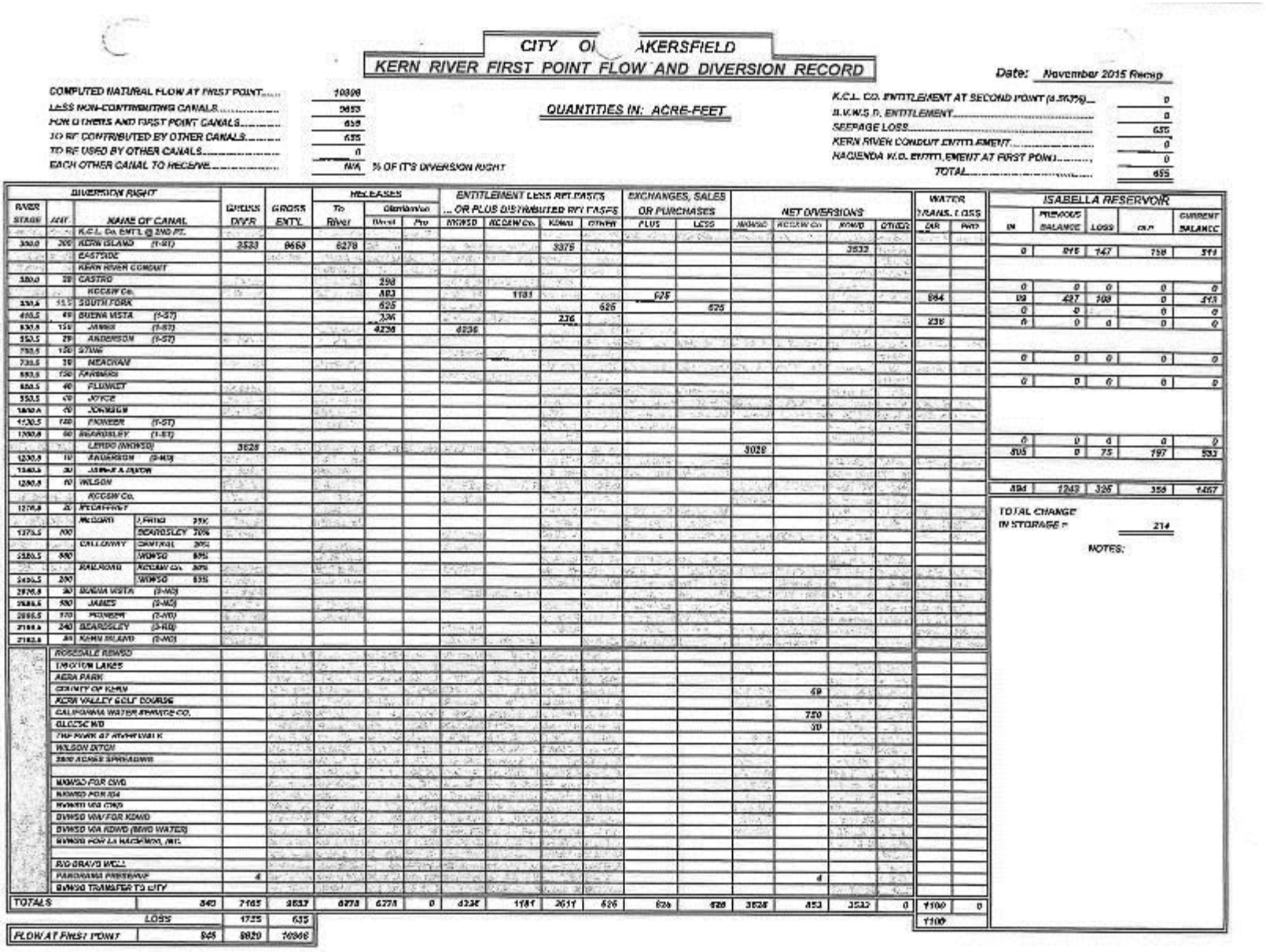
ISABELLA RESERVOIR

IN	EVAPORATION NAT RATE	LOSS	OUT	CURRENT BALANCE
1031	305	200	220	816
0	0	0	0	0
0	674	234	13	427
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
1031	979	434	233	1243

TOTAL CHANGE IN STORAGE = 264

NOTES:

KDWD Cash Loan for City - 1055



CITY OF BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: November 2015 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT..... 10308
LESS NON-CONTRIBUTING CANALS..... 9853
FOR OTHERS AND FIRST POINT CANALS..... 655
TO BE CONTRIBUTED BY OTHER CANALS..... 655
TO BE USED BY OTHER CANALS..... 0
EACH OTHER CANAL TO RECEIVE..... N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.5575)... 0
B.V.W.S.D. ENTITLEMENT..... 0
SEEPAGE LOSS..... 655
KERN RIVER CONDUIT ENTITLEMENT..... 0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT..... 0
TOTAL..... 655

DIVERSION RIGHT			GROSS DIVR	GROSS ENTY	RELEASES			ENTITLEMENT LESS RETURNS ... OR PLUS DISTRIBUTED RETURNS				EXCHANGES, SALES OR PURCHASES		NET DIVERSIONS				WATER TRANS. LOSS	
RIVER STAGE	ACFT	NAME OF CANAL			To River	Distribution Direct	Pro	MWSD	KCSW Co.	KDWD	OTHER	PLUS	LESS	MWSD	KCSW Co.	KDWD	OTHER	DIR	PRO
		K.C.L. Co. ENT'L @ 2ND PT.																	
300.0	200	KERN ISLAND (1-ST)	3533	9659	6278	0				3378						3533			
		EASTSIDE																	
		KERN RIVER CONDUIT																	
320.0	20	CASTRO				298													
		KCSW Co.				483			1181			625						984	
330.5	15.5	SOUTH FORK				625					625		625						
405.5	40	BUENA VISTA (1-ST)				236				236								236	
530.5	125	JAMES (1-ST)				4236		4236											
553.5	23	ANDERSON (1-ST)																	
700.5	120	STINE																	
730.5	30	MEACHAM																	
883.5	150	FARMERS																	
893.5	40	PLUMLEY																	
953.5	60	JOYCE																	
1050.5	90	LONGLEY																	
1130.5	100	PIONEER (1-ST)																	
1200.5	60	BEARDSLEY (1-ST)																	
		LEWIS (MWSD)	3628											3628					
1230.5	10	ANDERSON (2-ND)																	
1240.5	30	JAMES & EATON																	
1280.5	10	WILSON																	
		KCSW Co.																	
1310.5	25	MEACHAM																	
		McCOMB (JAMES 75%, BEARDSLEY 25%)																	
1375.5	200																		
		CALLOWAY (CENTRAL 20%, MWSD 80%)																	
2280.5	580																		
		RAILROAD (KCSW Co. 30%, MWSD 70%)																	
2430.5	200																		
2975.5	30	BUENA VISTA (3-RD)																	
3085.5	580	JAMES (3-RD)																	
3665.5	170	PIONEER (2-ND)																	
3785.5	240	BEARDSLEY (3-RD)																	
3782.5	30	KERN ISLAND (2-ND)																	
		ROSEDALE RWSD																	
		EMOTON LAKES																	
		AERA PARK																	
		COUNTY OF KERN														69			
		KERN VALLEY GOLF COURSE																	
		CALIFORNIA WATER SERVICE CO.														750			
		OLCESE M/D														30			
		THE PARK AT RIVER WALK																	
		WILSON DITCH																	
		2500 ACRES SPREADING																	
		MWSD FOR SWD																	
		MWSD FOR KDWD																	
		MWSD VIA KDWD																	
		DWSD VIA FOR KDWD																	
		DWSD VIA KDWD (BMW WATER)																	
		MWSD FOR LA HACIENDA, INC.																	
		BIG GRAVEL WELL																	
		PANORAMA RESERVOIR	4													4			
		DWSD TRANSFER TO CITY																	
TOTALS		340	7165	3537	6278	6278	0	4236	1181	3611	625	625	625	3628	853	3533	0	1100	0
		LOSS	1725	655														1100	
FLOW AT FIRST POINT		345	9820	10308															

ISABELLA RESERVOIR				
IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
0	915	747	758	311
0	0	0	0	0
93	427	108	0	513
0	0		0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
505	0	75	197	533
594	1243	325	356	1457

TOTAL CHANGE IN STORAGE = 214

NOTES:

CITY OF AKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: December 2015 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	15233
LESS NON-CONTRIBUTING CANALS	11660
FOR OTHERS AND FIRST POINT CANALS	3573
TO BE CONTRIBUTED BY OTHER CANALS	676
TO BE USED BY OTHER CANALS	2897
EACH OTHER CANAL TO RECEIVE	NA % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.563%)	0
B.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	575
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	575

DIVERSION RIGHT			GROSS DIVR	GROSS ENT'L	RELEASES		ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES				EXCHANGES, SALES OR PURCHASES		NET DIVERSIONS				WATER TRANS. LOSS	
RIVER STAGE	JNT.	NAME OF CANAL			To River	Distribution Direct	Distribution Pro	MDWSD	KCC&W Co.	KDWD	OTHER	PLUS	LESS	MDWSD	KCC&W Co.	KDWD	OTHER	DIR	PRO
		K.C.L. Co. ENT'L @ 2ND PT.																	
300.0	200	KERN ISLAND (1-ST)	1930	11560	9510					2050						1320			
		EASTSIDE																	
		KERN WARK CONDUIT																	
320.0	20	CASTRO		28		230													
		KCC&W Co.		85		680			1023										
330.0	10.5	SOUTH FORK		58		452					520		520				1978		
410.5	80	BUENA VISTA (1-ST)		393	393	131				191									
500.8	130	JAMES (1-ST)		468		5050		5524											
520.5	20	ANDERSON (1-ST)		75		837		716											
700.8	158	STINE		585	585	12				12									
720.5	39	BEACHAM		177		557		674										72	0
800.5	160	FARMERS		413	293	87				207								207	0
870.8	48	PLUMMER		75		286		237											
900.5	40	JOYCE		75		238		317											
1000.8	40	JOHNSON		75		198		278											
1130.5	139	PIONEER (1-ST)		286		351		624	53										
1150.8	80	BEARDSLEY (1-ST)		117		121					238		443					0	0
		LERDO (MWSD)	6432									9		6397			35	2428	533
1205.8	10	ANDERSON (2-ND)		30		30		40											
1240.5	40	JAMES & DIXON		73		79		108											
1280.8	10	WILSON		13		18													
		KCC&W Co.		8		8			40									3798	1457
1315.5	55	MACDONALD		42		62		66	38										
		MCCORD (1 WD) 35%				175			139										
1370.5	160	BEARDSLEY 70%				240					240								
		CALLOWAY CHEVRON 20%				224			224										
2220.8	160	MDWSD 83%				961			954										
		RAILROAD KCC&W Co. 30%																	
2410.5	240	MDWSD 83%																	
2610.5	58	BUENA VISTA (2-MD)																	
2690.5	160	JAMES (2-MD)																	
2890.5	170	PIONEER (2-MD)																	
3160.5	240	BEARDSLEY (2-MD)																	
3160.5	58	KERN ISLAND (2-MD)																	
		NORTH DALE (MWSD)																	
		TRUXTUN LAKES	371													371			
		ACRA PARK																	
		COUNTY OF KERN														44			
		KERN VALLEY GOLF COURSE																	
		CALIFORNIA WATER SERVICE CO.														402			
		OLCESE MD														10			
		THE PARK AT RIVER WALK																	
		WILSON DITCH																	
		2000 ACRES SPREADING																	
		MDWSD FOR CWD																	
		MDWSD FOR IDA																	
		MDWSD VIA CWD																	
		BVWSD VIA FOR KDWD																	
		MDWSD VIA KDWD (SWID WATER)																	
		PANORAMA PRESERVE																	
													10						
TOTALS		516	8733	14557	10781	10781	0	6634	2428	2450	398	973	973	6397	387	1810	35	1978	0
		LOSS	3634	676														1978	
FLOW AT FIRST POINT		516	11387	15233															

ISABELLA RESERVOIR				
IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
234	611	78	114	653
0	0	0	0	0
726	413	45	195	899
0	0	0	0	0
191	0	16	0	175
72	0	0	0	72
207	0	4	0	203
0	0	0	0	0
2428	533	104	149	2708
3798	1457	250	458	4547

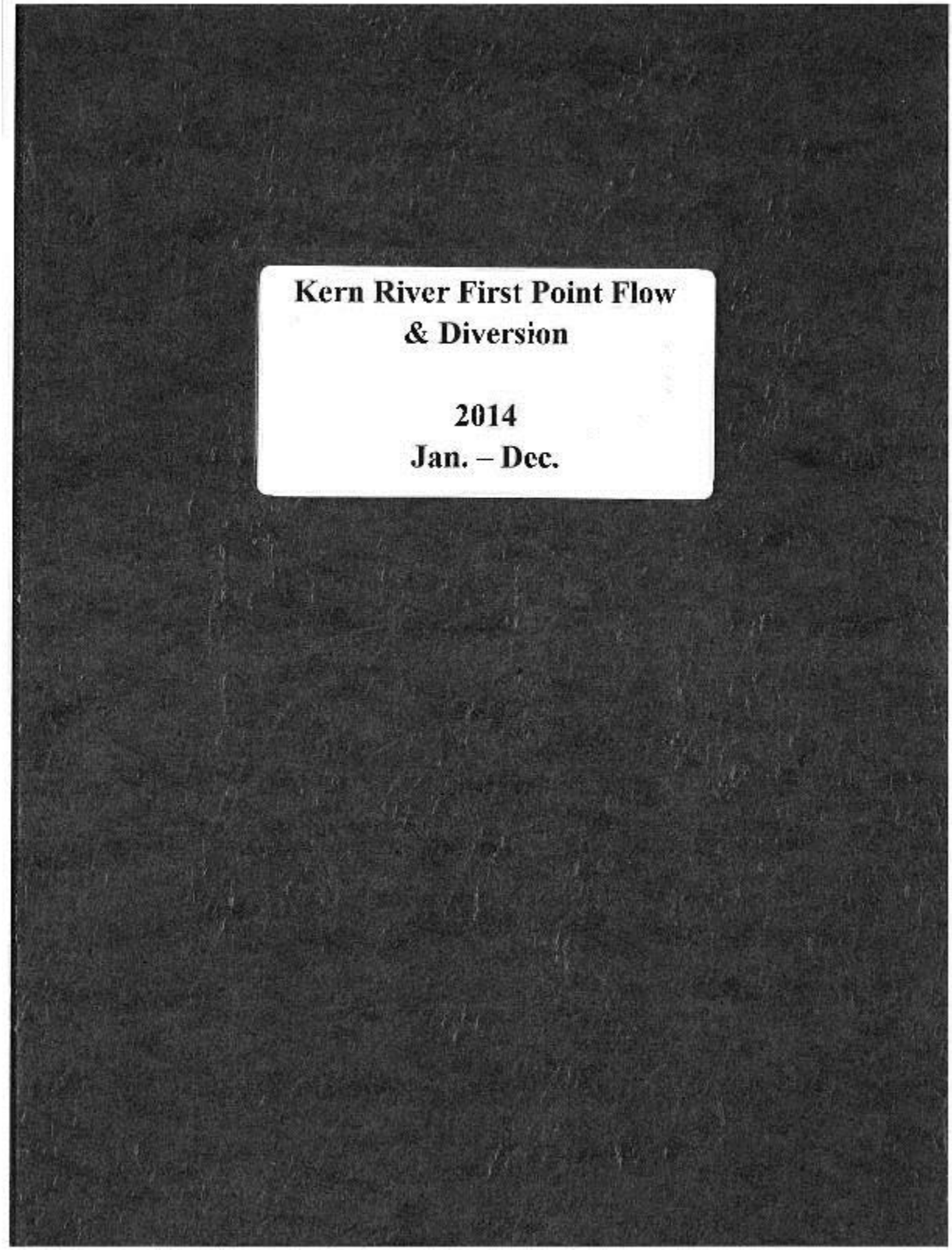
TOTAL CHANGE IN STORAGE = 3090

NOTES:

MWSD Transfer to 1st Pt. Grp.: MWSD (6) City (4)

BVWSD/KCC&W Co. End: reflects release to City/Dixie

ISWID Ability to divert natural flow surplus = 1147


Kern River First Point Flow
& Diversion
2014
Jan. – Dec.

CITY OF BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: January 2014 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	9947
LESS NON-CONTRIBUTING CANALS	9271
FOR OTHERS AND FIRST POINT CANALS	676
TO BE CONTRIBUTED BY OTHER CANALS	676
TO BE USED BY OTHER CANALS	0
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.063%)	0
B.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	676
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	676

RIVER STAGE	ANT.	NAME OF CANAL			DIVERSION RIGHT GROSS DIVR	DIVERSION RIGHT GROSS ENT'L	RELEASES To River	RELEASES Distribution Direct	RELEASES Distribution Pro	ENTITLEMENT LESS RELEASES .. OR PLUS DISTRIBUTED RELEASES KRWSD	ENTITLEMENT LESS RELEASES .. OR PLUS DISTRIBUTED RELEASES KCC&W Co.	ENTITLEMENT LESS RELEASES .. OR PLUS DISTRIBUTED RELEASES KCWD	ENTITLEMENT LESS RELEASES .. OR PLUS DISTRIBUTED RELEASES OTHER	EXCHANGES, SALES OR PURCHASES PLUS	EXCHANGES, SALES OR PURCHASES LESS	NET DIVERSIONS KRWSD	NET DIVERSIONS KCC&W Co.	NET DIVERSIONS KCWD	NET DIVERSIONS OTHER	WATER TRANS. LOSS DIR	WATER TRANS. LOSS PRO
		K.C.L. Co. ENT'L @ 2ND PT.																			
330.0	200	KERN ISLAND	(1-ST)		8459	9271	778					8459							8459		571	
		EASTSIDE																				
		KERN RIVER CONDUIT																				
333.5	20	CASTRO						20														
		KCC&W Co.						60			60			42								
339.5	182	SOUTH FORK						42					42		42						85	
453.5	60	BUENA VISTA	(1-ST)					200				200										
533.5	170	JAMES	(1-ST)					229		229												
683.5	20	ANDERSON	(1-ST)					40		40												
709.5	150	STINE						57				57										
726.5	30	BEACHAM																				
886.5	160	FARMERS																				
928.5	40	PLUNKET																				
968.5	40	JOYCE																				
1050.5	80	JOHNSON																				
1138.5	530	PIONEER	(1-ST)																			
1193.5	60	BEARDSLEY	(1-ST)		180																	
		LEMOO (RKWSD)			22													180				
1209.5	59	ANDERSON	(2-ND)													22						
1249.5	43	JAMES & DIXON																				
1268.5	55	WILSON																				
		KCC&W Co.																				
1278.5	35	McCAFFREY																				
		McCORD	LEMOO	30%																		
1278.5	193		BEARDSLEY	70%																		
		CALLOWAY	CENTRAL	20%																		
2228.5	550		RKWD	80%																		
		RAILROAD	KCC&W Co.	20%																		
2405.5	253		RKWD	80%																		
2518.5	93	BUENA VISTA	(2-ND)																			
2554.5	153	JAMES	(2-ND)																			
2615.5	170	PIONEER	(2-ND)																			
2156.5	240	BEARDSLEY	(2-ND)																			
2152.5	96	KERN ISLAND	(2-ND)																			
		RIDGEDALE RBWSD																				
		TRUXTON LAKES																				
		AERA PARK																				
		COUNTY OF KERN																				
		KERN VALLEY GOLF COURSE																32				
		CALIFORNIA WATER SERVICE CO.																879				
		OLCESE WD																74				
		THE PARK AT RIVER WALK																				
		WILSON DITCH																				
		2935 ACRES SPREADING																				
		RKWSD FOR CWD																				
		RKWSD FOR IDM																				
		RWWSD VIA CWD																				
		BWWSD VIA FOR KCWD																				
		BWWSD VIA KCWD (BWD WATER)																				
		BWWSD FOR La HACIENDA, INC																				
		RWD FOR IDM																				
		GLEN GRUMMER																2				
TOTALS				327	8868	9271	778	778	0	389	60	8781	42	42	42	22	1107	8459	0	888	0
			LOSS		1739	676														888	
FLOW AT FIRST POINT				327	9607	9947																

ISABELLA RESERVOIR				
IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
877	1088	22	1414	519
0	0	0	0	0
0	8951	192	1076	7699
0	600		0	600
200	1327	77	0	1500
87	24	1	0	110
0	10	0	0	10
0	0	0	0	0
369	11314	230	22	11423
1539	23314	490	2512	21851

TOTAL CHANGE IN STORAGE = -1483

NOTES:

CITY OF AKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: August 2014 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	12466
LESS NON-CONTRIBUTING CANALS	11292
FOR OTHERS AND FIRST POINT CANALS	1174
TO BE CONTRIBUTED BY OTHER CANALS	1164
TO BE USED BY OTHER CANALS	0
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

K.C.I. CO. ENTITLEMENT AT SECOND POINT (4.662%)	8
B.V.W.S.D. ENTITLEMENT	177
SEEPAGE LOSS	676
KERN RIVER CONDUIT ENTITLEMENT	303
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	1164

DIVERSION RIGHT RIVER STAGE	DIVERSION RIGHT ANT.	DIVERSION RIGHT NAME OF CANAL	GROSS DIVR.	GROSS ENTY.	RELEASES To River	RELEASES Distribution Direct	RELEASES Distribution Pro	ENTITLEMENT LESS RELEASES OR PLUS DISTRIBUTED RELEASES KNWSD	KCC&W Co.	KDWD	OTHER	EXCHANGES, SALES OR PURCHASES PLUS	LESS	NET DIVERSIONS KNWSD	KCC&W Co.	KDWD	OTHER	WATER TRANS. LOSS DIR	PRO
		K.C.I. Co. ENT'L @ 2ND PT.		8				8											
330.0	309	KERN ISLAND (1-31)	11000	11292						11292			515			10485			
		EASTSIDE	526													526			
		KERN RIVER CONDUIT		303					303										
330.5	30	CASTRO																	
		KCC&W Co.																	
330.5	18.6	SOUTH FORK																	
453.5	20	BUENA VISTA (1-31)																	
529.5	120	JAMES (1-31)																	
553.5	20	ANDERSON (1-31)																	
709.5	150	KERN																	
726.5	30	BEACHAM																	
885.5	150	FARMERS																	
939.5	40	PLUMLEY																	
966.5	40	JOYCE																	
1089.5	40	JOHNSON																	
1139.5	135	PIONEER (1-31)																	
1158.5	60	BEARDSLEY (1-31)	531													531			
		LERDO (KNWSD)	1155										398	60	81				
1204.5	10	ANDERSON (2-10)																	
1245.5	40	JAMES & GIBSON																	
1276.5	10	WILSON																	
		KCC&W Co.																	
1276.5	28	McCAFFREY																	
1376.5	100	KNWSD LERDO 39%																	
		BEARDSLEY 71%																	
		CALLOWAY CENTRAL 20%																	
2226.5	350	KNWSD 80%																	
		RAILROAD KCC&W Co. 20%																	
2426.5	200	KNWSD 80%																	
2516.5	90	BUENA VISTA (2-10)																	
2606.5	190	JAMES (2-10)																	
2066.5	179	PIONEER (2-10)																	
3106.5	240	BEARDSLEY (2-10)																	
3163.5	84	KERN ISLAND (2-10)																	
		ROSEDALE KNWSD																	
		TRAXTUN LAKES	113												113				
		ACRA PARK																	
		COUNTY OF KERN													178				
		KERN VALLEY GOLF COURSE																	
		CALIFORNIA WATER SERVICE CO.													898				
		OLCESE WD													78				
		THE PARK AT RIVER WALK	66												65				
		WILSON DITCH																	
		2000 ACRES SPREADING																	
		KNWSD FOR CWD																	
		KNWSD FOR KH																	
		KNWSD VIA CWD											920						
		BVWSD VIA FOR KDWD											516						
		BVWSD VIA KDWD (KNWD WATER)																	
		BVWSD FOR La HACIENDA, WC																	
		RIO BRAVO WELL																	
TOTALS		7149	13390	11603	0	0	0	8	303	11292	0	1514	1512	66	1965	11071	0	385	0
		LOSS	1073	676														385	

ISABELLA RESERVOIR IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
1515	375	65	1234	591
0	0	0	0	0
356	121	1412	2162	17503
	0	609	0	609
	0	0	0	0
	0	119	8	0	111
	0	12	0	0	12
	0	0	0	0	0
	0	3442	232	65	3152
1644	25570	1717	3462	22038

TOTAL CHANGE IN STORAGE = -3535

NOTES:

KERN RIVER Entitl. Used: from BVWSD 515

Losses back: Less: KNWSD for CWD= 130

CITY OF BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: September 2014 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	5050	K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.563%)	0
LESS NON-CONTRIBUTING CANALS	4395	B.V.W.S.D. ENTITLEMENT	0
FOR OTHERS AND FIRST POINT CANALS	655	SEEPAGE LOSS	655
TO BE CONTRIBUTED BY OTHER CANALS	655	KERN RIVER CONSUNT ENTITLEMENT	0
TO BE USED BY OTHER CANALS	0	HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
EACH OTHER CANAL TO RECEIVE	NA % OF IT'S DIVERSION RIGHT	TOTAL	655

DIVERSION RIGHT				GROSS DIVR	GROSS ENT'L	PET EASES To River	PET EASES Diverted To: Dist	PET EASES Diverted To: Pro	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES: NKWSD	KCCAW Co.	KDWD	OTHER	EXCHANGES, SALES OR PURCHASES: PLUS	LESS	NET DIVERSIONS: NKWSD	KCCAW Co.	KDWD	OTHER	WATER TRANS, LOSS: DIV	PRO
RIVER STAGE	ABT.	NAME OF CANAL																		
		K.C.L. Co. ENT'L @ 2ND PT.																		
280.0	300	KERN ISLAND (1-ST)		3624	4395						4395			44			3580			
		EASTSIDE																		
		KERN RIVER CONSUNT																		
283.0	20	CASTRO																		
		KCCAW Co.																		
286.5	10.5	SOUTH FORK																	103	
418.0	80	BUENA VISTA (1-ST)																		
538.0	120	JAMES (1-ST)																		
558.5	20	ANDERSON (1-ST)																		
708.5	150	STWE																		
726.5	20	MEACHAM																		
905.5	180	FARMERS																		
936.5	45	PLUNKET																		
968.5	45	JOYCE																		
1003.5	45	JOHNSON																		
1139.5	135	PIONEER (1-ST)																		
1196.5	68	BEARDSLEY (1-ST)		837																
		LERDO (NKWSD)		922											837					
1208.5	53	ANDERSON (2-ND)												361		501				
1248.5	40	JAMES & DIXON																		
1268.5	10	WILSON																		
		KCCAW Co.																		
1275.5	28	McCAFFREY																		
		McCORD	LERDO 39%																	
1378.5	103		BEARDSLEY 70%																	
		CALLOWAY	CENTRAL 20%																	
2256.5	859		NKWSD 50%																	
		RAILROAD	KCCAW Co. 20%																	
2456.5	200		NKWSD 30%																	
2518.5	98	BUENA VISTA (2-ND)																		
2686.5	168	JAMES (2-ND)																		
2856.5	170	PIONEER (2-ND)																		
3106.5	245	BEARDSLEY (3-RD)																		
3162.5	56	KERN ISLAND (2-ND)																		
		ROSEDALE RSWSD																		
		TRUXTUN LAKES		85																
		KERN PARK													85					
		COUNTY OF KERN																		
		KERN VALLEY GOLF COURSE													137					
		CALIFORNIA WATER SERVICE CO.																		
		OILDALE MD													790					
		THE PARK AT RIVER WALK													85					
		WILSON DITCH																		
		2000 ACRES SPREADING																		
		NKWSD FOR CWD																		
		NKWSD FOR IDM																		
		BVWSD VIA CWD												361						
		BVWSD VIA FOR KDWD												44						
		BVWSD VIA KDWD (WHD WATER)																		
		BVWSD FOR La HACIENDA, INC.																		
		RIO BRAVO WELL																		
		BVWSD TRANSFER TO CITY																		
TOTALS			1012	6348	4395	0	0	0	0	0	4395	0	405	405	0	2275	3580	0	103	0
		LOSS		768	655														103	
FLOW AT FIRST POINT			1012	6008	5050															

ISABELLA RESERVOIR				
IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
655	591	65	40	1341
0	0	0	0	0
0	17563	1095	3278	14119
0	606		0	606
0	0	0	0	0
0	111	8	0	103
0	12	0	0	12
0	0	0	0	0
0	3152	198	0	2954
655	22035	1337	3418	19135

TOTAL CHANGE IN STORAGE = -2900

NOTES:

Kern Island Exch. Loss from BVWSD= 44

Lerdo Exch. Loss: NKWSD for CWD= 361

Lerdo (NKWSD) City to CWD place.= 501

CITY OF BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: October 2014 Recap

COMPUTED NATURAL FLOW AT FIRST POINT..... 5960
LESS NON-CONTRIBUTING CANALS..... 5284
FOR OTHERS AND FIRST POINT CANALS..... 676
TO BE CONTRIBUTED BY OTHER CANALS..... 676
TO BE USED BY OTHER CANALS..... 0
EACH OTHER CANAL TO RECEIVE..... N/A % OF IT'S DIVERSION RIGHT

QUANTITIES IN: ACRE-FEET

K.C.I. CO. ENTITLEMENT AT SECOND POINT (4.643%)... 0
B.V.W.S.D. ENTITLEMENT..... 0
SEEPAGE LOSS..... 676
KERN RIVER CONDUIT ENTITLEMENT..... 0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT..... 0
TOTAL..... 676

DIVERSION RIGHT				GROSS DIV'N	GROSS ENT'L	RELEASES To River	RELEASES Obligations Direct	RELEASES Obligations Pro	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES NKWSD	KCC&W Co.	KDWD	OTHER	EXCHANGES, SALES OR PURCHASES PLUS	LESS	NET DIVERSIONS NKWSD	KCC&W Co.	KDWD	OTHER	WATER TRANS. LOSS DIR	PRO
		K.C.I. Co. ENT'L @ 2ND PT.																		
300.0	300	KERN ISLAND (1-ST)		3985	5284	48					5236						3985			
		EASTSIDE																		
		KERN RIVER CONDUIT																		
320.0	20	CASTRO					10													
		KCC&W Co.					30			40			X						1053	
330.5	10.5	SOUTH FORK					8					8		8						
430.5	100	BUENA VISTA (1-ST)																		
530.5	120	JAMES (1-ST)																		
683.5	20	ANDERSON (1-ST)																		
786.5	150	STINE																		
736.5	70	MEACHAM																		
882.5	200	HAWKINS																		
928.5	40	PLUMMER																		
965.5	40	JOYCE																		
1090.5	40	JOHNSON																		
1130.5	130	PIONEER (1-ST)																		
1188.5	90	BEARDSLEY (1-ST)		859													859			
		LERDO (NKWSD)																		
1209.5	50	ANDERSON (2-ND)																		
1243.5	40	JAMES & DIXON																		
1265.5	50	WILSON																		
		KCC&W Co.																		
1278.5	30	MACAFFREY																		
		McCORD	LERDO 30%																	
1378.5	100		BEARDSLEY 70%																	
		CALLOWAY	CENTRAL 20%																	
2228.5	850		NKWSD 80%																	
		ANN ROAD	KCC&W Co. 20%																	
2428.5	200		NKWSD 80%																	
2516.5	88	BUENA VISTA (2-ND)																		
2686.5	170	JAMES (2-ND)																		
2816.5	130	PIONEER (2-ND)																		
3065.5	249	BEARDSLEY (2-ND)																		
3082.5	85	KERN ISLAND (2-ND)																		
		ROSEDALE RWSD																		
		TRUXTUN LAKES		152													152			
		LERA PARK																		
		COUNTY OF KERN															30			
		KERN VALLEY GOLF COURSE																		
		CALIFORNIA WATER SERVICE CO.															724			
		OLCESE WD															59			
		THE PARK AT RIVER WALK		52													52			
		WILSON DITCH																		
		2600 ACRES SPREADING																		
		NKWSD FOR CWD																		
		NKWSD FOR KDWD																		
		SVWSD VIA CWD																		
		SVWSD VIA FOR KDWD																		
		SVWSD VIA KDWD (BWD WATER)																		
		SVWSD FOR LA HACIENDA, WC.																		
		SVWSD AT ALT. 2ND POINT		2027													2027			
		NO BRAVO WELL																		
TOTALS			957	5285	5284	48	48	0	0	40	5236	0	0	8	0	3453	3985	0	1053	0
		LOSS		1738	676														1053	
		FLOW AT FIRST POINT	852	8694	5960															

ISABELLA RESERVOIR					
	PREVIOUS BALANCE				CURRENT BALANCE
IN		LOSS	OUT		
1343	1341	92	92		2500
0	0	0	0		0
0	14219	752	4868		8495
0	605		0		605
0	0	0	0		0
0	103	8	0		97
0	12	0	0		12
0	0	0	0		0
0	2954	152	0		2791
1343	19135	1014	4960		14504

TOTAL CHANGE IN STORAGE = -4631

NOTES:
Kern Island First Point from SVWSD= 0
Lerdo Ditch Loss from CWD= 0
SVWSD at Alt. 2nd Point from City= 2027

CITY O. BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: November 2014 Recap

COMPUTED NATURAL FLOW AT FIRST POINT	7880
LESS NON-CONTRIBUTING CANALS	7225
FOR OTHERS AND FIRST POINT CANALS	655
TO BE CONTRIBUTED BY OTHER CANALS	565
TO BE USED BY OTHER CANALS	0
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

QUANTITIES IN: ACRE-FEET

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.563%)	0
B.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	655
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	655

DIVERSION RIGHT				GROSS DIVR	GROSS ENT'L	RELEASES			ENTITLEMENT LESS RELEASES .. OR PLUS DISTRIBUTED RELEASES				EXCHANGES, SALES OR PURCHASES		NET DIVERSIONS				WATER TRANS. LOSS		ISABELLA RESERVOIR				
RIVER STAGE	AMT.	NAME OF CANAL				To River	Distribution Direct	Distribution Pro	AKWSD	KCC&W Co.	KDWD	OTHER	PLUS	LESS	AKWSD	KCC&W Co.	KDWD	OTHER	DIR	PRO	IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
		K.C.L. Co. ENT'L @ 2ND PT.																							
390.0	300	KERN ISLAND (1-ST)		5387	7225	3850					3375						5387				42	2500	95	2054	402
		EASTSIDE																							
		KERN RIVER CONDUIT																							
330.0	70	CASTRO					294														0	0	0	0	0
		KCC&W Co.					877			1171			549						236		308	8495	357	51	8236
333.5	10.5	SOUTH FORK					543					543		549							0	506		6	500
433.0	30	BUENA VISTA (1-ST)					236				236										236	0	4	0	232
535.5	120	JAMES (1-ST)					1725		1725																
660.0	20	ANDERSON (1-ST)					174		174																
705.5	140	KIMB																			0	87	4	0	83
720.0	30	MEACHAM																							
865.5	150	FARMERS																			0	12	0	0	12
905.0	40	PLUMKET																							
960.5	40	JOYCE																							
1050.5	40	JOHNSON																							
1130.5	130	PIONEER (1-ST)																							
1150.5	90	BEARDSLEY (1-ST)		354													354				0	0	0	0	0
		LERDO (NKWSD)		215											215						7858	2731	779	0	4357
1200.5	50	ANDERSON (2-ND)																							
1245.5	45	JAMES & GIDDI																							
1335.5	90	WILSON																			2171	14904	899	2117	13958
		KCC&W Co.																							
1375.5	40	McCAFFREY																							
		McCORD	LERDO 30%																						
1378.5	100		BEARDSLEY 70%																						
		CALLOWAY	CENTRAL 20%																						
2224.5	255		NKWSD 80%																						
		RAILROAD	KCC&W Co. 20%																						
2404.5	200		NKWSD 80%																						
2414.5	10	BUENA VISTA (2-ND)																							
2556.5	150	JAMES (2-ND)																							
2686.5	130	PIONEER (2-ND)																							
3105.5	240	BEARDSLEY (2-ND)																							
3140.5	70	KERN ISLAND (2-ND)																							
		ROSEDALE NKWSD																							
		TRUXTUN LAKES		73													73								
		AZTA PARK																							
		COUNTY OF KERN															68								
		KERN VALLEY GOLF COURSE																							
		CALIFORNIA WATER SERVICE CO.															598								
		OLCESE WD															42								
		THE PARK AT RIVER WALK		32													32								
		WILSON DITCH																							
		3599 ACRES SPREADING																							
		AKWSD FOR CWD																							
		AKWSD FOR IDA																							
		BVWSD VIA CWD																							
		BVWSD VIA FOR KDWD																							
		BVWSD VIA KDWD (WHD WATER)																							
		BVWSD FOR La HACIENDA, INC.																							
		RIO BRAVO WELL																							
		BVWSD TRANSFER TO CITY																							
TOTALS			858	6661	7225	3850	3850	0	1900	1171	3611	543	549	549	215	1267	5387	0	236	0					
		LOSS		951	655														236						
FLOW AT FIRST POINT			808	7012	7880																				

TOTAL CHANGE IN STORAGE = -508

NOTES:

South Fork transfer to City: in excess of carryover storage requirement= 0

CITY OF BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: December 2014 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	11589
LESS NON-CONTRIBUTING CANALS	10895
FOR OTHERS AND FIRST POINT CANALS	704
TO BE CONTRIBUTED BY OTHER CANALS	676
TO BE USED BY OTHER CANALS	28
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

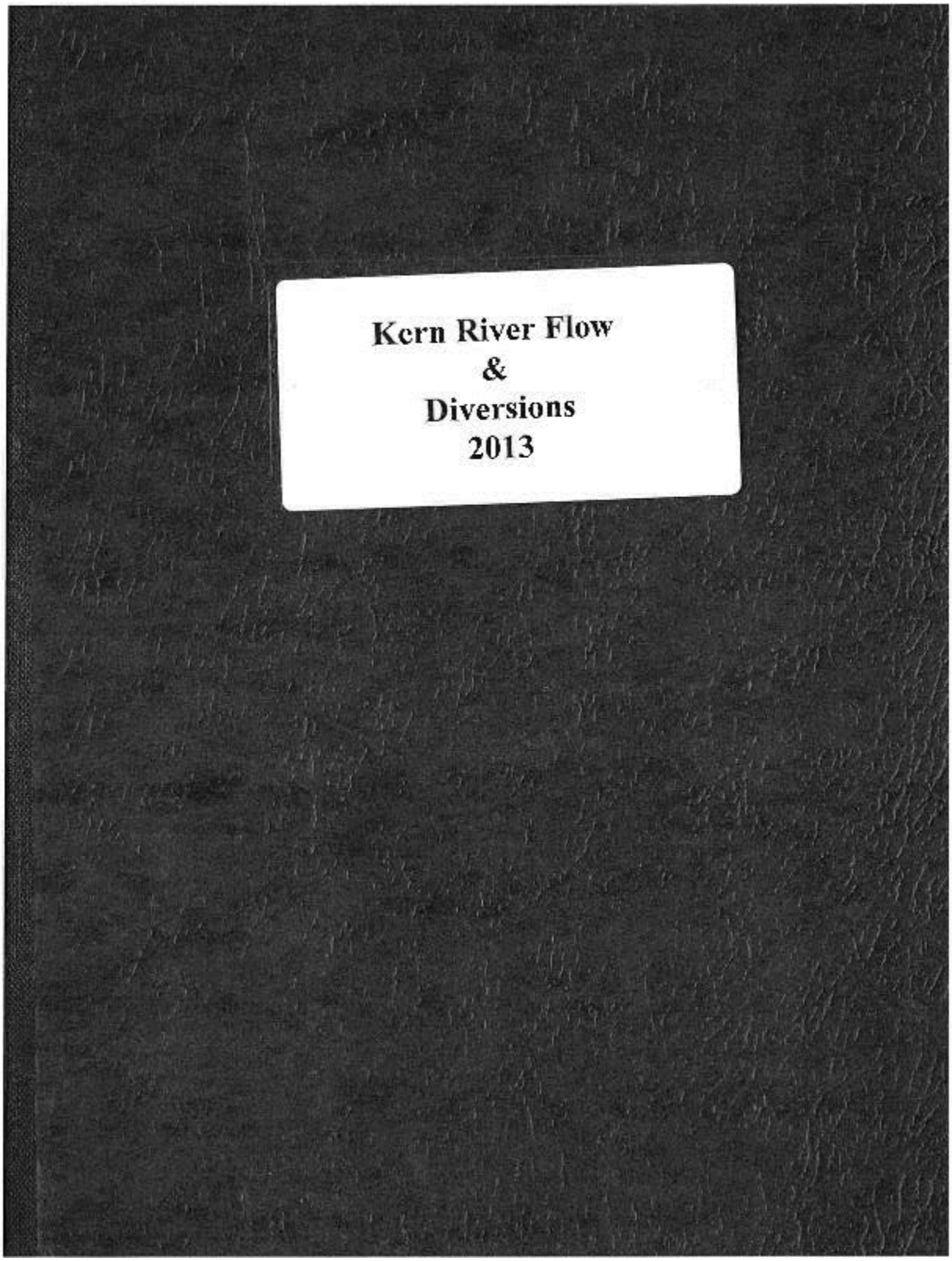
K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.693%)	0
B.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	676
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	676

DIVERSION RIGHT				GROSS DIVR	GROSS ENTL	RELEASES To River	RELEASES Distribution Direct	RELEASES Distribution Pro	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES KRWSD	KCC&W Co.	KDWD	OTHER	EXCHANGES, SALES OR PURCHASES PLUS	LESS	NET DIVERSIONS KRWSD	KCC&W Co.	KDWD	OTHER	WATER TRANS. LOSS CVR	PRO	ISABELLA RESERVOIR IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
		K.C.L. Co. ENTL @ 2ND PT.																							
369.0	300	KERN ISLAND (1-ST)		1924	10895	8845					2050						1924				902	403	12	776	517
		RAFFERON																							
		KERN RIVER CONDUIT																							
299.0	20	CASTRO			6		268														0	0	0	0	0
		KCC&W Co.			75		803			7093			528						474		121	8258	192	133	8094
230.5	10.5	SOUTH FORK			5		616					522		522							0	600		0	600
418.5	80	BUENA VISTA (1-91)																			0	232	4	0	228
523.5	120	JAMES (1-ST)					6206		6206																
552.5	20	ANDERSON (1-91)					573		573																
709.0	150	STINE																			0	92	2	0	91
736.5	30	WAECHTER					298		298																
886.0	150	FARMERS																			0	12	0	0	12
926.5	40	PLUMMET					159		159																
966.5	40	JOYCE					22		22																
1066.5	40	JOHNSON																							
1136.5	130	PIONEER (1-ST)																							
1155.5	65	BRANDSLEY (3-ST)		172													172				0	0	0	0	0
		LERDO (NKWSD)		6962									4		6952						843	4357	97	533	4570
1206.5	10	ANDERSON (2-WD)																							
1246.5	40	JAMES & DIXON																							
1256.5	10	WILSON																							
		KCC&W Co.																							
1276.5	20	McCAFFREY																							
		McCORD	LERDO 30%																						
1376.5	100		BEARDSLEY 70%																						
		CALLOWAY	CENTRAL 20%																						
2256.5	880		KRWSD 80%																						
		RAILROAD	KCC&W Co. 20%																						
2456.5	200		KRWSD 80%																						
2614.5	30	BUENA VISTA (2-WD)																							
2804.5	190	JAMES (2-WD)																							
2984.5	170	PIONEER (2-WD)																							
3100.5	340	BRANDSLEY (2-WD)																							
3142.5	88	KERN ISLAND (2-WD)																							
		ROSEDALE RKWSD																							
		TRUXTUN LAKES		163													163								
		AERA PARK																							
		COUNTY OF KERN															45								
		KERN VALLEY GOLF COURSE																							
		CALIFORNIA WATER SERVICE CO.															670								
		OLCESE WD															4								
		THE PARK AT RIVER WALK		93													93								
		WILSON DITCH																							
		2550 ACRES SPREADING																							
		KRWSD FOR CWD																							
		KRWSD FOR ID4																							
		BVWSD VIA CWD																							
		BVWSD VIA FOR KDWD																							
		BVWSD VIA KDWD (BVKD WATER)																							
		BVWSD FOR La HACIENDA, WC.																							
		BVWSD AT ALT. 2ND POINT																							
		NO BVKWD WELL																							
		OLEN GRUNDIKE															2								
		BVWSD TRANSFER TO 1ST PT. GRP.												10											
TOTALS			731	9304	10923	8845	8845	0	7258	7093	2050	522	532	532	6962	1169	1924	0	474	0					
		LOSS		1160	676														474						
FLOW AT FIRST POINT			731	10464	11539																				

TOTAL CHANGE IN STORAGE = 117

NOTES:

BVWSD Transfer to 1st Pt. Grp.: 5KWSD (3); City (5)


Kern River Flow
&
Diversions
2013

CITY (BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: January 2013 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	19929
LESS NON-CONTRIBUTING CANALS	16780
FOR OTHERS AND FIRST POINT CANALS	3569
TO BE CONTRIBUTED BY OTHER CANALS	670
TO BE USED BY OTHER CANALS	7359
EACH OTHER CANAL TO RECEIVE	NA % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.5%)...	0
B.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	670
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	670

DIVERSION RIGHT: RIVER STAGE	DIVERSION RIGHT: ABST.	NAME OF CANAL	GROSS DIVR	GROSS ENT'L	RELEASES: To River	RELEASES: Distributive Direct	RELEASES: Distributive Pro	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES: KHWSD	KCCEW Co.	KDWD	OTHER	EXCHANGES, SALES OR PURCHASES: PLUS	LESS	NET DIVERSIONS: KHWSD	KCCEW Co.	KDWD	OTHER	WATER TRANS. LOSS: DIR	PRO
		K.C.L. Co. ENT'L @ 2ND PT.																	
300.0	330	KERN ISLAND (1-57)	7525	16799	6267					8493						7525		445	68
		EASTSIDE																	
		KERN RIVER CONDUIT																	
320.0	20	CASTRO		83		165													
		KCCEW Co.		230		476			965			180						(1)	
326.5	165	SOUTH FORK		167		13					780		180						
410.5	20	BUENA VISTA (1-57)		7018	672	2				347									
500.5	120	JAMES (1-57)		295		4947		5241											
550.5	20	ANDERSON (1-57)				494		494											
700.5	150	37WE	822			1332				7352						822		35	20
720.5	20	MEADOW				663		663											
920.5	150	FAIRBANK	16			139				135						16			
320.5	40	PLUMLEE				230		230											
360.5	40	JOYCE				109		109											
390.5	40	JOHNSON				79		79											
1570.5	130	PIONEER (1-57)																	
1590.5	60	BEARDSLEY (1-57)	123																
		LEMSD (HWSD)	2670																
1530.5	10	ANDERSON (2-MC)											244	2286					
1240.5	40	JAMES & DIXON																	
1290.5	10	WILSON																	
		KCCEW Co.																	
1570.5	20	MCCOWSEY																	
		McCORD LEMSD 70%																	
1270.5	100	OCEARDSLEY 30%																	
		CALLOWAY CENTRAL 20%	3265										3265						
2220.5	660	HWSD 80%																	
		RAILROAD KCCEW Co. 20%																	
2420.5	240	HWSD 80%																	
2510.5	90	BUENA VISTA (2-MS)																	
2530.5	160	JAMES (2-MS)																	
2300.5	170	PIONEER (2-MC)																	
2700.5	240	BEARDSLEY (2-MS)																	
2562.5	24	KERN ISLAND (2-MC)																	
		ACOSDALE RIVIED																	
		TRUXTON LAKES																	
		ARRA PARK																	
		COUNTY OF KERN														27			
		KERN VALLEY GOLF COURSE																	
		CALIFORNIA WATER SERVICE CO.														793			
		OLCESE WD														24			
		THE PARK AT RIVER WALK																	
		WILSON DITCH																	
		2830 ACRES SPREADING																	
		KHWSD FOR DWD																	
		KHWSD FOR IDM																	
		BVWSD VIA CVID											6774					3509	
		BVWSD VIA FOR KDWD											284						
		BVWSD VIA KDWD (WHD WATER)																	
		BVWSD FOR La HACIENDA, WD.											3	3					
		KHWSD FOR La HACIENDA, WD.											43		43				
		MWD FOR IDM																	
		GLEN GRANDIS														2			
TOTALS		848	14421	16959	6940	6540	0	7146	965	16871	180	7284	3729	9428	977	8354	0	3991	68
		LOSS	4738	576														4059	
FLOW AT FIRST POINT		848	19159	19329															

ISABELLA RESERVOIR				
IN	PREVIOUS BALANCE	LOSS	"OUT"	CURRENT BALANCE
3702	780	13	7240	1239
0	0	0	0	0
375	15852	214	210	15803
0	600		0	600
347	189	4	0	522
526	34	0	22	538
127	207	2	4	328
0	0	0	0	0
445	15492	187	2506	13249
3535	32255	420	3977	32393

TOTAL CHANGE IN STORAGE = -596

NOTES:

C.O.B. END OF MONTH STORAGE 15,903 ACFT

Lerdo Exch. Less: HWSD for DWD= 330

Gelly Exch. Less: HWSD for IDM= 3255
River Less: KHWSD for IDM= 3447
Center Less: KHWSD for IDM= 67

CITY OF BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: August 2013 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	8317
LESS NON-CONTRIBUTING CANALS	7641
FOR OTHERS AND FIRST POINT CANALS	676
TO BE CONTRIBUTED BY OTHER CANALS	676
TO BE USED BY OTHER CANALS	0
EACH OTHER CANAL TO RECEIVE	100 % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.56%)	0
B.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	676
KERN RIVER CONSENT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	676

DIVERSION RIGHT				GROSS DIVR	GROSS ENTY	RELEASES To River	RELEASES Distribution Direct	RELEASES Distribution Pro	ENTITLEMENT LESS RELEASES — OR PLUS DISTRIBUTED RELEASES KCWSD	ENTITLEMENT LESS RELEASES — OR PLUS DISTRIBUTED RELEASES KCCEW Co.	ENTITLEMENT LESS RELEASES — OR PLUS DISTRIBUTED RELEASES KCWD	ENTITLEMENT LESS RELEASES — OR PLUS DISTRIBUTED RELEASES OTHER	EXCHANGES, SALES OR PURCHASES PLUS	EXCHANGES, SALES OR PURCHASES LESS	NET DIVERSIONS KCWSD	NET DIVERSIONS KCCEW Co.	NET DIVERSIONS KCWD	NET DIVERSIONS OTHER	WATER TRANS. LOSS DIR	WATER TRANS. LOSS PRO
		K.C.L. Co. ENT'L @ 2ND PT.																		
283.3	283	KERN ISLAND (1-ST)		8077	7641	1649					5992			397			7674			
		RECTIFIER		1043										133			916			
		KERN RIVER CONSENT																		
283.3	33	CASTRO					79													
		KCCEW Co.					328			317									151	
283.5	33.8	SOUTH FORK					347					147								
418.6	93	BUENA VISTA (1-ST)					1045				1045									
518.8	139	JAMES (1-ST)					140		140											
536.6	39	ANDERSON (1-ST)																		
706.6	190	STINE																		
726.5	20	MEACHAM																		
880.6	160	KERNVALE																		
920.5	40	PLUMMET																		
960.5	40	JOYCE																		
1000.5	40	JOHNSON																		
1138.9	139	PIONEER (1-ST)																		
1198.5	60	BEARDSLEY (1-ST)		573													573			
		LERDO (KWSD)		2305										2256	50					
1200.5	10	ANDERSON (2-ND)																		
1248.5	48	JAMES & DITCH																		
1250.5	10	WILSON																		
		KCCEW Co.																		
1276.6	26	McCAFFREY																		
		McCORD LERDO 30%																		
1278.2	530	BEARDSLEY 70%																		
		CALLOWAY CENTRAL 33%																		
1226.5	550	KWSD 67%																		
		RAILROAD KCCEW Co. 20%																		
1426.5	200	KWSD 80%																		
2016.6	30	BUENA VISTA (2-ND)																		
2036.5	180	JAMES (2-ND)																		
2064.5	110	PIONEER (2-ND)																		
2106.5	240	BEARDSLEY (2-ND)																		
2106.5	50	KERN ISLAND (2-ND)																		
		ROSEDALE KWSD																		
		TRACTION LANDS																		
		AGRA PARK																		
		COUNTY OF KERN															179			
		KERN VALLEY GOLF COURSE																		
		CALIFORNIA WATER SERVICE CO.															1278			
		SUCCESSING															103			
		THE PARK AT RIVER WALK																		
		WILSON DITCH																		
		2895 ACRES SPREADING																		
		KWSD FOR CWD																		
		KWSD FOR IDI																		
		KWSD IM CWD												2255						
		KWSD IMI FOR KDWD												530						
		KWSD FOR La HACIENDA, INC.																		
TOTALS			7501	11392	7641	1649	3545	0	140	317	7037	147	2785	7786	50	2973	9588	0	357	0
		LOSS	527	676															167	
FLOW AT FIRST POINT			7002	12819	8317															

ISABELLA RESERVOIR				
IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
629	9372	250	3231	3900
0	0	0	0	0
0	17934	1059	2007	14868
147	650		0	807
1045	28	12	0	1051
0	0	0	0	0
0	10	0	0	10
0	0	0	0	0
50	3130	134	0	3035
1321	28740	1545	5238	21676

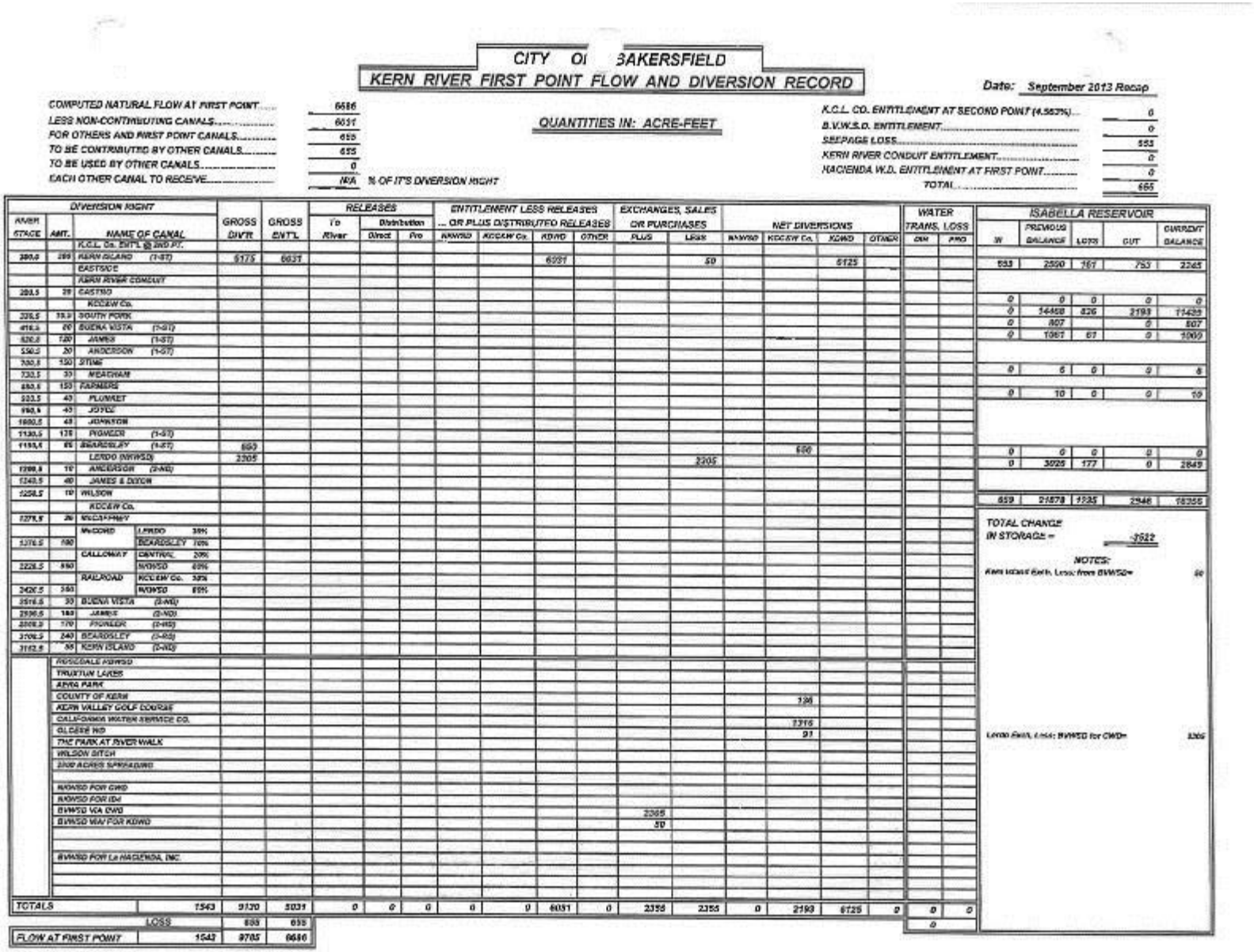
TOTAL CHANGE IN STORAGE = -7062

NOTES:

Kern Island Canal Loss from KWSD= 250

Rosedale Canal Loss from Division= 134

Lerdo Canal Loss Invoiced for CWD= 2255



CITY OF BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: September 2013 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	6686
LESS NON-CONTRIBUTING CANALS	6031
FOR OTHERS AND FIRST POINT CANALS	655
TO BE CONTRIBUTED BY OTHER CANALS	655
TO BE USED BY OTHER CANALS	0
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.563%)	0
B.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	553
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	665

DIVERSION RIGHT: RIVER STAGE	DIVERSION RIGHT: AMT.	DIVERSION RIGHT: NAME OF CANAL	GROSS DIV'R	GROSS ENT'L	RELEASES: To River	RELEASES: Distribution Direct	RELEASES: Distribution Pro	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES: BVWSD	KCC&W Co.	KDWD	OTHER	EXCHANGES, SALES OR PURCHASES: PLUS	LESS	NET DIVERSIONS: BVWSD	KCC&W Co.	KDWD	OTHER	WATER TRANS. LOSS: DIR	PRO
		K.C.L. Co. ENT'L @ 2ND PT.																	
289.0	289	KERN ISLAND (1-ST)	5175	6031						6031			50			5125			
		EASTSIDE																	
		KERN RIVER CONDUIT																	
293.5	29	EASTSIDE																	
		KCC&W Co.																	
328.5	35.0	SOUTH FORK																	
416.5	88	BUENA VISTA (1-ST)																	
526.5	110	JAMES (1-ST)																	
550.5	24	ANDERSON (1-ST)																	
700.5	150	STINE																	
733.5	33	MEACHAM																	
883.5	150	FARMERS																	
923.5	40	PLUMMER																	
950.5	43	JOYCE																	
1000.5	48	JOHNSON																	
1130.5	130	PIONEER (1-ST)																	
1153.5	65	BEARDSLEY (1-ST)	693												696				
		LERDO (NWSD)	2305										2305						
1200.5	70	ANDERSON (2-ND)																	
1240.5	40	JAMES & DITCH																	
1258.5	18	WILSON																	
		KCC&W Co.																	
1278.5	20	MEACHAM																	
		McCOMB LERDO 38%																	
1378.5	100	BEARDSLEY 10%																	
		CALLOWAY CENTRAL 20%																	
2228.5	850	NWSD 60%																	
		RAILROAD KCC&W Co. 32%																	
2428.5	350	NWSD 68%																	
2518.5	30	BUENA VISTA (2-ND)																	
2696.5	180	JAMES (2-ND)																	
2806.5	110	PIONEER (2-ND)																	
3106.5	240	BEARDSLEY (2-ND)																	
3192.5	86	KERN ISLAND (2-ND)																	
		ROSEDALE NSWSD																	
		TRUXTUN LAKES																	
		ARVIN PARK																	
		COUNTY OF KERN													126				
		KERN VALLEY GOLF COURSE																	
		CALIFORNIA WATER SERVICE CO.													1316				
		OLCESE WD													91				
		THE PARK AT RIVER WALK																	
		WILSON DITCH																	
		2000 ACRES SPREADING																	
		NDWSD FOR GWD																	
		NDWSD FOR IDH																	
		BVWSD VIA GWD											2365						
		BVWSD WAY FOR KDWD											50						
		BVWSD FOR La HACIENDA, INC.																	
TOTALS		7543	9120	6031	0	0	0	0	0	6031	0	2365	2355	0	2193	6125	0	0	0
		LOSS	655	655														0	
FLOW AT FIRST POINT		7543	8785	6686															

ISABELLA RESERVOIR: W	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
553	2590	167	753	2265
0	0	0	0	0
0	14458	826	3193	11439
0	807		0	807
0	1067	67	0	1000
0	6	0	0	6
0	10	0	0	10
0	0	0	0	0
0	3025	177	0	2849
553	21578	1235	3946	16356

TOTAL CHANGE IN STORAGE = -5222

NOTES:

Kern Island Exch. Loss from BVWSD = 50

Lerdo Exch. Loss: BVWSD for CWD = 2305

CITY OF BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: October 2013 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	7569
LESS NON-CONTRIBUTING CANALS	7319
FOR OTHERS AND FIRST POINT CANALS	676
TO BE CONTRIBUTED BY OTHER CANALS	676
TO BE USED BY OTHER CANALS	0
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.667%)	0
B.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	676
KERN RIVER CONSTANT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	676

DIVERSION RIGHT				GROSS DIVR	GROSS ENT'L	RELEASES To River	RELEASES Distribution Direct	RELEASES Distribution Pro	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES KMWSD	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES KCC&W Co.	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES KDWD	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES OTHER	EXCHANGES, SALES OR PURCHASES PLUS	EXCHANGES, SALES OR PURCHASES LESS	NET DIVERSIONS KMWSD	NET DIVERSIONS KCC&W Co.	NET DIVERSIONS KDWD	NET DIVERSIONS OTHER	WATER TRANS. LOSS CWC	WATER TRANS. LOSS PWD
		K.C.L. Co. ENT'L @ 2ND PT.																		
300.0	200	KAHN ISLAND (1-ST)		6647	7319	271					6946			74				6873		
		EASTSIDE																		
		KAHN RIVER CONDUIT																		
320.0	20	CASTRO					77													
		KCC&W Co.					220			297										
338.5	18.5	SOUTH FORK					53					53								
313.5	80	BUENA VISTA (1-ST)					22				22									
513.5	180	JAMES (1-ST)																		
508.5	20	ANDERSON (1-ST)																		
708.5	150	STINE																		
720.5	34	WEACHUM																		
820.5	120	FARMING																		
820.5	40	PLUMMER																		
960.5	40	JOYCE																		
1000.5	40	JOHNSON																		
1120.5	120	PIONEER (1-ST)																		
1160.5	60	BEARDSLEY (1-ST)		622													622			
		LEMOD (KMWSD)		305										305						
1320.5	10	ANDERSON (2-ND)																		
1240.5	40	JAMES & DIXON																		
1220.5	20	WILSON																		
		KCC&W Co.																		
1278.5	58	MCCARTNEY																		
		MCCOMB	LEMOD 20%																	
1274.5	109		BEARDSLEY 38%																	
		CALLOWAY	CHATRAN 22%																	
1224.5	488		KMWSD 80%																	
		RAILROAD	KCC&W Co. 20%																	
1404.5	209		KMWSD 80%																	
1318.5	58	BUENA VISTA (2-ND)																		
1506.5	186	JAMES (2-ND)																		
1288.5	170	PIONEER (2-ND)																		
1708.5	248	BEARDSLEY (2-RD)																		
1788.5	28	KAHN ISLAND (2-ND)																		
		MOSSDALE KMWSD																		
		TRUXTUN LAKES																		
		AERA AAAR																		
		COUNTY OF KERN															93			
		KERN VALLEY GOLF COURSE																		
		CALIFORNIA WATER SERVICE CO.															1200			
		OLCESE WD															72			
		THE PARK AT RIVER WALK																		
		WILSON DITCH																		
		2850 ACRES SPRINKLING																		
		KMWSD FOR CWD																		
		KMWSD FOR IDU																		
		BVWSD VIA CWD												205						
		BVWSD VIA FOR KDWD												74						
		BVWSD FOR La HACIENDA, WD.																		
TOTALS		1369		7569	7319	271	371	0	0	297	6970	53	279	279	0	7268	5973	0	52	0
		LOSS		698	676														52	
FLOW AT FIRST POINT		1369		6869	7995															

ISABELLA RESERVOIR				
IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
552	2245	120	178	2500
0	0	0	0	0
0	11429	594	1713	9132
52	807		0	859
22	7900	52	0	970
0	6	0	0	6
0	10	0	0	10
0	0	0	0	0
0	2849	149	0	2700
627	25265	915	1891	16177

TOTAL CHANGE IN STORAGE = -2179

NOTES:

Kern Island Exch. Loss: from BVWSD= 74

Lerdo Exch. Loss: BVWSD for CWD= 205

CITY OF BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: November 2013 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	5328
LESS NON-CONTRIBUTING CANALS	5673
FOR OTHERS AND FIRST POINT CANALS	655
TO BE CONTRIBUTED BY OTHER CANALS	655
TO BE USED BY OTHER CANALS	0
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.563%)	0
B.K.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	655
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	655

DIVERSION RIGHT: RIVER STAGE	DIVERSION RIGHT: UNIT	DIVERSION RIGHT: NAME OF CANAL			GROSS DIVR	GROSS ENTL	REL FARES: To River	REL FARES: Distribution: Direct	REL FARES: Distribution: Rio	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES: KRWSD	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES: KCC&W Co.	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES: KDWD	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES: OTHER	EXCHANGES, SALES OR PURCHASES: PLUS	EXCHANGES, SALES OR PURCHASES: LESS	NET DIVERSIONS: KRWSD	NET DIVERSIONS: KCC&W Co.	NET DIVERSIONS: KDWD	NET DIVERSIONS: OTHER	WATER TRANS. LOSS: DIR	WATER TRANS. LOSS: PRO
		K.C.L. Co. ENT'L @ 2ND PT.																			
269.6	299	KERN ISLAND	(1-ST)		4819	5673	5238					2376			121			4435			
		EASTSIDE																			
		KERN RIVER CONDUIT																			
326.0	25	CASTRO						255													
		KCC&W Co.						883			1191			855						105	
376.0	33.5	SOUTH FORK						609					609		668						
410.5	60	BUENA VISTA	(1-ST)					226				226									
520.0	120	JAMES	(1-ST)					3131		3131											
550.5	30	ANDERSON	(1-ST)					125		125											
700.5	150	SOUTH						6					6								
720.5	20	MERCHANT																			
870.5	150	FARMERS																			
930.5	40	PLUMLEY																			
960.5	40	JOYCE																			
1030.5	40	JOHNSON																			
1130.5	133	PIONEER	(1-ST)																		
1190.5	80	BEARDSLEY	(1-ST)		563												563				
		LERDO (KRWSD)			121											121					
1220.5	30	ANDERSON	(2-RS)																		
1240.5	40	JAMES X CROSS																			
1255.5	30	WILSON																			
		KCC&W Co.																			
1276.5	29	MCCAFFREY																			
		McCORD	LERDO	39%																	
1278.5	109		BEARDSLEY	70%																	
		CALLOWAY	CENTRAL	20%																	
2024.5	665		KRWSD	80%																	
		RAILROAD	KCC&W Co.	20%																	
2424.5	264		KRWSD	80%																	
2545.5	95	BUENA VISTA	(2-RS)																		
2658.5	199	JAMES	(2-RS)																		
2860.5	170	PIONEER	(2-RS)																		
2196.5	240	BEARDSLEY	(3-RS)																		
2197.5	65	KERN ISLAND	(2-RS)																		
		ROSEDALE RKWSD																			
		TRUSTEE LANDS																			
		ARVIN PARK																			
		COUNTY OF KERN																			
		KERN VALLEY GOLF COURSE																68			
		CALIFORNIA WATER SERVICE CO.																			
		OLCESE WD																958			
		THE PARK AT RIVER WALK																32			
		WILSON DITCH																			
		[illegible]																			
		KRWSD FOR CWD																			
		KRWSD FOR IDK																			
		KRWSD VIA CWD																			
		KRWSD VIA FOR KDWD													121						
		DWSD FOR La HACIENDA, INC.																			
TOTALS				7466	6700	8673	5298	5238	0	3256	1191	3617	609	389	989	121	1613	4435	0	105	0
			LOSS		767	656														105	
FLOW AT FIRST POINT				5059	6061	9328															

ISABELLA RESERVOIR				
IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
75	2900	84	1195	1294
0	0	0	0	0
382	3122	343	528	3123
609	359		868	500
226	970	40	0	1156
6	6	0	0	12
0	10	0	0	10
0	0	0	0	0
3172	2700	126	97	5709
4960	10177	595	2623	17914

TOTAL CHANGE IN STORAGE = 1737

NOTES:

Kern Island Exch. Less from [illegible] 121

South Fork diversion to Orlo in excess of carryover storage requirement 004

CITY OF BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: December 2013 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	76618
LESS NON-CONTRIBUTING CANALS	9942
FOR OTHERS AND FIRST POINT CANALS	675
TO BE CONTRIBUTED BY OTHER CANALS	675
TO BE USED BY OTHER CANALS	0
EACH OTHER CANAL TO RECEIVE	n/a % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (1.923%)	0
B.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	675
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	675

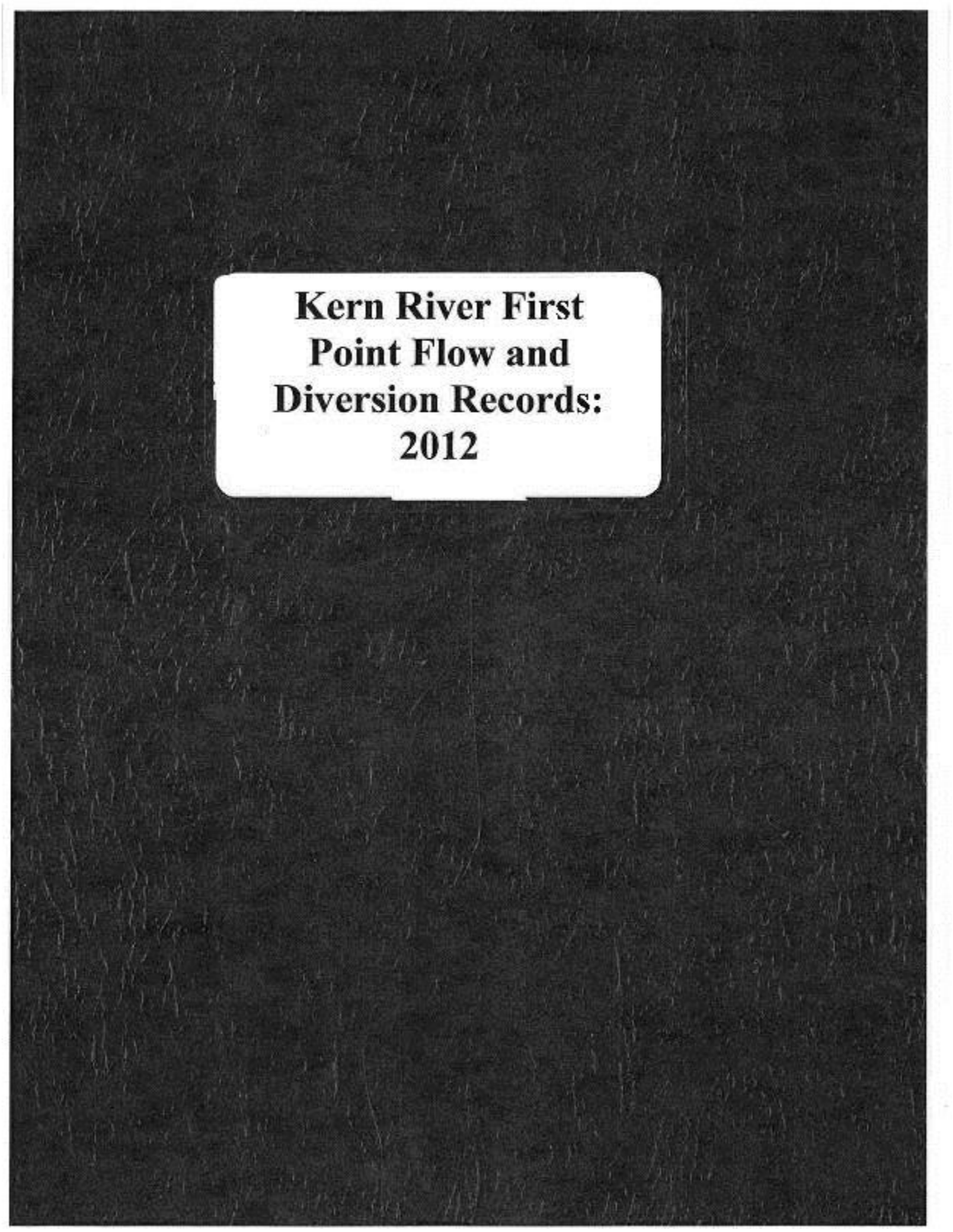
DIVERSION RIGHT		NAME OF CANAL		GROSS DIVR	GROSS ENT'L	RELEASES To River	RELEASES Distribution Direct	RELEASES Distribution Pro	ENTITLEMENT / PSS RELEASES ... OR PLUS DISTRIBUTED RELEASES MKWSD	KCCWA Co.	KRWB	OTHER	EXCHANGES, SALES OR PURCHASES PLUS	EXCHANGES, SALES OR PURCHASES LESS	NET DIVERSIONS MKWSD	KCCWA Co.	KRWB	OTHER	WATER TRANS. LOSS DR	WATER TRANS. LOSS CRD
RIVER STAGE	AMT																			
		K.C.L. Co. ENT'L @ 2ND PT.																		
350.0	300	KERN ISLAND	(1-97)	2229	9942	7892					2050							2229		
		HACIENDA																		
		KERN RIVER CONDUIT																		
328.0	20	CASTRO					238													
		KCCWA Co.					714				955			564						
336.5	10.5	SOUTH FORK					500					500		500						
416.2	80	SIERRA VISTA	(1-97)				781				731									
430.6	123	JAMES	(1-97)				5558		5558											
390.0	28	ANDERSON	(1-97)				619		619											
380.0	150	[illegible]					12				12									
330.5	75	PEACHER					50		50											
280.8	150	FARMERS																		
333.5	40	PLOWICH																		
368.5	40	ADYEE																		
1040.3	40	JOHNSON																		
1138.5	53	PIONEER	(1-97)																	
1195.5	80	BEARDSLEY	(1-97)	455													455			
		LERDO (MKWSD)		452									5		457					
1208.5	13	ANDERSON	(2-97)																	
1240.5	48	JAMES & DIXON																		
1250.5	16	Wilson																		
		KCCWA Co.																		
1275.5	28	MCCAMPBELL																		
		MKCWD	LERDO 79%																	
1275.5	350		BEARDSLEY 70%																	
		CALLOWAY	CENTRAL 33%																	
2226.5	660		MKWSD 67%																	
		RAILROAD	KCCWA Co. 35%																	
2426.5	200		MKWSD 50%																	
2516.5	90	SIERRA VISTA	(2-97)																	
2806.5	190	JAMES	(2-97)																	
2966.5	170	PIONEER	(2-97)																	
3196.5	240	BEARDSLEY	(2-97)																	
3262.8	88	KERN ISLAND	(2-97)																	
		ROSEDALE RANCH																		
		TRACTION LAKES																		
		AERA PARK																		
		COUNTY OF KERN																		
		KERN VALLEY GOLF COURSE																		
		CALIFORNIA WATER SERVICE CO.																		
		OLIVE'S NO																		
		THE PARK AT RIVER WALK																		
		WILSON DITCH																		
		2450 ACRES DEDICATED																		
		MKWSD FOR CWD																		
		MKWSD FOR IDI																		
		BVWSD VIA CWD																		
		BVWSD VIA FOR KRWB																		
		BVWSD VIA KRWB (BAND HEATING)																		
		BVWSD FOR CHACIENDA, INC.																		
		KWB FOR IDI																		
		BVWSD TRANSFER TO 1ST PT. GAS												10						
TOTALS			958	2750	9942	7892	7892	0	6827	959	3552	500	510	879	462	3477	2229	0	0	0
		LOSS		978	678														0	
FLOW AT FIRST POINT			958	3826	10678															

ISABELLA RESERVOIR					
	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE	
347	1294	27	326	3968	
0	0	0	0	0	
326	9135	277	326	8931	
0	607		0	600	
197	1795	30	0	1977	
12	12	0	0	24	
0	10	0	0	10	
0	0	0	0	0	
5781	5709	176	0	21374	
6435	17914	444	653	23714	

TOTAL CHANGE IN STORAGE = 5480

NOTES:

MKWSD Transfer to 1st Pt. Gas: MKWSD (1): Dly (0)


Kern River First
Point Flow and
Diversion Records:
2012

CITY O[illegible]AKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: January 2012 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	29562
LESS NON-CONTRIBUTING CANALS	10497
FOR OTHERS AND FIRST POINT CANALS	11956
TO BE CONTRIBUTED BY OTHER CANALS	676
TO BE USED BY OTHER CANALS	10479
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.9035)	0
B.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	679
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	679

DIVERSION RIGHT				GROSS DIVR	GROSS ENTL	RELEASES To River	RELEASES Distribution Direct	RELEASES Distribution Pro	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES AKWSD	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES KCC&W Co.	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES ADWD	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES OTHER	EXCHANGES, SALES OR PURCHASES PLUS	EXCHANGES, SALES OR PURCHASES LESS	NET DIVERSIONS AKWSD	NET DIVERSIONS KCC&W Co.	NET DIVERSIONS ADWD	NET DIVERSIONS OTHER	WATER TRANS. LOSS DIR	WATER TRANS. LOSS PRO
RIVER STAGE	AMT.	NAME OF CANAL																		
		K.C.L. Co. AMTS. @ 2ND PT.																		
280.9	393	RIVER ISLAND (1-ST)		5472	18407	5934					8493							5472		
		EASTSIDE																		
		KERN RIVER CONDUIT																		
328.0	29	CASTRO		345		48														
		KCC&W Co.		708		328				1290			1003					1041		
338.5	93.5	SOUTH FORK		485	650															
418.6	80	BUENA VISTA (1-ST)		3027	2791	111					357									
516.6	123	JAMES (1-ST)		2507		4418			6925											
605.6	29	ANDERSON (1-ST)		345		673			1014											
708.8	105	STINE		1409	281	376					1484									
790.6	39	MEACHAM		332		1045			1232	46										
860.6	150	TANNERY		26	770	81	167				809							28		
920.5	40	PLUNKET			79		1484		1199	417										
960.8	40	JOYCE			79		1311		946	365										
1000.6	40	JOHNSON			79		817		872	24										
1120.6	120	PIONEER (1-ST)			254		2319		2873											
1190.5	50	BEARDSLEY (1-ST)		241	117		359					476						241	1	
		LERDO (AKWSD)		5763										1525	5726			38		
1200.5	10	ANDERSON (2-ND)			18		69		87											
1230.8	40	JAMES & DIXON					87		87											
1250.5	70	WILSON					12													
		KCC&W Co.					8			20										
1278.8	30	MACCARTHY					52		32											
		WIGORD LERDO 33%					90		60											
1316.8	553	BEARDSLEY 76%					128					739								
		CALLOWAY CENTRAL 20%		3568			24			24				3568						
2226.5	550	AKWSD 80%		5324			92		57						5324					
		RIVERLAKE KCC&W Co. 20%																		
3426.5	280	AKWSD 80%																		
3516.5	90	BUENA VISTA (2-ND)																		
2895.8	180	JAMES (2-ND)																		
3000.6	210	PIONEER (2-ND)																		
3106.5	340	BEARDSLEY (3-RD)																		
3269.6	30	RIVER ISLAND (2-ND)																		
		ROSEDALE RBWSD		970													970		97	
		TRUXTON LAKES																		
		AERA PARK																		
		COUNTY OF KERN																		
		KERN VALLEY GOLF COURSE															22			
		CALIFORNIA WATER SERVICE CO.															20			
		OLCESE WD															18			
		THE PARK AT RIVER WALK																		
		WILSON DITCH																		
		2000 ACRES SPREADING		409																
																	409			
		AKWSD FOR CWD											522							
		BVWSD VIA FOR ADWD																		
		BVWSD VIA ADWD (RWD WATER)																		
		BVWSD FOR La HACIENDA, WD.																		
		RWD FOR ID4											4168						500	
		JOY DORDOMA															2			
TOTALS			72	22413	28686	13855	13855	0	16088	2006	11380	695	5693	5693	10750	1391	8498	277	2012	0
		LOSS		2688	N/A														2013	
FLOW AT FIRST POINT			72	25101	28682															

ISABELLA RESERVOIR				
IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
2382	237	15	439	2065
0	0	0	0	0
661	16711	124	0	17058
0	600		0	600
347	33	3	0	377
1484	76	0	0	1560
837	678	8	7	1500
508	3449	28	171	3758
4832	60561	464	1497	62932
10671	81875	652	2114	89780

TOTAL CHANGE IN STORAGE = 7305

NOTES:

RBWSD: City to RBWSD	210
River Loss: City to RBWSD	60
KCC&W Exch. Pool: AKWSD to City (BT)	93
Lerdo (AKWSD) - Other KCC&W Jnt. Exch.	26
Lerdo Exch. Loss: AKWSD Per DWR	53
Calif. (Central): HWD for Use	3568
River Loss: HWD for ID4	500

AKWSD/KCC&W Co. Exch: Reduce release by City loss to inability to divert natural flow entitlement 738

CITY OF AKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: August 2012 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	11205
LESS NON-CONTRIBUTING CANALS	10529
FOR OTHERS AND FIRST POINT CANALS	676
TO BE CONTRIBUTED BY OTHER CANALS	676
TO BE USED BY OTHER CANALS	0
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.5639)	0
B.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	676
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	676

DIVERSION RIGHT				GROSS DIVR	GROSS ENTL	RELEASES			ENTITLEMENT LESS RELEASES OR PLUS DISTRIBUTED RELEASES				EXCHANGES, SALES OR PURCHASES		NET DIVERSIONS				WATER TRANS. LOSS		ISABELLA RESERVOIR				
RIVER STAGE	AMT.	NAME OF CANAL				To River	Distribution Direct	Distribution Pro	...MKWSD	...KCC&W Co.	...KDWD	...OTHER	PLUS	LESS	MKWSD	KCC&W Co.	KDWD	OTHER	PER	PRO	IN	Previous BALANCE	LOSS	OUT	CURRENT BALANCE
		K.C.L. Co. ENTL @ 2ND PT.																							
300.0	300	KERN ISLAND	(1-ST)	12891	10529						10529			4458			8393		664						
		EASTSIDE		1275										772			1702				1704	1397	41	1234	1726
		KERN RIVER CONDUIT																							
300.0	20	CASTRO																			0	0	0	0	0
		KCC&W Co.																			252	0	27995	1125	3504	23366
320.5	15.5	SOUTH FORK																			0	972		0	972
410.5	90	BUENA VISTA	(1-ST)	397													397				0	949	14	397	776
530.8	120	JAMES	(1-ST)																						
550.5	20	ANDERSON	(1-ST)																						
700.6	150	STINE		117										89			28				0	28	0	28	0
730.5	30	BRACHVOGEL																							
883.5	153	FARMERS																			0	0	0	0	0
926.5	43	PLUMMET																							
968.5	42	JOYCE																							
1093.5	43	JOHNSON																							
1138.5	135	PIONEER	(1-ST)																						
1158.5	65	BEARDSLEY	(1-ST)	1022												1022					0	0	0	0	0
		LERDO (MKWSD)		11652										2509	11652						0	28939	935	11652	28477
1200.5	10	ANDERSON	(2-ND)																						
1246.5	40	JAMES & DIXON																							
1258.5	10	WILSON																			1704	53950	2116	16985	42557
		KCC&W Co.																							
1276.5	20	McCAFFREY																							
		McCORD	LERDO 30%																						
1376.5	100		BEARDSLEY 70%																						
		CRELLOWAY	CENTRAL 20%																						
2226.5	850		MKWSD 80%																						
		RAILROAD	KCC&W Co. 20%																						
2426.5	200		MKWSD 80%																						
2976.5	50	BUENA VISTA	(2-ND)																						
2835.5	159	JAMES	(2-ND)																						
2860.5	175	PIONEER	(2-ND)																						
2930.5	310	BEARDSLEY	(2-ND)																						
2952.5	88	KERN ISLAND	(2-ND)																						
		ROSEDALE RBWSD																							
		TRUITT/LAMAS		115												115									
		APPA FARM																							
		COUNTY OF KERN														175									
		KERN VALLEY GOLF COURSE														32									
		CALIFORNIA WATER SERVICE CO.														1805									
		GLEESE WD														123									
		THE PARK AT RIVER WALK		76												75									
		WILSON DITCH																							
		2000 ACRES SPREADING																							
		MKWSD FOR CWD												2509											
		BVWSD VIA CWD																							
		BVWSD VIA FOR KDWD												4769											
		BVWSD VIA KDWD (BWD WATER)																							
		BVWSD FOR La HACIENDA, WC												99	99										
		HWD FOR IDI																							
TOTALS			3139	27515	10529	0	0	0	0	0	10529	0	7368	7368	11652	3252	8890	0	816	0					
		LOSS	1592	676															816						
FLOW AT FIRST POINT			3139	29107	11205																				

TOTAL CHANGE IN STORAGE = -17389

NOTES:

Kern Island Exch. Loss: from BVWSD= 4458

Eastside Exch. Loss: from BVWSD= 772

Stine Exch. Loss: from MKWSD= 89

Lerdo Exch. Loss: MKWSD for CWD= 2509

CITY OF BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: September 2012 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	9676
LESS NON-CONTRIBUTING CANALS	7920
FOR OTHERS AND FIRST POINT CANALS	656
TO BE CONTRIBUTED BY OTHER CANALS	656
TO BE USED BY OTHER CANALS	0
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.663%)	0
B.K.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	656
KERN RIVER CONSUMPTIVE ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	656

DIVERSION RIGHT River Mile	Dist.	NAME OF CANAL	GROSS DIVR	GROSS ENTL	RELEASES To River	RELEASES Intervening Beard	RELEASES Intervening Pur	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES KRWSD	KCL&W Co.	KDWD	OTHER	EXCHANGES, SALES OR PURCHASES PLUS	EXCHANGES, SALES OR PURCHASES LESS	NET DIVERSIONS KRWSD	KCL&W Co.	KDWD	OTHER	WATER TRANS. LOSS SW	WTD
		K.C.L. CO. PRIV. (2-3/4 FT)																	
300.0	300	KERNISLAND (1-ST)	8503	7920	357					7563			153			8666		490	
		FARMERS																	
		KERN RIVER CONDUIT																	
320.0	20	EASTSD				30													
		KCL&W Co.				88			139			61						777	
338.5	10.5	SOUTH FORK				63					61		83						
453.0	80	BUENA VISTA (3-ST)	132													165		23	
488.5	123	JAMES (1-ST)				177		177											
500.5	56	BELRIDGE (3-ST)																	
700.5	155	STINE																	
720.5	20	WHITEWATER																	
840.5	150	FARMERS																	
920.5	80	PLUMMER																	
960.5	40	JOYCE																	
1000.5	60	JOHNSON																	
1130.5	130	PIONEER (1-ST)																	
1190.5	60	BEARDSLEY (1-ST)	1002													1002			
		LERDO (KRWSD)	1229										232	1229					
1253.5	23	ANDERSON (2-MID)																	
1343.5	46	JAMES & DIXON																	
1358.5	15	WILSON																	
		KCL&W Co.																	
1378.5	20	SCOFIELD																	
		KRWSD LERDO 20%																	
1518.5	100	BEARDSLEY 73%																	
		CALLOWAY CENTRAL 27%																	
2008.5	350	KRWSD 80%																	
		RIO BRAVO KCL&W Co. 20%																	
2436.5	130	KRWSD 80%																	
2510.5	85	BUENA VISTA (3-MID)																	
2595.5	185	JAMES (2-MID)																	
2662.5	170	PIONEER (2-MID)																	
2755.5	343	BEARDSLEY (2-MID)																	
2462.5	56	KERN ISLAND (2-MID)																	
		ROSEDALE RRWSD																	
		TWISTER LAND	86													86			
		AERA PARK																	
		COUNTY OF KERN														128			
		KERN VALLEY GOLF COURSE														23			
		CALIFORNIA WATER SERVICE CO.														1310			
		OLCESE WD														39			
		THE PARK AT RIVER WALK	47													47			
		MOLTON DITCH																	
		1859 ACRES SPREADING																	
		RRWSD FOR CWD										232							
		RRWSD VIA CWD																	
		RRWSD VIA FOR KDWD										153							
		RRWSD VIA KDWD (RRWD WATER)																	
		RRWSD FOR LA HACIENDA, WD																	
		RRWD FOR IDA																	
TOTALS		1649	17226	7920	357	357	0	177	139	7563	61	445	445	1925	270d	8803	0	634	0
		LOSS	1279	656														634	
FLOW AT FIRST POINT		7589	12905	8576															

ISABELLA RESERVOIR

IN	PREVIOUS BALANCE	LOSS	OUT	CONSERV BALANCE
142	1726	26	1726	177
0	0	0	0	0
0	23286	914	2625	19747
0	972		0	972
0	176	0	176	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	16473	615	1032	14744
142	42551	1555	5549	35700

TOTAL CHANGE IN STORAGE = -7001

NOTES:

Kern Island Conv. Less: from DWSD= 153

Lerdo Exch. Less: KRWSD w/o CWD= 232

CITY OF BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: October 2012 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	8915
LESS NON-CONTRIBUTING CANALS	8240
FOR OTHERS AND FIRST POINT CANALS	675
TO BE CONTRIBUTED BY OTHER CANALS	675
TO BE USED BY OTHER CANALS	0
EACH OTHER CANAL TO RECEIVE	n/a % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.583%)	0
R.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	675
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	675

DIVERSION RIGHT				GROSS	GROSS	RELEASES			ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES				EXCHANGES, SALES OR PURCHASES		NET DIVERSIONS				WATER TRANS. LOSS		ISABELLA RESERVOIR				
Water Stage	Amt.	NAME OF CANAL		DIVR	ENTL	To River	Distribution Point	Dist	MWSD	KCC&W Co.	KDWD	OTHER	PLUS	LESS	MWSD	KCC&W Co.	KDWD	OTHER	OVR	PRD	W	PREVIOUS BALANCE	LOSS	DIV	CURRENT BALANCE
		K.C.L. Co. ENTL @ 2ND PT.																							
300.0	300	KERN ISLAND	(1-57)	6823	6760	7251					6383						4929				3459	717	30	399	3747
		EASTSIDE																							
		KERN RIVER CONDUIT																							
288.9	20	GASTRO					50														0	0	0	0	0
		KCC&W Co					779			239			121						1		0	10717	368	1783	12368
298.5	10.5	SOUTH FORK					121					121		121							0	972		0	972
418.5	80	BUENA VISTA	(1-57)				343				343								343		0	0	0	0	0
528.0	125	JAMES	(1-57)				545		545																
550.5	25	ANDERSON	(1-57)																						
750.5	100	KIMP																			0	0	0	0	0
770.5	20	VEACHAM																							
880.5	110	PIONEER																			0	0	0	0	0
920.5	40	FLOWER																							
960.5	40	JOYCE																							
1080.5	45	JOHNSON																							
1120.5	135	PIONEER	(1-57)																						
1150.5	90	BRIMHALL	(1-57)	958													958				0	0	0	0	0
		LERDO (KDWSD)		2479										514	1959						19	14744	439	1423	12913
1200.5	10	ANDERSON	(2-MD)																						
1240.5	40	JAMES & BOOM																							
1250.5	10	WILSON																							
		KCC&W Co.																			3477	35350	1038	3911	37370
1270.5	20	BELLEVUE																							
		McCOMB	LEHIGH 30%																						
1278.9	160		SCARDSLEY 70%																						
		CULLEMAN	CENTRAL 20%																						
2278.5	998		WHITE 80%																						
		RAILROAD	KCC&W Co. 20%																						
2498.5	200		WHITE 80%																						
2518.5	20	BUENA VISTA	(2-MD)																						
2648.5	130	JAMES	(2-MD)																						
2668.5	170	PIONEER	(2-MD)																						
2708.5	240	SCARDSLEY	(3-RD)																						
2748.5	40	KERN ISLAND	(3-RD)																						
		MCCOMB LEHIGH																							
		TRUXTUN LAKES																							
		AERA FARM																							
		COUNTY OF KERN															101								
		KERN VALLEY GOLF COURSE															16								
		CALIFORNIA WATER SERVICE CO.															988								
		OLCESE RD															77								
		THE PARK AT RIVER WALK																							
		WILSON DITCH																							
		2888 ACRES SPREADING																							
		NKWSD FOR CWD																							
		SWWSD VIA CWD												514											
		SWWSD VIA FOR KDWD																							
		SWWSD VIA KDWD (SWID WATER)																							
		SWWSD FOR LA HACIENDA, WD.																							
		HWD FOR IID4																							
TOTALS			1176	8368	8240	1251	1251	0	545	239	7232	121	635	635	1959	2142	4929	0	344	0					
		LOSS		1038	676														344						
FLOW AT FIRST POINT			1176	9359	8916																				

TOTAL CHANGE IN STORAGE = 2772

NOTES:

Land: Each Loss SWWSD for CWD = 514

CITY OF BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: November 2012 Recap

COMPUTED NATURAL FLOW AT FIRST POINT..... 11361
LESS NON-CONTRIBUTING CANALS..... 10706
FOR OTHERS AND FIRST POINT CANALS..... 655
TO BE CONTRIBUTED BY OTHER CANALS..... 655
TO BE USED BY OTHER CANALS..... 0
EACH OTHER CANAL TO RECEIVE..... N/A % OF IT'S DIVERSION RIGHT

QUANTITIES IN: ACRE-FEET

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.6634%)... 0
B.V.W.S.D. ENTITLEMENT..... 0
SEEPAGE LOSS..... 655
KERN RIVER CONDUIT ENTITLEMENT..... 0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT..... 0
TOTAL..... 655

DIVERSION RIGHT				GROSS DIVR	GROSS ENTL	RELEASES		ENTITLEMENT LOSS RELEASES ... OR IT US DISTRIBUTED RELEASES				EXCHANGES, SALES OR PURCHASES		NET DIVERSIONS				WATER TRANS. LOSS		ISABELLA RESERVOIR				
RIVER STAGE	AMT.	NAME OF CANAL				To River	Distribute Direct	Distribute Pro	BKWSD	KCCBW Co.	KCWD	OTHER	PLUS	LESS	BKWSD	KCCBW Co.	KCWD	OTHER	DIR	PRO	IN	PRECIPITATION AND SNOW	LOSS	OUT	CURRENT BALANCE
		K.C.L. Co. ENTL @ 2ND PT.																						
360.5	300	KERN ISLAND	(1-ST)	3959	10700	7331					3375						3959				95	2147	78	220	1924
		EASTSIDE																							
		KERN RIVER CONDUIT																							
358.6	21	EASTSD					288														0	0	0	0	0
		RCCBW Co.					853			3131			397						636		463	17346	307	1630	16463
362.5	70	SOUTH FORK					625					625		397							0	972		272	600
370.6	68	BUENA VISTA	(1-ST)	40			235				235						92		798		0	0	0	0	0
376.5	139	JAMES	(1-ST)				4967		4967																
380.5	70	ANDERSON	(1-ST)				194		194																
390.8	150	STINE					22				22										22	0	0	0	22
394.5	30	VERCHAIN					98		98																
399.5	150	FARMERS																			0	0	0	0	0
404.6	40	PLANKEY																							
408.5	40	JOYCE																							
1030.5	40	JOHNSON																							
1133.5	130	PIONEER	(1-ST)																						
1193.8	95	BEARDSLEY	(1-ST)	803													803				0	0	0	0	0
		LENDO (BKWSD)		4772										351	3822						1932	12013	244	397	14104
1258.8	13	ANDERSON	(2-RD)																						
1268.5	45	JAMES 2 DUCK																							
1298.6	15	WILSON																			2342	12370	589	3419	22672
		RCCBW Co.																							
1378.8	20	MCCAFFREY																							
		MCCORD	LCRDD	20%																					
1378.5	100		BEARDSLEY	75%																					
		CALLOWAY	CLWTRAL	20%	803												803		777						
1385.5	850		BKWSD	80%																					
		RAILROAD	RCCBW Co.	20%																					
2428.8	250		BKWSD	80%																					
2516.5	80	BUENA VISTA	(2-WD)																						
2493.5	183	JAMES	(2-WD)																						
2596.5	170	PIONEER	(2-RD)																						
2595.5	343	BEARDSLEY	(2-RD)																						
2382.6	88	KERN ISLAND	(2-WD)																						
		NORDALE AWARD																							
		TRUXTUN LAKES																							
		AERA POWR																							
		COUNTY OF KERN															69								
		KERN VALLEY GOLF COURSE															6								
		CALIFORNIA WATER SERVICE CO.															844								
		OLCESE WD															39								
		THE PARK AT RIVER WALK																							
		WILSON DITCH																							
		2800 ACRES SPREADING																							
		BKWSD FOR CWD																							
		BVWSD VIA CWD											781												
		BVWSD VIA FOR KCWD																							
		BVWSD VIA KCWD (BWD WATER)																							
		BKWSD FOR La HACIENDA, INC.																							
		KWD FOR IDE																							
TOTALS			957	9379	10706	7331	7331	0	5297	1791	3833	625	1348	1348	3822	2563	3669	0	998	0					
		LOSS		1663	655														950						
FLOW AT FIRST POINT			957	11032	11361																				

TOTAL CHANGE IN STORAGE = -598

NOTES:

River Loss: City to KWB= 777
Calif. (Central): City to KWB= 600
Lendo Exch. Loss: BVWSD via CWD= 351
South Fork transfer to City to recover 372 af carryover storage requirement= 372

CITY O. BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: December ..r2 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT.....	17849
LESS NON-CONTRIBUTING CANALS.....	16231
FOR OTHERS AND FIRST POINT CANALS.....	1618
TO BE CONTRIBUTED BY OTHER CANALS.....	576
TO BE USED BY OTHER CANALS.....	342
EACH OTHER CANAL TO RECEIVE.....	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.563%)...	0
B.V.W.S.D. ENTITLEMENT.....	0
SEEPAGE LOSS.....	576
KERN RIVER CONDUIT ENTITLEMENT.....	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT.....	0
TOTAL.....	576

DIVERSION RIGHT				GROSS DIVR	GROSS ENT'L	RELEASES To River	RELEASES Distribution Direct	RELEASES Distribution Pro	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES KWWSD	KCC&W Co.	KDWD	OTHER	EXCHANGES, SALES OR PURCHASES PLUS	EXCHANGES, SALES OR PURCHASES LESS	NET DIVERSIONS KWWSD	KCC&W Co.	KDWD	OTHER	WATER TRANS. LOSS DIR	WATER TRANS. LOSS PRO
RIVER STAGE	ANT.	NAME OF CANAL																		
		K.C.L. Co. ENT'L @ 2ND PT.																		
268.0	300	KERN ISLAND (1-ST)		3178	16231	14191					2050						3178			
		EASTSIDE																		
		KERN RIVER CONDUIT																		
235.0	39	GASTRO			69		239													
		KCC&W Co.			266		716			1239			470							
206.5	10.5	SOUTH FORK			137		327					464		464						
415.0	60	BUENA VISTA (1-ST)			530	530	191				191									
516.5	129	JAMES (1-ST)					7323		7323											
586.5	28	ANDERSON (1-ST)					1125		1125											
706.6	150	STINE					12				12									
726.5	30	HEACHAW					1363		1363											
886.6	180	FARMERS					207				207									
935.5	49	PLUMMET					1341		1341											
985.5	49	JOYCE					1025		1025											
1085.5	49	JOHNSON					567		567											
1135.5	129	PIONEER (1-ST)					276		276											
1155.5	60	BEARDSLEY (1-ST)		600												500				
		LERDO (NWWSD)		7715									4	282	7434					
1205.5	15	ANDERSON (2-WD)																		
1245.5	40	JAMES & DOYCE																		
1268.6	18	WILSON																		
		KCC&W Co.																		
1274.5	29	McCAFFREY																		
		McCORD	LERDO 30%																	
1275.5	100		BEARDSLEY 70%																	
		CALLOWAY	CENTRAL 30%	1768										1768						
2229.6	958		NWWSD 93%																	
		RAILROAD	KCC&W Co. 20%																	
2401.5	200		NWWSD 93%																	
2516.5	90	BUENA VISTA (2-WD)																		
2995.5	190	JAMES (2-WD)																		
3066.5	170	PIONEER (2-WD)																		
3104.6	240	BEARDSLEY (2-WD)																		
3163.5	90	KERN ISLAND (2-WD)																		
		MOSSDALE NWWSD																		
		TRUXTUN LANES																		
		APHA PARK																		
		COUNTY OF KERN														46				
		KERN VALLEY GOLF COURSE																		
		CALIFORNIA WATER SERVICE CO.														501				
		OLCESE WD														6				
		THE PARK AT RIVER WALK																		
		WILSON DITCH																		
		2800 ACRES SPREADING																		
		NWWSD FOR CWD																		
		NWWSD FOR IDH											4028					2320		
		BVWSD VIA CWD											282							
		BVWSD VIA FOR KDWD																		
		BVWSD VIA KDWD (KWD WATER)																		
		BVWSD FOR La HACIENDA, INC.																		
		KWD FOR IDH																		
		BVWSD TRANSFER TO 1ST PT. GRP.												10						
TOTALS			913	13102	17173	14711	14711	0	13020	1229	3468	464	4784	3464	7434	1413	3178	0	2320	0
		LOSS		2906	676														2320	
FLOW AT FIRST POINT			913	16008	17849															

ISABELLA RESERVOIR				
IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
9	1924	16	1127	790
0	0	0	0	0
288	15362	196	2	15952
0	600	1	0	599
191	9	2	0	199
12	22	0	0	34
207	0	0	0	207
0	0	0	0	0
2387	14104	173	825	15493
3094	32512	387	1964	33255

TOTAL CHANGE IN STORAGE = 743

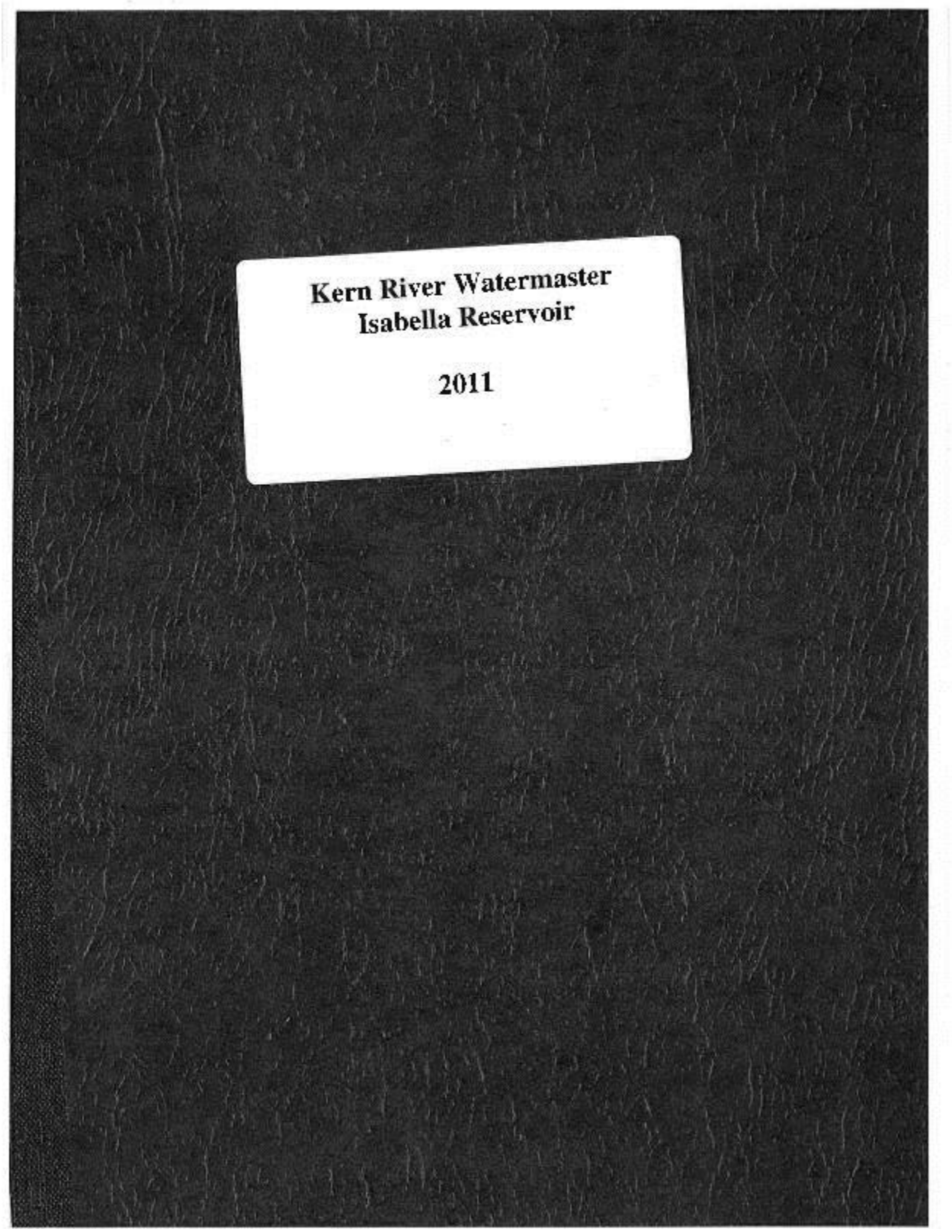
NOTES:

Lerdo Ditch. Less: BVWSD for CWD: 282

Cnty. Ditch. Less: NKWSD for IDH: 1768

River Less: NKWSD for IDH: 2320

BVWSD Transfer to 1st Pt. Grp.: NKWSD (4); City (6)


Kern River Watermaster
Isabella Reservoir
2011

CITY OF BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

QUANTITIES IN: ACRE-FEET

Date: January 2011 Recap

COMPUTED NATURAL FLOW AT FIRST POINT..... 71556

LESS NON CONTRIBUTING CANALS..... 16446

FOR OTHERS AND FIRST POINT CANALS..... 43080

TO BE CONTRIBUTED BY OTHER CANALS..... 777

TO BE USED BY OTHER CANALS..... 32219

EACH OTHER CANAL TO RECEIVE..... N/A

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.6878)... 4

RIVERSIDE ENTITLEMENT..... 97

SEEPAGE LOSS..... 670

KERN RIVER CONDUIT ENTITLEMENT..... 0

HACIENDA W.D. ENTITLEMENT AT FIRST POINT..... 0

TOTAL..... 777

% OF ITS DIVERSION RIGHT

RIVER STAND.	DIVERSION RIGHT ANT.	NAME OF CANAL & SHEET	GROSS DIVTN	GROSS ENTL	RELEASES To Kern	RELEASES To Buena Vista	RELEASES Deadwater Pkw	ENTITLEMENT LESS RELEASES OR PLUS DISTRIBUTED RELEASES ARVIN'D	ENTITLEMENT LESS RELEASES OR PLUS DISTRIBUTED RELEASES KCC&WCo	ENTITLEMENT LESS RELEASES OR PLUS DISTRIBUTED RELEASES ARVIN'D	ENTITLEMENT LESS RELEASES OR PLUS DISTRIBUTED RELEASES OTHER	EXCHANGES and/or OR PURCHASES R.I.D.	EXCHANGES and/or OR PURCHASES LOSS	NET DIVERSIONS ARVIN'D	NET DIVERSIONS KCC&WCo	NET DIVERSIONS R.I.D.	NET DIVERSIONS OTHER	WATER TRANS. LOSS R.I.D.	WATER TRANS. LOSS R.I.D.	ISABELLA RESERVOIR ANN BALANCE	ISABELLA RESERVOIR 1 YEAR	ISABELLA RESERVOIR CUM'LAT	ISABELLA RESERVOIR RES'VE ENTL	CUM'LAT RES'VE ENTL
3000	3000	KCC&WCo (1-5) & SHEPPARD	3707	19446	13731			4				59													
		EASTSIDE																							
		KERN RIVER CONSERV.																							
7000	20	CASTRO		307																0	0	0	0	0	26047
330.4	14.1	NICOLAI Co.		928																4745	3764	155	22737		
4714	161	SOUTH PARK		615																0	0	0	0	0	1197
4714	161	BUENA VISTA (1-5)	699	4456				3331	347	559					584			778		0	1490	10	436	1190	
5381	139	JAMES (1-5)		7257				5331	3142																
5381	76	ANDERSON (1-5)		1228				873	357																
7048	199	STINE		9084	6513	54														583	327	10	0	1500	
7262	26	BERACHAH		1935		10		1309	526	593															
6884	526	PARKERS		9072	6506	34																			
6884	40	HOYT		2265				1554	1745	774										844	916	10	0	1500	
7048.1	40	JOHNSON		5795		333		1745	774																
7188.1	520	PIONEER	1862			450		1745	774																
7188.1	40	BEARDSLEY (1-5)	8194			2638		8472	3283																
7188.1	40	LENGO (PARKER)	1352			1641				3793									258						
7188.1	10	ANDERSON (1-5)	13823																783						
7188.1	40	JAMES & DUTOW	278	564		327		450	179											844	916	10	0	1500	
7188.1	20	HOLLOW	1291			1454		1745	774																
		ROSEDALE	89			238																			
7271.5	81	MACHMURRAY	5634			4686		7123	4144											7059	15705	117	0	21148	
		MEYERS (1-5)	242			1492		4148	454											11633	7959	538	8140	29813	
7271.5	198	CALLOWAY	6255			3661				4205															
		CENTRAL 20%	148			4064		4303	2582																
7244.5	810	NEWPS 80%	16814			14719		8793	7054																
		ROSEDALE 20%	901																						
7437.5	283	ARVIN (1-5)																		30272	134573	855	33774	112212	
7317.5	80	BUENA VISTA (2-5)																							
7306.5	161	JAMES (2-5)																							
7271.5	198	CALLOWAY (2-5)																							
7244.5	114	PIONEER (2-5)																							
7244.5	244	BEARDSLEY (2-5)																							
7317.5	84	KERN ISLAND (2-5)																							
		ROSEDALE REMAND																							
		TAUSSIG LEASE		17440							7232														
		ARVIN PARK																							
		COUNTY OF KERN																							
		KERN VALLEY GOLF COURSE																							
		CALIFORNIA WATER SERVICE CO.																							
		GLOVER RD																							
		THE PARK AT RIVER WALK																							
		HOUSON DITCH	125																						
		ARK ACRES SPECIMENS	11130																						
		FIRST POINT PASSING END POINT	393																						
		BWSD VIA Sheffield									7232														
		BWSD VIA ENV AG. BASIN 4 TO KCWD	668																						
		BWSD WAY FOR ADWD																							
		OLAM BROKERAGE																							
		JOY DONGMA																							
TOTALS		618	44482	70783	34730	34730	0	23501	22489	6796	5651	7231	7231	29235	22457	4270	1040	24148	0	24125					
		1033	14622	676																					
FLOW AT FIRST POINT		538	78316	71459																					

TOTAL CHANGE IN STORAGE = -1319

NOTES:

Kern Delta/Cook Lease Stor. 01/02/05=

Arvin/Bolthouse/Cook Lease Stor. 01/02/05=

Kern River Conduit Entitlement =

Arvin/Bolthouse/Cook Lease Stor. Refinery release to City (Max. to Arvin/Bolthouse/Cook Lease Stor. natural flow recpt) =

MONSOR/ROCK/R Co. Cont. Addition release to City (in excess of Monsor/Rock Diversion Rights) =

CITY OF BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: August 2011 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	63583
LESS NON-CONTRIBUTING CANALS	18445
FOR OTHERS AND FIRST POINT CANALS	51145
TO BE CONTRIBUTED BY OTHER CANALS	35283
TO BE USED BY OTHER CANALS	15963
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.503%)	783
B.V.W.S.D. ENTITLEMENT	16326
SEEPAGE LOSS	676
KERN RIVER CONDUIT ENTITLEMENT	17498
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	35283

DIVERSION RIGHT: River Stage	Amt.	Name of Canal			Gross Div'r	Gross Ent'l	Releases: To River	Withdrawn: Direct	Withdrawn: Pre	Entitlement less releases – or plus distributed releases: KRWSD	KCCW Co.	KDWD	OTHER	Exchanges, Sales or Purchases: PLUS	LESS	Net Diversions: KRWSD	KCCW Co.	KDWD	OTHER	Water Trans. Loss: DIR	KRD
		K.C.L. Co. ENT'L @ 2ND PT.				783				783											
300.0	500	KERN ISLAND	(1-ST)		13743	18446						18446			1904				17827			
		EASTSIDE			3705										7460				1244			
		KERN RIVER CONDUIT				17498					17498											
320.0	20	CASTRO				82		172														
		KCCEW Co.				234		455			845				10000					3215		
320.8	10.5	SOUTH FORK				167		250					417									
410.5	90	BUENA VISTA	(1-ST)		6958	7281		733				2012			2386				4934			
530.5	120	JAMES	(1-ST)			1918				1918												
550.0	20	ANDERSON	(1-ST)			317				317												
700.5	150	STINE			5747	9268						2268			3456				3692			
730.3	30	MEACHAM				430				430										0	436	4
805.5	150	FARMERS			3170	2220	1610															
820.9	60	PLUMMER				551				551			610		464				2905	77	2329	30
900.5	40	JOYCE				539				540												
1008.5	40	JOHNSON				520				520												
1128.8	320	PIONEER	(1-ST)			1365				1356												
1196.8	60	BEARDSLEY	(1-ST)		1104	606							704									
		LERDO	(NKWSD)		34177									10020	5687	22468	5400		255	191	39589	879
1286.5	10	ANDERSON	(2-ND)			68				60										9652	72585	1849
1248.8	40	JAMES & DIXON				239				230												
1280.8	10	WILSON				30																
		KCCEW Co.				26					68									13239	146477	2986
1275.5	20	MACAFFREY				145				145												
		McCORD	LERDO	35%		153				153												
1276.5	300		BEARDSLEY	70%		353							353									
		CALLOWAY	CENTRAL	20%	4215	466					430							4215		66	713	
2226.8	330		NKWSD	80%	2783	7297				1787						1948						
		RAILROAD	KCCEW Co.	30%		10					10											
2425.5	200		NKWSD	99%		33				33												
2618.9	90	BUENA VISTA	(2-RD)																			
2696.5	190	JAMES	(2-RD)																			
2886.8	170	PIONEER	(2-ND)																			
2906.5	240	BEARDSLEY	(2-RD)																			
2162.8	35	KERN ISLAND	(2-ND)																			
		ROSEDALE RKWSD			9087										9687							
		TRUXTUN LAKES			185													185				
		AERA PARK			4													4				
		COUNTY OF KERN																179				
		KERN VALLEY GOLF COURSE																30				
		CALIFORNIA WATER SERVICE CO.																1341				
		OLDSIDE WD																113				
		THE PARK AT RIVER WALK			179													179				
		WILSON DITCH			1539											1539						
		2800 ACRES SPREADING			3204											1494						
		RWD FOR KCWA																		79		
		BVWSD VIA/FOR PIONEER PROJECT			135									8223						1338		
		BVWSD VIA KRBWSD												1178								
		BVWSD FOR KCWA												8687								
		NKWSD FOR CWD												3015	1745					575		
		BVWSD VIA/FOR KDWD (NKD,NKWD												2767								
		PIONEER PROJECT			2519									7504								
		PIONEER WEST			790										2038					2540		
		RWD FOR CWD													790							
		RWD FOR KDWD												3540								
		ROSEDALE RANCH (I												303								
TOTALS				2163	98787	82999	1610	1616	0	8687	18961	33467	1276	47007	49020	24477	15181	25483	1617	5206	0
			LOSS		3968	678														5206		
FLOW AT FIRST POINT				2163	107626	83255																

ISABELLA RESERVOIR: IN	Previous Balance	Loss	Out	Current Balance
1239	1440	5	1894	837
0	0	0	0	0
1513	23999	396	11767	13449
417	3135	0	0	3552
0	2890	36	2581	287
0	436	4	434	0
77	2329	30	2372	0
191	39589	879	749	38161
9652	72585	1849	15392	65416
13239	146477	2986	35275	121555

TOTAL CHANGE IN STORAGE = -24905

NOTES:

Kern Island Exch. Less: from BVWSD=	167
Kern Island Exch. Less: from KRWSD/ DRWS=	1747
Eastside Exch. Less: from NVWSD=	1424
Eastside Exch. Less: from RRSWD (Manz)=	28
Buena Vista Exch. Less: from NKBVSV (BWD)	2986
Stine Exch. Less: from RRSWD (BWD)=	2458
Farmers Exch. Less: from RRSWD (BWD)=	22
RRSWSD Exch. Less: BVWSD via RRSWSD=	9687
Lerdo Exch. River City to NKWSD Wells=	10000
Lerdo (NKWSD) - Indirect. Exch. To CWD=	2747
Lerdo (via NKWSD) City to Cawelo (Manz)=	6405
Lerdo Exch. Less: BVWSD via CWD=	3015
Lerdo (permitted) - Other: KRCAL 3015 Exch=	258
Pioneer Intvl. NWD for KCWA=	758
2800 Acres from BVWSD=	1494
Cmty. (Central): City to K-TWD=	4233
River Loss: City to K-TWD=	718
Truxtun Lake: City to K-TWD=	185
Dixolet Loss: City to K-TWD=	153
Park at River Walk: City to K-TWD=	179
Pion. Proj. Exch. Less: from BVWSD=	1182
Pion. Proj. Exch. Less: NWD for KCWA=	3475
Wilson Ditch: NWD for KCWA=	939
Wilson Ditch: from BVWSD=	597

CITY OF BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: September 2011 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	99287
LESS NON-CONTRIBUTING CANALS	17551
FOR OTHERS AND FIRST POINT CANALS	13408
TO BE CONTRIBUTED BY OTHER CANALS	655
TO BE USED BY OTHER CANALS	14751
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.563%)	0
B.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	655
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	655

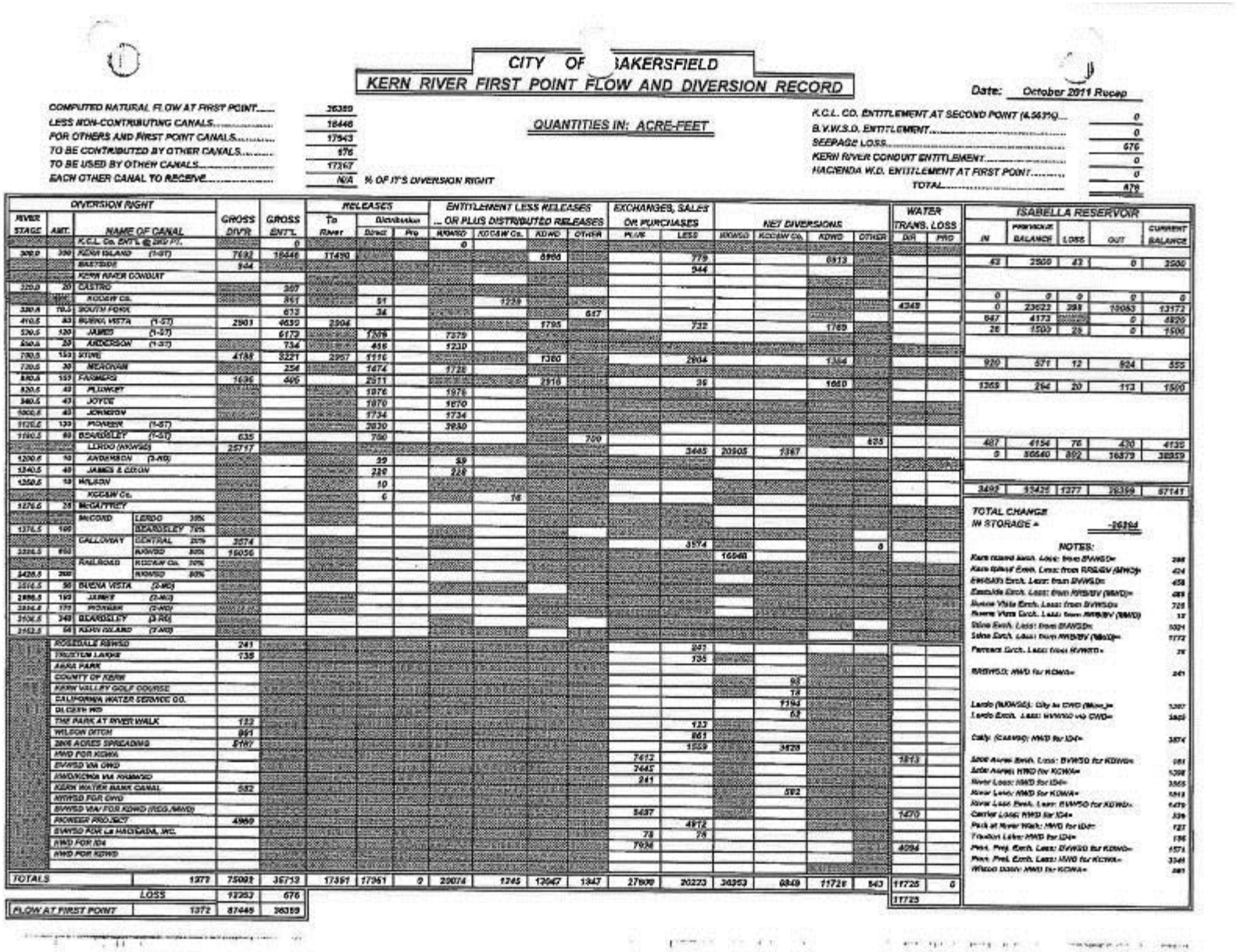
DIVERSION RIGHT				GROSS DIV'R	GROSS ENT'L	RELEASES To River	RELEASES Retention Pmnt	RELEASES Retention Pro	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES KRWSD	KCC&W Co.	KDWD	OTHER	EXCHANGES, SALES OR PURCHASES PLUS	LESS	NET DIVERSIONS KRWSD	KCC&W Co.	KDWD	OTHER	WATER TRANS. LOSS BR	PRO
		K.C.L. CO. ENT'L @ 2ND PT.			0				0											
200.0	200	KERN ISLAND (1-ST)		10455	17551	6012					11239			994			9601			
		EASTSIDE		1734										1734						
		KERN RIVER CONDUIT																		
726.0	30	CASTRO			298															
		KCC&W Co.			829		55			1182			33165	3378					10925	
370.0	10.5	SOUTH FORK			835		28					821								
410.0	80	BUENA VISTA (1-ST)		3173	4344	3316	18				1244			3173						
530.5	120	JAMES (1-ST)			9765		944		7109											
530.5	20	ANDERSON (1-ST)			690		492		7182											
700.5	150	STINE		3265	1630	1047					583			3265					533	0
730.5	30	KENHOWE					1485		1485											
880.5	150	FARMERS		2561			258				268			2561					768	0
920.5	40	PLUMMET					1225		1225											
950.5	40	JOYCE					1691		1691											
1000.5	49	JOHNSON					1349		1349											
1130.5	129	PIONEER (1-ST)					2707		2707											
1190.5	60	BEARDSLEY (1-ST)		865			183					183		33165				864	135	30165
		LERDO (KRWSD)		29857										5601	21144	2476			2645	65515
1293.5	70	ANDERSON (2-ND)					24		24											
1045.5	40	JAMES & DOYLE																		
1258.5	70	WILSON																		
		KCC&W Co.																		
1278.5	26	McCAFFREY																		
		McCOYD	LERDO 25%																	
1315.5	130		BEARDSLEY 70%																	
		CALLOWAY	CENTRAL 20%	6153										5153				45		
3328.0	650		KRWSD 80%	3308											3178					
		RAILROAD	KCC&W Co. 20%																	
3426.5	200		KDWD 80%																	
2516.5	90	BUENA VISTA (2-ND)																		
2596.5	180	JAMES (2-ND)																		
3666.5	176	PIONEER (1-ND)																		
3106.5	243	BEARDSLEY (2-RS)																		
3163.5	44	KERN ISLAND (2-ND)																		
		ROSEDALE RRWSD		1222										1222						
		TRUXTUN LAKES		179										18			161			
		SEHA PARK		79													79			
		COUNTY OF KERN															126			
		KERN VALLEY GOLF COURSE															24			
		CALIFORNIA WATER SERVICE CO.															1662			
		OLCMW WD															94			
		THE PARK AT RIVER WALK		189										12			787			
		RRWSD/KRWSD FOR KDWD											1492							
		2500 ACRES SPREADING		3060										681			2267			
		KWD FOR IDI											6786						1023	
		SWSD VIA/FOR PIONEER PROJECT											5899						532	
		SWSD VIA RRDWSD											782							
		SWSD via CWD (CANAL)											1400							
		KWD VIA RRDWSD											470							
		SWSD VIA FOR KDWD (RRS,MWD)											10205							
		PIONEER PROJECT		4630										4630						
		CITY to KWD (Trans. Loss Assignment)											3175							
		KWD FOR CWD											4297							
		ALKALI WATER BANK CANAL		1408													1408			
		ROSEDALE RANCH ID															841			
TOTALS			1918	77688	32802	10977	10977	0	17282	1182	13334	804	67965	65470	24762	9295	9501	309	12541	0
		LOSS		13196	655														12541	
FLOW AT FIRST POINT			1918	64881	32257															

ISABELLA RESERVOIR				
IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
1738	867	45	0	2520
0	0	0	0	0
29601	13449	773	18916	33633
621	3552		0	4173
1344	291	35	0	1600
533	0	12	0	521
768	0	4	0	264
135	36161	120	34002	4154
2645	65515	7295	10126	59640
37026	121565	2274	63062	93435

TOTAL CHANGE IN STORAGE = -28240

NOTES:

Kern Island Exch. Loss: from SVWSD=	141
Kern Island Exch. Loss: from RRSWSV (RWD)=	813
Eastside Exch. Loss: from SVWSD=	1656
Eastside Exch. Loss: from RRSWSV (RWD)=	78
Buena Vista Exch. Loss: from RRSWSV (BWD)	2173
Stine Exch. Lift: RRS via Stine=	1462
Stine Exch. Loss: from RRSWSV (BWD)=	1968
Farmers Exch. Loss: from RRSWSV (BWD)=	2549
KRWSD Exch. Loss: SVWSD via RRDWSD=	702
KRWSD Exch. Loss: KWD via RRSWSD=	470
2500 Acres: from SVWSD=	6071
Lerdo (KRWSD): City to CWD (Elec.)=	3476
Lerdo Exch. Loss: SVWSD via CWD (Canal)	1400
River Loss: City to IDI=	6288
River Loss: City to K-TWD=	3378
River Loss: KWD to IDI=	3401
Carrier Loss: City to IDI=	847
Carrier Loss: City to K-TWD=	33
Carrier Loss: KWD to IDI=	82
Colly. (Castro): KWD to IDI=	6183
Kern Park: City to IDI=	79
Park at River Walk: City to IDI=	121
Park at River Walk: KWD to IDI=	52
Pion. Proj. Exch. Loss: from RRWSD=	4630
Truxtun Lake: City to IDI=	124
Truxtun Lake: KWD to IDI=	55



CITY OF BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: October 2011 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	36359
LESS NON-CONTRIBUTING CANALS	18446
FOR OTHERS AND FIRST POINT CANALS	17913
TO BE CONTRIBUTED BY OTHER CANALS	676
TO BE USED BY OTHER CANALS	17367
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.5637%)	0
B.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	676
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	676

DIVERSION RIGHT RIVER STAGE	ABT.	NAME OF CANAL	GROSS DIVR	GROSS ENT'L	RELEASES To River	RELEASES Distribution Direct	RELEASES Distribution Prd	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES KRWSD	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES KCC&W Co.	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES KDWD	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES OTHER	EXCHANGES, SALES OR PURCHASES PLUS	EXCHANGES, SALES OR PURCHASES LESS	NET DIVERSIONS KRWSD	NET DIVERSIONS KCC&W Co.	NET DIVERSIONS KDWD	NET DIVERSIONS OTHER	WATER TRANS. LOSS DIR	WATER TRANS. LOSS PRD
		K.C.L. Co. ENT'L @ 2ND PT.		0				0											
309.0	330	KERN ISLAND (1-ST)	7692	18446	17490					8966			779				8913		
		BAKERSIDE	944										944						
		KERN RIVER CONDUIT																	
320.0	20	CASTRO		367															
		KCC&W Co.		861		51			1739		647							4349	
330.0	10.5	SOUTH FORK		673		34												0	0
410.5	83	BUENA VISTA (1-ST)	2903	4630	2904					1795			732				1769	0	23622
530.5	120	JAMES (1-ST)		6173		1378		7379										947	4173
550.5	20	ANDERSON (1-ST)		734		456		1210										26	1500
700.5	153	STINE	4188	3221	2957	1116				1360			2904				1364		
720.5	30	NEAGHAM		254		1474		1728										970	571
800.5	153	FARMERS	1636	466		2311				2916			36				1660		
820.5	40	PLUNKET				1976		1976										1369	294
840.5	40	JOYCE				1870		1870											
1000.5	40	JOHNSON				1734		1734											
1120.5	120	PIONEER (1-ST)				3830		3830											
1190.5	80	BEARDSLEY (1-ST)	635			790					790						635		
		LERDO (KRWSD)	25717										3665	20905	7387			487	4154
1200.5	10	ANDERSON (2-ND)				39		39										0	35640
1240.5	40	JAMES & CIRCH				228		228											
1250.5	10	WILSON				10													
		KCC&W Co.				6			76									3493	53425
1270.5	20	McCAFFREY																	
		McCOMB LERDO 30%																	
1370.5	100	BEARDSLEY 70%																	
		CALLOWAY CENTRAL 20%	3574										3574				0		
2280.5	850	KRWSD 80%	16056											16056					
		RAILROAD KCC&W Co. 20%																	
2420.5	200	KRWSD 80%																	
2510.5	90	BUENA VISTA (2-ND)																	
2690.5	180	JAMES (2-ND)																	
2840.5	150	PIONEER (2-ND)																	
3100.5	340	BEARDSLEY (3 RD)																	
3162.5	64	KERN ISLAND (2-ND)																	
		ROSEDALE RKWSD	241										241						
		TRUSTEM LANDS	735										735						
		JAIL FARM																	
		COUNTY OF KERN																	
		KERN VALLEY GOLF COURSE													93				
		CALIFORNIA WATER SERVICE CO.													78				
		OILDEN MD													7193				
		THE PARK AT RIVER WALK	133												63				
		WILSON DITCH	861										123						
		2906 ACRES SPREADING	5167										861						
		RWD FOR KCWA											1559		3628				
		BVWSD VIA CWD																1873	
		KWD/KCWA VIA RWMWSD											7612						
		KERN WATER BANK CANAL	582										3445						
		KRWSD FOR CWD											241						
		BVWSD VIA FOR KDWD (REG/MWD)													582				
		PIONEER PROJECT	4960										5437					1470	
		BVWSD FOR LA HACIENDA, INC.												4972					
		RWD FOR IDI											78	78					
		RWD FOR KDWD											7934					4094	
TOTALS		1373	75093	36713	17361	17361	0	29074	1745	13947	1347	27909	30223	34953	9849	11726	843	11725	0
		LOSS	12353	676														11725	
FLOW AT FIRST POINT		1372	87446	36389															

ISABELLA RESERVOIR IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
42	2500	42	0	2500
0	0	0	0	0
0	23622	398	10063	13172
947	4173		0	4920
26	1500	26	0	1500
970	571	12	924	555
1369	294	20	113	1500
487	4154	76	420	4135
0	35640	892	16879	38359
3493	53425	1277	29399	57141

TOTAL CHANGE IN STORAGE = -26284

NOTES:

Kern Island Exch. Loss: from BVWSDr	288
Kern Island Exch. Loss: from RRS&W (MWD)=	424
Eastside Exch. Loss: from BVWSDr	458
Eastside Exch. Loss: from RRS&W (MWD)=	488
Buena Vista Exch. Loss: from BVWSDr	725
Buena Vista Exch. Loss: from RRS&W (MWD)	17
Stine Exch. Loss: from BVWSDr	1021
Stine Exch. Loss: from RRS&W (MWD)=	1772
Farmers Exch. Loss: from KRWSD=	78
BRBWSD; RWD for KDWD=	241
Lerdo (KRWSD); City to CWD (Misc.)=	1307
Lerdo Exch. Loss: KRWSD via CWD=	3665
Calty: (Calwax); RWD for IDI=	3874
Bear Acres Exch. Loss: BVWSD for KDWD=	181
Bear Acres; RWD for KDWD=	1208
River Loss; RWD for IDI=	3565
River Loss; RWD for KDWD=	1813
River Loss Exch. Loss: BVWSD for KDWD=	1470
Carrier Loss; RWD for IDI=	336
Park at River Walk; RWD for IDI=	133
Trustem Lds; RWD for IDI=	735
Pion. Proj. Exch. Loss: BVWSD for KDWD=	1571
Pion. Proj. Exch. Loss: RWD for KDWD=	3346
Wilson Ditch; RWD for KDWD=	861

CITY OF BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

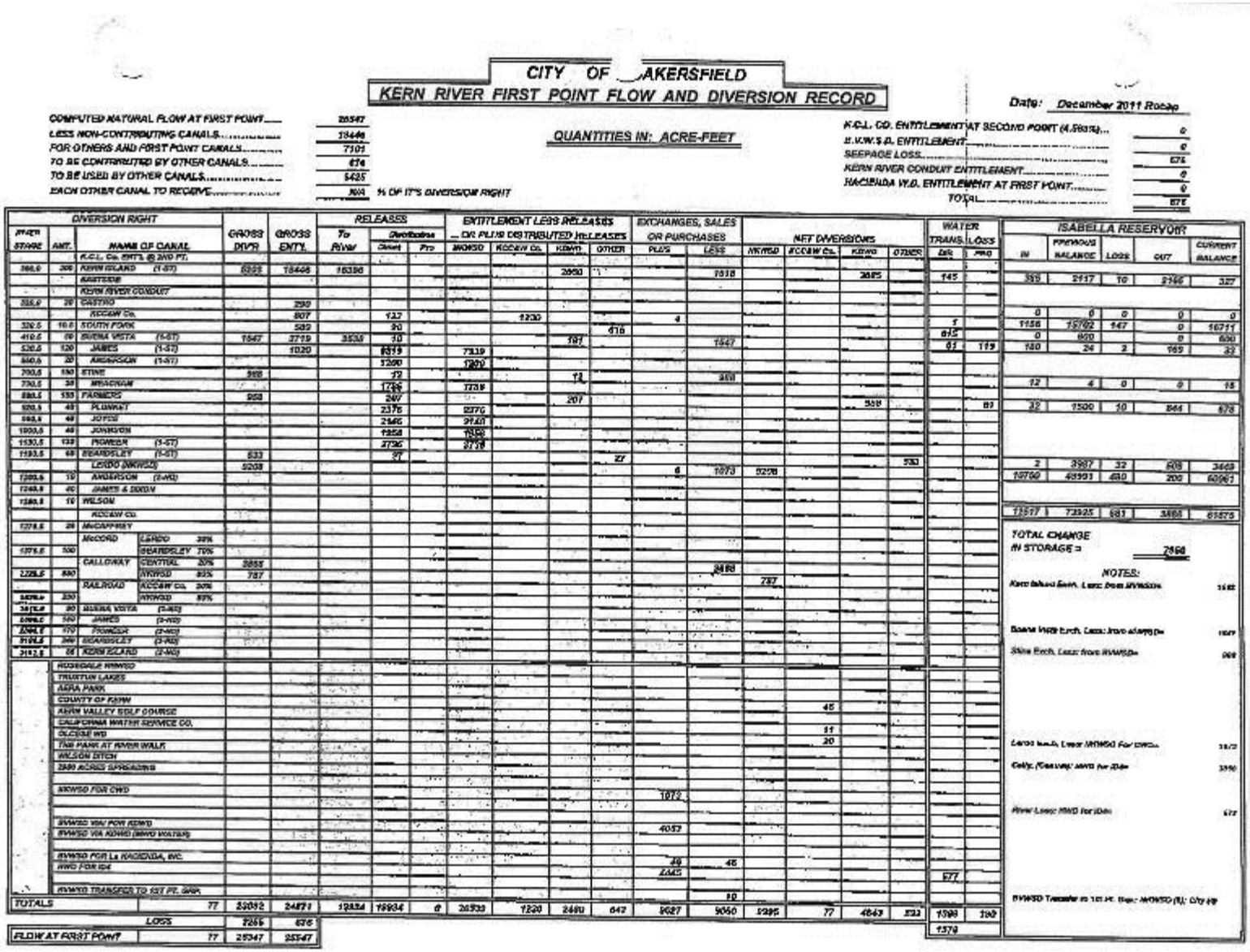
Date: November 2011 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT..... 29445
LESS NON-CONTRIBUTING CANALS..... 17857
FOR OTHERS AND FIRST POINT CANALS..... 11534
TO BE CONTRIBUTED BY OTHER CANALS..... 655
TO BE USED BY OTHER CANALS..... 10339
EACH OTHER CANAL TO RECEIVE..... N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.465%)... 0
B.V.W.S.D. ENTITLEMENT..... 0
SEEPAGE LOSS..... 655
KERN RIVER CONDUIT ENTITLEMENT..... 0
RACINDIAN W.D. ENTITLEMENT AT FIRST POINT..... 0
TOTAL..... 655

DIVERSION RIGHT					RELEASES			ENTITLEMENT LESS RELEASES OR PLUS DISTRIBUTED RELEASES				EXCHANGES, SALES OR PURCHASES		NET DIVERSIONS				WATER TRANS. LOSS		ISABELLA RESERVOIR				
ANNUAL 29445	CAP.	NAME OF CANAL	GROSS DIVR.	GROSS DIVTL.	To River	Distribution Direct	Pro	KRWD	KCC&W Co.	KRWD	OTHER	PLUS	LESS	KRWD	KCC&W Co.	KRWD	OTHER	GR	PRO	W	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
29445	350	K.C.L. CO. (WPT. @ 2ND PT.)	0	0				0																
3000	350	KERN ISLAND (1-57)	4000	17857	14476					3375			579			2729				24	4500	28	378	7177
		BAKERS	414										414											
2000	20	KERN RIVER CONDUIT																		0	0	0	0	0
2000	20	LOSING		258																4872	13172	186	2794	18702
1365	N/A	ACCUFF CO.		823		69		1199				4845						672		625	4500		4425	606
2015	85	SOUTH FORK		869		29							4845											
4333	135	BUENA VISTA (1-57)	1962	4413	4177						626		614			1389			375	4	1500	9	1471	24
2515	75	JAMES (1-57)		4439		2707		2740																
2515	75	ANDERSON (1-57)		777		360		1757			22		952			417			153	0	255	3	545	4
7315	29	BEARDSLEY		2105	192	0		1798																
9615	100	FARMERS		811		421					627					514				16	1500	16	0	1500
3315	45	PLANTER				2577		2577																
945	45	JOYCE				2168		2168																
10008	40	JOHNSON				2193		2193																
9135	120	PUMAN (1-57)				5221		5078		122										287	4755	46	393	3167
11745	40	BEARDSLEY (1-57)		597		495							499				537			11579	38166	467	0	48891
		LERDO (WPPD)		11771										10079	1781									
1205	40	ANDERSON (ZIM)				30		30																
1205	40	JAMES & DIXON																						
12868	40	WILSON																						
1276	25	MCCAUTHEY																						
		ACCUFF CO.																		17351	67167	778	4035	31725
1276	160	RECORD	LERDO 30%																					
1276	160	CALLOWAY	BAKERSLEY 70%	3154									3134											
1234	695		CENTRAL 24%																					
		HOLLWOOD	KWD 40%																					
1435	200		ACCUFF CO. 36%																					
3315	90	BUENA VISTA (3-NO)																						
2515	150	JAMES (3-NO)																						
2515	175	JOHNSON (3-NO)																						
2515	240	BEARDSLEY (3-NO)																						
3152	40	MURRIETA (3-NO)																						
		POTENTIAL PERMITTED																						
		TRUSTEE LANDS	103											103										
		ARVIN PARK																						
		COUNTY OF KERN														65								
		KERN VALLEY GOLF COURSE														6								
		CALIFORNIA WATER SERVICE CO.														933								
		OLCESE PID														35								
		THE PARK AT RIVER WALK	87													87								
		1830 ACRES SPREADING																						
		WHO FOR IRM												3676					549					
		KWBD YEAR FOR KERN ISLAND												3459										
		KWBD FOR LAMONDA, INC.																						
TOTALS			1098	24309	23799	19645	0	21838	1312	4640	1129	11002	10480	10079	3026	1345	597	354	469					
		LOSS		2377	618													1422						
FLOW AT FIRST POINT			1035	24983	29445																			



CITY OF BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: December 2011 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	25547
LESS NON-CONTRIBUTING CANALS	18446
FOR OTHERS AND FIRST POINT CANALS	7101
TO BE CONTRIBUTED BY OTHER CANALS	674
TO BE USED BY OTHER CANALS	5435
EACH OTHER CANAL TO RECEIVE	100 % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.583%)	0
B.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	674
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	674

DIVERSION RIGHT				GROSS DIVR	GROSS ENTY.	RELEASES To River	RELEASES Deductions Canal	RELEASES Deductions Pro	ENTITLEMENT LESS RELEASES OR PLUS DISTRIBUTED RELEASES IKWSD	ENTITLEMENT LESS RELEASES OR PLUS DISTRIBUTED RELEASES KCC&W Co.	ENTITLEMENT LESS RELEASES OR PLUS DISTRIBUTED RELEASES KDWD	ENTITLEMENT LESS RELEASES OR PLUS DISTRIBUTED RELEASES OTHER	EXCHANGES, SALES OR PURCHASES PLUS	EXCHANGES, SALES OR PURCHASES LESS	NET DIVERSIONS IKWSD	NET DIVERSIONS KCC&W Co.	NET DIVERSIONS KDWD	NET DIVERSIONS OTHER	WATER TRANS. LOSS Left	WATER TRANS. LOSS Right
		K.C.L. Co. EXT'S @ 2ND PT.																		
366.0	300	KERN ISLAND (1-ST)		6203	18446	18396					2950			7938			3685		145	
		ARTESIAN																		
		KERN RIVER CONDUIT																		
336.0	20	CASTRO			299															
		KCC&W Co.			807		127			1230			4							
326.5	10.5	SOUTH FORK			582		30					418							1	
410.5	69	BUENA VISTA (1-ST)		1547	3719	3538	30				781			1547					615	
520.5	120	JAMES (1-ST)			1020		8319		7339										0	
540.5	20	ANDERSON (1-ST)					1290		1209										180	119
700.5	160	STINE		388			72				72			388						
730.5	30	MEACHAM					1739		1739										12	
880.5	150	FARMERS		958			240				207						598			89
920.5	40	PLUNKET					2376		2376										22	
960.5	40	JOYCE					2646		2646											
1000.5	40	JOHNSON					1258		1258											
1130.5	130	PIONEER (1-ST)					3726		3726											
1193.5	63	BEARDSLEY (1-ST)		533			97					27						533		
		LERDO (IKWSD)		5208									6	1073	5208				2	3987
1200.5	70	ANDERSON (2-ND)																	19799	49593
1240.5	40	JAMES & 2000 M																		
1280.5	10	WILSON																	73577	73925
		KCC&W Co.																		
1278.5	28	McCARTNEY																		
		McCORD LERDO 39%																		
1378.5	100	BEARDSLEY 70%																		
		CALLOWAY CENTRAL 20%		3855										3488						
1228.5	850	IKWSD 93%		787											787					
		RAILROAD KCC&W Co. 20%																		
1078.5	350	IKWSD 93%																		
1078.5	30	BUENA VISTA (2-ND)																		
1208.5	130	JAMES (2-ND)																		
1248.5	170	PIONEER (2-ND)																		
1318.5	200	BEARDSLEY (2-ND)																		
2112.5	64	KERN ISLAND (2-ND)																		
		HIGHGATE IKWSD																		
		TRUETIAN LAKES																		
		AERA PARK																		
		COUNTY OF KERN																		
		KERN VALLEY GOLF COURSE														45				
		CALIFORNIA WATER SERVICE CO.																		
		OILDALE WD														11				
		TAR PARK AT RIVER WALK														20				
		WILSON DITCH																		
		2000 ACRES SPREADING																		
		IKWSD FOR CWD																		
														1072						
		IKWSD VIA POIX (KDWD)																		
		IKWSD VIA KDWD (IKWD WHEELING)												4057						
		IKWSD FOR La HACIENDA, WD.												40	45					
		IKWD FOR ISA												2445						
																			577	
		IKWSD TRANSFER TO 1ST PT. SWP.													10					
TOTALS			77	23092	24871	19934	19934	0	26933	1230	2480	642	9627	9050	5995	77	4643	533	1599	160
		LOSS		2255	636														1579	
FLOW AT FIRST POINT			77	25347	25547															

ISABELLA RESERVOIR					
IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE	
355	2917	10	2746	327	
0	0	0	0	0	
1158	15702	147	0	16711	
0	600		0	600	
180	24	2	169	32	
12	4	0	0	16	
22	1500	10	864	678	
2	3987	32	605	3469	
19799	49593	480	200	69961	
73577	73925	681	3468	81575	

TOTAL CHANGE IN STORAGE = 2568

NOTES:

Kern Island Exch. Less: from IKWSD 1442

Buena Vista Exch. Less: from IKWSD 1547

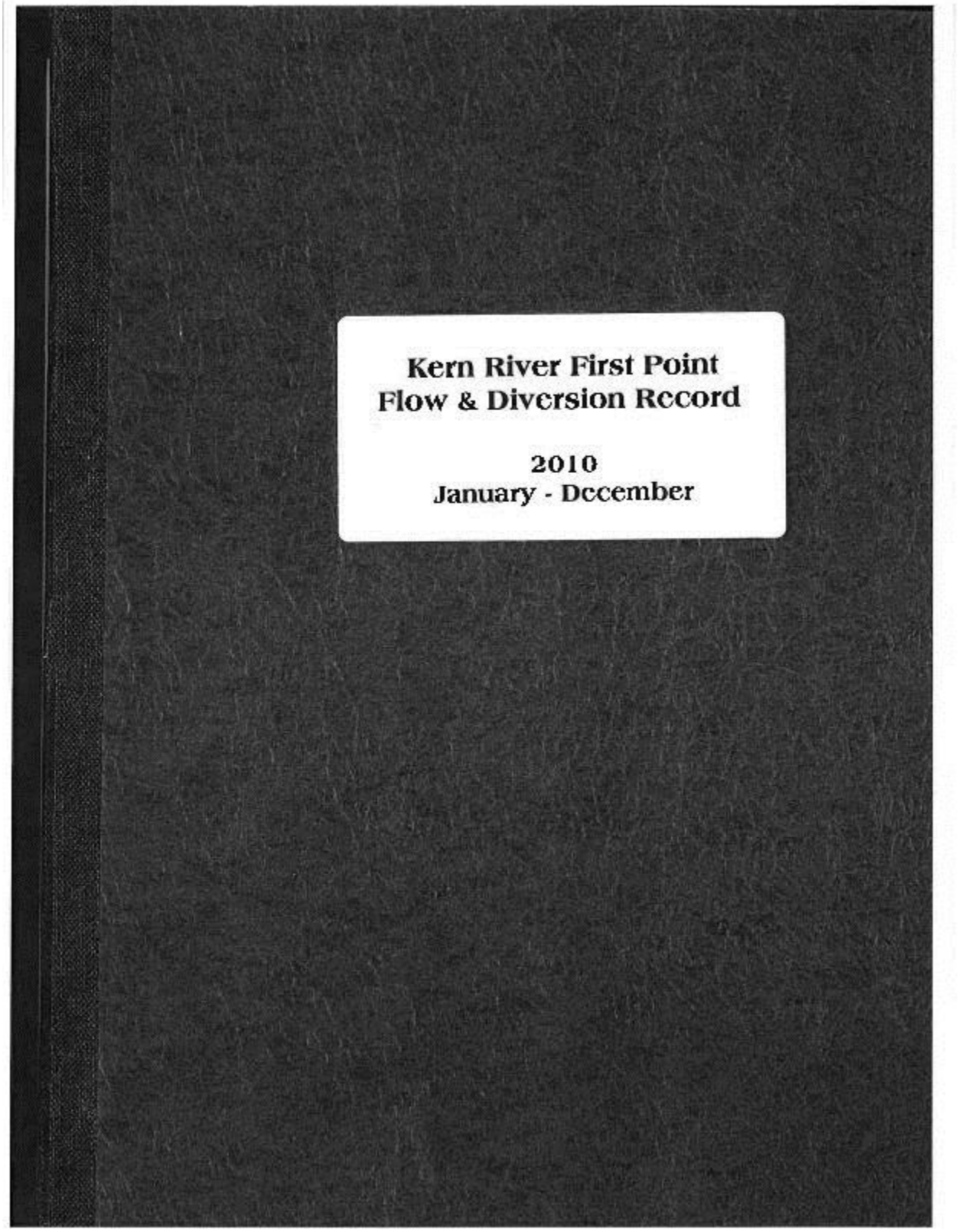
Stine Exch. Less: from IKWSD 388

Lerdo Exch. Less: IKWSD For CWD 1072

Calif. Canal Less: IKWD for ISA 2445

River Less: IKWD for ISA 577

IKWSD Transfer to 1st Pt. Rec: IKWSD (I); City of


Kern River First Point
Flow & Diversion Record
2010
January - December

CITY OF BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: January 2010 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	25486
LESS NON-CONTRIBUTING CANALS	18353
FOR OTHERS AND FIRST POINT CANALS	7133
TO BE CONTRIBUTED BY OTHER CANALS	676
TO BE USED BY OTHER CANALS	6457
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.583%)	0
R.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	676
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	676

DIVERSION RIGHT				GROSS DIVR	GROSS ENT'L	RELEASES To River	RELEASES Distribution Direct	RELEASES Distribution Pro	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES NKWSD	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES KCC&W Co.	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES KDWD	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES OTHER	EXCHANGES, SALES OR PURCHASES PLUS	EXCHANGES, SALES OR PURCHASES LESS	NET DIVERSIONS NKWSD	NET DIVERSIONS KCC&W Co.	NET DIVERSIONS KDWD	NET DIVERSIONS OTHER	WATER TRANS. LOSS DIR	WATER TRANS. LOSS PRO
RIVER STAGE	ANT.	NAME OF CANAL																		
		K.C.L. Co. ENT'L @ 2ND PT.																		
330.0	300	KERN ISLAND (1-ST)		5445	18363	9060					9653		897				8142		138	162
		EASTSIDE																		
		KERN RIVER CONDUIT																		
330.5	20	CASTRO			210		97													
		KCC&W Co.			687		325			1320				359						
330.5	70.5	SOUTH FORK			373	373														
410.5	80	BUENA VISTA (1-ST)		273	2541	2194					347						273			56
530.5	120	JAMES (1-ST)			2230		6280		7510										779	1232
550.5	20	ANDERSON (1-ST)			123		815		961											
705.5	155	STINE		821	383	727	539										621			121
735.5	30	MARICHAK					1195		1195										114	634
883.5	150	FARMERS		39			20				20						39			
883.5	40	PLUNKET					1102		1102										0	1484
883.5	40	JOYCE					1103		1103											
5000.5	40	JOHNSON					577		577											
1130.5	130	PIONEER (1-ST)					1007		1007											
1190.5	90	BEARDSLEY (1-ST)		725																
		LERDO (NKWSD)		1258													48	77	0	314
1200.5	50	ANDERSON (2-ND)					20		20				359		1098	159			11295	41437
1240.5	40	JAMES & DIXON					15		15											
1280.5	40	WALKER																		
		KCC&W Co.																	13944	45967
1370.5	50	McCAFFREY																		
		McCORD LERDO 30%																		
1370.5	165	BEARDSLEY 70%																		
		CALLOWAY CENTRAL 20%		1789																
2130.5	650	NKWSD 80%												1905		95			232	
		RAILROAD KCC&W Co. 20%																		
2420.5	300	NKWSD 80%																		
2910.5	50	BUENA VISTA (2-ND)																		
2960.5	580	JAMES (2-ND)																		
3490.5	170	PIONEER (2-ND)																		
3700.5	240	BEARDSLEY (3-RD)																		
3162.5	65	KERN ISLAND (2-ND)																		
		ROSEDALE RANNS																		
		TRUXTUN LAKES		29																
		NORTH LAKE												20					23	
		COUNTY OF KERN																		
		KERN VALLEY GOLF COURSE														28				
		CALIFORNIA WATER SERVICE CO.																		
		OLCESE WD														452				
		THE PARK AT RIVER WALK														4				
		NKWSD FOR ID4																		
														1831					883	
TOTALS				484	9532	24910	12554	12964	0	13265	1230	9716	0	2897	2044	1098	786	7066	77	881	339
		LOSS			1936	575													1320	
FLOW AT FIRST POINT				484	11538	25486														

ISABELLA RESERVOIR					
W	PREVIOUS BALANCE	LOSS	OUT	OVERFLAT BALANCE	
3271	240	12	230	3279	
0	0	0	0	0	
85	3920	33	0	3973	
0	600		0	600	
779	1232	12	161	1328	
114	634	6	0	743	
0	1484	12	10	1462	
11295	41437	383	0	52389	
13944	45967	440	468	62997	

TOTAL CHANGE IN STORAGE = 13626

NOTES:

Cnty. Exch. Loss: ID4 from Kern Island 465
River Loss: ID4 from Kern Island 232

Truxtun Lakes Exch. Loss: NKWSD for ID4w 29

Lands (NKWSD): City to NKWSD (Misc.)= 153
Cnty. (Dardis): City Misc.ID4 Water= 86
Lands Exch. Plus: City to NKWSD (Misc.)= 359

Cnty. Exch. Loss: NKWSD for ID4w 1249
River Loss: NKWSD for ID4w 883

Rural Powerplant Withholdings 6910

CITY OF BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: August 2010 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	29341
LESS NON-CONTRIBUTING CANALS	18446
FOR OTHERS AND FIRST POINT CANALS	10895
TO BE CONTRIBUTED BY OTHER CANALS	10895
TO BE USED BY OTHER CANALS	0
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.683%)	167
B.V.W.S.D. ENTITLEMENT	3471
SEEPAGE LOSS	979
KERN RIVER CONDUIT ENTITLEMENT	6581
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	10895

DIVERSION RIGHT				GROSS DIV'R	GROSS ENT'L	RELEASES To River	RELEASES Distribution Direct	RELEASES Distribution Pro	ENTITLEMENT LESS RELEASES +, OR PLUS DISTRIBUTED RELEASES KRWD	ENTITLEMENT LESS RELEASES +, OR PLUS DISTRIBUTED RELEASES KCC&W Co.	ENTITLEMENT LESS RELEASES +, OR PLUS DISTRIBUTED RELEASES KCWD	ENTITLEMENT LESS RELEASES +, OR PLUS DISTRIBUTED RELEASES OTHER	EXCHANGES, SALES OR PURCHASES PLUS	EXCHANGES, SALES OR PURCHASES LESS	NET DIVERSIONS KRWD	NET DIVERSIONS KCC&W Co.	NET DIVERSIONS KCWD	NET DIVERSIONS OTHER	WATER TRANS. LOSS DIST	WATER TRANS. LOSS PRO
RIVER STAGE	AMT.	NAME OF CANAL																		
		K.C.L. Co. ENT'L @ 2ND PT.			167				167											
300.0	200	KERN ISLAND (1-ST)		21764	18446						18446									
		BAKWOR		2548										2253				13691		
		KERN RIVER CONDUIT			6581									1359				7130		
320.0	20	CASTRO								6581										
		KCC&W Co.												16000						
330.0	10.5	SOUTH FORK																	1169	
410.0	80	EUREKA VISTA (1-ST)		5585										1212				4373		
530.0	120	JAMES (1-ST)																		
550.0	20	ANDERSON (1-ST)												6369				1637		
700.0	150	STINE		7056																
720.0	30	MEACHAM												95				3650		
808.0	180	FARMERS		3148																
828.0	40	PLUMMET																		
900.0	40	JOYCE																		
1008.0	45	JOHNSON																		
1130.0	130	PIONEER (1-ST)																		
1190.0	60	BEARDSLEY (1-ST)		914															914	
		LERDO (NKWSD)		33971										10000	4606	22953	6460			
1260.0	10	ANDERSON (2-ND)																		
1240.0	40	JAMES & DIXON																		
1298.0	38	WILSON																		
		KCC&W Co.																		
1278.0	28	McCAFFREY																		
		McCORD LERDO 30%																		
1276.0	169	BEARDSLEY 70%																		
		CALLOWAY CENTRAL 30%		4331																
2228.0	550	NKWSD 55%																3917		574
		RAILROAD KCC&W Co. 20%																	748	
2405.0	280	NKWSD 35%																		
2918.0	80	BUENA VISTA (2-ND)																		
2998.0	530	JAMES (2-ND)																		
3308.0	770	PIONEER (2-ND)																		
3106.0	340	BEARDSLEY (2-ND)																		
3102.0	56	KERN ISLAND (2-ND)																		
		ROSEDALE NKWSD																		
		THUNTON LAKES		72														72		
		AERA PARK		58														58		
		COUNTY OF KERN																177		
		KERN VALLEY GOLF COURSE																34		
		CALIFORNIA WATER SERVICE CO.																1939		
		OLCESE WD																137		
		TYE PARK AT RIVER WALK		58														58		
		WILSON DITCH																		
		5930 ACRES																		
		BVWSD VIA CWD												4606						
		BVWSD VIA KRWD												1902						
		BVWSD VIA KDWD (BWD WATER)												6368						
		NKWSD FOR 104												574						
TOTALS			2177	79693	26194	0	0	0	167	6581	18446	0	30779	24696	22953	12582	29791	1468	5574	
		LOSS		9459	676														7789	0
FLOW AT FIRST POINT			2177	87359	26870														7789	

ISABELLA RESERVOIR				
IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
681	2635	21	2926	369
0	0	0	0	0
0	23910	311	17917	5552
0	2390		0	2390
0	5962	89	4373	1400
0	3173	46	1637	1440
0	4000	64	3650	285
0	9759	228	1488	8043
8315	56562	2290	27566	74002
9596	147341	3049	58978	94912

TOTAL CHANGE IN STORAGE = -52429

NOTES:

Kern Island Exch. Loss: from BVWSD=	1169
Kern Island Exch. Loss: from BVWSD (NKWD)=	1065
Dentside Exch. Loss: from BVWSD=	401
Dentside Exch. Loss: from BVWSD (NKWD)=	738
Buena Vista Exch. Loss: from BVWSD=	103
Buena Vista Exch. Loss: from BVWSD (NKWD)	1109
Stine Exch. Loss: from BVWSD (NKWD)=	8263
Farmers Exch. Loss: from BVWSD (NKWD)=	95
Lerdo (NKWSD): City to CWD (Basic)=	6406
Lerdo Exch. Loss: BVWSD via CWD=	4606
Lerdo Exch. Plus: City to NKWSD (Basic)=	10000
Cally. (Central): City Non-104 Water=	574
Cally. (Central): City to K-TWD=	3917
River Loss: City to K-TWD=	748
Thunton Lake: City to K-TWD=	72
Carrier Loss: City to K-TWD=	58
Park at River Walk: City to K-TWD=	58
Aera Park: City to K-TWD=	58
River Loss to Bellevue: City to K-TWD=	829
River Loss: NKWSD for 104=	5574

CITY OF BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: September 2010 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT.....	15487
LESS NON-CONTRIBUTING CANALS.....	14202
FOR OTHERS AND FIRST POINT CANALS.....	1285
TO BE CONTRIBUTED BY OTHER CANALS.....	655
TO BE USED BY OTHER CANALS.....	630
EACH OTHER CANAL TO RECEIVE.....	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.583%)...	0
B.V.W.S.D. ENTITLEMENT.....	0
SEEPAGE LOSS.....	655
KERN RIVER CONDUIT ENTITLEMENT.....	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT.....	0
TOTAL.....	655

DIVERSION RIGHT				GROSS DIV'R	GROSS ENT'L	RELEASES			ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES				EXCHANGES, SALES OR PURCHASES		NET DIVERSIONS				WATER TRANS. LOSS	
RIVER STAGE	AMT.	NAME OF CANAL				To River	Distributee: Direct	Distributee: Pre	KWWSD	KCC&W Co.	KDWD	OTHER	PLUS	LESS	KWWSD	KCC&W Co.	KDWD	OTHER	DIR	PRO
		K.C.L. Co. ENT'L @ 2ND PT.																		
380.0	330	KERN ISLAND	(1-ST)	13455	14202						14202									
		EASTSIDE		1672										452						
		KERN RIVER CONDUIT												1672						
320.0	20	CASTRO			26															
		KCC&W Co.			75					101										
330.5	10.5	SOUTH FORK			53							53								
450.0	80	BUENA VISTA	(1-ST)	1008	228						228			1008						
638.0	120	JAMES	(1-ST)		228				228											
683.0	25	ANDERSON	(1-ST)																	
700.0	153	STINE		6659										6659						
738.0	30	MEACHAM																		
885.0	155	FARMERS		14																
920.0	40	PLUNKET												966						
926.0	45	JOYCE																		
1040.0	45	JOHNSON																		
1135.0	139	PIONEER	(1-ST)																	
1180.0	83	BEARDSLEY	(1-ST)	744																
		LERDO (KWWSD)		22002														746		
1200.0	10	ANDERSON	(2-ND)										450	7775	14227					
1240.0	40	JAMES & DIXON																		
1253.0	39	WILSON																		
		KCC&W Co.																		
1278.0	38	McCAFFREY																		
		McCORD	LERDO 30%																	
1316.0	165		BEARDSLEY 70%																	
		CALLOWAY	CENTRAL 35%	3521																
2326.0	950		KWWSD 60%											3156				345		
		RAILROAD	KCC&W Co. 25%																	
2426.0	250		KWWSD 40%																	
2515.0	89	BUENA VISTA	(3-RD)																	
2699.0	190	JAMES	(3-RD)																	
2906.0	170	PIONEER	(3-RD)																	
3108.0	240	BEARDSLEY	(3-RD)																	
3162.0	66	KERN ISLAND	(3-RD)																	
		HONEDALE KWWSD																		
		TRUXTUN LAKES																		
		AERA PARK																		
		COUNTY OF KERN																		
		KERN VALLEY GOLF COURSE															142			
		CALIFORNIA WATER SERVICE CO.															30			
		OLCESE WD															1712			
		THE PARK AT RIVER WALK															65			
		WILSON DITCH																		
		#### ACRES																		
		BVWSD VIA CWD																		
													7775							
		BVWSD VIA FOR KDWD																		
		BVWSD VIA KDWD (USWD WATER)																		
													5913							
		BVWSD FOR La HACIENDA, (MC.											770	770						
		KKWSD FOR ID4											7943						787	
TOTALS			2139	49073	14812	0	0	0	228	101	14430	53	22151	21394	14227	1959	12993	1109	831	535
		LOSS		7021	655														1366	
FLOW AT FIRST POINT			2139	61084	15467															

ISABELLA RESERVOIR

IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
1938	569	34	799	1744
0	0	0	0	0
0	6582	187	1868	3527
53	2290		0	2443
187	1400	39	298	1250
0	1440	36	240	1164
0	895	12	460	424
0	8043	196	1109	6738
0	74602	1726	17492	55384
2238	94912	2230	22246	72674

TOTAL CHANGE IN STORAGE = -22238

NOTES:

Kern Island Exch. Loss: from KWWSD (BWD)= 452

Eastside Exch. Loss: from BVWSD (MVID)= 1672

Buena Vista Exch. Loss: from BVWSD (BVID) 1008

Stine Exch. Loss: from KWWSD (BWD)= 6659

Farmers Exch. Loss: from BVWSD (BVID)= 14

Lerdo Exch. Loss: BVWSD via CWD= 7775

Colly. (Central): City Well (14 Wells= 345

KDWD (Farmers) Exch. Flow: to KWWSD= 450

Colly. Exch. Loss: KKWSD for ID4= 3156
River Loss: KKWSD for ID4= 787

CITY OF BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: October 2010 Recap

QUANTITIES IN: S.F.D.

COMPUTED NATURAL FLOW AT FIRST POINT.....	8350
LESS NON-CONTRIBUTING CANALS.....	8247
FOR OTHERS AND FIRST POINT CANALS.....	703
TO BE CONTRIBUTED BY OTHER CANALS.....	341
TO BE USED BY OTHER CANALS.....	362
EACH OTHER CANAL TO RECEIVE.....	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.583%)...	0
B.V.W.S.D. ENTITLEMENT.....	0
SEEPAGE LOSS.....	341
KERN RIVER CONDUIT ENTITLEMENT.....	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT.....	0
TOTAL.....	341

DIVERSION RIGHT				GROSS	GROSS	RELEASES			ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES				EXCHANGES, SALES OR PURCHASES		NET DIVERSIONS				WATER TRANS. LOSS	
RIVER STAGE	ANT.	NAME OF CANAL		DIVR	ENTL	To River	Distribution Direct	Dist Pro	KRWSD	KCC&W Co.	KDWD	OTHER	PLUS	LESS	KRWSD	KCC&W Co.	KDWD	OTHER	DIR	PRO
		K.C.L. Co. ENTL @ 2ND PT.																		
300.0	300	KERN ISLAND (1-ST)		2071	5247	4381					3266			7			2564			
		EASTSIDE		646										646						
		KERN RIVER CONDUIT																		
320.0	20	CASTRO			24		115													
		KCC&W Co.			71		367			570										
330.5	10.5	SOUTH FORK			46		249					294								
410.5	80	McKAM VISTA (1-ST)		294	213	212	161				182			294					45	
530.5	120	JAMES (1-ST)			9		2505		2815											
550.5	20	ANDERSON (1-ST)					341		341											
700.5	150	STINE		606			208				209			606						
730.5	30	MEACHAM					208		208										25	
880.5	150	FARMERS					546				549									
930.5	50	PLUMMER					49		49											
990.5	60	JOYCE					60		60											
1030.5	40	JOHNSON					71		71											
1130.5	100	PIONEER (1-ST)																		
1190.5	60	BEARDSLEY (1-ST)		392														392		
		LERDO (KRWSD)		6327										1792	4539					
1200.5	50	ANDERSON (2-ND)																		
1240.5	40	JAMES & DUTOR																		
1291.5	10	WILSON																		
		KCC&W Co.																		
1276.5	20	McCAFFREY																		
		McCORD LERDO 30%																		
1278.5	100	BEARDSLEY 70%																		
		CALLOWAY CENTRAL 20%		1630										1457				173		
2128.5	850	KRWSD 80%																		
		RAILROAD KCC&W Co. 20%																		
2428.5	300	KRWSD 80%																		
2515.5	95	SIERRA VISTA (2-ND)																		
2685.5	180	JAMES (2-ND)																		
2865.5	170	PIONEER (2-ND)																		
2165.5	240	BEARDSLEY (2-ND)																		
2182.5	05	KERN ISLAND (2-ND)																		
		ROSEDALE KRWSD																		
		TRUXTUN LAKES																		
		AERA PARK																		
		COUNTY OF KERN																		
		KERN VALLEY GOLF COURSE														60				
		CALIFORNIA WATER SERVICE CO.														5				
		OLCESE WD														637				
		THE PARK AT RIVER WALK														24				
		WILSON DITCH																		
		2350 ACRES																		
		SVWSD VIA CWD											1792							
		SVWSD VIA/ FOR KDWD																		
		SVWSD VIA KDWD (KRWD WATER)											1053							
		KRWSD FOR IDd											1983						526	
TOTALS			706	12700	8809	3193	5193	0	3545	576	4250	294	5316	4792	4539	706	2564	565	626	71
		LOSS		938	341														697	
FLOW AT FIRST POINT			706	11859	8559															

ISABELLA RESERVOIR				
IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
402	880	27	0	1351
0	0	0	0	0
5	1778	59	144	1589
584	1232		0	1526
159	622	13	22	756
206	583	12	25	756
546	214	6	0	755
0	3397	56	565	2777
40	27918	457	3917	24484
1555	39628	676	3774	33904

TOTAL CHANGE IN STORAGE = -2735

NOTES:

Kern Island Exch. Less: from KVWSD (SWID)= 7

Rentable Exch. Less: from SVWSD (SWID)= 646

Mckam Vista Exch. Less: from SVWSD (SWID) 294

Stine Exch. Less: from KVWSD (KRWD)= 606

Lerdo Exch. Less: Krwsd via CWD= 1792

Calty. (Castro): City Non-IDd Water= 173

Calty. Exch. Less: KRWSD for IDd= 1457

River Loss: KRWSD for IDd= 526

CITY OF BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: November 2010 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	19212
LESS NON-CONTRIBUTING CANALS	17391
FOR OTHERS AND FIRST POINT CANALS	1821
TO BE CONTRIBUTED BY OTHER CANALS	685
TO BE USED BY OTHER CANALS	1136
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.5639%)	0
B.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	555
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	555

DIVERSION RIGHT: RIVER STAGE	ANT.	NAME OF CANAL	GROSS DIVR	GROSS ENT'L	RELEASES: To River	Distribution: Direct	Pro	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES: KRWSD	KCC&W Co.	KDWD	OTHER	EXCHANGES, SALES OR PURCHASES: PLUS	LESS	NET DIVERSIONS: KRWSD	KCC&W Co.	KDWD	OTHER	WATER TRANS. LOSS: DIR	PRO
		K.C.L. Co. ANT'L @ 2ND PT.																	
305.0	250	KERN ISLAND (1-ST)	3648	77391	74018					3375			32			3616			
		EASTSIDE	774										774						
		KERN RIVER CONDUIT																	
326.0	35	CAETWO		93		204													
		KCC&W Co.		272		611			1190			3052							
336.5	10.5	SOUTH FORK		171		455					626		3052						
414.5	80	BUENA VISTA (1-ST)		621	527	12				15									
535.5	120	JAMES (1-ST)				7740		7740											
660.5	25	ANDERSON (1-ST)				1190		1190											
700.5	180	STINE				16													
730.5	30	BEACHAM				1785		1785		15									
880.5	150	FARMERS				10													
920.5	40	PLUMMER				1868		1868		15									
960.5	40	JOYCE				853		853											
1055.5	45	JOHNSON				415		415											
1135.5	130	PIONEER (1-ST)				78		70											
1155.5	60	BEARDSLEY (1-ST)	535																
		LERDO (NKWSD)	7250												4		691		
1295.5	70	ANDERSON (2-ND)											2418	4842					
1345.5	40	JAMES & DIXON																	
1294.5	10	WILSON																	
		KCC&W Co.																	
1275.5	25	McCAFFREY																	
		McCORD LERDO 39%																	
1279.5	100	BEARDSLEY 70%																	
		CALLOWAY CENTRAL 20%	2905																
2229.5	800	NKWSD 83%											2339				219		
		RAILROAD KCC&W Co. 20%																	
2429.5	200	NKWSD 80%																	
2519.5	90	BUENA VISTA (2-ND)																	
2649.5	130	JAMES (2-ND)																	
2859.5	170	PIONEER (2-ND)																	
3169.5	240	BEARDSLEY (3-RD)																	
3187.5	50	KERN ISLAND (2-ND)																	
		ROSEDALE RKWD																	
		TRUXTUN LAKES	63										63					78	
		AERA PARK																	
		COUNTY OF KERN																	
		KERN VALLEY GOLF COURSE													86				
		CALIFORNIA WATER SERVICE CO.													2				
		OLCESE WD													364				
		THE PARK AT RIVER WALK													15				
		WILSON DITCH																	
		2800 ACRES																	
		BVWSD VIA CWD										2418							
		BVWSD VIA FOR KDWD																	
		BVWSD VIA KDWD (MWD WATER)										809							
		NKWSD FOR ID4										3387						816	
TOTALS		1070	14836	18658	14643	14643	0	13377	1190	3428	626	9503	8878	4842	1074	3516	850	885	0
		LOSS	1640	555														816	
FLOW AT FIRST POINT		1070	16378	19212															

ISABELLA RESERVOIR

IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
25	2500	20	166	2339
0	0	0	0	0
3762	3149	87	4	6226
505	2027		3032	500
15	1500	15	0	1500
15	1500	15	0	1500
15	1438	15	0	1508
0	5510	57	550	4903
5238	49563	525	40	53223
5080	67247	740	4092	71495

TOTAL CHANGE IN STORAGE = 4249

NOTES:

Kern Island Exch. Loss: from BVWSD (BWID)= 32

Eastside Exch. Loss: from BVWSD (BWID)= 774

Truxtun Lake: NKWSD for IDs= 63
Center Lake: NKWSD for IDs= 78

Lerdo Exch. Loss: BVWSD via CWD= 2418

Calty. (Central): City Non-ID4 Water= 219

Calty. Exch. Loss: NKWSD for IDs= 3339
River Loss: NKWSD for IDs= 808

South Fork transfer to City: In excess of carryover storage requirements= 3052

CITY OF BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: December 2010 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	129540
LESS NON-CONTRIBUTING CANALS	18440
FOR OTHERS AND FIRST POINT CANALS	111084
TO BE CONTRIBUTED BY OTHER CANALS	25239
TO BE USED BY OTHER CANALS	85850
EACH OTHER CANAL TO RECEIVE	N/A

% OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.663%)	1121
B.V.W.S.D. ENTITLEMENT	23441
SEEPAGE LOSS	676
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	25238

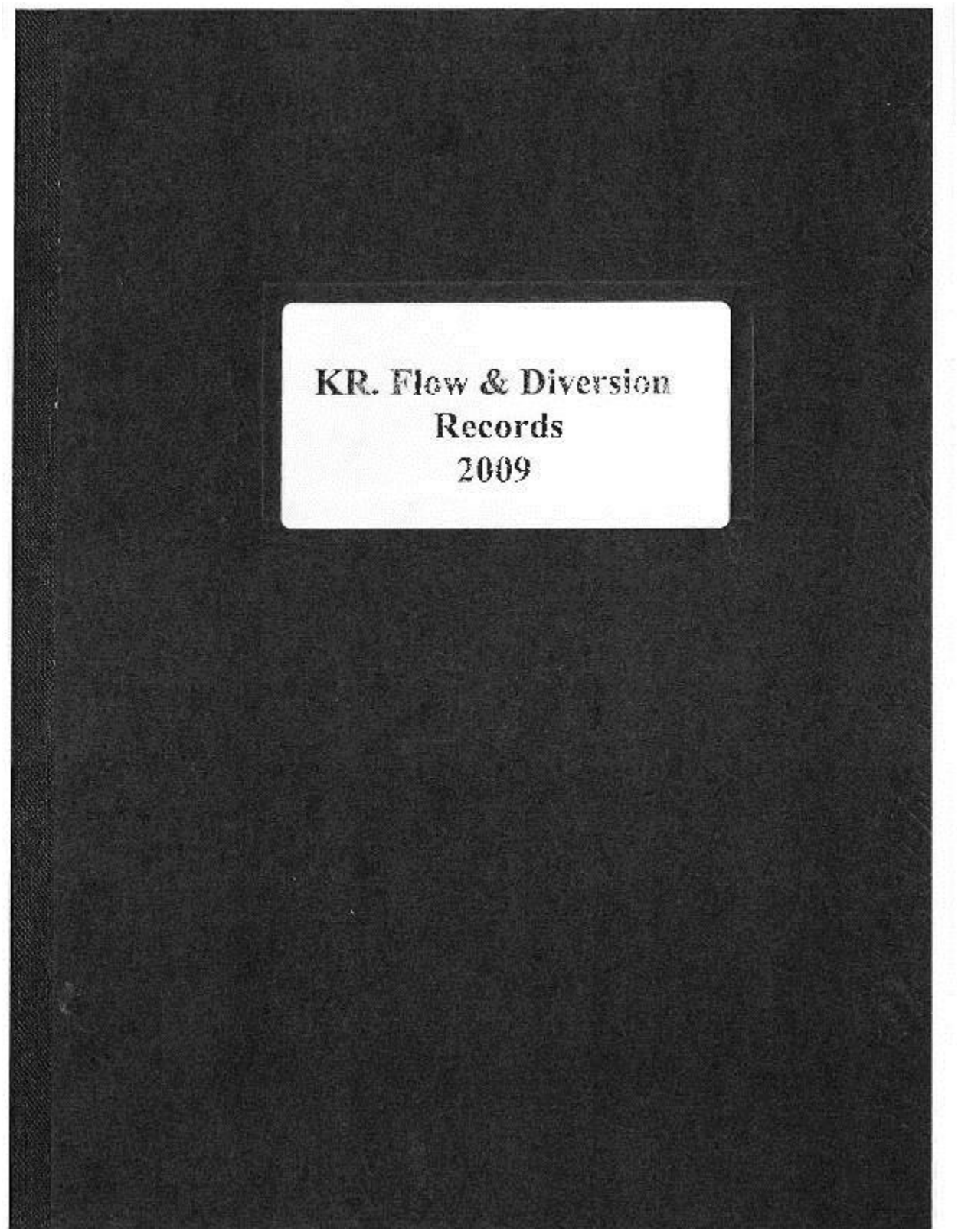
DIVERSION RIGHT: River Stage	Amt.	Name of Canal			GROSS Div'r	GROSS Ent'l	RELEASES: To River	Distribution: Direct	Pro	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES: NKWSD	KCC&W Co.	KDWD	OTHER	EXCHANGES, SALES OR PURCHASES: PLUS	LESS	NET DIVERSIONS: NKWSD	KCC&W Co.	KDWD	OTHER	WATER TRANS. LOSS: D/R	PRO
		K.C.L. Co. ENT'L @ 2ND PT.				1121															
288.0	300	KERN ISLAND	(1-ST)		4575	20834	18903					2050									
		EASTSIDE			477										1127				3646		
		KERN RIVER CONDUIT													417						
336.0	39	CASTRO				335		16	34												
		KCC&W Co.				934		105	97			1521									
338.0	16.5	SOUTH FORK				657	161	30								6				19736	
418.8	80	BUENA VISTA	(1-ST)			4941	4921							516						616	
438.5	129	JAMES	(1-ST)			5238		3102	789	8219	2920		10								
554.4	29	ANDERSON	(1-ST)			735		453	133	1035	488										
700.5	150	STINE			809	5162	5153	12					12								
735.0	30	MERCHAN				3077		1047	196	1581	720										
886.5	150	FAIRVIEW			734	5080	5069	267					207								
908.6	60	PLUNKET				1357		1343	264	1891	373										
952.5	40	JOYCE				1357		1224	264	1726	1126										
1030.5	40	JOHNSON				1357		1121	264	1506	1242										
1130.5	120	PIONEER	(1-ST)			4401		2035	853	3266	4024										
1190.8	60	BEARDSLEY	(1-ST)		264	2027		367	393					2777							
		LERDO	(RKWSD)		5236										583					294	
1200.5	10	ANDERSON	(2-ND)			339		59	67	153	311				567	2166	3803			2166	
1240.5	40	JAMES & DIXON				1357		179	264	657	1242										
1240.5	99	WILSON				189		30	40												
		KCC&W Co.				149		9	26		442										
1276.5	39	MCCAFFREY				579		62	177	307	811										
		McCORD	LERDO	30%		944		131	198	341	932										
1276.5	195		BEARDSLEY	70%		2198		307	459					2367							
		CALLOWAY	CENTRAL	38%	1329	4545		1536	1717		7156				1162					167	
3286.5	853		NKWSD	62%	4818	18182		5183	4451	7656	29140					4818					
		RAILROAD	KCC&W Co.	38%		904		290	284		1456										
3426.8	358		NKWSD	62%		3524		881	1049	1967	3727										
3516.5	99	BUENA VISTA	(2-ND)			2935	2036														
3556.5	183	JAMES	(2-ND)			3929		536	1782	2033	4016										
3666.8	178	PIONEER	(2-ND)			3562		560	1711	1916	3316										
3706.5	249	BEARDSLEY	(3-ND)			4829		591	1673												
3763.8	58	KERN ISLAND	(3-ND)			1079	1078							7103							
		ROSEDALE RKWSD			4149													4149			
		TRUXTUN LAKES																			
		AERA PARK																			
		COUNTY OF KERN																			
		KERN VALLEY GOLF COURSE																42			
		CALIFORNIA WATER SERVICE CO.																			
		OLCESW WD																756			
		THE PARK AT RIVER WALK																0			
		WILSON DITCH			155																
		2800 ACRES SPREADING			2745													168			
		FIRST POINT PASSING 2ND POINT			2901													2745			
		BVWSD VIA CWD																2901			
																2166					
		BVWSD VIA FOR KDWD																			
		BVWSD VIA KDWD (BWD WATER)																			
		BVWSD VIA PIONEER PROJECT														1758					
		NKWSD FOR IDs																		501	
																1538				438	
		BVWSD TRANSFER TO 1ST PT. GRP.																			
																	10				
TOTALS				843	33251	105423	37243	21978	15268	32800	58987	7279	13357	6716	5879	8721	12793	4877	2517	12511	0
			LOSS		12588	676														12511	
FLOW AT FIRST POINT				843	46438	105099															

ISABELLA RESERVOIR: IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
173	3333	12	1699	804
0	0	0	0	0
34241	6226	73	800	39594
0	800		0	800
10	1500	10	0	1500
2	1509	8	667	927
21	1505	8	647	886
10004	4603	38	361	14256
29713	57233	375	6945	79626
74164	71430	524	10572	134523

TOTAL CHANGE IN STORAGE = 63038

NOTES:

Kern Island Exch. Loss: from BVWSD (RKWSD)= 1127
Eastside Exch. Loss: from BVWSD (RKWSD)= 417
Stine Exch. Loss: from BVWSD (RKWSD)= 533
Fairview Exch. Loss: from BVWSD (RKWSD)= 2
RSDWSD: City to RSDWSD= 4149
Lerdo Exch. Loss: BVWSD via CWD= 2166
Lerdo (NKWSD) - Other: KCC&W 30% Exch= 2837
Calty. (Central): City Non-ADM Water= 167
River Loss: BVWSD via Pioneer Project = 501
River Loss: NKWSD for IDs= 438
Calty. Exch. Loss: NKWSD for IDs= 1163
BVWSD Transfer to 1st Pt. Grp.: NKWSD (4); City (6)
NKWSD/KCC&W Co. Ent'l: Reflects release to City (in excess of Maximum Diversion Right) = 46508


KR. Flow & Diversion
Records
2009

CITY OF BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: January 2009 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	23568
LESS NON-CONTRIBUTING CANALS	18357
FOR OTHERS AND FIRST POINT CANALS	5211
TO BE CONTRIBUTED BY OTHER CANALS	676
TO BE USED BY OTHER CANALS	4535
EACH OTHER CANAL TO RECEIVE	#VA % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.583%)	0
B.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	676
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	676

DIVERSION RIGHT				GROSS	GROSS	RELEASES		ENTITLEMENT LESS RELEASES				EXCHANGES, SALES OR PURCHASES		NET DIVERSIONS				WATER TRANS. LOSS		ISABELLA RESERVOIR				
RIVER STAGE	ANT.	NAME OF CANAL		DIVR	ENTL	To River	Distribution Direct	Pro	... OR PLUS DISTRIBUTED RELEASES BVWSD	KCCEW Co.	KDWD	OTHER	PURE	LOSS	BVWSD	KCCEW Co.	KDWD	OTHER	OUT	PAID	IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
		K.C.L. Co. ENT'L @ 1ND PT.																							
300.0	200	KERN ISLAND (1-ST)		8267	18357	9894					8433		571	569			8270		204	71	671	521	19	773	459
		EASTSIDE																							
		KERN RIVER CONDUIT																							
330.0	25	CASTRO			274		53														0	0	0	0	0
		KCCEW Co.			675		348			1220				172					28		65	13035	107	0	12914
330.5	10.5	SOUTH FORK			379	379															0	500		9	491
410.5	80	BUENA VISTA (5-ST)		238	1631	1394					347						728			58	144	278	4	82	336
420.5	133	JAMES (1-ST)			1022		6218		7240																
555.5	75	ANDERSON (1-ST)			151		922		1083																
780.5	155	STINE			949	506					58										58	88	2	0	144
720.5	25	BEACHAM					1307		1307																
880.5	160	FAIRVIEW		77										77							0	68	0	0	48
930.5	40	PLOWGET					1039		595	44															
960.5	40	JOPSON					992		992																
1000.5	40	JOHNSON					549		549																
1130.5	130	PIONEER (1-ST)					860		869																
1390.5	60	BEARDSLEY (1-ST)		736													63		72		0	5208	67	72	4969
		LANDO (NKWSD)		1745									172	22	1675	48					10026	39498	563	121	48040
1295.5	70	ANDERSON (2-ND)																							
1365.5	40	JAMES & SOUTH																							
1395.5	70	WILSON																							
		KCCEW Co.																							
1275.5	25	MCCAFFREY																							
		MACORD	LANDO 20%																						
1375.5	100		BEARDSLEY 70%																						
		CALLOWAY	CENTRAL 20%	1420										1420						145					
2225.5	850		NKWSD 80%																						
		RAILROAD	KCCEW Co. 20%																						
3415.5	200		NKWSD 80%																						
3515.5	30	BUENA VISTA (3-ND)																							
3595.5	180	JAMES (2-ND)																							
3665.5	170	PIONEER (2-ND)																							
3705.5	240	BEARDSLEY (3-ND)																							
3925.5	95	KERN ISLAND (2-ND)																							
		ROSEDALE NKWSD																							
		TRUXTUN LAKES		18													18								
		NORTH LAKE																							
		COUNTY OF KERN															32								
		KERN VALLEY GOLF COURSE																							
		CALIFORNIA WATER SERVICE CO.															844								
		OLDFIELD MD															4								
		THE PARK AT RIVER WALK																							
		BVWSD FOR IGE											1212						318						
		BVWSD VIA KDWD											645												
		BVWSD VIA CWD											22												
TOTALS			680	11850	22892	13032	12922	0	13720	1274	8898	0	2772	2259	1675	1008	8498	72	695	129					
		LOSS		1458	676														824						
FLOW AT FIRST POINT			680	13330	23568																				

TOTAL CHANGE IN STORAGE = 3132

NOTES:

Kern Island Ent'l. Less: from BVWSD= 569

Farmers Ent'l. Less: from BVWSD= 77

Calty. Ent'l. Less: IGE from Kern Island= 425

River Loss: IGE from Kern Island= 145

Lando Ent'l. Less: BVWSD via CWD= 22

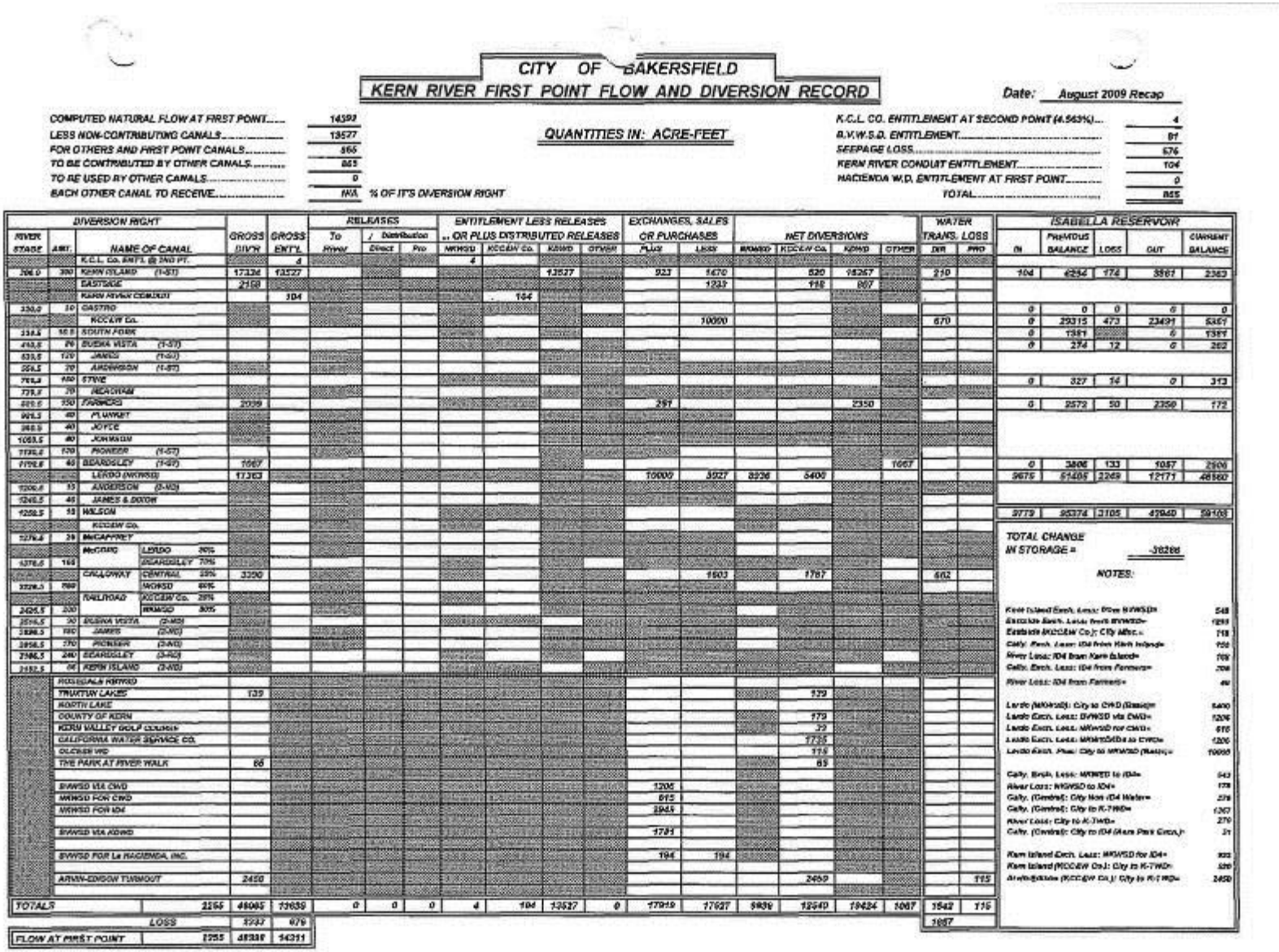
Lando NKWSD: City to NKWSD (Misc.)= 48

Lando Ent'l. Less: City to NKWSD (Misc.)= 172

Calty. Ent'l. Less: NKWSD for IGE= 884

River Loss: NKWSD for IGE= 318

KCCEW Co. Part: Return release to City less to liability to divert natural flow with= 44



CITY OF BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: August 2009 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	14391
LESS NON-CONTRIBUTING CANALS	13527
FOR OTHERS AND FIRST POINT CANALS	864
TO BE CONTRIBUTED BY OTHER CANALS	865
TO BE USED BY OTHER CANALS	0
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.563%)	4
B.V.W.S.D. ENTITLEMENT	91
SEEPAGE LOSS	676
KERN RIVER CONDUIT ENTITLEMENT	104
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	865

DIVERSION RIGHT				GROSS DIVR	GROSS ENT'L	RELEASES To River	RELEASES / Distribution Direct	RELEASES / Distribution Pro	ENTITLEMENT LESS RELEASES .. OR PLUS DISTRIBUTED RELEASES MKWSD	ENTITLEMENT LESS RELEASES .. OR PLUS DISTRIBUTED RELEASES KCCEW Co.	ENTITLEMENT LESS RELEASES .. OR PLUS DISTRIBUTED RELEASES KDWD	ENTITLEMENT LESS RELEASES .. OR PLUS DISTRIBUTED RELEASES OTHER	EXCHANGES, SALES OR PURCHASES PLUS	EXCHANGES, SALES OR PURCHASES LESS	NET DIVERSIONS MKWSD	NET DIVERSIONS KCCEW Co.	NET DIVERSIONS KDWD	NET DIVERSIONS OTHER	WATER TRANS. LOSS DIR	WATER TRANS. LOSS PRO
		K.C.L. Co. ENT'L @ 2ND PT.			4				4											
206.0	300	KERN ISLAND (1-ST)		17324	13527						13527		923	1470		520	15267		210	
		EASTSIDE		2168										1239		718	807			
		KERN RIVER CONDUIT			104					104										
330.0	10	CASTRO																		
		KCCEW Co.												10000					670	
338.5	50.5	SOUTH FORK																		
443.5	99	BUENA VISTA (1-ST)																		
539.5	129	JAMES (1-ST)																		
559.5	20	ANDERSON (1-ST)																		
768.5	160	STINE																		
778.5	10	MEACHAM																		
888.5	350	FARMERS		2039									297				2350			
928.5	40	PLUMMER																		
968.5	40	JOYCE																		
1068.5	80	JOHNSON																		
1238.5	170	PIONEER (1-ST)																		
1798.5	46	BEARDSLEY (1-ST)		1667														1667		
		LERDO (MKWSD)		17303									10000	3927	3236	5400				
1208.5	55	ANDERSON (2-ND)																		
1248.5	45	JAMES & BIXOM																		
1258.5	10	WILSON																		
		KCCEW Co.																		
1278.5	20	McCAFFREY																		
		McCOMB	LERDO 30%																	
1378.5	100		BEARDSLEY 70%																	
2178.5	800	CALLOWAY	CENTRAL 20%	3200										1603		1797			602	
2228.5	50		MKWSD 80%																	
		RAILROAD	KCCEW Co. 20%																	
2425.5	200		MKWSD 80%																	
2515.5	90	BUENA VISTA (2-ND)																		
2835.5	320	JAMES (2-ND)																		
2958.5	370	PIONEER (2-ND)																		
2798.5	240	BEARDSLEY (2-ND)																		
2182.5	66	KERN ISLAND (2-ND)																		
		MISCELLANEOUS																		
		TRUXTUN LAKES		139												139				
		NORTH LAKE																		
		COUNTY OF KERN														179				
		KERN VALLEY GOLF COURSE														32				
		CALIFORNIA WATER SERVICE CO.														1735				
		OLCESE WD														115				
		THE PARK AT RIVER WALK		66												66				
		BVWSD VIA CWD											1205							
		MKWSD FOR CWD											865							
		MKWSD FOR ID4											2945							
		BVWSD VIA KDWD											1781							
		BVWSD FOR La HACIENDA, INC.											194	194						
		ARVIN-EDISON TURNOUT		2450												2450			115	
TOTALS			2255	46085	13639	0	0	0	4	104	13527	0	17919	17627	5939	12540	19424	1067	1542	115
		LOSS		2237	679														1057	
FLOW AT FIRST POINT			2255	48338	14311															

ISABELLA RESERVOIR				
IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
0	0	0	0	0
0	29315	473	23491	5351
0	1381		0	1381
0	274	12	0	262
0	327	14	0	313
0	2572	50	2350	172
0	3806	133	1057	2906
9675	51405	2269	12171	46560
9779	90374	3105	47940	59108

TOTAL CHANGE IN STORAGE = -30266

NOTES:

Kern Island Exch. Less: Flow to MKWSD	548
Eastside Exch. Less: Flow to MKWSD	1239
Eastside KCCEW Co.: City Misc.	718
Cally. Exch. Less: ID4 from Kern Island	750
River Less: ID4 from Kern Island	100
Cally. Exch. Less: ID4 from Farmers	200
River Less: ID4 from Farmers	49
Lerdo (MKWSD): City to CWD (Basin)	5400
Lerdo Exch. Less: BVWSD via CWD	1205
Lerdo Exch. Less: MKWSD for CWD	865
Lerdo Exch. Less: MKWSD to CWD	1205
Lerdo Exch. Plus: City to MKWSD (Basin)	10000
Cally. Exch. Less: MKWSD to ID4	943
River Less: MKWSD to ID4	178
Cally. (Central): City Non ID4 Water	278
Cally. (Central): City to K-TWD	1267
River Less: City to K-TWD	270
Cally. (Central): City to ID4 (Kern Park Exch.)	31
Kern Island Exch. Less: MKWSD for ID4	922
Kern Island (KCCEW Co.): City to K-TWD	520
Arvin-Edison (KCCEW Co.): City to K-TWD	2450

CITY OF BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: September 2009 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	9560
LESS NON-CONTRIBUTING CANALS	8905
FOR OTHERS AND FIRST POINT CANALS	655
TO BE CONTRIBUTED BY OTHER CANALS	655
TO BE USED BY OTHER CANALS	0
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.563%)	0
B.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	859
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	655

DIVERSION RIGHT					GROSS DIV'R	GROSS ENT'L	RELEASES To River	RELEASES Distribution Direct	RELEASES Distribution Pro	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES BVWSD	KCCSW Co.	KDWD	OTHER	EXCHANGES, SALES OR PURCHASES PLUS	LESS	NET DIVERSIONS BVWSD	KCCSW Co.	KDWD	OTHER	WATER TRANS. LOSS DIR	PRO
		K.C.L. Co. ENT'L @ 2ND PT.																			
393.5	200	KERN ISLAND	(1-ST)		13189	8905						8905		1711	4509			10395		445	167
		EASTSIDE			1065										1096						
		KERN RIVER CONDUIT																			
310.0	20	CASTRO																			
		KCCSW Co.																		7	
370.5	70.5	SOUTH FORK																			
418.6	80	BUENA VISTA	(1-ST)		387									117	105			282			116
570.6	120	JAMES	(1-ST)																		
556.5	20	ANDERSON	(1-ST)																		
700.5	180	STINE													117						
720.5	30	BEACHAM																			
860.5	150	FARMERS			947									25				772			
920.5	60	PLUMMET																			
960.5	40	JOYCE																			
1000.5	40	JOHNSON																			
1130.5	130	PIONEER	(1-ST)																		
1220.5	66	BEARDSLEY	(1-ST)		926														920		
		LERDO	(NVWSD)		11737										4725	7012					
1300.5	33	ANDERSON	(2-NC)																		
1340.5	40	JAMES & SIXOM																			
1350.5	13	WILSON																			
		KCCSW Co.																			
1276.8	26	McCAFFREY																			
		McCORD	LERDO	20%																	
1276.8	108		BEARDSLEY	70%																	
		CALLOWAY	CENTRAL	33%	3079										2804		276			763	
2220.6	858		NCWSD	50%																	
		RAILROAD	KCCSW Co.	25%																	
2425.5	200		WVWSD	80%																	
2018.5	80	BUENA VISTA	(3-WS)																		
2898.6	168	JAMES	(3-WS)																		
2890.5	175	PIONEER	(2-NS)																		
2335.5	248	BEARDSLEY	(1-RS)																		
2322.5	56	KERN ISLAND	(2-NS)																		
		ROSEDALE RANCH																			
		TRACTION LAKKE																			
		NORTH LAKE																			
		COUNTY OF KERN															736				
		KERN VALLEY GOLF COURSE															56				
		CALIFORNIA WATER SERVICE CO.															7340				
		OLCESE WD															705				
		THE PARK AT RIVER WALK																			
		BVWSD VIA CWD												3831							
		BVWSD VIA KDWD												7343							
		NKWSD FOR IDA												9997							
		BVWSD FOR LA HACIENDA, WD.												758	758						
TOTALS				1775	30504	8905	0	0	0	0	0	8905	0	14226	19483	7012	1882	10825	920	1200	282
			LOSS		2126	655														1482	
FLOW AT FIRST POINT				1776	32640	9560															

ISABELLA RESERVOIR				
IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
121	23483	58	2230	208
0	0	0	0	0
0	5561	273	1849	3179
0	7381		0	7301
0	282	2	280	0
0	378	12	177	188
0	172	0	172	0
0	2806	105	920	1581
0	40690	1911	13963	30788
121	59108	2365	19655	37519

TOTAL CHANGE IN STORAGE = -21789

NOTES:

Kern Island Exch. Less: from BVWSD=	172
Eastside Mach. Less: from BVWSD=	1065
Buena Vista Exch. Less: from BVWSD=	105
Cally. Mach. Less: Old from Kern Island=	1348
River Loss: Old from Kern Island=	363
Cally. Exch. Less: Old from Farmers=	11
River Loss: Old from Farmers=	5
Lerdo Exch. Less: BVWSD to CWD=	3831
Lerdo Exch. Less: NKWSD/ID4 to CWD=	736
Cally. (Owens): City Non-Old Water=	276
Kern Island Exch. Less: NKWSD for IDA=	4226
Cally. Exch. Less: NKWSD to IDA=	1427
River Loss: NKWSD to IDA=	384

CITY OF BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: October 2009 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT.....	24089	K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.582%)...	0
LESS NON-CONTRIBUTING CANALS.....	14469	B.V.W.S.D. ENTITLEMENT.....	0
FOR OTHERS AND FIRST POINT CANALS.....	9620	SEEPAGE LOSS.....	676
TO BE CONTRIBUTED BY OTHER CANALS.....	676	KERN RIVER CONDUIT ENTITLEMENT.....	0
TO BE USED BY OTHER CANALS.....	8944	HACIENDA W.D. ENTITLEMENT AT FIRST POINT.....	0
EACH OTHER CANAL TO RECEIVE.....	N/A % OF IT'S DIVERSION RIGHT	TOTAL.....	676

DIVERSION RIGHT				GROSS DIV'R	GROSS ENT'L	RELEASES To River	RELEASES Distribution Direct	RELEASES Distribution Pro	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES KRWSD	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES KCC&W Co.	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES KCWD	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES OTHER	EXCHANGES, SALES OR PURCHASES PLUS	EXCHANGES, SALES OR PURCHASES LESS	NET DIVERSIONS KRWSD	NET DIVERSIONS KCC&W Co.	NET DIVERSIONS KCWD	NET DIVERSIONS OTHER	WATER TRANS. LOSS DIR	WATER TRANS. LOSS PRO	ISABELLA RESERVOIR IN	ISABELLA RESERVOIR PREVIOUS BALANCE	ISABELLA RESERVOIR LOSS	ISABELLA RESERVOIR OUT	ISABELLA RESERVOIR CURRENT BALANCE
		K.C.L. Co. ENT'L @ 2ND PT.																							
309.0	300	KERN ISLAND (1-ST)		6313	14469	7469					6969		1163	1547			5922		198	230	2372	358	45	1790	895
		EASTSIDE																							
		KERN RIVER CONDUIT																							
320.8	35	CASTRO			167		12														0	0	0	0	0
		KCC&W Co.			465		79			713											28	3979	146	783	2389
338.8	18.8	SOUTH FORK			372		80					372									372	1351		0	1753
470.8	80	BUENA VISTA (1-ST)		299	1974	115	347				2206						399		32	256	1520	0	20	0	1640
530.5	129	JAMES (1-ST)			1989		2327		4272																
553.5	58	ANDERSON (1-ST)			232		462		714																
706.8	153	STINE		845	1438	119	61				1360						845			73	1327	184	24	865	622
736.5	30	MCCLOUD			177		662		1979																
888.8	152	FARMERS		287	702		1224				1927						287			36	1624	0	24	0	1600
935.8	46	PLUNKET			157		1107		1764																
963.8	49	JOYCE			157		706		513																
1060.8	46	JOHNSON			157		316		473																
1436.5	100	PIONEER (1-ST)			649		40		649																
1196.8	60	HEADGATE (1-ST)		595	127							127							595		168	1581	51	561	1127
		LERDO (KRWSD)		5347										2195	3569				82		6556	10736	1010	4326	11956
1206.5	10	ANDERSON (2-WD)			20				20																
1246.5	40	JAMES & DIXON			79				79																
1256.5	10	WILSON			12																13307	37319	1327	8294	41505
		KCC&W Co.			8					29															
1276.5	20	MCCAFFREY			52				52																
		McCORD LERDO 79%			60				60																
1376.5	100	BEARDSLEY 70%			137							137													
		CALLOWAY CANTRAL 30%		2630	14					14				3429		197			755						
1726.5	350	KRWSD 21%			52				52																
		RAILROAD KCC&W Co. 20%																							
3426.5	200	KRWSD 80%																							
2016.8	90	BUENA VISTA (2-WD)																							
2096.8	180	JAMES (2-WD)																							
2366.8	170	PIONEER (2-WD)																							
2706.8	340	BEARDSLEY (2-WD)																							
2962.8	56	KERN ISLAND (2-WD)																							
		ROSEDALE RINGO																							
		TRACTION LAKES		22													22								
		NORTH LAKE																							
		COUNTY OF KERN															98								
		KERN VALLEY GOLF COURSE															15								
		CALIFORNIA WATER SERVICE CO.															1994								
		OLCESE MD															82								
		THE PARK AT RIVER WALK		8													8								
		GLEN GARMENDI															2								
		SWWSD VIA CWD											2194												
		KRWSD FOR ISI											3618												
TOTALS		1201		17144	29413	7734	7714	0	9518	747	12569	636	5977	6198	3969	1472	7560	677	1015	674					
		LOSS		2386	676														1489						
FLOW AT FIRST POINT		1201		19511	24089																				

Calif. Enrh. Less: ISI Plus Kern Island: 891
River Loss: ISI from Kern Island: 282
Lerdo Exch. Less: SWWSD for CWD: 2196
Lerdo (KRWSD) - Other KRCW 20% Ent'l: 82
Calif. (Castro): City Non-Ag Water: 197
Kern Island Exch. Less: KRWSD for ISI: 1947
Calif. Enrh. Less: KRWSD to ISI: 1553
River Loss: KRWSD to ISI: 653

TOTAL CHANGE IN STORAGE = 4196

NOTES:

CITY OF BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: November 2009 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	15139
LESS NON-CONTRIBUTING CANALS	14396
FOR OTHERS AND FIRST POINT CANALS	743
TO BE CONTRIBUTED BY OTHER CANALS	655
TO BE USED BY OTHER CANALS	88
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.563%)	0
B.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	156
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	655

DIVERSION RIGHT				GROSS DIVR	GROSS ENTL	RELEASES To River	RELEASES Diversion Direct	RELEASES Diversion Pro	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES NKWSD	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES KCC&W Co.	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES KDWD	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES OTHER	EXCHANGES, SALES OR PURCHASES PLUS	EXCHANGES, SALES OR PURCHASES LESS	NET DIVERSIONS NKWSD	NET DIVERSIONS KCC&W Co.	NET DIVERSIONS KDWD	NET DIVERSIONS OTHER	WATER TRANS. LOSS 201	WATER TRANS. LOSS PRO
		K.C.L. Co. ENT'L @ 2ND PT.																		
2000.0	350	KERN ISLAND (1-ST)		4266	14396	11020					3375			236				3968		
		EASTSIDE																		
		KERN RIVER CONDUIT																		
334.0	20	OASTHO			76		736													
		KCC&W Co.			44		773			1091			1716						1	
336.0	16.0	SOUTH FORK			22		541				667			1716						
410.0	20	BUENA VISTA (1-ST)		267	6		720				236							357	134	
536.5	120	JAMES (1-ST)					6056		6055											
656.5	20	ANDERSON (1-ST)					334		934											
756.5	100	STINE					22				22								22	
776.5	20	MEACHAM					1269		1269											
894.5	118	FARMERS					36				36								36	
926.5	40	FLOWER					897		897											
966.5	40	JOYCE					2		2											
1066.5	40	JOHNSON																		
1120.5	130	PIONEER (1-ST)																		
1170.5	50	BEARDSLEY (1-ST)		601														601		
		LANDO (NKWSD)		6022										1115	2917					
1200.5	10	ANDERSON (2-ND)																		
1240.5	40	JAMES & DIXON																		
1250.5	10	WILSON																		
		KCC&W Co.																		
1270.5	20	MCCAFFREY																		
		MCCORD LANDO 20%																		
1370.5	100	BEARDSLEY 70%																		
		GALLOWAY CENTRAL 20%		2350										2976		144				
2215.5	845	NKWSD 80%																		
		RAILROAD KCC&W Co. 20%																		
2425.5	200	NKWSD 80%																		
2516.5	90	BUENA VISTA (2-ND)																		
2636.5	120	JAMES (2-ND)																		
2846.5	210	PIONEER (2-ND)																		
2936.5	240	BEARDSLEY (2-ND)																		
3482.5	50	KERN ISLAND (2-ND)																		
		ROSEDALE NKWSD																		
		TRUXTUN LAKES		55										51		34				
		NORTH LAKE																		
		COUNTY OF KERN														55				
		KERN VALLEY GOLF COURSE														2				
		CALIFORNIA WATER SERVICE CO.														1028				
		OLCESE WD														35				
		THE PARK AT RIVER WALK		32												32				
		SWWSD VIA CWD											224							
		NKWSD FOR IOE											3571						503	
		NKWSD FOR KDWD											295							
TOTALS			7142	11548	14483	11020	11020	0	9158	1091	3671	903	6709	5206	2917	1352	4325	601	1055	0
		LOSS		7792	666														1055	
FLOW AT FIRST POINT			7142	13295	15126															

ISABELLA RESERVOIR				
IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
1427	695	41	2420	61
0	0	0	0	0
1720	2309	108	276	3657
843	1753		1936	660
56	1590	30	271	1150
22	622	16	0	628
28	1990	38	0	1979
0	1127	20	601	506
3177	31999	805	7105	33266
7393	41505	1066	6409	41973

TOTAL CHANGE IN STORAGE = -132

NOTES:

Kern Island Exch. Less: from NKWSDe 284

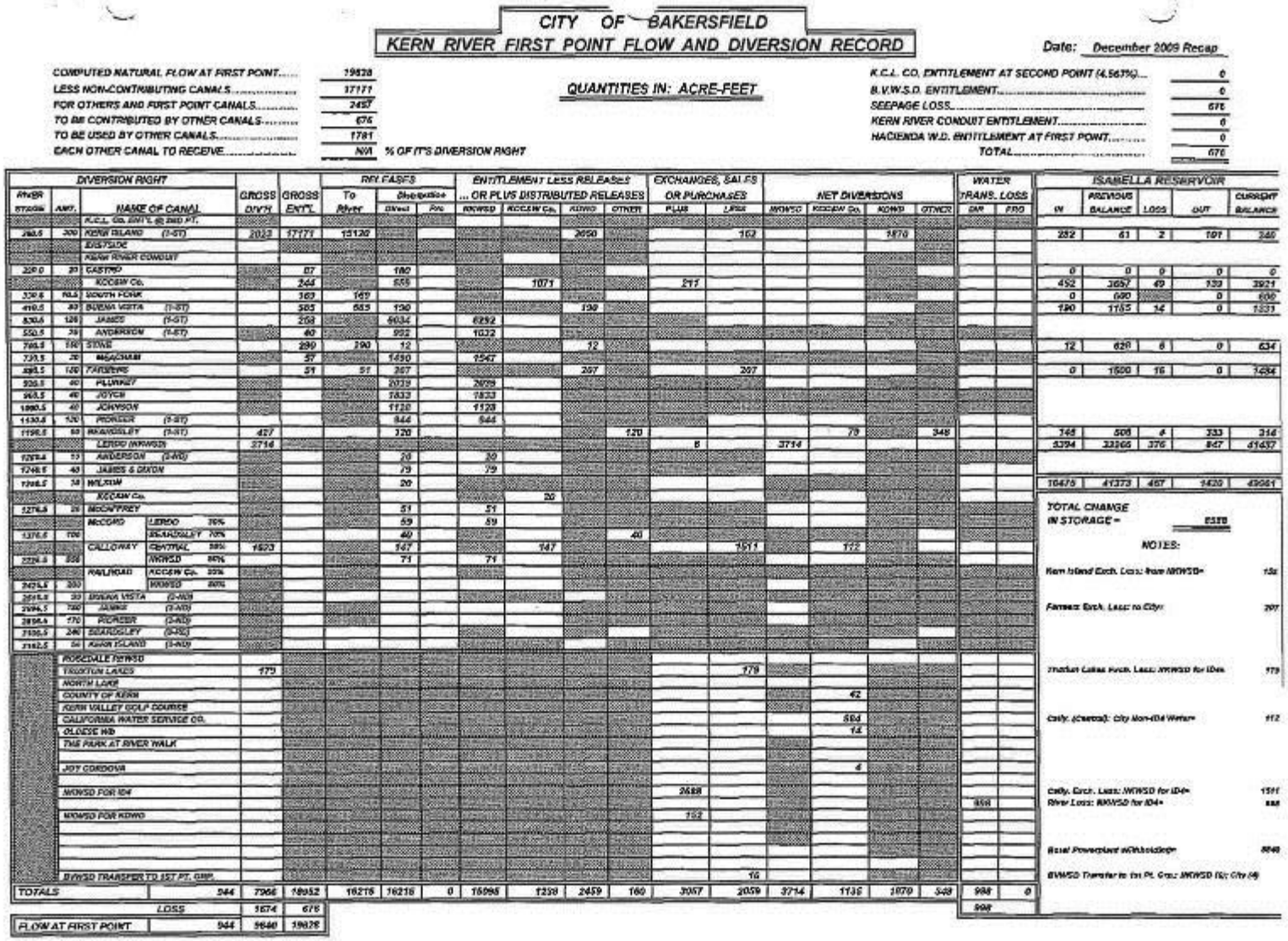
Truxtun Lakes Exch. Less: NKWSD for IDA 51
Landa Exch. Less: SWWSD for CWD= 224
Landa Exch. Less: NKWSD#4 to CWD= 897

Cally. (Existing): City Non IDA Water= 144

Cally. Exch. (Less: NKWSD for IDA= 2015
River Loss: NKWSD for IOE= 503

Bond Proceeds Withdrawings= 214

South Fork transfer to City in return of carryover storage requirement= 1716



CITY OF BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: December 2009 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	19828
LESS NON-CONTRIBUTING CANALS	37177
FOR OTHERS AND FIRST POINT CANALS	2457
TO BE CONTRIBUTED BY OTHER CANALS	676
TO BE USED BY OTHER CANALS	1781
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.563%)	0
B.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	676
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	676

DIVERSION RIGHT				GROSS DIV'N	GROSS ENT'L	REFASES To River	REFASES Evaporation		ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES				EXCHANGES, SALES OR PURCHASES		NET DIVERSIONS				WATER TRANS. LOSS	
RIVER STATION	AMT.	NAME OF CANAL					Direct	Pro	KCWSD	KCCEW Co.	KCWD	OTHER	PLUS	LESS	KCWSD	KCCEW Co.	KCWD	OTHER	DIR	PRO
		K.C.L. Co. ENT'L @ 2ND PT.																		
260.5	300	KERN ISLAND (1-ST)		2023	17177	13120					2650			152			1870			
		EASTSIDE																		
		Kern River CONDUIT																		
320.0	20	EASTSD			87		180													
		KCCEW Co.			244		555			1071			217							
330.6	165	SOUTH FORK			363	167														
410.5	30	BUENA VISTA (1-ST)			585	555	130				139									
530.5	120	JAMES (1-ST)			268		6034		6292											
550.5	30	ANDERSON (1-ST)			40		932		1032											
700.5	150	STOVE			290	290	12				12								12	
720.5	20	MEACHAM			57		1490		1547											
895.5	120	TAFFERS			51	51	257				257			257					0	
930.5	40	PLUMMER					2039		2039											
963.5	40	JOYCE					1833		1833											
1090.5	40	JOHNSON					1128		1128											
1430.5	120	PIONEER (1-ST)					844		844											
1196.5	60	WAINSLEY (1-ST)		427			320					120				79		348		
		LERDO (KWWSD)		3714									8		3714					
1259.4	53	ANDERSON (2-ND)					20		20											
1248.5	40	JAMES & DIXON					79		79											
1298.5	30	WILSON					20													
		KCCEW Co.								20										
1276.5	20	MCCAFFREY					51		51											
		McCORD LERDO 70%					59		59											
1376.5	100	WAINSLEY 70%					40					40								
		CALLOWAY CENTRAL 30%		1623			147			147				1511		772				
2226.5	200	KWWSD 80%					71		71											
		RAILROAD KCCEW Co. 20%																		
2425.5	300	KWWSD 80%																		
2515.0	20	BUENA VISTA (2-ND)																		
2596.5	150	JAMES (2-ND)																		
2856.5	170	PIONEER (2-ND)																		
3190.5	240	BEARDSLEY (2-ND)																		
3162.5	30	KERN ISLAND (2-ND)																		
		ROSEDALE THWSD																		
		TAFTON LAKES		179										179						
		NORTH LAKE																		
		COUNTY OF KERN															42			
		KERN VALLEY GOLF COURSE																		
		CALIFORNIA WATER SERVICE CO.															884			
		OLDSEE MB															14			
		THE PARK AT RIVER WALK																		
		JOY CORDOVA															4			
		KWWSD FOR ID4											2688						1511	
																			888	
		KWWSD FOR KDWD											752							
		BVWSD TRANSFER TO 1ST PT. GWP												72						
TOTALS			944	7966	18952	16216	16216	0	15098	1238	2459	160	3057	2059	3714	1136	1079	348	998	0
		LOSS		1874	676														998	
FLOW AT FIRST POINT			944	9840	19828															

ISABELLA RESERVOIR					
IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
252	61	2	191	340
0	0	0	0	0
452	3697	49	133	3921
0	690		0	690
190	1755	14	0	1931
12	628	6	0	634
0	1500	16	0	1484
145	506	4	333	314
3394	33366	376	847	41437
10475	41373	467	1420	49961

TOTAL CHANGE IN STORAGE = 8538

NOTES:

Kern Island Exch. Loss: from KWWSD= 152

Farmers Exch. Loss: to City= 207

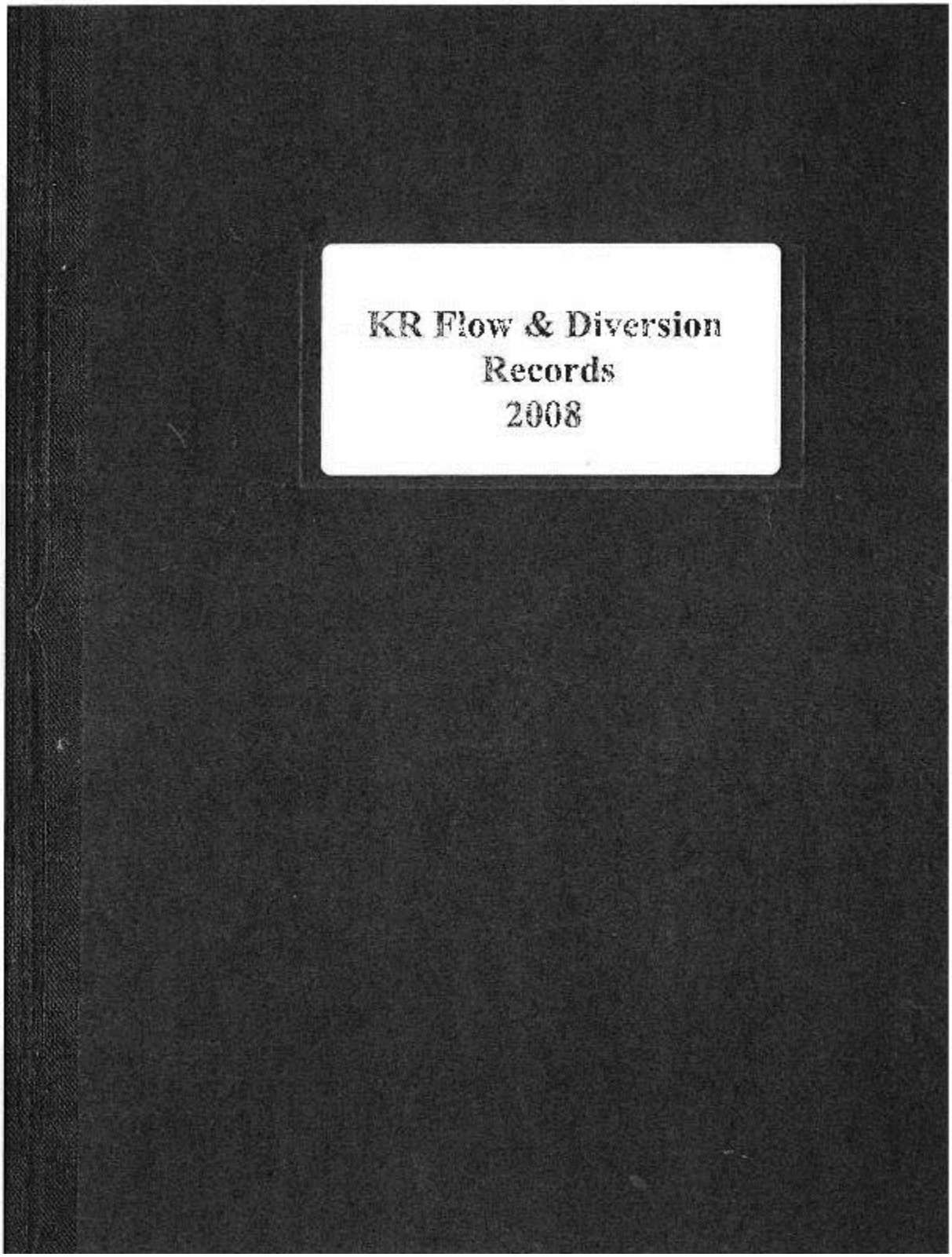
Tractor Lakes Exch. Loss: KWWSD for IDm 179

Calty. (Central): City Non-ID4 Water 772

Calty. Exch. Loss: KWWSD for ID4= 1511
River Loss: KWWSD for ID4= 888

Total Powerplant withdrawals 8048

BVWSD Transfer to 1st Pt. Gw.: KWWSD (5); City (4)


KR Flow & Diversion
Records
2008

CITY OF BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: January 2008 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	22500
LESS NON-CONTRIBUTING CANALS	10933
FOR OTHERS AND FIRST POINT CANALS	5647
TO BE CONTRIBUTED BY OTHER CANALS	847
TO BE USED BY OTHER CANALS	4900
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.563%)	8
B.V.W.S.D. ENTITLEMENT	163
SEEPAGE LOSS	676
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	9
TOTAL	847

DIVERSION RIGHT				GROSS	GROSS	RELEASES			ENTITLEMENT LESS RELEASES				EXCHANGES, SALES OR PURCHASES		NET DIVERSIONS				WATER TRANS. LOSS		ISABELLA RESERVOIR				
RIVER STAGE	AMT.	NAME OF CANAL		DIV'R	ENT'L	To River	Distribution Direct	Distribution Pro	...OR PLUS DISTRIBUTED RELEASES NKWSD	KCC&W Co.	KDWD	OTHER	PLUS	LESS	NKWSD	KCC&W Co.	KDWD	OTHER	DIR	PRO	IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
		K.C.L. Co. ENT'L @ 2nd PT.			8																				
307.0	355	KERN ISLAND (1-ST)		7849	76553	8449					8439			160			7546		26		2517	0	20	1856	647
		EASTSIDE																							
		KERN RIVER CONDUIT																							
329.0	29	CARTER			61		196																		
		KCC&W Co.			232		610			1105											0	0	0	0	0
330.5	70.5	SOUTH FORK			152	163													32		420	9657	105	95	9777
410.5	80	BUENA VISTA (1-ST)		145	696	668	329				847						745		202		0	600	0	0	600
530.5	120	JAMES (1-ST)			625		4939		8664												26	1468	16	26	1472
550.5	20	ANDERSON (1-ST)			77		534		617																
705.5	155	STINE			570		928				1498										1436	72	76	0	1590
730.5	25	BEACHAM			113		407		520																
685.5	145	FARMERS			570		715				1285										1285	329	8	0	1600
300.5	45	PLUNKET			751		206		357																
360.5	45	JOYCE			77		222		235																
1000.5	45	JOHNSON			73		85		168																
1120.5	120	PIONEER (1-ST)			240		28		260																
1196.5	89	BEARDSLEY (1-ST)		772	777		8					118		72				772			186	6966	56	772	6323
		LAHDO (NKWSD)		1538									72		1588						3253	36158	468	679	40576
1030.5	10	ANDERSON (2-ND)			78		2		80																
1040.5	40	JAMES & DIXON			73		6		79																
1240.5	10	WILSON			12																				
		KCC&W Co.			6		2			20															
1310.5	70	McCARTNEY			45		4		52																
		McCORD LORDO 30%			66		4		60																
1375.5	100	BEARDSLEY 70%			129		10					139													
		CALLOWAY CENTRAL 20%		1496	142		6			748				1496											
2275.5	850	NKWSD 80%			597		28		597	28															
		HALEROAD KCC&W Co. 20%																							
2425.5	200	NKWSD 80%																							
2515.5	90	BUENA VISTA (2-ND)																							
2695.5	180	JAMES (2-ND)																							
2995.5	300	PIONEER (2-ND)																							
3195.5	240	BEARDSLEY (2-ND)																							
3765.5	85	KERN ISLAND (2-ND)																							
		RIDGEDALE NKWSD																							
		TRUXTUN LAKES																							
		NORTH LAKE																							
		COUNTY OF KERN															30								
		KERN VALLEY GOLF COURSE																							
		CALIFORNIA WATER SERVICE CO.															906								
		OLCESE WD															8								
		THE PARK AT RIVER WALK																							
		KCWD TO NKWSD											160												
		NKWSD FOR IDs											2373						693						
		BVWSD VIA PIONEER PROJECT											44						44						
TOTALS			948	11042	21747	9261	9251	0	8555	1305	11623	259	2585	1728	1588	948	7188	173	1187	0					
		LOSS		1864	676														1187						
FLOW AT FIRST POINT			948	12908	22417																				

TOTAL CHANGE IN STORAGE = 2951

NOTES:

Kern Island Exch. Lease to NKWSD: 160

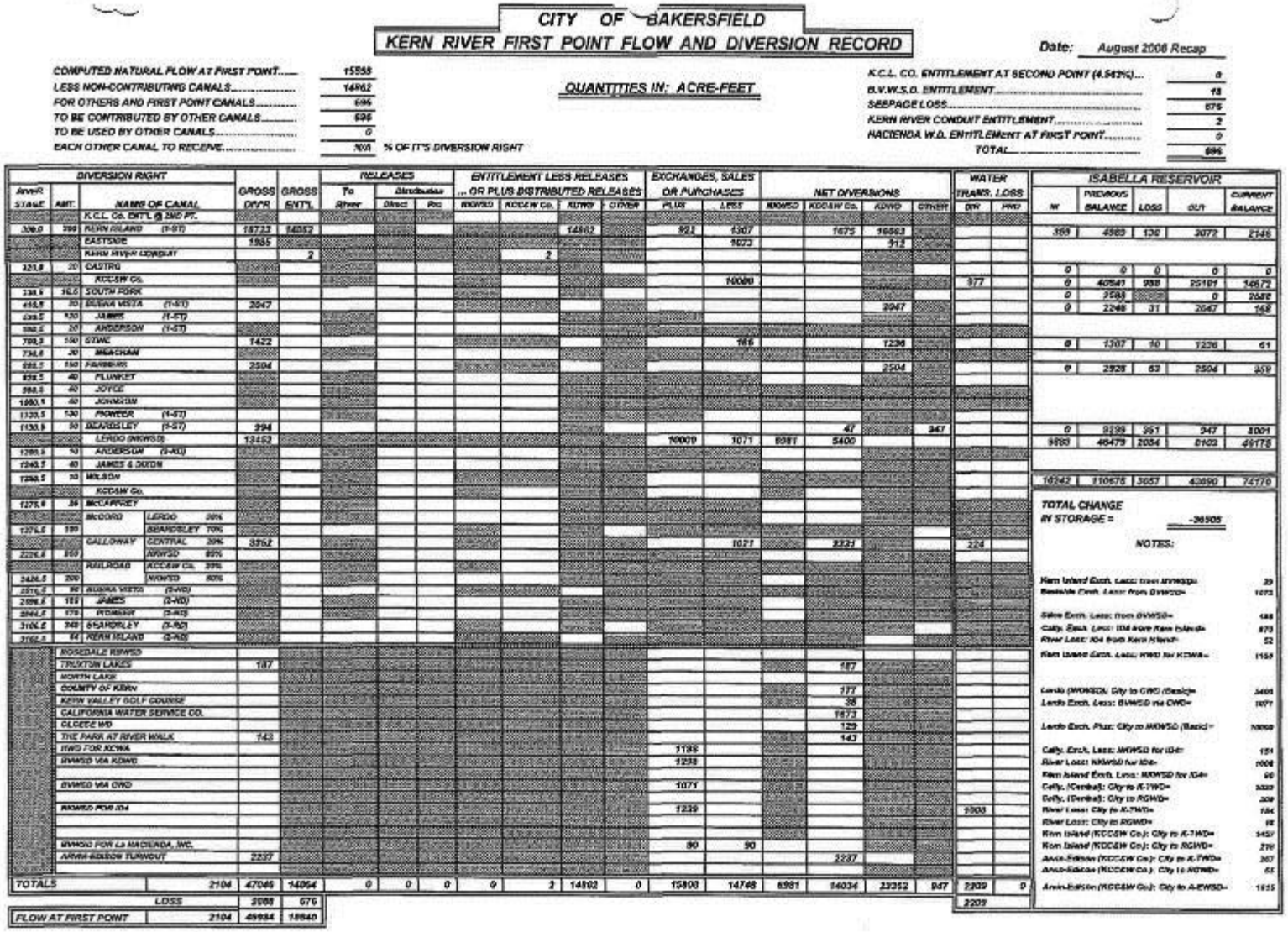
Lands Exch. Plus: KCC&W 30% Exch: 75

Daily Wash. Lease: NKWSD for IDs: 1496

River Loss: NKWSD for IDs: 693

River Loss: BVWSD via Pioneer Project: 44

NKWSD/KCC&W Co. Exch: Reflects release to City due to inability to divert natural flow exch: 28



CITY OF BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: August 2008 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	15558
LESS NON-CONTRIBUTING CANALS	14962
FOR OTHERS AND FIRST POINT CANALS	596
TO BE CONTRIBUTED BY OTHER CANALS	596
TO BE USED BY OTHER CANALS	0
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.562%)	0
B.V.W.S.D. ENTITLEMENT	13
SEEPAGE LOSS	575
KERN RIVER CONDUIT ENTITLEMENT	2
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	596

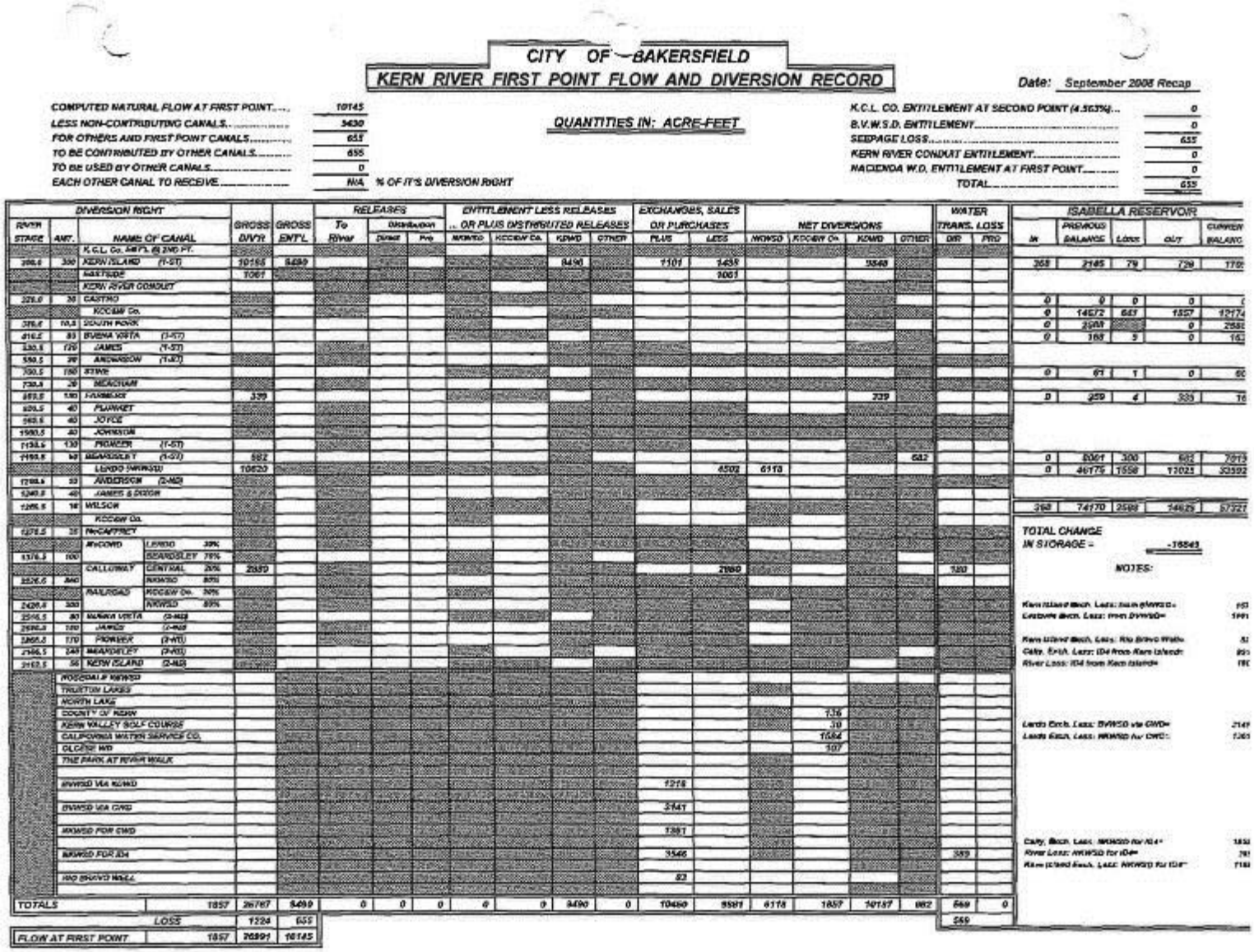
DIVERSION RIGHT				GROSS DIVR	GROSS ENTL	RELEASES To River	RELEASES Stockwater Direct	RELEASES Stockwater Pro	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES KRWSD	KCC&W Co.	KCWD	OTHER	EXCHANGES, SALES OR PURCHASES PLUS	LESS	NET DIVERSIONS KRWSD	KCC&W Co.	KCWD	OTHER	WATER TRANS. LOSS DIR	IND
		K.C.L. Co. ENT'L @ 2ND PT.																		
309.0	309	KERN ISLAND (1-ST)		18723	14052						14802		923	1307		1675	16963			
		EASTSIDE		1935										9073			913			
		KERN RIVER CONDUIT			2					2										
323.9	20	CASTRO																		
		KCC&W Co.												10080					977	
338.9	15.5	SOUTH FORK																		
418.9	80	BUENA VISTA (1-ST)		2047													2047			
439.5	130	JAMES (1-ST)																		
592.5	20	ANDERSON (1-ST)																		
799.3	150	STWC		1422										186			1236			
736.8	20	MEACHAM																		
886.1	150	HAMBURG		2504													2504			
926.5	40	PLUNKET																		
966.5	40	JOYCE																		
1060.1	60	JOHNSON																		
1320.5	130	PIONEER (1-ST)																		
1130.9	30	BEARDSLEY (1-ST)		394													47		347	
		LERDO (MKWSD)		13452									10000	1071	6981	5400				
1200.5	50	ANDERSON (2-ND)																		
1240.5	40	JAMES & JOIDA																		
1250.5	30	WILSON																		
		KCC&W Co.																		
1275.8	39	MCCARREY																		
		McCORD	LERDO 30%																	
1376.5	100		BEARDSLEY 70%																	
		GALLOWAY	CENTRAL 20%	3352										1071		2321			224	
2226.4	850		NKWSD 80%																	
		RAILROAD	KCC&W Co. 20%																	
2426.5	200		NKWSD 80%																	
2516.5	90	BUENA VISTA (2-ND)																		
2656.5	140	JAMES (2-ND)																		
2944.5	178	PIONEER (2-ND)																		
3106.5	348	BEARDSLEY (2-ND)																		
3162.5	84	KERN ISLAND (2-ND)																		
		ROSEDALE RPWSD																		
		TRUXTON LAKES		187													187			
		NORTH LAKE																		
		COUNTY OF KERN															177			
		KERN VALLEY GOLF COURSE															36			
		CALIFORNIA WATER SERVICE CO.															1473			
		OLCESE WD															129			
		THE PARK AT RIVER WALK		143													143			
		IWD FOR KCWA											7188							
		BVWSD VIA KDWD											1238							
		BVWSD VIA CWD											1071							
		RCWD FOR 204											1239						2903	
		BVWSD FOR LA MACEDA, INC.											50	50						
		ARVIN-EDISON TURNOUT		2237													2237			
TOTALS			2104	47045	14054	0	0	0	0	2	14802	0	15800	14748	6981	14034	23352	987	2209	0
		LOSS		2088	676														2209	
FLOW AT FIRST POINT			2104	45934	13540															

ISABELLA RESERVOIR					
IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE	
169	4983	130	3072	2146	
0	0	0	0	0	
0	40547	988	25181	14672	
0	2588	0	0	2588	
0	2248	31	2047	168	
0	1307	10	1236	61	
0	2928	53	2504	359	
0	9299	351	347	8601	
9893	48479	2054	8102	49776	
10242	110575	3057	42690	74770	

TOTAL CHANGE IN STORAGE = -35805

NOTES:

Kern Island Exch. Less: from Arvin-Edi	39
Rosedale Exch. Less: from Drainage	1073
Calloway Exch. Less: from BVWSD	148
Calloway Exch. Less: 104 from Kern Island	873
River Loss: 104 from Kern Island	52
Kern Island Exch. Less: RWD for KCWA	1153
Lerdo (MKWSD): City to CWD (Basic)	3401
Lerdo Exch. Less: BVWSD via CWD	1071
Lerdo Exch. Plus: City to MKWSD (Basic)	10000
Calloway Exch. Less: MKWSD for IDA	151
River Loss: MKWSD for IDA	1008
Kern Island Exch. Less: MKWSD for IDA	60
Calloway (Central): City to K-TWD	3333
Calloway (Central): City to RCWD	208
River Loss: City to K-TWD	184
River Loss: City to RCWD	92
Kern Island (KCC&W Co.): City to K-TWD	3457
Kern Island (KCC&W Co.): City to RCWD	276
Arvin-Edison (KCC&W Co.): City to K-TWD	367
Arvin-Edison (KCC&W Co.): City to RCWD	55
Arvin-Edison (KCC&W Co.): City to A-EWSD	1835



CITY OF BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: September 2008 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	19145
LESS NON-CONTRIBUTING CANALS	3430
FOR OTHERS AND FIRST POINT CANALS	655
TO BE CONTRIBUTED BY OTHER CANALS	655
TO BE USED BY OTHER CANALS	0
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.563%)	0
B.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	655
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	655

DIVERSION RIGHT				GROSS DIV'R	GROSS ENT'L	RELEASES To River	RELEASES Distribution Direct	RELEASES Distribution Proj	ENTITLEMENT LESS RELEASES .. OR PLUS DISTRIBUTED RELEASES NKWSD	ENTITLEMENT LESS RELEASES KCC&W Co.	ENTITLEMENT LESS RELEASES KDWD	ENTITLEMENT LESS RELEASES OTHER	EXCHANGES, SALES OR PURCHASES PLUS	EXCHANGES, SALES OR PURCHASES LESS	NET DIVERSIONS NKWSD	NET DIVERSIONS KCC&W Co.	NET DIVERSIONS KDWD	NET DIVERSIONS OTHER	WATER TRANS. LOSS DIR	WATER TRANS. LOSS PRO
RIVER STAGE	ANT.	NAME OF CANAL																		
		K.C.L. Co. Alt'L @ 2ND PT.																		
266.0	300	KERN ISLAND (1-ST)		10155	9499						9490		7101	1459			5548			
		EASTSIDE		7067										7067						
		KERN RIVER CONDUIT																		
276.0	30	CASTRO																		
		KCC&W Co.																		
276.6	16.3	SOUTH FORK																		
276.2	83	BUENA VISTA (1-ST)																		
280.8	120	JAMES (1-ST)																		
280.5	20	ANDERSON (1-ST)																		
280.5	150	STATE																		
280.8	20	MEACHAM																		
283.5	130	HAMILTON		339													739			
280.5	40	PLANKET																		
280.5	40	JOYCE																		
1280.5	20	JOHNSON																		
1138.5	130	PIONEER (1-ST)																		
1166.5	90	BEARDSLEY (1-ST)		582														582		
		LLANO (NKWSD)		10620										6502	6118					
1288.5	53	ANDERSON (2-ND)																		
1240.5	40	JAMES & DIXON																		
1286.5	16	WILSON																		
		KCC&W Co.																		
1271.5	35	PIONEER																		
		NKWSD	LLANO 39%																	
1316.5	100		BEARDSLEY 78%																	
		CALLOWAY	CENTRAL 20%	2557										2160					120	
1326.5	840		NKWSD 80%																	
		RAILROAD	KCC&W Co. 20%																	
1426.5	320		NKWSD 80%																	
2346.5	80	BUENA VISTA (2-ND)																		
2286.5	120	JAMES (2-ND)																		
1966.5	170	PIONEER (2-ND)																		
2146.5	240	BEARDSLEY (2-ND)																		
2163.5	56	KERN ISLAND (2-ND)																		
		NOSDALE NKWSD																		
		THURTON LAKES																		
		NORTH LAKE																		
		COUNTY OF KERN														136				
		KERN VALLEY GOLF COURSE														30				
		CALIFORNIA WATER SERVICE CO.														1584				
		OLCESE WD														107				
		THE PARK AT RIVER WALK																		
		BVWSD VIA NKWD											1218							
		BVWSD VIA CWD											3141							
		NKWSD FOR CWD											7381							
		NKWSD FOR ID4											3546						389	
		IND BVWD WELL											83							
TOTALS			1857	26767	9499	0	0	0	0	0	9490	0	10460	9581	6118	1857	14187	682	569	0
		LOSS		1224	655														569	
FLOW AT FIRST POINT			1857	25991	18145															

ISABELLA RESERVOIR				
IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
358	2145	79	729	1701
0	0	0	0	0
0	14572	643	1557	12774
0	2581	[illegible]	0	2581
0	168	5	0	163
0	67	1	0	66
0	359	4	335	19
0	8061	300	682	7079
0	46175	1558	13025	33592
358	74170	2589	14828	57221

TOTAL CHANGE IN STORAGE = -16949

NOTES:

Kern Island Bank, Less: from BVWSD = 153
Eastside Bank, Less: from BVWSD = 1991

Kern Island Bank, Less: Rio Bravo Water = 52
Calif. Bank, Less: ID4 from Kern Island = 833
River Loss: ID4 from Kern Island = 192

Lands Exch. Less: BVWSD via CWD = 2141
Lands Exch. Less: NKWSD for CWD = 1241

Calif. Bank, Less: NKWSD for ID4 = 1853
River Loss: NKWSD for ID4 = 781
Kern Island Bank, Less: NKWSD for ID4 = 1183

CITY OF BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: October 2008 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	11022
LESS NON-CONTRIBUTING CANALS	10346
FOR OTHERS AND FIRST POINT CANALS	676
TO BE CONTRIBUTED BY OTHER CANALS	676
TO BE USED BY OTHER CANALS	0
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.563%)	0
B.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	676
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	676

DIVERSION RIGHT				GROSS DIVR	GROSS ENTT.	RELEASES To River	RELEASES Distribution Direct	RELEASES Distribution Pro	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES MWSD	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES KCC&W Co.	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES KDWD	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES OTHER	EXCHANGES, SALES OR PURCHASES PLUS	EXCHANGES, SALES OR PURCHASES LESS	NET DIVERSIONS MWSD	NET DIVERSIONS KCC&W Co.	NET DIVERSIONS KDWD	NET DIVERSIONS OTHER	WATER TRANS. LOSS DIR	WATER TRANS. LOSS PRO
		K.C.L. CO. ENT'L @ 2ND PT.																		
200.0	304	KERN ISLAND (1-ST)		5782	10346	3357					6989		1869	94			6989			70
		EASTSIDE																		
		KERN RIVER CONDUIT																		
320.0	20	CASTRO					208													
		KCC&W Co.					629			533										
335.0	15.0	SOUTH FORK					402					402								
435.0	20	BUENA VISTA (1-ST)		895			1589				1589									
535.0	100	JAMES (1-ST)					534		534											
635.0	20	ANDERSON (1-ST)																		
768.0	130	STUMP																		
778.0	30	MEACHUM																		
928.0	150	FARMERS																		
928.0	43	W. LOKEY																		
968.0	40	JOYCE																		
1008.0	40	JOHNSON																		
1138.0	130	PIONEER (1-ST)																		
1158.0	69	BEARDSLEY (1-ST)		732														732		
		LERDO (MWSD)		6965										2217	3839					
1208.0	50	ANDERSON (2-ND)																		
1245.0	49	JAMES & DIXON																		
1295.0	10	WILSON																		
		KCC&W Co.																		
1378.0	74	BINGAMPTON																		
		McCOID	LERDO 30%																	
1378.0	104		BEARDSLEY 70%																	
		CALLOWAY	CENTRAL 70%	2575										2575					314	
2226.0	848		MWSD 30%																	
		RAILROAD	KCC&W Co. 20%																	
3426.0	200		MWSD 80%																	
3516.0	90	BUENA VISTA (3-RD)																		
3686.0	169	JAMES (3-RD)																		
3856.0	170	PIONEER (3-RD)																		
3106.0	249	BEARDSLEY (3-RD)																		
3183.0	66	KERN ISLAND (3-RD)																		
		ROSEDALE RWSD																		
		THUNTON LAKES		92													92			
		NORTH LAKE																		
		COUNTY OF KERN															101			
		KERN VALLEY GOLF COURSE															75			
		CALIFORNIA WATER SERVICE CO.															1241			
		OLCESE WD															71			
		THE PARK AT RIVER WALK		67													67			
		RWMSD VIA KDWD											77							
		BWMSD VIA CWD											1636							
		KDWD FOR CWD											881							
		KDWD FOR ID4											1764						206	
		BWMSD FOR La HACIENDA WD.											20	20						
		RIO BRAVO WELL											17							
TOTALS			1448	16948	10346	3357	3357	0	534	533	8577	402	6390	4850	3839	1587	7884	732	802	311
		LOSS		1791	676														1114	
FLOW AT FIRST POINT			1448	17339	11022															

ISABELLA RESERVOIR				
DR	PREVIOUS BALANCE	LOSS	OUT	CUM REL
857	1709	78	927	
0	0	0	0	
0	72174	475	783	70
402	2588		0	3
878	783	10	690	
0	89	2	0	
0	78	0	0	
0	7019	320	732	6
197	32592	1004	3196	27
3244	57321	1787	5104	43

TOTAL CHANGE IN STORAGE = -7801

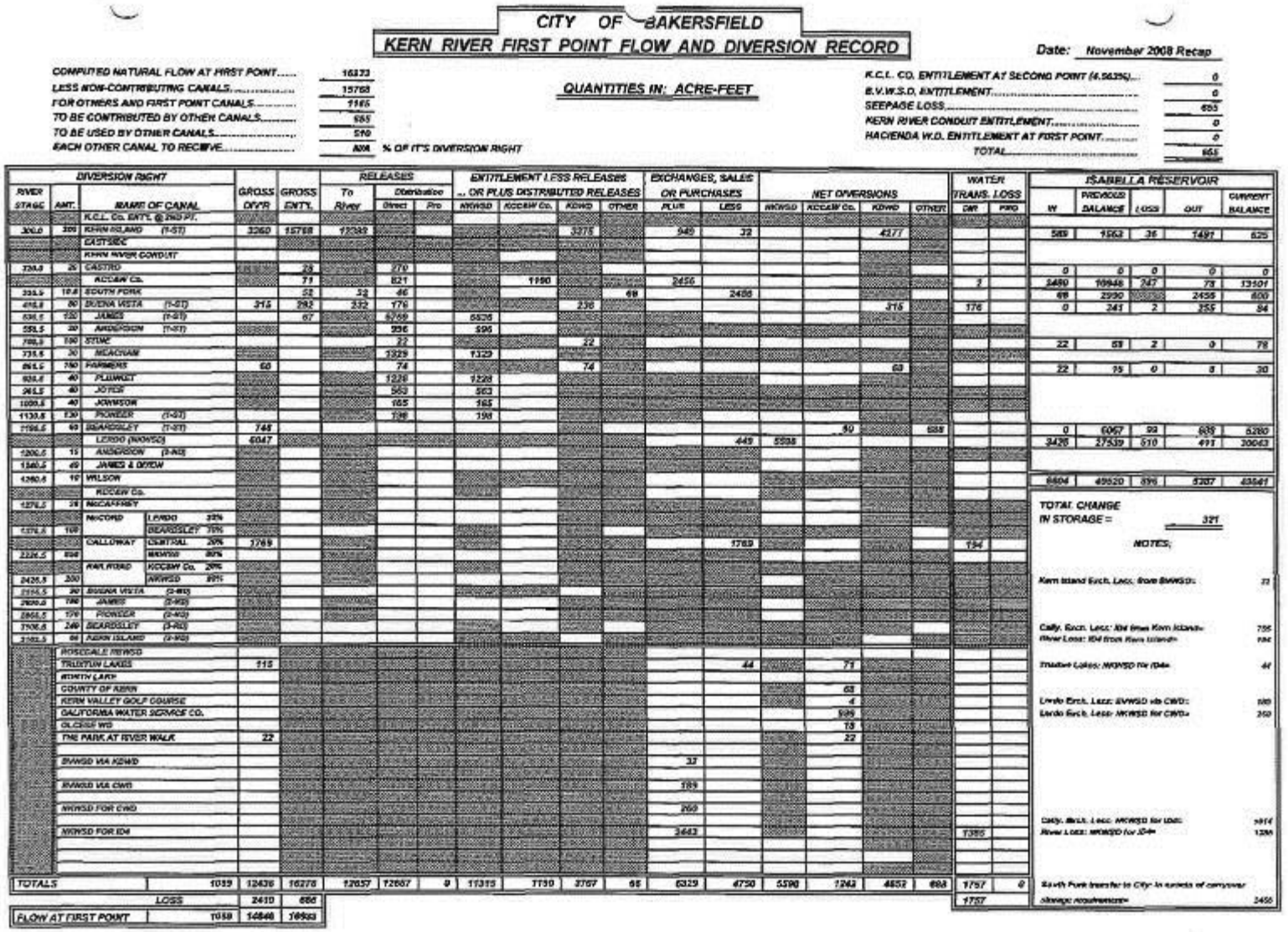
NOTES:

Kern Island Exch. Lease from BVWSD=

Kern Island Exch. Lease: 80 Drake Well=
Cmty. Exch. Lease: 104 from Kern Island=
River Loss: 104 from Kern Island=

Lerdo Exch. Lease: BVWSD via CWD=
Lerdo Exch. Lease: MWSD for CWD=

Cmty. Exch. Lease: MWSD for ID4=
River Loss: MWSD for ID4=



CITY OF BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: November 2008 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	16373
LESS NON-CONTRIBUTING CANALS	15768
FOR OTHERS AND FIRST POINT CANALS	1165
TO BE CONTRIBUTED BY OTHER CANALS	685
TO BE USED BY OTHER CANALS	510
EACH OTHER CANAL TO RECEIVE	80% % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.5625%)	0
B.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	685
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	685

DIVERSION RIGHT				GROSS DIVR	GROSS ENTT.	RELEASES To River	RELEASES Diversions Direct	RELEASES Diversions Pro	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES KRWSD	KCCBW Co.	KCWD	OTHER	EXCHANGES, SALES OR PURCHASES PLUS	LESS	NET DIVERSIONS KRWSD	KCCBW Co.	KCWD	OTHER	WATER TRANS. LOSS DIR	PRO
		K.C.L. Co. ENTT. @ 2ND PT.																		
300.0	300	KERN ISLAND (1-ST)		3260	15768	12508					3375		949	32			4277			
		EASTSIDE																		
		KERN RIVER CONDUIT																		
736.0	25	CASTRO			28		770													
		KCCBW Co.			71		821			1190			2456						2	
338.9	10.8	SOUTH FORK			52	52	66					69		2486						
476.8	80	BUENA VISTA (1-ST)		316	282	332	778				236						316		176	
536.5	220	JAMES (1-ST)			67		5599		5526											
556.5	20	ANDERSON (1-ST)					956		596											
706.3	150	STINE					22				22									
733.5	30	MEACHAM					1329		1329											
863.5	750	FARMERS		60			74				74						60			
903.5	40	PLUMMER					1238		1238											
943.5	40	JOYCE					963		963											
1008.5	40	JOHNSON					165		165											
1130.8	120	PIONEER (1-ST)					198		198											
1196.5	65	BEARDSLEY (1-ST)		748																
		LERDO (KRWSD)		6047										449	5598		59		588	
1200.5	15	ANDERSON (2-ND)																		
1560.5	45	JAMES & DIVIW																		
4360.8	10	WILSON																		
		KCCBW Co.																		
1276.2	28	MCCARTNEY																		
		McCORD	LERDO 32%																	
1276.2	100		BEARDSLEY 75%																	
		CALLOWAY	CENTRAL 20%	1769										1769					134	
2226.5	950		KRWSD 80%																	
		RAILROAD	KCCBW Co. 20%																	
2426.5	200		KRWSD 80%																	
2556.5	30	BUENA VISTA (2-ND)																		
2606.0	100	JAMES (2-ND)																		
2856.5	100	PIONEER (2-ND)																		
3106.5	250	BEARDSLEY (2-ND)																		
3162.5	56	ADKIN ISLAND (2-ND)																		
		ROSEDALE RKWSD																		
		TRUXTUN LAKES		715										44			71			
		SOUTH LAKE																		
		COUNTY OF KERN															63			
		KERN VALLEY GOLF COURSE															4			
		CALIFORNIA WATER SERVICE CO.															535			
		OLCESE WD															73			
		THE PARK AT RIVER WALK		22													22			
		BVWSD VIA KCWD											33							
		BVWSD VIA CWD											189							
		KRWSD FOR CWD											260							
		KRWSD FOR ID4											3643						7395	
TOTALS			1039	12436	16278	12657	12657	0	11315	1190	3787	69	6329	4750	5598	1243	4652	668	1757	0
		LOSS		2410	668														1757	
FLOW AT FIRST POINT			1039	14846	16093															

ISABELLA RESERVOIR				
IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
569	1563	36	1497	625
0	0	0	0	0
3480	10948	247	73	13107
68	2930		2455	600
0	241	2	155	84
22	53	2	0	78
22	75	0	3	30
0	6067	93	935	5280
3426	27539	510	491	30063
6604	49520	896	5207	49547

TOTAL CHANGE IN STORAGE = 321

NOTES:

Kern Island Exch. Lacc. from BVWSD: 33

Cally. Exch. Lacc: KM from Kern Island= 705
River Loss: KM from Kern Island= 184

Truxtun Lakes: KRWSD for CWD= 44

Lerdo Exch. Lacc: BVWSD via CWD: 189
Lerdo Exch. Lacc: KRWSD for CWD= 260

Cally. Exch. Lacc: KRWSD for ID4: 3814
River Loss: KRWSD for ID4= 1284

South Park transfer to City in excess of carryover storage requirements= 2456

CITY OF BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: December 2008 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT.....	15937
LESS NON-CONTRIBUTING CANALS.....	15495
FOR OTHERS AND FIRST POINT CANALS.....	1442
TO BE CONTRIBUTED BY OTHER CANALS.....	676
TO BE USED BY OTHER CANALS.....	766
EACH OTHER CANAL TO RECEIVE.....	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.553%)...	0
B.V.W.S.D. ENTITLEMENT.....	0
SEEPAGE LOSS.....	676
KERN RIVER CONDUIT ENTITLEMENT.....	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT.....	0
TOTAL.....	676

DIVERSION RIGHT				GROSS DIV'N	GROSS ENT'L	RELEASES To River	RELEASES Distribution Direct	RELEASES Distribution Pro	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES KRWSD	KCCBM Co.	KDWD	OTHER	EXCHANGES, SALES OR PURCHASES PLUS	LOSS	NET DIVERSIONS KRWSD	KCCBM Co.	KDWD	OTHER	WATER TRANS. LOSS DIR	PRO
		K.C.L. Co. ENT'L @ 2ND PT.																		
2440.0	740	KERN ISLAND (1-ST)		2108	13495	13445					3050						2708		38	
		EASTSIDE																		
		KERN RIVER CONDUIT																		
320.0	20	CASTRO			69		338													
		KCCBM Co.			187		736			1239			6						7	
330.0	10.5	SOUTH FORK			209	104														
410.5	85	BUENA VISTA (1-ST)			353	290	128				191									
530.0	120	JAMES (1-ST)			48		6545		6593											
550.5	20	ANDERSON (1-ST)					962		352											
705.5	155	STINE					72				72									
730.5	25	BEACHAM					1428		1428											
886.5	156	FARMERS					78				18									
926.5	40	PLUMMET					7605		7605											
960.5	49	JOYCE					556		456											
1000.5	49	JOHNSON					766		766											
1136.5	136	PIONEER (1-ST)					460		460											
1140.5	50	BEARDSLEY (1-ST)		427												222		205		
		LERDO (KRWSD)		3570									4		3570					
1188.5	70	ANDERSON (2-ND)																		
1246.5	43	JAMES & DIXON																		
1288.5	58	WILSON																		
		KCCBM Co.																		
1276.9	34	BECKWITH																		
		RECORD LERDO 30%																		
1378.5	106	BEARDSLEY 70%																		
		GALLOWAY CENTRAL 20%		1319										1319						
2224.0	150	KRWSD 80%																		
		RAILROAD KCCBM Co. 20%																		
2429.5	205	KRWSD 80%																		
2516.5	90	BUENA VISTA (2-ND)																		
2696.5	180	JAMES (2-ND)																		
2844.6	170	PIONEER (2-ND)																		
3106.5	240	BEARDSLEY (3-RD)																		
3162.5	34	KERN ISLAND (2-ND)																		
		ROSEDALE RANCH																		
		TRUXTUN LAKES		77										77						
		NORTH LAKE																		
		COUNTY OF KERN														47				
		KERN VALLEY GOLF COURSE																		
		CALIFORNIA WATER SERVICE CO.														844				
		OLCESE WD														7				
		THE PARK AT RIVER WALK																		
		KRWSD FOR ID4											2136						140	
		JOY CORDOVA														2				
		GLEN GRUNDER														2				
		KRWSD TRANSFER TO 1ST PT. SHP.												10						
TOTALS			902	7501	16261	13844	13844	0	12709	1239	2271	0	2140	1406	3579	1124	2108	205	779	0
		LOSS		1454	676														779	
FLOW AT FIRST POINT			902	8955	15937															

ISABELLA RESERVOIR				
IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
0	625	8	96	521
0	0	0	0	0
111	13107	176	0	13031
0	600	0	0	600
191	84	2	0	277
12	78	2	0	88
18	30	0	0	48
0	5280	67	205	5008
7278	36943	403	178	36640
7598	43847	658	479	50272

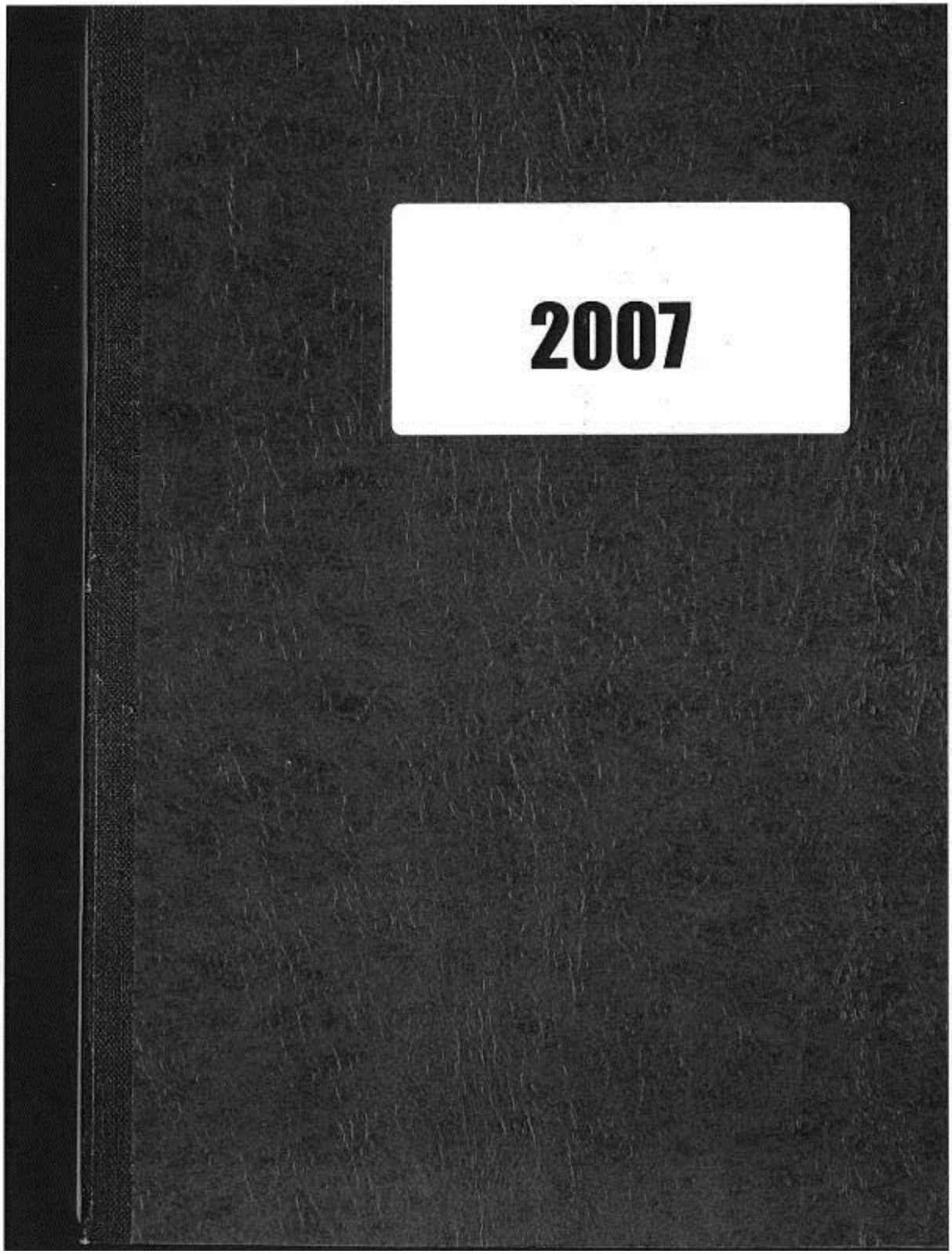
TOTAL CHANGE IN STORAGE = 6431

NOTES:

Truxtun Lakes: KRWSD for ID4= 71

Cally, North, Less: BVWSD for ID4= 1311
River Loss: KRWSD for ID4= 74

BVWSD Transfer to 1st Pt. Grp.: KRWSD (4); City (4)


2007

CITY OF BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: August 2007 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	9941
LESS NON-CONTRIBUTING CANALS	9265
FOR OTHERS AND FIRST POINT CANALS	676
TO BE CONTRIBUTED BY OTHER CANALS	676
TO BE USED BY OTHER CANALS	0
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.583%)	0
B.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	676
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	676

DIVERSION RIGHT				GROSS DIV'R	GROSS ENT'L	RELEASES To River	RELEASES Distribution Direct	RELEASES Distribution Pro	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES NKWSD	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES KCC&W Co.	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES KDWD	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES OTHER	EXCHANGES, SALES OR PURCHASES PLUS	EXCHANGES, SALES OR PURCHASES LESS	NET DIVERSIONS NKWSD	NET DIVERSIONS KCC&W Co.	NET DIVERSIONS KDWD	NET DIVERSIONS OTHER	WATER TRANS. LOSS Dir	WATER TRANS. LOSS Pro
RIVER STAGE	ABT.	NAME OF CANAL																		
		K.C.L. Co. ENT'L @ 2ND PT.																		
300.0	330	KERN ISLAND	(1-ST)	13256	9265						9265			7355				11571		
		EASTSIDE		1863											1283			813		
		KERN RIVER CONDUIT													780					
300.0	20	CASTRO																		
		KCC&W Co.																		
306.5	16.5	SOUTH FORK													5842				641	
418.5	60	BUENA VISTA	(1-ST)																	
539.5	120	JAMES	(1-ST)																	
556.5	20	ANDERSON	(1-ST)																	
709.5	140	STINE																		
736.5	30	MEACHAM																		
783.5	100	FARMERS																		
930.5	40	PLUNKET																		
982.5	40	JOYCE																		
1033.5	40	JOHNSON																		
1130.5	120	PIONEER	(1-ST)																	
1180.5	80	BEARDSLEY	(1-ST)	841																
		LERDO (NKWSD)		10224										7355	8553	1771			841	
1200.5	10	ANDERSON	(2-ND)																	
1240.5	40	JAMES & DIXON																		
1260.5	10	WILSON																		
		KCC&W Co.																		
1278.5	35	McCARTNEY																		
		McCORD	LERDO 20%																	
1376.5	105		BEARDSLEY 70%																	
		CALLOWAY	CENTRAL 25%																	
2226.5	851		NKWSD 85%																	
		RAILROAD	KCC&W Co. 23%																	
2426.5	200		NKWSD 85%																	
2516.5	90	BUENA VISTA	(2-ND)																	
2690.5	180	JAMES	(2-ND)																	
2865.5	175	PIONEER	(2-ND)																	
3106.5	240	BEARDSLEY	(2-ND)																	
3163.5	54	KERN ISLAND	(2-ND)																	
		ROSEDALE NKWSD																		
		TRUXTUN LAKES		102													102			
		NORTH LAKE																		
		COUNTY OF KERN															200			
		KERN VALLEY GOLF COURSE															38			
		CALIFORNIA WATER SERVICE CO.															1846			
		OLCESE WD															122			
		THE PARK AT RIVER WALK		20													20			
		HACIENDA WD VIA NKWSD												1930						
		BVWSD VIA KDWD												2072						
		HACIENDA WD VIA CWD												6623						
		ARVIN-EDISON TURNOUT		300													300			
		HACIENDA WD TRANSFER TO NKWSD													1713					
TOTALS			1909	26445	9265	0	0	0	0	0	9265	0	17981	17981	1771	2329	12784	841	641	0
		LOSS		1316	676														641	
FLOW AT FIRST POINT			1908	27761	9941															

ISABELLA RESERVOIR				
IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
486	4059	71	4005	469
0	0	0	0	0
0	79337	853	8612	70872
0	870		0	870
0	0	0	0	0
0	0	0	0	0
0	18	0	0	18
0	12466	619	841	11950
7286	34171	1912	1682	37842
7782	72505	3256	15140	61851

TOTAL CHANGE IN STORAGE = -10644

NOTES:

Kern Island Exch. Less: from BVWSD= 1383
Eastside Exch. Less: from BVWSD= 780

Lerdo Exch. Less: NKD via NKWSD= 1930

Lerdo Exch. Less: NKD via CWD= 6623

Lerdo Exch. River City to NKWSD (Kern)= 6842

Lerdo Exch. Plus: NKD to NKWSD= 1713

CITY OF BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: September 2007 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT..... 8547
LESS NON-CONTRIBUTING CANALS..... 7892
FOR OTHERS AND FIRST POINT CANALS..... 655
TO BE CONTRIBUTED BY OTHER CANALS..... 655
TO BE USED BY OTHER CANALS..... 0
EACH OTHER CANAL TO RECEIVE..... N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.693%)... 0
B.V.W.S.D. ENTITLEMENT..... 0
SEEPAGE LOSS..... 655
KERN RIVER CONDUIT ENTITLEMENT..... 0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT..... 0
TOTAL..... 655

DIVERSION RIGHT				RELEASES			ENTITLEMENT LESS RELEASES ...OR PLUS REDISTRIBUTED RELEASES			EXCHANGES, SALES OR PURCHASES		NET DIVERSIONS			WATER TRANS. LOSS		ISABELLA RESERVOIR			
RIVER STAGE	PRIOR	NAME OF CANAL	GROSS DIVR.	GROSS ENTL.	To River	Distributor Direct	Distributor Pro	KWVD	KCB&W Co.	KDWD	OTHER	PLUS	LESS	KWVD	KCB&W Co.	KDWD	OTHER	DIR	PRO	IN	PREVIOUS BALANCE	LOSS	OUT	CUMMAT BALANCE
		K.C.L. CO. PAR'L @ 2ND PT.																						
300.0	300	KERN ISLAND (1-97)	8853	7892						7892		1035	6168	287		7008				1284	469	29	415	1309
		EASTSIDE	750									750												
		KERN RIVER CONDUIT																						
300.0	26	CALVRO																		0	0	0	0	0
		KCB&W Co.																		0	10672	396	1883	8413
332.2	313	SOUTH FORK																		0	870	0	0	870
418.3	86	BUENA VISTA (1-97)																		0	0	0	0	0
498.5	170	JAMES (1-97)																						
528.6	30	ANDERSON (1-97)																						
702.0	199	STINE																						
728.0	24	ARCHWAY																		0	0	0	0	0
805.3	195	FARMERS																						
826.7	45	PLANKET																		0	18	0	0	18
869.8	43	JOYCE																						
1005.5	43	JOHNSON																						
1135.5	130	PIONEER (1-97)																						
1198.8	60	BEARDSLEY (1-97)	703																					
		LEGGETT(WRMWSD)										778	6168	287			783			778	9784	474	783	10781
1268.5	70	ANDERSON (2-NO)	6424																	778	37842	1408	297	38572
1349.8	40	JAMES & DIXON																						
1389.8	10	WILSON																						
		KCB&W Co.																		2065	61651	2249	37158	64909
1376.9	26	ARCHWAY																						
		RECORD (LEGGETT 39%)																		TOTAL CHANGE IN STORAGE = -3362				
1376.5	190	BEARDSLEY 70%																						
		CALLOWAY CENTRAL 20%																		NOTES:				
2224.5	470	ARMOND 10%																						
		ACCEB Co. 20%																		Kern Island Exch. Less: from BVWSD=				640
2434.5	200	WWSD 80%																		Dataran Exch. Less: from BVWSD=				700
2574.5	90	BUENA VISTA (2-NO)																						
2596.5	160	JAMES (2-NO)																						
2695.5	270	PIONEER (2-NO)																						
2784.5	240	BEARDSLEY (2-NO)																						
2921.5	70	KERN ISLAND (2-NO)																						
		ROSEDALE RIVER																						
		TRUXTUN LAKES																						
		NORTH LAKES																						
		COUNTY OF KERN																		Lands Exch. Less: HWD via CWD:				2014
		KERN VALLEY GOLF COURSE																		Lands Exch. Less: HWD via NKWSD=				1987
		CALIFORNIA WATER SERVICE CO.														147				Lands Exch. Less: IDI from Kern Island=				1025
		OLCESE WD														25				Lands Exch. Less: KDWD for IDI=				300
		THE PARK AT RIVER WALK														1367				Lands Exch. Less: HWD for RCWA=				825
		BVWSD WATER KDWD										1493				109								
		HACIENDA WD VIA CWD										2078												
		HACIENDA WD VIA NKWSD										1517												
		HACIENDA WD FOR RCWA										825												
		HACIENDA WD TRANSFER TO NKWSD																		Lands Exch. Plus: HWD to NKWSD=				778
TOTALS			16682	14892	7892	0	0	0	0	7892	0	6565	4616	287	0	1662	783	1	0					
		LOSS	655	655	655													1						
FLOW AT FIRST POINT			16682	15547	8547																			

CITY OF BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: October 2007 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	9951
LESS NON-CONTRIBUTING CANALS	9275
FOR OTHERS AND FIRST POINT CANALS	676
TO BE CONTRIBUTED BY OTHER CANALS	676
TO BE USED BY OTHER CANALS	0
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.583%)	0
R.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	579
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	676

DIVERSION RIGHT				GROSS	GROSS	RELEASES			ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES				EXCHANGES, SALES OR PURCHASES		NET DIVERSIONS				WATER TRANS. LOSS		ISABELLA RESERVOIR				
RIVER STAGE	AMT.	NAME OF CANAL		DIV'R	ENT'L	To River	Distribution Direct	Distribution Pro	RKWSD	KCC&W Co.	KDWD	OTHER	PLUS	LESS	RKWSD	KCC&W Co.	KDWD	OTHER	DWI	PRO	IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
		K.C.L. Co. ENT'L @ 2ND PT.																							
300.0	330	KERN ISLAND (1-ST)		5000	9275	2362					6323		705	55			5648				1275	1303	76	0	2500
		EASTSIDE																							
		KERN RIVER CONDUIT																							
320.0	20	CASTRO					179																		
		KCC&W Co.					526			715											0	0	0	0	0
328.5	10.5	SOUTH YORK					375					375									0	8513	315	653	7545
410.5	80	BUENA VISTA (1-ST)					1262				1262										375	870		0	1245
420.5	130	JAMES (1-ST)																			1262	0	12	0	1250
550.5	20	ANDERSON (1-ST)																							
700.5	150	STINE																			0	0	0	0	0
720.5	30	HEADMAN																							
860.5	140	FARMERS																			0	18	0	0	18
930.5	40	PLUMMER																							
960.5	40	JOYCE																							
1000.5	40	JOHNSON																							
1130.5	130	PIONEER (1-ST)																							
1190.5	60	BEARDSLEY (1-ST)		375														375							
		LERDO (RKWSD)		6323										3155	2157						0	10783	357	379	10047
1200.5	10	ANDERSON (2 RD)																			0	36912	1229	2695	32988
1240.5	40	JAMES & DIXON																							
1255.5	15	WILSON																							
		KCC&W Co.																							
1275.5	35	MACFARREY																							
		RKCWD LERDO 30%																			2912	58499	2001	3723	55937
1295.5	150	BEARDSLEY 70%																							
		CALLOWAY CENTRAL 35%																							
2256.5	853	RKWSD 65%																							
		RAILROAD KCC&W Co. 35%																							
3404.5	298	RKWSD 65%																							
2515.5	99	BUENA VISTA (3-RD)																							
2676.5	161	JAMES (2-RD)																							
2866.5	170	PIONEER (2-RD)																							
3106.5	240	BEARDSLEY (3-RD)																							
3162.5	35	KERN ISLAND (3-RD)																							
		ROSEDALE RKWSD																							
		TRUXTUN LAKES																							
		NORTH LAKE																							
		COUNTY OF KERN															101								
		KERN VALLEY GOLF COURSE															16								
		CALIFORNIA WATER SERVICE CO.															1199								
		OLCESE WD															52								
		THE PARK AT RIVER WALK																							
		SVWSD WAIVER KDWD											1426												
		HACIENDA WD VIA CWD											553												
		RKWSD FOR CWD											536												
TOTALS				1389	10527	9275	2362	2362	0	0	715	8185	375	3213	3213	2157	1389	5648	375	(1)	0					
		LOSS			676	676														(1)					
FLOW AT FIRST POINT				1389	11373	9951																			

TOTAL CHANGE IN STORAGE = -3912

NOTES:

Kern Island Exch. Less: from RVWSD= 55

Lerdo Exch. Less: KWD via CWD= 463
Lerdo Exch. Less: RKWSD for CWD= 529
Lerdo Exch. Less: ID4 from Kern Island= 706
Lerdo Exch. Less: KDWD for ID4= 1355

CITY OF BAKERSFIELD

KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

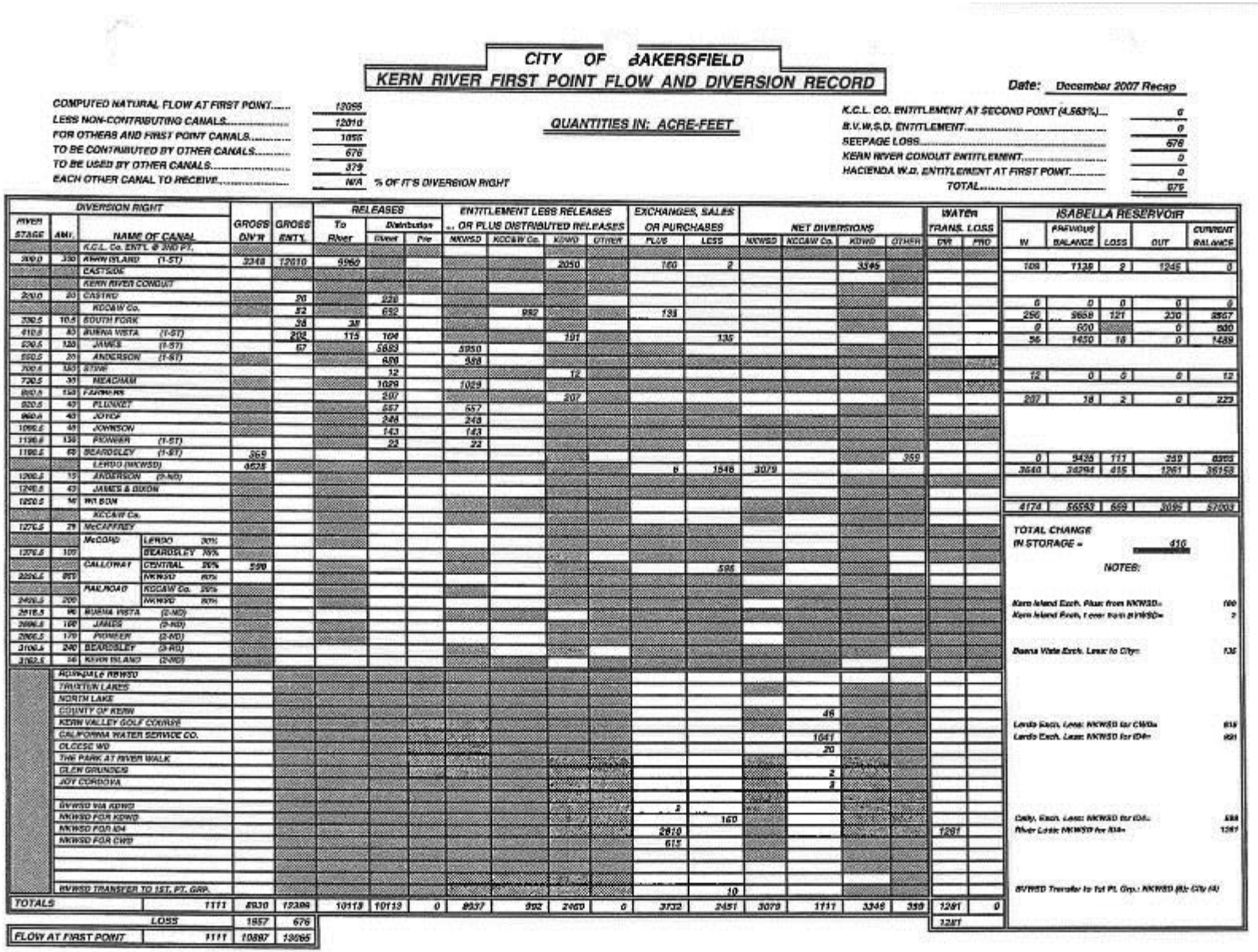
Date: November 2007 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	10109
LESS NON-CONTRIBUTING CANALS	9445
FOR OTHERS AND FIRST POINT CANALS	665
TO BE CONTRIBUTED BY OTHER CANALS	665
TO BE USED BY OTHER CANALS	0
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.563%)	0
B.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	656
KERN RIVER CONDUIT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	656

DIVERSION RIGHT				GROSS DIV'N	GROSS ENT'L	RELEASES			ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES				EXCHANGES, SALES OR PURCHASES		NET DIVERSIONS				WATER TRANS. LOSS		ISABELLA RESERVOIR				
RIVER STAGE	ANT.	NAME OF CANAL				To River	Distribution Direct	Distribution Pro	NKWSD	KCC&W Co.	KDWD	OTHER	PLUS	LESS	NKWSD	KCC&W Co.	KDWD	OTHER	DIR	PRO	IN	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
		K.C.L. Co. ENT'L @ 2ND PT.																							
300.0	700	KERN ISLAND	(1-ST)	4780	9445	6070					3375			99			4681				46	2500	56	1262	1128
		EASTSIDE																							
		KERN RIVER CONDUIT																							
330.0	20	CASTRO					297														0	0	0	0	0
		KCC&W Co.					893			1190			2261							(2)	2268	7645	245	10	9658
393.5	50.5	SOUTH FORK					625					625		1270							605	1245		1250	600
410.5	60	BUENA VISTA	(1-ST)				238				236										226	1250	36	0	1450
533.5	120	JAMES	(1-ST)				4011		4011																
553.5	20	ANDERSON	(1-ST)				0		0																
790.5	150	STINE																			0	0	0	0	0
793.5	30	BEACHAM																							
883.5	110	FAIRVIEW																			0	18	0	6	18
953.5	40	FLOWER																							
993.5	40	JOYCE																							
1033.5	40	JOHNSON																							
1130.5	130	PIONEER	(1-ST)																						
1190.5	60	BEARDSLEY	(1-ST)	367														367			0	10041	239	367	9435
		LERDO (NKWSD)		2546										1780	858						2203	22958	514	86	34294
1295.5	10	ANDERSON	(2-ND)																						
1240.5	40	JAMES & DIXON																							
1260.5	10	WILSON																							
		KCC&W Co.																			5364	55687	1290	2098	55863
1278.5	35	McCAFFREY																							
		McCORD	LERDO 30%																		TOTAL CHANGE IN STORAGE =		908		
1295.5	160		BEARDSLEY 70%																						
		CALLOWAY	CENTRAL 20%																		NOTES:				
2225.5	850		NKWSD 80%																						
		RAILROAD	KCC&W Co. 20%																		Kern Island Exch. Loss from BVWSD:				99
2436.5	200		NKWSD 80%																						
2616.5	90	BUENA VISTA	(2-ND)																						
2696.5	180	JAMES	(2-ND)																						
2866.5	170	PIONEER	(2-ND)																						
3106.5	240	BEARDSLEY	(2-ND)																						
3162.5	56	KERN ISLAND	(2-ND)																						
		ROSEDALE RWMD																							
		TRUXTUN LAKES																							
		NORTH LAKE																							
		COUNTY OF KERN															70				Lerdo Exch. Loss: NKWSD for CWD=				43
		KERN VALLEY GOLF COURSE															6				Lerdo Exch. Loss: NKWSD for IDH=				991
		CALIFORNIA WATER SERVICE CO.															1092				Lerdo Exch. Loss: KDWD for IDH=				744
		OLCESE WD															27								
		THE PARK AT RIVER WALK																							
		BVWSD (MAR)(A KDWD											845												
		NKWSD FOR CWD											43												
		NKWSD FOR IDH											991												
		NKWD to CITY (Trans. Loss Savings)												991											
TOTALS			1195	7795	9445	6070	6070	0	4019	1190	3611	625	4140	4140	869	1196	4681	367	(2)	0	South Fork transfer to City: in excess of carryover storage requirements				1370
		LOSS		665	665														(2)						
FLOW AT FIRST POINT			1195	8460	10109																				



CITY OF BAKERSFIELD
KERN RIVER FIRST POINT FLOW AND DIVERSION RECORD

Date: December 2007 Recap

QUANTITIES IN: ACRE-FEET

COMPUTED NATURAL FLOW AT FIRST POINT	12095
LESS NON-CONTRIBUTING CANALS	12019
FOR OTHERS AND FIRST POINT CANALS	1056
TO BE CONTRIBUTED BY OTHER CANALS	676
TO BE USED BY OTHER CANALS	379
EACH OTHER CANAL TO RECEIVE	N/A % OF IT'S DIVERSION RIGHT

K.C.L. CO. ENTITLEMENT AT SECOND POINT (4.563%)	0
B.V.W.S.D. ENTITLEMENT	0
SEEPAGE LOSS	676
KERN RIVER CONSULT ENTITLEMENT	0
HACIENDA W.D. ENTITLEMENT AT FIRST POINT	0
TOTAL	676

DIVERSION RIGHT: River Stage	Abv.	Name of Canal			GROSS DIV'N	GROSS ENT'L	RELEASES: To River	Distribution: Direct	Dist: Pmp	ENTITLEMENT LESS RELEASES ... OR PLUS DISTRIBUTED RELEASES: NKWSD	KCC&W Co.	KCWD	OTHER	EXCHANGES, SALES OR PURCHASES: PLUS	LESS	NET DIVERSIONS: NKWSD	KCC&W Co.	KCWD	OTHER	WATER TRANS. LOSS: CVP	PRO
		K.C.L. Co. ENT'L @ 2ND PT.																			
300.0	330	KHAN ISLAND (1-ST)			3348	12019	4960					2050		160	2				3345		
		CASTAIC																			
		KERN RIVER CONSULT																			
300.0	33	CASTRO				26		228													
		KCC&W Co.				52		692			982			138							
330.5	10.5	SOUTH FORK				38	38														
410.0	83	BUENA VISTA (1-ST)				202	115	104				191			135						
530.5	120	JAMES (1-ST)				67		5883		5950											
550.5	20	ANDERSON (1-ST)						600		568											
700.5	150	STINE						12				12									
730.5	30	MEACHAM						1029		1029											
800.5	130	FAIRVIEW						207				207									
820.5	40	FLOWER						557		557											
860.5	40	JOTOP						348		348											
1056.5	46	JOHNSON						143		143											
1136.5	138	PIONEER (1-ST)						22		22											
1190.5	69	BEARDSLEY (1-ST)			359															359	
		LERDO (NKWSD)			4525									6	1546	3079					
1200.5	10	ANDERSON (2-ND)																			
1240.5	40	JAMES & DIXON																			
1250.5	10	WILSON																			
		KCC&W Co.																			
1270.5	20	McCAFFREY																			
		McCOAD	LERDO	20%																	
1276.5	109		BEARDSLEY	80%																	
		CALLOWAY	CENTRAL	20%	578										595						
2205.5	85		NKWSD	80%																	
		RAILROAD	KCC&W Co.	20%																	
2405.5	200		NKWSD	80%																	
2615.5	95	BUENA VISTA (2-ND)																			
2695.5	160	JAMES (2-ND)																			
2855.5	170	PIONEER (2-ND)																			
3105.5	240	BEARDSLEY (2-ND)																			
3162.5	58	KHAN ISLAND (2-ND)																			
		ROSEDALE RBWSD																			
		TRUXTUN LAKES																			
		NORTH LAKE																			
		COUNTY OF KERN																			
		KERN VALLEY GOLF COURSE																	46		
		CALIFORNIA WATER SERVICE CO.																			
		DIOCESE WD																	1641		
		THE PARK AT RIVER WALK																	20		
		GLEN GRUNDIES																			
		JOY CORDOVA																	2		
																			3		
		BVWSD via KDWD																			
		NKWSD FOR KDWD												3							
		NKWSD FOR IDH													160						
		NKWSD FOR CWD												2810						1281	
														615							
		BVWSD TRANSFER TO 1ST. PT. GRP.													10						
TOTALS				1111	8530	12389	10113	10113	0	8937	982	2469	0	3732	2451	3079	1111	3346	359	1281	0
			LOSS		1857	676														1281	
FLOW AT FIRST POINT				1111	10887	13065															

ISABELLA RESERVOIR: W	PREVIOUS BALANCE	LOSS	OUT	CURRENT BALANCE
109	1139	2	1245	0
0	0	0	0	0
256	9658	121	230	9557
0	600		0	600
56	1450	18	0	1489
12	0	0	0	12
207	18	2	0	223
0	9436	111	359	8966
3648	34794	415	1261	36158
4178	56583	669	3095	57903

TOTAL CHANGE IN STORAGE = 616

NOTES:

Kern Island Exch. Flow from NKWSD = 160
Kern Island Exch. Flow from BVWSD = 2
Buena Vista Exch. Loss to City = 135
Lerdo Exch. Loss: NKWSD for CWD = 810
Lerdo Exch. Loss: NKWSD for IDH = 991
Calloway Exch. Loss: NKWSD for IDH = 595
Pioneer Exch. Loss: NKWSD for IDH = 160
Calloway Exch. Loss: NKWSD for CWD = 2810
River Lerdo NKWSD for IDH = 1281
BVWSD Transfer to 1st Pt. Grp.: NKWSD (for City #) = 10

Chapter 3
Responses to Comments

This chapter presents the written responses to all written comments reproduced in Chapter 2, *Comments*. Responses are grouped by comment letter and number, corresponding to the numbering system used in Chapter 2. If the topic of one response relates closely to another, the text provides the reader with a cross-reference to the relevant comments and responses. Each response begins with a brief summary of the comment, responds to the comment, and then identifies if revisions to the draft EIR are required. Revisions provided pursuant to comments are noted below and are included in Chapter 4, *Draft EIR Errata*.

Many comments are similar or concern the same issue. For these comments, master responses have been developed and presented first. When appropriate, responses to individual comments also reference the master responses.

In responding to comments, CEQA does not require a lead agency to conduct every test or perform all research, study or experimentation recommended or demanded by a commenter. Rather, a lead agency need only respond to significant environmental issues and does not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure of environmental impacts is made in the EIR (State CEQA Guidelines §§ 15088, 15204).

3.1 Master Responses

3.1.1 Project Description Master Response

A number of comments address the extent of the information presented in the project description, Chapter 2 of the draft EIR.[1] Several of those comments specifically assert that the project description does not meet CEQA requirements for content and level of detail.[2] As indicated in section 15124 of the State CEQA Guidelines, an EIR project description must provide a project's precise location and boundaries, its objectives, a general description of the project's characteristics, and a statement that briefly describes the intended uses of the document. State CEQA Guidelines section 15124 further states that the project description "should not supply extensive detail beyond that needed for evaluation and review of the environmental impact."

Section 2.1.2, *Project Location*, of the draft EIR, pages 2-5 and 2-6, and Figures 2-1 and 2-2, describe the project's location, including the KWB boundaries within its regional and local context. Figures 2-3 and 2-4 depict key water resource facilities on the lower Kern River and existing points of diversion currently used to deliver Kern River water to the KWB. Figure 2-5 presents the existing points of diversion and rediversion, the use of which is typically coordinated with the City of Bakersfield, the Department of Water Resources, or Buena Vista Water Storage District, by the Kern

[1] See comments A4-7, A4-11, A4-12, A4-20 through A4-36, A4-38 through A4-42, A4-44 through A4-50, A4-52, A4-54, A4-55, A4-57 through A4-59, A4-61 through A4-68, A4-74 through A4-78, A4-82, A4-83 through A4-85, A4-87 through A4-89, A4-91 through A4-95, A4-97, A4-98, A4-128, A4-179, A4-180, A4-204, O2-1, O3-2, O3-3, and O3-11 through O3-13.

[2] See comments A4-7, A4-11, A4-12, A4-20 through A4-42, A4-44 through A4-50, A4-52, A4-54, A4-55, A4-57 through A4-59, A4-61 through A4-68, A4-94, and O2-1.

County Water Agency (KCWA), as well as the proposed places of use (POUs) for project water. Figure 2-5 is reproduced in Chapter 4, *Draft EIR Errata*, to correct a numbering error. Figure 2-6 and the text on pages 2-9 and 2-10 of the draft EIR show the geographic extent of the participating members' service areas, which are identical to the proposed POUs for project water shown on Figure 2-5. Section 2.1.4.2, P*roject Objectives*, outlines the objectives that KWBA aspires to achieve through project implementation. Section 2.1.3, *Proposed Project*, provides a general description of the project's characteristics, and Section 2.3, *Agency Use of this EIR*, summarizes the EIR's intended uses.

Several themes emerge within the project description comments. These include questions about KWBA's water rights application and Kern River water rights status; the Sustainable Groundwater Management Act (SGMA); the quantity, timing, and source of water that would be diverted and recharged under the project; flood policy; the project not being additive; existing Kern River water rights; existing and proposed KWB recovery operations; second priority use rights; and the boundaries of the project study area and scope of the environmental review. The following subsections address each of these issues in turn.

3.1.1.1 KWBA's Water Rights Application and Kern River Water Rights Status

As described in the draft EIR, the project proposes to divert up to 500,000 acre-feet per year (AFY) of unappropriated Kern River flows during years when water is available, for recharge and storage within the KWB through existing diversion works, as well as existing and previously approved recharge facilities located on the KWB property. To facilitate the project, KWBA filed a water right application (Application 31676) in September 2007, seeking a water right permit from the State Water Resources Control Board (State Water Board) to allow for the appropriation and continued beneficial use of water from the Kern River to increase reliability and enhance the dry-year water supply to KWBA's participating members through storage in the Kern Water Bank.[3]

The Kern River system was first found to be fully appropriated throughout the year from Buena Vista Sink upstream, including all tributaries where hydraulic continuity exists in Kern County, in 1989. The system was included in the Fully Appropriated Stream Declaration (Declaration) adopted by Water Board Orders WR 89-25, WR 91-07, and WR 98-08. The Declaration includes a list of streams deemed fully appropriated for all or part of the year based on court decisions or decisions by the State Water Board.

In *North Kern Water Storage District v. Kern Delta Water District* (2007) 147 Cal.App.4th 555 (North Kern Decision), the Fifth District Court of Appeal ruled that there was a partial forfeiture of Kern Delta Water District's (Kern Delta) pre-1914 water rights on the Kern River. In 2007, five petitions requesting revision of the Kern River's fully appropriated status were filed with the State Water Board, as reflected in the Declaration. Petitions were filed by KWBA, North Kern Water Storage District and City of Shafter, City of Bakersfield, Buena Vista Water Storage District, and Kern County

[3] The diversion rate requested in Application 31676 has been amended since to eliminate the variable diversion rates and distribution of uses while retaining the same maximum annual diversion quantity, purpose of use, and places of use. Because the analyses in the EIR are based on the maximum annual diversion of 500,000 AF and the purpose and places of use remain the same, this amendment does not alter the project as proposed or the impacts analysis presented in the draft EIR.

Water Agency (Petitioners). Petitioners also filed applications to appropriate water from the Kern River, including KWBA's application discussed above. KWBA's application, however, does not seek to appropriate any water deemed forfeited—partial or otherwise—under the North Kern Decision.

On February 16, 2010, the State Water Board issued Water Right Order WR 2010-0010 (Order WR 2010-0010), which amended the Declaration to remove the designation of the Kern River as fully appropriated and allow for processing of applications to appropriate water from the Kern River. In issuing Order WR 2010-0010, the State Water Board concluded that, based on the evidence and testimony submitted, there is some unappropriated water in the Kern River because water in excess of proprietary water rights to divert has been historically diverted into the Intertie. However, the evidence presented did not clearly resolve whether the partial forfeiture of Kern Delta's rights created any additional unappropriated water. According to the Order, it will be up to the applicants to show when and how much available water exists for appropriation in the context of the State Water Board's processing of applications for appropriation.

KWBA's application for a water right only seeks to appropriate water surplus to existing rights on the Kern River. While the face value of the application is 500,000 AFY, actual diversions would frequently be much less. Indeed, based on historical hydrology and water availability, diversion are expected to occur only in approximately 18% of years with an average annual diversion of only 54,095 AFY. (Appendix L, *Kern Water Bank Authority Water Availability Analysis*, page 3.6-35 and Table 8.)

3.1.1.2 The Sustainable Groundwater Management Act

Several comments criticize the draft EIR's failure to consider, particularly in the context of alternatives analyses, potential changes in KWBA's operations that may result from implementation of SGMA and, specifically, the potential that KWBA and its members will have to limit pumping and institute conservation measures as a result of SGMA.[4] As discussed below, it is anticipated that KWBA's operations will not be significantly affected by the implementation of SGMA and that the project will ultimately contribute to SGMA's goals. Because the project is a recharge and storage project intended to improve water supply reliability and recover only stored water (not native groundwater), it is not expected that SGMA would affect KWB operations.[5]

In 2014, the California Legislature enacted SGMA, effective January 1, 2015, to support the "protection, management, and reasonable beneficial use of the water resources of the state." (Stats. 2014, ch. 346, §1[a][1]). Rather than simply impose statewide mandates, SGMA "provide[s] local and regional agencies the authority to sustainably manage groundwater" and "recognize[s] and preserve[s] the authority of cities and counties to manage groundwater pursuant to their police powers" (*Id.* at § 1[a][b][1]). To achieve these dual ends, SGMA preserves, for local agencies, the opportunity to manage groundwater by empowering them to act as a groundwater sustainability agency (GSA) and subsequently to develop a groundwater sustainability plan (GSP) to manage groundwater resources within a given basin.

SGMA requires the development of GSPs for basins assigned specific priorities by the California Department of Water Resources (DWR). The Act directs DWR to classify each groundwater basin in

[4] See comments A4-104, A4-219, A4-122, and A4-250.

[5] Please see Section 3.1.3, *Hydrology and Water Quality Master Response*, for additional detail regarding the project's relationship to SGMA.

the state on a continuum from "very-low" to "high" priority (Water Code § 10933). This classification, in turn, determines whether a GSA must be formed and whether a GSP must be developed. Local agencies in basins that DWR designated medium priority or high priority had until June 30, 2017 to decide to become a GSA responsible for implementing SGMA within their boundaries (Water Code § 10723). If the local agencies in these basins fail to act, GSA responsibilities may fall to the county or counties overlying the basin (Water Code § 10724). GSAs in medium and high priority basins must then develop a GSP by January 31, 2022. Basins deemed by DWR to be subject to conditions of critical overdraft must develop a GSP by January 31, 2020 (Water Code § 10720.7[a]). If GSAs fail to meet these deadlines or if DWR determines that a GSP is inadequate or is not being implemented in a manner that will achieve the sustainability goal, the State Water Board may intervene (Water Code § 10735.2).

As discussed in the draft EIR, DWR has designated the Kern County Subbasin as a high priority basin. Local agencies in this subbasin were required to form GSAs by June 30, 2017, and, because the subbasin has been deemed by DWR to be subject to conditions of critical overdraft, local agencies are to develop and adopt their GSPs by January 31, 2020. As of June 30, 2017, 11 local agencies have submitted GSA formation notices for this subbasin.

It is expected that the KWB's operations will not be significantly affected by the implementation of SGMA. The Legislature's intent with SGMA is, in part, to "[t]o increase groundwater storage and remove impediments to recharge" (Water Code § 10720.1[g]). Indeed, GSPs are to include "[h]ow recharge areas identified in the plan substantially contribute to the replenishment of the basin," and GSAs are to annually report "[s]urface water supply used…for groundwater recharge" (Water Code §§ 10727.2[d][5]; 10728[c]). Further, projects contemplated to assist in meeting a subbasin's sustainability goal include "[a] description of the management of groundwater extractions and recharge to ensure that chronic lowering of groundwater levels or depletion of supply during periods of drought is offset by increases in groundwater levels or storage during other periods" (Cal. Code Regs. title 23, § 354.44). The continued operation of the KWB will contribute to SGMA's goals by storing water within the KWB, increasing groundwater storage, and providing for the extended availability of water supplies during times of extended drought.

3.1.1.3 Quantity, Timing, and Source of Water Diverted and Recharged

Comments assert that the project intends to divert an additional 500,000 AF of Kern River water annually beyond its historical diversions and would appropriate Kern River water currently used by other rights holders.[6] These assertions are incorrect. As described in Section 2.1.3, *Proposed Project*, of the draft EIR (page 2-6), the project would, under ideal circumstances and in the wettest years, divert in total up to a maximum of 500,000 AFY of currently unappropriated water from the Kern River for recharge and storage within the KWB through existing diversion works, as well as existing and previously approved recharge facilities located on KWB lands, for recovery from the KWB and/or to deliver water directly or by exchange to KWBA's participating members' service areas via

[6] See comments A4-14, A4-15, A4-38 through A4-40, A4-42, A4-44, A4-63, A4-90, A4-95, A4-96, A4-107, A4-108, A4-110, A4-112, A4-114 through A4-116, A4-118, A4-120, A4-130 through A4-133, A4-136, A4-137, A4-140 through A4-143, A4-164, A4-167 through A4-169, A4-171 through A4-173, A4-192 through A4-195, A4-200, A4-201, A4-240 through A4-242, A4-244, A4-250, A4-253, A4-265, O2-3 through O2-5, and O3-2.

the KWB Canal or CVC.[7] The KWBA water right permit application does not seek to divert and store 500,000 AF in every year; rather, KWBA is proposing to divert up to that amount of water in wet years only after senior Kern River water rights are met. The project description indicates (page 2-8) that the 500,000 AFY analyzed in the EIR is the approximate maximum amount of Kern River water that KWBA would divert and recharge to the KWB within a given year, and only then under ideal hydrologic conditions. Section 2.1.3 also notes the relative infrequency of hydrologic conditions (18% of years) under which these diversions could occur, and emphasizes that the project does not seek to appropriate Kern Delta forfeited water (page 2-6).

The project does not propose to take Kern River water entitlements from other water right holders. As explained in detail in Appendix L, Kern Water Bank Authority Water Availability Analysis (page 12) and in Section 3.6, *Hydrology and Water Quality* (pages 3.6-26 through 3.6-31), the project would entail the diversion of unappropriated Kern River water for groundwater recharge and storage within the KWB. Historically, this water is typically available when the river is operating at levels that trigger mandatory release conditions for flood control, cause downstream flooding, and/or operation of the Intertie. Pages 6 through 11 of Appendix L describe the rights of other entities to Kern River water and the quantities and stated uses of that water. The project considers KWBA's diversion and recharge of up to 500,000 AF, for its participating members' later use, in the recurring year, under hydrological and meteorological circumstances that are likely to occur in only 18% of years. Furthermore, the project description states (pages 2-4, 2-8, 2-10, and 2-14) that because KWBA is one of the farthest downstream diverters on the Kern River, any water KWBA takes flows through the city of Bakersfield and remains instream until diverted. Figure 5 of Appendix L shows the routing of Kern River flows under three hydrological conditions—normal years, high flow conditions, and expected flood deliveries.

3.1.1.4 Flood Policy

The project would not affect the historic Policy Re-Utilization of Isabella Lake Reservoir Flood Releases (Flood Policy). As discussed in the draft EIR (page 3.6-25), since at least 1986, the Kern River Watermaster has implemented the Flood Policy pursuant to the agreement and consent of other water right holders on the Kern River. The Flood Policy provides that during periods in which (1) abnormal flow is being released from Lake Isabella by order of the U.S. Army Corps of Engineers, and (2) such flow is entering into the California Aqueduct through the Intertie,

> [w]ater will be made available to any person, interest or group in Kern County who wish to divert that water, up to the amount of water flowing into the Intertie, provided such interest, person or group acknowledges their desire to divert said water by executing an "Order" which shall include, among other things, a description of the point they wish to divert such flow, the rate of flow they wish to divert and provide a schedule such that the request may be honored by the operating Kern River entity. This policy is without prejudice to the rights of any of the Parties (draft EIR, page 3.6-25).

[7] California Department of Water Resources, Monterey Amendment to the State Water Project Contracts (Including Kern Water Bank Transfer) and Associated Actions as Part of a Settlement Agreement (Monterey Plus) Document A1, Volume I (2016 Monterey Plus Draft Revised EIR – Kern Water Bank Development and Continued Use and Operation) SCH#: 2003011118; KWBA Board of Directors, Resolution 2018-02 and Addendum No. 1 to the 2016 Monterey Plus Revised EIR—Kern Water Bank Development and Continued Use and Operation (REIR), for Minor Amendment to Kern Water Bank HCP/NCCP (July 2018); Notice of Determination, State Clearinghouse No. 2003011118 (July 10, 2018).

The project would not affect the Flood Policy or its implementation by the Kern River Watermaster. Rather, the project would merely secure a State Water Board permit to divert and store the unappropriated water under the appropriate hydrological conditions and after the senior rights are met.

3.1.1.5 Project Not Additive

Comments claim that the project would add 500,000 AFY of Kern River water to the water that KWBA's participating members currently acquire from several sources, including the State Water Project (SWP), the Central Valley Project (CVP), and the Kern River.[8] The content of several other comments is based on that assumption.[9] These comments mischaracterize the project description. (*City of Long Beach v. City of Los Angeles* [2018] 19 Cal.App.5th 465, 477-78 [project opponents mischaracterized the project description; court found nothing misleading or inaccurate about the project description for a proposed railyard]; *Center for Biological Diversity v. County of San Bernardino* (2016) 247 Cal.App.4th 326, 350-51 [petitioners' contention that groundwater pumping project would pump more water than was contemplated and discussed in the EIR not supported by the record].)

The project does not propose to add 500,000 AFY of Kern River water to the water that KWBA obtains elsewhere. Instead, the project would provide a State Water Board permit for an existing source of water supply, up to 500,000 AFY, and only to the extent unappropriated Kern River flows and recharge capacity within the KWB are available. Page 2-8 of the draft EIR states, "the diversion amount that would be allowed under the permit would not necessarily represent an increase in annual diversions relative to diversions that have historically occurred in the project area." As noted in the water availability analysis (Appendix L, pages 6 and 19 and Table 2) and Section 3.6, *Hydrology and Water Quality* (pages 3.6-24 and 3.6-26), annual recharge capacity and availability of Kern River water are the limiting factors for water deliveries to KWB facilities and provides a basis for the 500,000 AFY upper limit of the project. Further, as noted in both the project description (pages 2-9 and 2-10) and Section 3.6 (pages 3.6-26 and 3.6-35), the 500,000 AF includes water that could also be rediverted directly to KWBA participating members. Clarifying text has been added to the EIR. Please see Chapter 4, *Draft EIR Errata*, of this final EIR for the clarification, which does not affect any of the impact conclusions in the EIR.

[8] See comments A4-14, A4-15, A4-38 through A4-40, A4-42, A4-44, A4-63, A4-90, A4-95, A4-96, A4-107, A4-108, A4-110, A4-112, A4-114 through A4-116, A4-118, A4-120, A4-130 through A4-133, A4-136, A4-137, A4-140 through A4-143, A4-164, A4-167 through A4-169, A4-171 through A4-173, A4-192 through A4-195, A4-200, A4-201, A4-240 through A4-242, A4-244, A4-250, A4-253, A4-265, O2-3 through O2-5, and O3-2 which claim that the project would add 500,000 AFY of Kern River water to the water that KWBA's participating members presently acquire.

[9] See comments A4-44, A4-63, A4-77, A4-85, A4-90, A4-95 through A4-97, A4-105 through A4-107, A4-109, A4-111, A4-112, A4-114 through A4-117, A4-119 through A4-121, A4-130, A4-132, A4-133, A4-136, A4-137, A4-140 through A4-144, A4-148, A4-164, A4-167, A4-170 through A4-172, A4-174, A4-190, A4-192, A4-194, A4-195, A4-200 through A4-202, A4-240 through A4-242, A4-250, A4-253, A4-254, A4-256, A4-257, A4-265, O2-2 through O2-6, and O3-2 through O3-11, which are based on the assumption that the project would add 500,000 AFY of Kern River water to the water that KWBA's participating members presently acquire.

3.1.1.6 Existing Water Rights

Several comments indicate that the EIR should describe the existing water rights of both KWBA members and other nearby rights holders.[10] As noted previously in this master response, the project proposes to divert and recharge, for later recovery, up to 500,000 AFY of unappropriated Kern River high flow water and, does not propose to appropriate water to which other entities hold water rights. Chapter 2, *Project Description*, of the draft EIR states (pages 2-4 through 2-8) that the project would divert and recharge up to 500,000 AF of unappropriated high flow water from the Kern River for future recovery, which is likely to occur in approximately 18% of years, and only under specific hydrological conditions. The text on page 3.6-36 of the draft EIR describes this scenario in detail. Chapter 2 of the draft EIR notes that all KWBA members have contracts for SWP water either directly or through KCWA or its member units. Chapter 2 also notes that KWBA members have historically obtained CVP water through short-term programs with the Bureau of Reclamation and have obtained Kern River water either through purchases from existing rights holders (primarily the City of Bakersfield) or through agreements with the Kern River Watermaster for flood water (page 2-4).

A description of the Kern River water appropriation and delivery process is also provided in the draft EIR on pages 3.6-10 through 3.6-13, as well as in the water availability analysis (Appendix L). Figure 6 of Appendix L shows the water banking projects located in the Kern Fan area. Table 3 in Appendix L summarizes the existing recharge and spreading projects, including the KWB, that regularly recharge Kern River water, and shows the projects' estimated monthly capacities of water that can be diverted and delivered from the Kern River. Section 3.2, *Kern River Pre-1914 Water Right Allocations*, of Appendix L (pages 8 through10) describes the means by which Kern River water is allocated to rights holders. Section 3.3, *Pre-1914 Water Right Holders*, of Appendix L outlines the diversion and use of Kern River water under First Point of Measurement rights, held entirely by the City of Bakersfield and Kern Delta Water District (Appendix L, page 11). Table 4 of Appendix L summarizes annual First Point of Measurement natural flow from 1978–2011, and presents approximate allocations to First Point of Measurement, Second Point of Measurement, Lower River users and Intertie deliveries based on monthly natural flow at First Point of Measurement (page 10). However, because the project proposes to obtain a State Water Board permit for diversion of unappropriated high flow water from the Kern River and would not take or otherwise affect the entitlements of other water right holders, a detailed description of existing water rights held by KWBA members or other entities is not relevant or necessary to the CEQA analysis of this project.

3.1.1.7 Existing and Proposed Recovery Operations

Several comments request that the EIR describe existing and proposed recovery operations.[11] Under the project, it is important to note that operations and maximum recovery rates are not proposed or expected to increase over actual historical baseline recovery operations in any given year. However, the project is designed to provide additional certainty in longer-term operations in multiple dry years. Consequently, while maximum recovery rates are not expected to change as a result of this project, the new water right permit would allow KWBA and its members to continue to operate in

[10] See comments A4-14, A4-65, A4-66, A4-68, A4-80, A4-89, A4-91, A4-162, A4-163, A4-187, A4-189, A4-194, and O2-1 through O2-4.

[11] See comments A4-11, A4-13, A4-15, A4-20, A4-21, A4-26, A4-35 through A4-37, A4-84, and A4-176.

the later years of a multi-year drought. The environmental impacts associated with continued pumping in the later years of a multi-year drought are captured throughout the EIR (e.g., air quality, hydrology, energy).

As indicated on page 2-1 of the draft EIR, the KWB was designed to bank surplus water in wet years for later recovery to supplement inconsistent surface water supplies and to provide a more stable, reliable, and sustainable source of water, particularly in dry years, for its members. Section 2.2.2.2, *Recovery*, (pages 2-13 and 2-14) of the draft EIR, describes the reasons and timing for recovery of banked groundwater from the KWB. As described in greater detail in Section 3.1.2, *Baseline Master Response*, recovery operations are subject to conditions specified in several plans, including the KWBA MOU, the Long-Term Operations Plan, and the Joint Plan.

As stated on page 2-2 of the draft EIR:

> The overall objective of the KWB memorandum of understanding (MOU) parties (KWBA, its member entities, and the Adjoining Entities) is that the design, operation and monitoring of the Project [the KWB] be conducted and coordinated in a manner to insure that the beneficial effects of the Project to the Project Participants [KWBA member entities] are maximized but that the Project does not result in significant adverse impacts to water levels, water quality or land subsidence within the boundaries of Adjoining Entities.

As discussed in Section 3.1.2, *Baseline Master Response*, the recovery operations plans include a joint committee that regularly monitors potential groundwater level impacts of banking project recovery operations on neighboring agricultural and domestic wells based on groundwater modeling and specified triggers for implementing one or more corrective actions. Such corrective actions include investigation of any claims and pump lowering, well replacement, and/or reduction or adjustment of banking project recovery operations, as appropriate. Although these plans include measures to reduce or eliminate environmental impacts, they are not mitigation measures necessitated by the project; rather, the plans are part of the ongoing operations of the KWB.[12]

Water recovered by the KWB, including appropriated Kern River water, would continue to be subject to the MOU and all applicable recovery operations plans. This project is meant to increase reliability and long-term storage but does not propose to alter or otherwise increase annual recovery operations above historical levels. As such, and as stated on pages 2-13 through 2-15 of the draft EIR, recovery of banked water would take place in the same manner and under the same circumstances as historical recovery of banked water from the KWB, at the request of KWBA's members and subject to the conditions specified in the KWB MOU (draft EIR Appendix B) and the Joint Plan (draft EIR Appendix F). The effects of recovery on groundwater levels and quality are monitored under the KWB MOU (draft EIR Appendix B) and the Joint Plan (draft EIR Appendix F) to guide the timing and quantity of water recovered.

Recovery of banked water at any given time is further limited by the capacity of the existing KWB recovery facilities, which the draft EIR describes on pages 2-11 and 2-12 and which the project does not propose to change. The draft EIR notes that approximately 1.5 million AF of water has been pumped from the KWB to date, all of which was recovered during portions of three dry periods that

[12] *Citizens for Environmental Responsibility v. State Ex Rel. 14th Dist. Ag. Assoc.* (2015) 242 Cal.App.4th 555, 569-70 (manure management plan was not a new measure proposed for or necessitated by rodeo project, but rather a preexisting measure part of ongoing operations of fairground); *Berkeley Hillside Preservation v. City of Berkeley* (2015) 241 Cal.App.4th 943, 960-961 (traffic management plan condition did not qualify as mitigation as it was not a "proposed subsequent action" taken to mitigate the significant effects of the project).

occurred from 2001 through 2004, 2007 through 2010, and 2012 through 2016 (page 2-14). As also stated on page 2-14 of the draft EIR, the project does not propose to alter or otherwise increase annual recovery operations above historical levels. Section 2.1.3, *Proposed Project*, indicates that water diverted and stored under the project would ultimately be recovered using existing electric pumps for use by KWBA's participating members (draft EIR page 2-6). Because the project would use existing and previously approved facilities, the only operational modifications that could occur under the project would be an extended recovery period at the existing rate of recovery during drought conditions, as described above and on pages 3.2-14 through 3.2-15 of the draft EIR. These recovery operations would continue to be subject to the conditions of the MOU and Joint Plan outlined on draft EIR pages 2-14 and 2-15 and provided in their entirety in Appendices B and F.

3.1.1.8 Second Priority Use Rights

Certain comments (comments O2-1, O2-3, O2-4, O2-6, and O2-7) state that the project description is flawed because it fails to discuss or analyze the existence of "second priority" rights in and to the use of KWBA recharge and recovery facilities. Second priority rights refer to rights held by member units of the KCWA, as described in the "Declarations of Covenants, Conditions, and Restrictions," dated December 14, 1995 and recorded August 9, 1996 (CC&Rs), to utilize the KWB for recharge and recovery of water for use within the boundaries of the KCWA. KWBA currently considers, on a case-by-case basis, any requests by those entitled to use the KWB on a second priority (or lower) basis under reasonable and customary terms and conditions that are consistent with the CC&Rs and applicable law and will prevent injury to KWBA's members. These second priority use rights will be unaffected by the project, as the issuance of a State Water Board permit will not alter any rights held by second priority rights holders under the CC&Rs.

The second priority use right has been exercised by member units in the past, including Rosedale-Rio Bravo Water Storage District (Rosedale), a member of the Kern Fan Authority, Cawelo Water District (Cawelo) and Tehachapi Cummings County Water District (Tehachapi). Rosedale recharged approximately 30,000 AF in 2005 for later recovery within Rosedale. In 2011, Cawelo and Tehachapi recharged approximately 6,100 AF and 6,700 AF, respectively. In 2013, they recovered approximately 1,350 AF and 2,006 AF, respectively. The second priority has not otherwise been utilized. In general, KWB recharge facilities are fully utilized by KWB participants in wet years from a variety of sources, including the SWP, the CVP, and the Kern River, leaving little to no capacity for second-priority use under baseline operations. Perhaps of greater significance to those considering storing water in the KWB is that recovery facilities are seldom, if ever, available during severe droughts for second-priority recovery of stored water.

3.1.1.9 Study Area/Scope of Environmental Review

Comments state that the draft EIR improperly limits its description of the project area by failing to include the Kern River corridor and the service areas for its member agencies and other water districts where KWBA participating members and their water users have land holdings and where the project water will eventually be used.[13] Other comments allege that the EIR fails to address or

[13] See comments A4-12, A4-14, A4-57, A4-58, A4-72, A4-73, A4-122, A4-123, and A4-197.

identify impacts associated with the later recovery of that water and the use of that water by members of KWBA within their service areas.[14]

The State CEQA Guidelines provide that an "EIR must include a description of the physical environmental conditions in the vicinity of the project … from both a local and regional perspective" (14 Cal. Code Regs. § 15125[a]). "Because the concept of a significant effect on the environment focuses on changes in the environment, [section 15125] requires an EIR to describe the environmental setting of the project so that the changes can be seen in context" (14 Cal. Code Regs. § 15125, Discussion). The EIR's discussion of the environmental setting must "permit the significant effects of the project to be considered in the full environmental context" (14 Cal. Code Regs. § 15125(c)). However, it "shall be no longer than is necessary to an understanding of the significant effects of the proposed project and its alternatives" (14 Cal. Code Regs. § 15125[a]).

As discussed in Section 2.1.2.3 of the draft EIR, the study area for purposes of the environmental analysis depends on the nature and type of resource topic being analyzed. Section 2.1.2.3, *Project Study Area*, on page 2-6 of the draft EIR, defines the project study area in general terms and directs the reader to the individual resource sections in Chapter 3 for resource-specific study area descriptions that differ from the overall project study area.[15] The study area for some impacts is the same as the KWB project area (i.e., the KWB facilities and physical boundary). For other impacts, the study area includes the participating members' pertinent service areas or the appropriate watershed or air basin. The study areas for each resource area were selected based on a determination of the physical area that may be affected by the project or cumulative projects. For example, for greenhouse gases, climate change, and energy, the EIR explains that "unlike other resource areas that are primarily concerned with localized project impacts (e.g., within 1,000 feet of the project site), the global nature of climate change requires a broader analytical approach," and, consequently, the EIR considers potential regional greenhouse gas (GHG) impacts as well as global GHG impacts (draft EIR page 3.4-5). Similarly, for hydrology and water quality, the study area for measuring impacts is generally downstream or within the KWB recharge basins or groundwater basin because those are the areas of possible physical changes associated with entitlements to divert Kern River water to the KWB (using the methods described on draft EIR pages 3.6-25 through 3.6-32). With respect to potential impacts associated with the later recovery and use of water by members of KWBA within their separate service areas, any such impacts relate to existing, ongoing operations of the KWB. Therefore, as discussed above and in Section 3.1.2, *Baseline Master Response*, these are not impacts resulting from the project. Further, attempting to assign any possible physical changes to a particular service area would be entirely speculative. This project is designed to provide additional certainty and reliability in multi-year droughts and is not intended to serve any new uses or development of new lands within participating member service areas.

[14] See comments A4-13, A4-20, and A4-74.

[15] In addition, clarification of the project study area has been added to the EIR. Please see Chapter 4, *Draft EIR Errata*, of this final EIR for the clarification, which does not affect any of the impact conclusions in the EIR. The following clarification is added after the last sentence of Section 2.1.2.3, page 2-6, of the draft EIR.
Unless otherwise defined within the resource section text, the study area for the EIR's resource-specific analyses consists of the area within the physical boundaries of the KWB and the KWBA participating member POUs.
This clarification does not affect any of the impact conclusions in the EIR.

3.1.2 Baseline Master Response

Several comments question the adequacy of the EIR's description of baseline conditions.[16] These include comments relating to the EIR's treatment of ongoing and historical KWB operations, diversion and use of Kern River water by KWBA participating members and other users, water rights held by KWBA participating members and other users, hydrological conditions within the Kern River and the Kern County Subbasin, and the EIR's use of 2012 data for impact analyses. As described in the draft EIR (pages 3.1-7, 3.1-8, 3.6-32, and 3.6-33) and below, the baseline conditions used in the EIR rely on actual historical operations and are intended to provide an accurate and conservative assessment of the project's possible, reasonably anticipated impacts on affected resources.

3.1.2.1 CEQA Requirements Relating to Baseline

Comments A4-75 through A4-78, A4-92, and A4-94 claim that the baseline conditions used in the EIR analyses do not meet CEQA requirements. As described on page 3.1-5 of the draft EIR, in determining whether impacts are significant, an EIR customarily compares a project's potential impacts with a baseline condition representative of pre-project environmental conditions. Specifically, an EIR must include a description of the physical environmental conditions in the vicinity of the project as they exist at the time the Notice of Preparation (NOP) is published or, if no NOP is issued, at the time the environmental analysis begins, from both a local and regional perspective (14 Cal. Code Regs. §§ 15125[a] and 15126.2[a]). These conditions will typically constitute the "baseline" physical conditions by which an agency determines whether impacts associated with the proposed project are potentially significant (14 Cal. Code Regs. § 15125[a]). Although an agency is not precluded from revisiting and adjusting baseline conditions during the environmental review process, the agency is not required to continuously update the EIR's baseline or otherwise depart from the physical conditions existing "at the time the notice of preparation [was] published."[17] In terms of the level of detail required in describing baseline conditions, "[t]he description of the environmental setting shall be no longer than is necessary to an understanding of the significant effects" of a project and, in assessing potential impacts of the proposed project on the environment, an agency "should normally limit its examination to changes in" these baseline conditions (14 Cal. Code Regs. § 15125[a] and 15126.2[a]).[18]

The rule governing selection of the date to be used for establishing baseline conditions is not rigid and inflexible, and lead agencies have discretion in determining the appropriate baseline in order to provide the most realistic measure of the project's impact on the environment.[19] The California Supreme Court has emphasized that:

[16] See comments A4-43 and A4-75 through A4-94.

[17] 14 Cal. Code Regs. §15125(a); see, e.g., *San Francisco Baykeeper, Inc. v. California State Lands Commission* (2015) 242 Cal.App.4th 202, 219 (agency's decision to not analyze more recent sand mining levels, which had dropped substantially after the NOP publication, was not an abuse of discretion where agency explained that use of such data would distort the baseline by understating overall mining levels in years prior to commencement of EIR preparation).

[18] See also, *North Coast Rivers Alliance v. Marin Municipal Water District* (2013) 216 Cal.App.4th 614, 644.

[19] *Communities for a Better Env't v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 336; see also

> Neither CEQA nor the CEQA Guidelines mandates a uniform, inflexible rule for determination of the existing conditions baseline. Rather, an agency enjoys the discretion to decide, in the first instance, exactly how the existing physical conditions without the project can most realistically be measured, subject to review, as with all CEQA factual determinations, for support by substantial evidence.[20]

Applicable here, courts have recognized that "[e]nvironmental conditions may vary from year to year and in some cases it is necessary to consider conditions over a range of time periods."[21] Therefore, under certain circumstances, it is appropriate to deviate from the traditional definition of baseline provided above, including situations where environmental conditions fluctuate over time or where reliance on environmental conditions existing at the time of the NOP would distort or otherwise not accurately reflect potential environmental impacts of a proposed project.[22] In addition, although the same baseline is typically used for all resource issues, there are circumstances when utilizing multiple baselines is warranted in order to provide more accurate analytical results.

3.1.2.2 Baseline Conditions Described in the EIR

For each resource area, the EIR describes the environmental conditions existing at the time of the NOP's publication (2012) as well as relevant, up-to-date regulatory information and, where relevant, changes to environmental conditions existing at the time of the draft EIR release in January 2018. In 2017, after the draft EIR was prepared and well after circulation of the NOP, the KWB achieved a new maximum diversion and recharge rate of 566,000 AF. For purposes of analysis, however, KWBA continues to rely on the existing baseline as presented in the draft EIR. If anything, the baseline applied in the draft EIR affords a more conservative analysis than the new maximum diversion and recharge rate because it captures a greater increase over historical conditions. The nature of the project, environmental conditions in the project area, and KWB facility operations all support reliance on the historical operations baseline presented in the draft EIR. For certain areas of analysis in the EIR, the analysis includes a historical baseline and more recent data where appropriate, as discussed further below.

Because both the water available for recharge and the KWBA participating members' recovery needs are characterized by variable conditions associated with hydrological and atmospheric changes over an extended period of years, KWBA concluded that consideration of historical operations representative of longer-term conditions would more accurately reflect existing baseline conditions for purposes of the project impact analyses. Substantial evidence supporting the selection of this more representative baseline includes the records of actual diversions and recovery over the course of KWB operations since the KWB's inception in 1995, the guiding documents under which the KWB is obligated to operate, and the results of historical hydrological conditions and modeling. These supporting data and governing documents are included in the draft EIR as Appendices B, C, F, L, and M.

Association of Irritated Residents v. Kern County Bd. of Supervisors (2017) 17 Cal.App.5th 708 (environmental baseline included operating refinery, despite the fact the operations had been shut down due to the operator's bankruptcy).

[20] *Communities for a Better Env't*, 48 Cal.4th at 328.

[21] *Id*. at 327–328 (quoting *Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 125 [internal quotations omitted]).

[22] *Id.*; *San Francisco Baykeeper, Inc.,* 242 Cal.App.4th at 216–219.

To account for these fluctuating conditions, for certain areas of analysis (air quality, geology and seismicity, greenhouse gases, energy, and hydrology and water quality), the EIR analyzed potential project impacts against two baselines—Baseline Condition 1 and Baseline Condition 2—as described on pages 3.6-32 and 3.6-33 of the draft EIR, and further described below.

Baseline Condition 1

In order to evaluate the full range of potential impacts associated with the project, Baseline Condition 1, described on page 3.6-32 of the draft EIR, encompasses several data points selected from historical operating data: (1) the maximum amount of water actually diverted by KWBA in a single year (447,148 AF in 2011) from all its water sources combined, including the SWP, CVP, Kern River, and other purchased water; (2) the maximum amount of water recovered from the KWB during an extended drought (650,000 AF [March 2007–May 2010 and March 2012–May 2016 droughts]); (3) the maximum amount of water recovered from the KWB during a 12-month period (227,000 AF [2008]); and (4) the maximum amount of water recovered from the KWB in any single month (26,000 AF [March 2007]).[23] These data points were selected because, at the time of draft EIR preparation, they represented the quantities of water associated with each of these operational activities, and represented the most reasonable estimation of potential impacts associated with the project. As noted on page 3.6-32 of the draft EIR, the project's proposed maximum diversion of 500,000 AFY of Kern River water would represent an increase of 52,852 AFY above 447,148 AFY, the maximum total amount of water historically diverted from all sources under Baseline Condition 1. Page 3.6-32 of the draft EIR notes that such an increase could only occur under an extremely unlikely scenario.

At the time of draft EIR preparation, data from 2011 (447,148 AF) reflected the largest volume of water historically diverted (from all sources) by the KWB in any single year. It has since been confirmed that this number was somewhat greater in 2017—566,000 AF from all sources. Utilization of the 2017 data in lieu of the 2011 data, for purposes of establishing baseline conditions, would not result in any meaningful changes to the EIR's impact analyses. In fact, use of the 2011 data provides a more conservative benchmark for analysis of project impacts given that it (Baseline Condition 1, or 447,148 AFY) is 52,852 AFY less than the project's proposed 500,000 AFY diversion; whereas, the total amount of water diverted from all sources in 2017 (566,000 AF) is 66,000 AF greater than the project's proposed 500,000 AFY diversion.

Baseline Condition 2

Baseline Condition 2, described on pages 3.6-32 through 3.6-33 of the draft EIR, also represents historical KWB operating conditions, but focuses specifically on the amount of Kern River flood water that KWBA has actually diverted in a single year during periods of high flow, when that Kern River flood water would have otherwise been delivered to the Intertie or flooded areas toward Buena Vista or Tulare Lakes. As indicated on page 3.6-33 of the draft EIR, the number of years in which KWBA actually diverted Kern River flood waters represents approximately 20% of the years over the 15-year historical operating period of KWBA through 2011 (see Table 3.6-10 on page 3.6-25 of the draft EIR). Because California suffered a severe drought in the period of 2012–2016, followed by only a single year (2017) during which Kern River flows were high, consideration of the

[23] Since issuance of the NOP, the KWB achieved a total diversion of 566,000 AF from all sources. To be conservative, Baseline Condition 1 does not include that increased maximum diversion under existing conditions.

diversions of Kern River flows between the years of 2011 and 2017 would have resulted in a distortion of baseline conditions for purposes of the impact analysis. As noted in the draft EIR (page 3.6-33), Baseline Condition 2 differs from Baseline Condition 1 by focusing on the source of the water (high flow water) in order to analyze the impacts that would result from recharging high flow Kern River water under flood or wet-year hydrology, which are representative of the hydrological conditions under which diversions would occur under the project.

KWBA elected to consider Baseline Conditions 1 and 2, as described in the draft EIR and above, rather than conditions at a single point in time (e.g., the NOP publication date) because together the two baselines provide the most accurate representation of the range of environmental conditions—that is, water-year types—under which the project could be implemented. Because the two baselines represent this range of conditions, they also ensure that the EIR provides an accurate and conservative analysis of those situations most likely associated with significant project impacts. Were the EIR to rely on only a single year as a baseline, impacts would be artificially greater or lesser than those identified within the full range of conditions represented by Baseline Conditions 1 and 2.

3.1.2.3 Relationship Between Baseline, KWB Operations, and Existing Conditions in the Kern River and Kern County Subbasin

Several comments express confusion about or question the description of baseline operations of the KWB, and particularly recovery operations.[24] Other comments suggest that the project addressed in this EIR is meant to increase recovery operations, and thus increase impacts to the groundwater basin above baseline (see comments A4-20, A4-26, and A4-35 through A4-37). Lastly, some comments urge that the EIR include more information on the current status of the groundwater basin and surrounding operations (see comments A4-60, and A4-82 through A4-88). The project, however, does not propose to alter ongoing operations of the KWB or increase maximum annual recovery of groundwater. Instead, the project is designed to recharge more water so that the KWB can continue baseline recovery operations in the later years of a multi-year drought.

KWB Operations

As described in Sections 2.2.2, *Water Operations*, 2.2.3, *Monitoring*, and 2.2.4, *Environmental Management*, of the draft EIR, the KWB operates subject to a number of governing plans and programs, which would be unaffected by the project. These include the KWB MOU (Appendix B), the Long-Term Project Recovery Operations Plan Regarding Kern Water Bank Authority Project (Long-Term Operations Plan) (Appendix C), the joint Project Recovery Operations Plan Regarding Pioneer Project, Rosedale-Rio Bravo Water Storage District, and Kern Water Bank Authority Projects (Joint Plan) (Appendix F), and the Cross Valley Canal/Kern Water Bank Operating Guidelines During Shallow Groundwater Conditions (Appendix M). Pages 2-14 and 2-15 of the draft EIR note that the KWB MOU (Appendix B), agreed upon and executed by KWBA member entities and the districts that surround the KWB lands (Buena Vista Water Storage District, Rosedale, Kern Delta Water District, Henry Miller Water District, and West Kern Water District), provides for the establishment of an extensive monitoring program to protect water levels and water quality. The Kern Fan Monitoring

[24] See comments A4-43 and A4-75 through A4-94.

Committee, made up of several basin stakeholders, including KCWA and all adjoining water districts, oversees banking operations and the results of said monitoring.

Recovery operations are subject to the conditions specified in the KWB MOU (see Section 2.2.3.1, *Kern Water Bank MOU*). Consistent with the KWBA MOU, and a similar MOU governing banking operations in the Rosedale-Rio Bravo Water Storage District, KWBA and Rosedale developed an Interim Project Recovery Operations Plan Regarding Kern Water Bank Authority (KWB) and Rosedale-Rio Bravo Water Storage District (Rosedale) Projects (Interim Plan) that designates measures to be employed to "prevent, eliminate or mitigate significant adverse impacts" resulting from cumulative recovery operations of KWBA and Rosedale projects subject to said MOUs (Appendix E). The Interim Plan remained in effect until the 2014 Writ was discharged in October 2017. Subsequently, as a responsible agency, KWBA approved a Long-Term Operations Plan (Appendix C), which constitutes a required part of KWB operations.

Subsequently, KWBA entered into a Joint Plan (Appendix F).[25] The recovery operations plans all include a joint committee that regularly monitors potential groundwater level impacts of banking project recovery operations on neighboring agricultural and domestic wells based on groundwater modeling and specified triggers for potential mitigation actions, with significant impacts being avoided, eliminated, or mitigated by implementing one or more corrective actions. Such actions may include investigation of any claims and pump lowering, well replacement, and/or reduction or adjustment of banking project recovery operations, as appropriate. Water recovered by the KWB, including appropriated Kern River supplies, would continue to be subject to the MOU and all applicable recovery operations plans. This project focuses solely on securing entitlements to unappropriated Kern River water, which in turn is meant to increase reliability and long-term storage, particularly for the later years of a multi-year drought. This project does not propose to alter or otherwise increase annual recovery operations above historical levels.

Because KWB's existing recovery operations would continue largely unchanged under the project (see discussion in Section 3.1.1, *Project Description Master Response*), the project baseline reflects conditions associated with these historical and ongoing KWB operations. As indicated in the preceding paragraphs, Appendices B, C, F and M of the draft EIR contain the key governing documents, which further describe existing KWB operating conditions and the procedures that prescribe KWB operations. The governing documents, in turn, are likewise a part of baseline recovery operations. Section 3.1.3, *Hydrology and Water Quality Master Response*, and Section 3.1.1, *Project Description Master Response*, clarify details regarding KWB operations. Decisions and details regarding the recovery and use of water from the KWB by its participating members would continue to be governed by these documents and would be unaffected by the project.

Existing Conditions in the Kern River and Kern County Subbasin

The draft EIR also describes the Kern River and the Kern County Subbasin, including historical and current hydrological conditions, existing stakeholders, and their water rights, the demand for Kern River water, and existing use of KWB water by KWBA members.

[25] Although the Joint Plan terminates on January 31, 2019, it is expected that it will be extended by the parties to the plan in essentially the same form for additional years. Should the Joint Plan ever terminate, the Long-Term Operations Plan will control operations.

Hydrological Conditions

Pages 3.6-9 through 3.6-15 provide both general and detailed descriptions of Kern River flow conditions. Existing conditions in the Kern County Subbasin are also discussed in the draft EIR on pages 3.6-6 as part of the description of SGMA regulations, pages 3.6-16 and 3.6-17, and on pages 3.6-31 and 3.6-32 as part of the description of the California DWR groundwater model for the KWB. The EIR does not analyze the relationship between the project and other, individual water banks in the region as part of the hydrological baseline because, as noted here and in the draft EIR, the project seeks only to divert water during rare, high flow conditions and would not affect the entitlements of said water banks. Additional discussion of conditions within the Kern River and Kern County Subbasin can be found in Section 3.1.3, *Hydrology and Water Quality Master Response* and in the responses to comments A4-82, A4-84 through A4-88, and A4-92.

Water Rights

The draft EIR includes discussion of both existing water rights and water rights applications currently pending before the State Water Board (pages 2-4, 2-5, 3.6-27 through 3.6-29, and Appendix L [pages 8 through 12]). Because, as described in the draft EIR and clarified in Section 3.1.1, *Project Description Master Response*, the project seeks only to divert water during rare, high flow conditions; it would not affect existing water rights held by KWBA participating members or existing entitlements by others to Kern River water. As discussed in the EIR, there are several other entities who have filed appropriative water rights applications for Kern River water, which are currently before the State Water Board. Because these applications have not been approved, they are not considered part of the baseline conditions for purposes of evaluating the potential impacts of the project on the environment. They are, however, considered as part of EIR's cumulative impact assessment, as discussed in Section 5.1.3.4, *Water Resources and Supply*.

Demand for Kern River Water

Historical demand and use for Kern River water by upstream users is incorporated as part of the historical baseline conditions because, as one of the most downstream users, Kern River water historically available for diversion by KWBA necessarily reflects the instream hydrological conditions after upstream and more senior water right holders have diverted water from above the KWB points of diversion. These historical upstream use levels would be unaffected by the project because, as noted above, and as described in the draft EIR and clarified in the Section 3.1.1, *Project Description Master Response*, the project seeks only to divert unappropriated water during rare, high flow conditions.

Further, because the project does not propose to alter KWB management and recovery operations and would use existing and previously approved facilities to divert water, for recharge and later recovery through existing pumping facilities, Baseline Conditions 1 and 2, as well as the descriptions of existing environmental conditions at the KWB, represent conditions associated with ongoing KWB operations. As indicated in the preceding paragraphs, Appendices B, C, F, and M of the draft EIR constitute the KWB governing documents, which further describe existing KWB operating conditions and the procedures that govern KWB operations.

Existing KWBA Member Water Use

Existing water use by KWBA participating members constitutes part of the baseline condition and is described on draft EIR pages 2-9 and 2-10. The place of use for KWB water is also shown on Figure 2-6. As noted in the draft EIR, project implementation does not involve construction of any new facilities or changes in current operations (page 2-17), and recovery operations are and would continue to be subject to the conditions specified in the KWB MOU (pages 2-6, 2-13 and 2-14). Further, the project does not propose to alter or otherwise increase annual recovery operations above historical levels (page 2-14). Thus, as reiterated on draft EIR page 3.1-8, under the project, long-term recovery volumes are not expected to change substantially.

3.1.3 Hydrology and Water Quality Master Response

There are a variety of comments about the baseline conditions and analysis presented in the hydrology and water quality section of the EIR.[26] These include questions about the representation of existing hydrological conditions in the Kern River and the Kern County Subbasin, as well as the applicability of the 2012 data used in the analysis.[27] Comments also expressed concern about whether the project would reduce the delivery of Kern River water to others in the region.[28] However, the project does not propose to reduce or otherwise alter existing rights of others in the region to Kern River water, including those of senior rights holders. The proposed water right would instead allow KWBA to divert and store unappropriated Kern River surface water, and only after senior rights are fulfilled. This is in line with historical diversions by KWBA under the Kern River Flood Policy and would take place infrequently, only in high water years when there is an abundance of water in the system. In addition, comments request clarification of existing and project-related water quality levels in the Kern River and groundwater levels in the Kern County Subbasin, as well as additional factual support for the analysis. Comments on the hydrology analysis also express concern about the project's relationship to SGMA and other regulations that took effect since 2012, such as the State Water Board's Drought Emergency Regulations.

3.1.3.1 Existing Kern River Hydrological Conditions and 2012 Data

The hydrology and water quality section of the draft EIR presents information on current baseline and existing conditions for the Kern River (pages 3.6-9 through 3.6-18) and KWB operations and associated hydrology (pages 3.6-20 through 3.6-22). The draft EIR includes data collected up to 2012 by KWBA, as well as more recent data (through 2017) of KWB operations. The 2014 water availability analysis and 2015 groundwater model are discussed below.

The draft EIR describes current flow conditions in the Kern River and the environment in and around the river on pages 3.6-10 through 3.6-15, 3.6-22 through 3.6-25, and 3.6-27 through 3.6-31. The primary water features in the Kern River watershed are the Kern River and South Fork Kern

[26] See comments A4-43 and A4-75 through A4-94.

[27] See comments A4-14, A4-43, A4-145, A4-146, A4-148 through A4-151, and A4-155.

[28] See comments A4-14, A4-15, A4-38 through A4-40, A4-42, A4-44, A4-63, A4-90, A4-95, A4-96, A4-107, A4-108, A4-110, A4-112, A4-114 through A4-116, A4-118, A4-120, A4-130 through A4-133, A4-136, A4-137, A4-140 through A4-143, A4-164, A4-167 through A4-169, A4-171 through A4-173, A4-192 through A4-195, A4-200, A4-201, A4-240 through A4-242, A4-244, A4-250, A4-253, A4-265, O2-3 through O2-5, and O3-2.

River, which flow into Lake Isabella, and the Kern River channel, which outflows from Lake Isabella, down past Bakersfield, and into the Intertie. Maximum streamflows occur during peak snowmelt and substantially higher rainfall and snowfall in the eastern portions of the watershed, resulting in high-volume flows in the watershed's tributaries during wet years.

The uppermost segments of the Kern River, which consist of the north and south forks of the river above Lake Isabella, are uncontrolled except on the north fork at Fairview Dam. Isabella Dam controls the flows below Lake Isabella through the Kern River Canyon. Currently, the Kern River is dry through Bakersfield most years due to numerous diversions for irrigation and municipal water supplies. Only during wet runoff years does the river continue flowing southwest past the Bakersfield diversions and through the City of Bakersfield's 2,800-acre recharge facility before reaching the Intertie.

The Kern River's regulated flows are controlled by a series of weirs that are used to divert water into several canals and recharge areas. Flows can be properly apportioned among rights holders at the First Point of Measurement, which was established as a place to measure river flow prior to any major diversions. The Second Point of Measurement was also established as a place to document deliveries to downstream rights holders.

Kern River Flows

As stated on page 3.6-11, monthly flow data reported for the First Point of Measurement is available from the Kern River 2011 Hydrographic Report (City of Bakersfield 2011) for years 1894 through 2011. The report also includes regulated flows released from Lake Isabella Dam for years 1954 through 2011. The data includes the impaired flows released at the dam and unimpaired flows corrected to show what the natural flows would have been without flow regulation. The pre- and post-Lake Isabella Dam flows are plotted together in Figure 3.6-4 of the draft EIR to show the typical seasonality of monthly flows on the Kern River. As the snowmelt diminishes and flow levels into Lake Isabella recede from July through October, the regulated flows released at the dam are higher than the unimpaired natural flow regime as releases are made to meet water demands downstream. The median monthly impaired flows in July, August, and September are greater than the unimpaired flows (as shown in Table 3.6-1 in the draft EIR, page 3.6-12).

Table 3.6-2 of the draft EIR (page 3.6-14) shows monthly flow statistics for the Kern River at the Calloway Weir for years 1970 through 2010 compared with regulated First Point of Measurement flows for the same period. The values show a median monthly flow of 0.0 acre-feet (AF) in 7 months of the year. Median monthly flows are highest in July (1,500 AF) and August (700 AF) in the Kern River below the Calloway Weir. In at least a quarter of the years, there is no monthly flow in the Kern River downstream of the Calloway Weir. For the 24-year period from 1988 through 2011, water only reached the Second Point of Measurement via the Kern River channel 24% of the time and only reached the Intertie 13% of the time. Figure 3.6-5 of the draft EIR plots flows in the lower Kern River at the four locations of the First Point of Measurement, The Second Point of Measurement, the Outlet Weir, and the Intertie for the period 1988 through 2012. Figure 3.6-5 illustrates how infrequently water flows in the lower Kern River past the Second Point of Measurement and how even less frequently water makes it all the way downstream to the Intertie.

As stated on page 3.6-13 of the draft EIR, the Intertie has operated in 9 years since its initial operation in 1978, all of which were wet water year types except the above-normal water year in 1984, which was carryover from Lake Isabella storage of the extremely wet year in 1983. The

Intertie typically receives Kern River flows when First Point of Measurement unimpaired cumulative flow for the water year reaches about 500,000 AF (Lake Isabella's unimpaired capacity is 570,000 AF). The volume of Kern River water that reached the Intertie ranged from 1,793 AF in 1997 to 664,036 AF in 1983, and the number of days of Intertie operation also varies, ranging from 3 days in 1986 to 283 days in 1983.

This historical hydrology reveals that additional water is available for appropriation but that it is available infrequently (about 18% of years). The project is designed to divert and store as much of the unappropriated water as feasible, but only under annual flow conditions when Kern River surface waters are abundant.

3.1.3.2 Kern Water Bank Existing Operations

As stated on page 3.6-20, the California Aqueduct has been the largest source of water to the KWB, followed by the Kern River and Friant–Kern Canal. Under existing operations, including operations that post-date the historical baseline period used for the project analysis, KWBA has diverted substantial amounts of water from various sources for recharge. The KWB received surface waters from Friant–Kern Canal and Kern River sources only in above-normal and wet years. The year 2017 was a wet year following several years of drought conditions. Through December 2017, KWBA recharged approximately 244,000 AF of Kern River water, 3,000 AF of CVP water, and 320,000 AF of SWP water for a total of approximately 566,000 AF in 2017 (Kern Water Bank Authority pers. comm.).[29] Under existing operations, nearly all of the Kern River water diverted by KWB for groundwater recharge occurred during wet water year types, and Kern River water has been recovered (pumped) primarily in dry or multi-dry years. Consequently, ongoing operations of the KWB have become part of the existing hydrologic regime on the river, with more water available during high flow or flood conditions.

3.1.3.3 Project Operations

Several comments expressed concern that the project would take water from other entities or interfere with water already allocated to other users, change the Kern River water system/hydrology, or result in increased groundwater pumping elsewhere.[30]

The project does not seek the appropriation of Kern River surface waters already held by senior rights holders. Instead, the project as proposed seeks an entitlement to divert and store unappropriated water that is surplus to existing rights held on the Kern River. The project would accomplish its diversions without any impact on senior rights holders by proposing to divert water

[29] For purposes of the EIR's impacts analysis, the draft EIR did not include KWBA's 2017 maximum diversion to storage (566,000 AF) within the historical baseline. To ensure consistency and the most conservative approach to the analysis, this final EIR has not updated the historical baseline of operations. An updated baseline would only depress the level of physical changes proposed with the project. As set forth in more detail in Section 3.1.2, *Baseline Master Response*, the EIR's approach to choosing a historical baseline is consistent with CEQA and case law. (*San Francisco Baykeeper, Inc. v. California State Lands Commission* [2015] 242 Cal.App.4th 202 [agency not obligated to update environmental baseline after environmental review has commenced].)

[30] See comments A4-14, A4-38 through A4-40, A4-42, A4-44, A4-63, A4-90, A4-95, A4-96, A4-107, A4-108, A4-110, A4-112, A4-114 through A4-116, A4-118, A4-120, A4-130 through A4-133, A4-136, A4-137, A4-140 through A4-143, A4-164, A4-167 through A4-169, A4-171 through A4-173, A4-192 through A4-195, A4-200, A4-201, A4-240 through A4-242, A4-244, A4-250, A4-253, A4-265, O2-3 through O2-5, and O3-2.

after existing and more senior Kern River rights have been met. Such additional diversions—particularly at the maximum proposed diversion of 500,000 AF—would only be available in certain wet water years and under very specific conditions when water is abundant in the Kern River system. KWBA is not proposing to divert water in normal, dry, or multi-dry years when there is no unappropriated water available in the system. Even in wet years with high flows, the project would divert and recharge less water when less water is available. The water availability analysis (Appendix L) found that the historical record demonstrates that these unappropriated flows have been unused and are available for diversion and storage by KWBA.

Because the project would only divert surface waters when there is unappropriated water available, the project is not expected to change the overall hydrology of the system or otherwise interfere with existing and senior water rights.

Further, because the project does not propose any construction, there would be no change in impervious surface areas, and no effect on existing stormwater drainage systems. Water diverted from the Kern River would be delivered to existing and previously approved KWB recharge facilities via existing, gravity operated diversion and canal infrastructure, and diversions would not exceed the capacity of the canals or recharge facilities.

3.1.3.4 Water Diversions

Several comments expressed concern about the diversion of water outside KWB boundaries and the frequency of diversions.[31] Water diversions are discussed on pages 3.6-24 through 3.6-25 of the draft EIR. In addition, the draft EIR describes baseline conditions and the amount of water actually diverted by KWBA historically on pages 3.6-32 through 3.6-33. Under existing conditions and operations, KWBA diverts water from the Kern River at multiple diversion locations. The potential project diversion locations (which comprise a sub-set of diversion points under existing conditions) are listed in Table 3.6-9 (draft EIR page 3.6-24) and mapped in Figure 3.6-12. A major diversion point for KWBA is the Kern Water Bank Canal diversion, which has a capacity of 800 cubic feet per second (cfs). KWBA also has the ability to use its Kern Water Bank Canal or the Pioneer Canal headworks and CVC to redivert high flow water to the California Aqueduct for delivery to KWBA members for beneficial use.

KWBA water records show that there were 3 years between 1995 and 2011 (all wet water year types) in which KWBA diverted Lake Isabella flood releases, often termed flood flows. In 1997, 22,187 AF of flood water was diverted for groundwater recharge purposes in accordance with the Flood Policy, and another 79,121 AF in 1998. An additional 46,349 AF of flood water was diverted in 2006. The year 2006 is considered an anomaly because more water was released from Lake Isabella than usual due to dam safety concerns.

The project proposes to divert water for direct diversion and underground storage from October 1 through September 30 for later beneficial uses, including irrigation, municipal, industrial, and water quality uses. Under existing conditions, KWBA diverts water to recharge basins through several points of diversion on the Kern River and would continue to do so under the project. KWBA also proposes to redivert high flow water to the California Aqueduct via the Kern Water Bank Canal or the Pioneer Canal headworks and CVC for subsequent delivery to KWBA members for beneficial use.

[31] See comments A4-46 through A4-54, and A4-152.

3.1.3.5 Kern River and Kern County Subbasin Water Quality

Several comments voiced concerns and questions about general water quality information within the region and the areas that would be affected by the project.[32] The hydrology and water quality section of the EIR presents information related to surface and groundwater (page 3.6-19), and includes discussion of groundwater levels on page 3.6-18. Water quality in the Kern River is very good to excellent as it enters the Tulare Lake Basin. Indeed, after review of available data, the Regional Water Quality Control Board found that the Lower Kern River did not warrant listing as an impaired water body as water quality was within state standards (U.S. Environmental Protection Agency 2018). Similarly, imported surface water from the California Aqueduct and Friant-Kern Canal is of good quality and very good to excellent quality, respectively.

Total dissolved solids (TDS) in the Kern River was 96 milligrams per liter (mg/L), arsenic[33] was 4 micrograms per liter (µg/L), and nitrate was not detected (Kern County Water Agency 2011). Typically, Kern River water has lower TDS levels compared to both groundwater and SWP water sources. For 2007 through 2011, Kern River TDS levels averaged 100.4 mg/L. Nitrate plus nitrite contamination was not detected in Kern River data for the period 2007 through 2011, and arsenic is always well below the maximum contaminant level (MCL), with an average of 4 µg/L over the 2007 through 2011 period. The SWP water quality varies throughout the year and by water year type. Water quality is generally better in spring and summer and poorer in fall and winter. In addition, wetter water years exhibit better water quality, whereas progressively drier years exhibit progressively poorer quality (Department of Water Resources 2001).

As with its surface water, the KWB's groundwater is considered to be of good quality (Department of Water Resources 2014). The project is in the central portion of the Kern County Subbasin of the larger San Joaquin Valley Groundwater Basin. The eastern subbasin contains primarily calcium bicarbonate waters in the shallow zones, increasing in sodium with depth. Bicarbonate is replaced by sulfate and lesser chloride in an east to west trend across the subbasin. West side waters are primarily sodium sulfate to calcium-sodium sulfate type. The average TDS of groundwater within the subbasin is 400–450 mg/L, with a range of 150–5,000 mg/L. Shallow groundwater presents problems for agriculture in the western portion of the subbasin. High TDS, sodium chloride, and sulfate are associated with the axial trough of the subbasin outside of the Kern Fan area. Elevated arsenic concentrations exist in some areas associated with lakebed deposits. Dibromochloropropane (DBCP), ethylene dibromide (EDB) (both fumigants formerly used in agriculture), and nitrate concentrations exceed MCLs in various areas of the basin (Department of Water Resources 2006).

3.1.3.6 Kern County Subbasin Water Quality

The 2004 Central Valley Regional Water Quality Control Board Tulare Lake Basin Plan states that acceleration of salt accumulation is the greatest groundwater quality problem in the basin. Extensive monitoring conducted in the Kern Fan area, however, has established that baseline groundwater quality is generally very good. For example, the average TDS concentration measured

[32] See comments A4-18, A4-84, A4-93, A4-143 through A4-145, A4-151, A4-156, A4-159, A4-160, A4-165 through A4-174, A4-176 through A4-179, A4-181, A4-182, and A4-195 through A4-197.

[33] Trace metals such as arsenic occur naturally in the environment. Many trace metals are necessary for healthy biological function, where deficiencies in certain trace metals can result in disease and ailment. At elevated levels, trace metals can be toxic.

at 78 KWB recovery wells in 2018 is 279 mg/L. Further, no pesticides have been detected in any of the KWB recovery wells. Moreover, under existing conditions, KWB operations generally result in a net reduction of salts in the Kern Fan aquifer due to the import of good quality (low salt) waters for recharge and the export of salts during recovery operations (Kern Fan Monitoring Committee 2012, 2017).

Some public comments expressed concern that added diversions and recharge operations could introduce water of poor quality into the underlying aquifer or create some mounding, resulting in migration of contaminated groundwater into other parts of the groundwater basin.[34] Other public comments stated that, by taking surface waters away from others, existing water users (like the City of Bakersfield) will necessarily have less water to recharge and might pump more groundwater in other areas of the region (with indirect effects on groundwater quality in those areas).[35]

First, as established earlier in this master response, the project does not seek to appropriate any Kern River surface waters already held by senior rights holders—it seeks only to divert and store unappropriated surface waters when available in high water years. As stated on page 2-6 of the draft EIR, the project would recharge high flow Kern River water that otherwise would reach the SWP Intertie or flood farmlands. As such, there will be no reduction or changes to the rights to Kern River water held by others in the region. Consequently, the project is not expected to, directly or indirectly, result in any increased pumping elsewhere in the Kern River Basin. Attempting to pinpoint where such indirect effects might occur would be entirely speculative.

Second, as indicated in the hydrology analysis of the draft EIR (pages 3.6-33 and 3.6-39) and clarified in the Kern River and Kern County Subbasin Water Quality and Levels discussion, the project would not introduce water with poor quality through recharge activities. In addition, there are no contaminant plumes in the underlying aquifer within the area affected by any recharge activities that could migrate into neighboring wells. Consequently, as with existing operations, the recharge of high quality Kern River water and recovery of subbasin groundwater is expected to help to maintain or reduce the overall salt content of the subbasin and have an overall beneficial effect on groundwater quality.

Lastly, as stated on page 3.6-33 of the draft EIR, the project does not propose to discharge to any waters of the state or United States and, therefore, would not threaten to violate any water quality standards or waste discharge requirements. Moreover, as stated on page 3.6-39 of the draft EIR, under both the Baseline 1 and Baseline 2 conditions (as defined on draft EIR page 3.6-32), diversion of the full project amount in very wet years would not alter the chemistry or quality of the Kern River surface water below the KWB's points of diversion.

[34] See comments A4-84, A4-179, A4-182, and A4-248.

[35] See comments A4-15, A4-115, A4-118, A4-136, A4-137, A4-143 through A4-145, A4-147, A4-164, A4-172 through A4-174, A4-179, A4-182, A4-183, A4-195, and A4-196.

3.1.3.7 Groundwater and Kern County Subbasin Water Levels

Several comments question the circumstances of the recovery of groundwater associated with the project, and specifically the effects on groundwater basin levels in the subbasin and elsewhere.[36] These comments claim that the EIR does not adequately describe existing groundwater conditions or address the relationship between those conditions and project water recovery.

The hydrology and water quality section of the EIR presents background information related to groundwater and subbasin water levels on page 3.6-18. Groundwater elevations from August 2012 indicated the presence of a groundwater mound in the eastern KWB area with groundwater gradients of about 25 feet per mile toward the northwest and southeast. The depth to water at that time ranged from about 40 feet to about 120 feet in the vicinity of the KWB basins. The August 2012 groundwater levels are a single snapshot in time of groundwater conditions. Historic water levels in the subbasin have varied through time in response to wet and dry cycles and water banking operations. Long-term groundwater hydrograph plots of potentiometric surfaces for clustered monitoring wells (located at township and range T30S/R24E, R25E and R26E) were completed at various depths. The shallower completions document water levels in the aquifer, whereas the deeper completions represent hydraulic head in the aquifer. The hydrographs show a steady decline in water levels through the early 1990s due to drought conditions (draft EIR Figures 3.6-8 and 3.6-9). The recharge activities of the KWB and other banking projects can be seen in the dramatic rise in water levels from 1995 through 1999. Several recharge and recovery cycles, coinciding with wet and dry periods, are documented after this time by rises and falls in water levels and hydraulic head.

As described in the draft EIR (pages 2-4 through 2-6, 2-14, 2-17, 3.6-9, 3.6-10, 3.6-13, 3.6-25 through 3.6-32, 3.6-35, and 3.6-37 through 3.6-39), the water to be recharged as part of the project would have drained into the Intertie, flooded farmland, or otherwise left the region. The project would not recover more groundwater than has been recharged by KWBA. KWBA participating members have historically maintained a significant surplus groundwater balance. As stated on pages 2-13, 2-14, 3.6-36 and 3.6-37 of the draft EIR, KWBA's pre-existing operational commitments will ensure that banking additional water will maintain a net surplus and will not result in a deficit in aquifer storage or a chronic lowering of the groundwater table levels. For example, as stated on page 3.6-36 of the draft EIR, the project would be consistent with the KWBA MOU and KWB recovery operations will be subject to the conditions specified in the PJoint Plan (draft EIR Appendix F), which superseded the previously-adopted Long-Term Operations Plan.[37] Entirely apart from this project and KWBA's proposed rights to Kern River surface waters, the existing recovery operations plan includes a joint committee that regularly monitors potential groundwater level impacts of banking project recovery operations on neighboring agricultural and domestic wells based on groundwater modeling and specified triggers for implementation of one or more corrective actions that are protective of

[36] See comments A4-11, A4-13, A4-14, A4-18, A4-20, A4-23, A4-26, A4-35 through A4-37, A4-83 through A4-A4-88, A4-95, A4-103, A4-164, A4-172, A4-176, and A4-182 through A4-184.

[37] As ongoing agreements and plans that govern operations of the KWB, the MOU, Joint Plan, and Long-Term Operations Plan are part of existing operations and do not constitute mitigation necessary to address any physical changes associated with the instant project (see Appendices B, C, and F). Regardless, this project is first and foremost a recharge project designed to add water to storage within the subbasin so that there is greater certainty over the long-term in drought conditions and multi-dry years. Consequently, this project is expected to have an overall beneficial effect on groundwater levels and aquifer storage.

existing wells. In the more than 20 years of operation since the KWB was created, aquifer levels have generally improved.

The project would not alter or otherwise increase annual recovery operations beyond historical recovery levels, which are subject to the limitations of pumping capacity, the MOU, and recovery operations plans. Water recovered by the KWB would continue to be subject to the MOU and all applicable recovery operations plans. The operations plan governs recovery and is protective of the groundwater basin. As such, and as stated on pages 2-13 through 2-15 of the draft EIR, recovery of banked water would occur in the same manner and under the same circumstances as historical recovery of banked water from the KWB. Otherwise, the project would generally add to groundwater supplies and increase the quantity and quality of water available for storage within the KWB through the appropriation of available high flow Kern River water.

3.1.3.8 Kern County Subbasin Conditions

A number of comments expressed concern about the KWB and the project's relationship to the conditions in the larger Kern County Subbasin, including groundwater overdraft.[38]

The DWR Groundwater Bulletin 118 classifies the Kern County Subbasin as overdrafted (Department of Water Resources 2006, 2016). Drought conditions in 2013 through 2015 further reduced the amount of available surface water, causing increased reliance on groundwater supply (California Water Service 2016). However, as stated on page 3.6-31 of the draft EIR, DWR conducted a quantitative assessment in 2015 of the effects of KWB activities on groundwater resources in the Kern County Subbasin. The DWR Kern Water Bank Model (DWR KWB Model) evaluation considered both past (1995 through 2014) and future operations (2015 through 2035) and compared actual historic water levels (that reflect KWB operations and predicted future water levels that reflect KWB operations) to those levels predicted had the KWB never operated. With respect to past operations, the evaluation indicates that groundwater levels were higher across sizeable areas outside KWB lands for the entire period as a result of KWB operations (1995 through 2014). These areas of positive benefits extended as much as 6 miles away from KWB lands. The areas where groundwater levels were lower as a result of KWB operations were much more limited and reflected temporary changes at the end of significant recovery operations. With respect to future operations (under both current conditions and after additional KWB facility development), DWR's evaluation indicated that groundwater levels are expected to be higher over substantial areas outside KWB lands for virtually the entire 2015 through 2035 period as a result of KWB operations. These areas of positive benefits extended as much as 5.5 miles away from KWB lands (AECOM 2016).

As stated on draft EIR page 3.6-36, under ideal (and very rare) conditions, the project could increase recharge of the subbasin in a single year to a maximum of 500,000 AF, an increase of 52,852 AF over the maximum amount of water recharged at the KWB in any single year within the historical baseline period. Recharging this water would raise local groundwater levels and increase overall aquifer storage. Thus, as described in the hydrology analysis (page 3.6-36), the project is expected to have a beneficial impact on overdraft conditions by further increasing reliability, providing long-term storage of water supply, and a sustainable source of water, particularly in dry years. The

[38] See comments A4-14, A4-36, A4-37, A4-83 through A4-88, A4-93, A4-95, A4-103, A4-142, A4-164, A4-171, A4-172, A4-176 through A4-185, A4-239 through A4-241, A4-250, and O3-3.

project could have the incidental benefit of reducing pumping of native groundwater in KWBA members' service areas.

3.1.3.9 Factual Support for the Hydrology Analysis

Some public comments questioned the evidentiary basis and factual support for the EIR's hydrology analysis.[39]

The hydrology and water quality section of the draft EIR (Section 3.6) presents a summary of the water availability analysis (pages 3.6-27 through 3.6-31), and includes hydrologic support for the project and an overview of the 2015 groundwater model (pages 3.6-31 through 3.6-32). In 2014, a water availability analysis was prepared to provide information required under California Water Code sections 1275(a), 1375 (d), 1243, 1243.5 and California Code of Regulations, Title 23, sections 695, 782, to determine whether and how much water would be available for appropriation by KWBA in periodic high-water years. Historical operations were used to quantify deliveries of water to local recharge projects and to assess maximum deliveries to these projects. Using maximum delivery estimates, additional possible deliveries using appropriative filings were assessed. The analysis relies on daily records for Kern River deliveries to the Intertie for the 1978 through 2012 period, daily First Point of Measurement unimpaired flow records for the 1978 through 2012 period, banking facility diversion capacities, and groundwater basin infiltration recharge rates, all of which allow for estimates of how much excess water could have been delivered to the KWB, based on past hydrology, after the rights of existing rights holders were met.[40]

Historical deliveries of flows during periods when the Intertie was operating were then compared with maximum delivery rates for the facilities to determine whether more water could have been delivered based on the appropriative water right applications that were filed. Comparisons of May 1998 and June 1998 Kern River regulated flow at First Point of Measurement with Kern River Intertie deliveries indicate that once regulated flows reach approximately 200,000 AF per month (just under 3,400 cfs), flood water flows to the Intertie and the use of existing facilities is maximized. Similar comparisons for May 2006—when the Intertie operated for nearly the whole month—indicate a similar triggering level for the Intertie (210,000 AF) (draft EIR Appendix L).

Records show that between 1995 and 2011, high water flows were available for diversion only 18% of the time, in 3 years, all of which were wet water year types, as discussed on page 3.6-35 of the draft EIR. Because the project depends on the availability of _high water flows in wet years, the frequency of future KWBA water diversions is expected to be similar to the frequency of historic diversions during the 1995 to 2011 period. However, the amount of water available in any given year is entirely dependent on the amount of water instream and available for diversion. The specific quantity of water available for diversion to the KWB in any given year would depend on annual and seasonal hydrologic and climatologic conditions and will depend simply on a determination by the State Water Board.

As stated on draft EIR page 3.6-27, potential water diversions for 1978 through 1998 were estimated as the minimum of (1) the flow delivered to the Intertie, (2) facilities diversion capacity, and (3) the monthly recharge rate plus rediversion of up to 1,100 cfs to the California Aqueduct to

[39] See comments A4-7, A4-99, A4-127, A4-175, A4-180, A4-198, A4-199, and A4-244.

[40] The *Kern Water Bank Authority Water Availability Analysis* (draft EIR Appendix L) analyzes both pre-1914 and appropriative water rights filings to demonstrate water is available.

meet irrigation deliveries. These estimates are considered to be an approximation of the maximum amounts of water that could have been delivered to the KWB during the historical period. The model results thus represent the amount of water that could be diverted if similar water year types were to occur in the future based on existing diversion infrastructure. Furthermore, the model represents the upper limit of potential diversions, assuming all available unappropriated water could be captured before reaching the Intertie, and conservatively predicts the maximum water available based on a given year type.

Results from the potential water availability diversion analysis are presented in Table 3.6-11 of the draft EIR (page 3.6-28 of the draft EIR and reproduced below). For the 1978 through 2012 period, the Intertie operated 9 times, or 26% of the time.[41] Actual reported KWB deliveries of Kern River flood water were 22,187 AF in 1997 and 79,121 AF in 1998. The water availability analysis predicts that if the KWB maximized diversions of unappropriated waters by diverting at full capacity (given current infrastructure and the groundwater basin recharge limits), 24,000 AF could have been diverted in 1997 (8% increase over the actual 22,187 AF diversion) and 209,000 AF could have been diverted in 1998 (164% increase over the actual 79,121 AF diversion) (Appendix L).

Table 3.6-11. Estimated Intertie and Kern Water Bank Authority Water Diversions for 1978 through 2011 Calendar Years (acre-feet per year)[a]

Year	Water Year Type	First Point Unimpaired	Intertie Estimated	Intertie Actual	Possible KWB Flood Water Deliveries (Estimated)	KWB Flood Water Deliveries Actual
1978	Wet	1,654,000	148,000	169,000	169,000	0
1980	Wet	1,640,000	143,000	139,000	139,000	0
1982	Wet	1,271,000	18,000	12,000	12,000	0
1983	Wet	2,489,000	679,000	664,000	500,000	0
1984	Above-Normal	822,000	0	27,000	27,000	0
1986	Wet	1,445,000	77,000	1,900	1,900	0
1997	Wet	1,182,000	0	24,000[b]	24,000	22,187
1998	Wet	1,718,000	170,000	209,000[b]	209,000	79,121

Source: Appendix L.

a The Intertie only operates during flood conditions. From 1978 through 2011, the Intertie has operated in only 9 years. This table excludes data from 2006 because flood releases were made due to reservoir level restrictions at Lake Isabella to address dam safety concerns.

b 1997 and 1998 Intertie deliveries also include KWB deliveries of Kern River water that would have reached the Intertie if the KWB were not in place. In 1997, 22,187 AF was delivered to the KWB. In 1998, 79,121 AF was delivered to the KWB.

As stated on draft EIR page 3.6-29, the analysis shows when the proposed KWBA flood water diversions would have had the potential to divert 100% of the monthly Intertie flow (except for three months in the exceptionally wet year of 1983 in which KWBA-proposed operations would

[41] The year 2006 was excluded from the analysis because during that year special flood releases were instituted due to reservoir level restrictions at Lake Isabella to address dam safety concerns. That year is thus not indicative of either historical or possible future operations.

have diverted 75% of the flood water). Table 3.6-12 on pages 3.6-30 and 3.6-31 of the draft EIR shows monthly Kern River flows at Second Point of Measurement (lower Kern River flows for the reach upstream of the Second Point of Measurement), the Outlet Canal Weir just upstream of the Intertie (between the Second Point of Measurement and the diversion at the weir at the Intertie to the Outlet Canal), and the Kern River to the Intertie for 1988 through 2011. Analysis of the flow data shows that flow was present in the channel for 5 of the 24 years (21% of the years), all of which were wet water years. Of these 5 years, the duration the lower Kern River downstream of the Second Point of Measurement had active flow typically varied from 3 to 4 months (Appendix L).

As a consequence, there is more than adequate evidentiary support for the hydrology analysis presented in the draft EIR.

3.1.3.10 Regulations Related to Groundwater

Comments also questioned if the EIR adequately considers new laws and regulations pertaining to ground and surface waters, including provisions of the federal Clean Water Act, state emergency drought regulations, SGMA, and local regulations.[42]

Although the water availability analysis dates to 2014 and new water resources legislation has taken effect since then, the analysis in the draft EIR takes into consideration the applicability of recent laws and regulations governing surface water, groundwater, and water quality. The hydrology and water quality section of the EIR presents information on relevant regulations (pages 3.6-1 through 3.6-9), and includes review of the project's relationship to those regulations. The hydrology and water quality section refers to the 2012 California Integrated Report (Clean Water Act Section 303(d) List/305(b) Report). Subsequent to preparation of the draft EIR, the 2014/2016 California Integrated Report has become the current 303(d) List. After approval of the 303(d) List portion of the California Integrated Report by the State Water Board, the complete 2014 and 2016 California Integrated Report was submitted to the U.S. Environmental Protection Agency (EPA) and the California 303(d) List was approved by U.S. EPA on April 6th, 2018. Regional surface water quality objectives for the region and groundwater quality objective for the Kern River Basin as defined by the Central Valley Regional Water Quality Control Board are discussed in Section 3.6.1.1, *Regulatory Setting* (pages 3.6-3 through 3.6-4). The project's relationship to water rights and the application for determining if water is available for diversion were also discussed under the subsection entitled California Water Code Section 1260(k): Water Availability Analysis on page 3.6-5 of the draft EIR. As explained above, the project as proposed is not expected to have any adverse impacts relative to water quality. If anything, the impacts on the subbasin would be beneficial.

SGMA is described at length on pages 3.6-5 through 3.6-7 of the draft EIR and discussed in Section 3.1.1.2, *The Sustainable Groundwater Management Act*, of the *Project Description Master Response*. As stated on page 3.6-5, SGMA went into effect on January 1, 2015. DWR has designated the Kern County Subbasin as a high priority subbasin. SGMA requires formation of GSAs and preparation of GSPs for all basins that DWR has designated as high or medium priority. As of June 30, 2017, eleven local agencies have submitted GSA formation notices for this subbasin and are required to develop and adopt their GSP by January 31, 2020. Sustainable groundwater management, in turn, is the

[42] See comments A4-104, A4-219, and A4-250.

"management and use of groundwater … without causing undesirable results" (Wat. Code § 10721 subd. (v)) such as the following.

- Chronic lowering of groundwater levels indicating a significant and unreasonable depletion of supply.
- Significant and unreasonable reduction of groundwater storage.
- Significant and unreasonable degraded water quality.
- Significant and unreasonable land subsidence.

Water banking projects in the Kern County Subbasin import surface water supplies for storage in the aquifer. These supplies are later recovered and put to beneficial uses. The projects do not use native groundwater consumptively, and losses are assessed on recharged supplies to ensure that the recovered volumes do not exceed the volumes of water previously stored.[43] Banking projects often operate under agreements (e.g. MOUs and operating plans) with other basin stakeholders.

The KWB, as with any other groundwater banking project, may temporarily lower groundwater levels during recovery operations under baseline conditions. Such lowering for the KWB is expected to take place only in dry or multi-dry years. However, temporary lowering in dry years is more than offset by the recharge of imported surface waters, as evidenced, in particular, by the DWR study surrounding the beneficial effects of the KWB operations. Further, the KWB is already subject to the MOU and Joint Plan, which together set parameters for aquifer management and recovery operations. And as the draft EIR states throughout, the project is not expected to significantly or unreasonably lower groundwater levels, reduce groundwater storage, degrade water quality, or cause land subsidence. In fact, since the inception of the KWB, there has been essentially no change in the land surface elevation, groundwater levels have generally benefitted, and the KWB's effects on water quality and overall groundwater supplies are expected to be beneficial with or without the project.

In July 2014, the State Water Board developed emergency drought regulations related to the curtailment of water diversions to protect senior water rights. The state's current system for curtailing water diversions and enforcing those curtailments does not provide for timely and effective implementation of the state's system of senior water rights during a drought when numerous water diversions require curtailment and enforcement in a short time period. The emergency regulations establish drought emergency curtailment methods and reporting requirements necessary to ensure the orderly curtailment of water rights. The emergency regulations also clarified the information the State Water Board would rely on in issuing initial curtailments, enforced curtailments though a system of orders to increase effectiveness, and clarified the procedures for contesting and making exceptions to curtailment orders. In August 2016, the State Water Board adopted a proposed resolution re-adopting a drought emergency regarding Informational Orders. Any curtailment procedures or criteria undoubtedly will be added

[43] Surface waters banked underground are not subject to the native groundwater priority system. (Slater, *California Water Law and Policy*, Ch. 7: Foreign, Developed, and Salvaged Water, p 7.01 [citing Gould and Grant, *Cases and Materials on Water Law*, Sixth Edition, at 89 "A right to store water is subject to the priority system, but the right to stored water is independent of the priority system."].) In this manner, KWBA as the surface water appropriator maintains the right to utilize the stored water above all other users. (*City of Santa Maria v. Adam* [2012] 211 Cal.App.4th 266,304; *City of Los Angeles v. City of Glendale* [1943] 23 Cal.2d 68, 78; *City of Los Angeles v. City of San Fernando* [1975] 14 Cal.3d 199, 261.)

as a standard condition in KWBA's water right permit, and diversions would accordingly be limited in drought years. But since the project proposes only to divert and store surface waters in very wet years when unappropriated waters are abundant, the State Water Board's regulations are not expected to have any practical effect on KWBA's diversion rights. Indeed, having additional stored water available for recovery in drought years would help alleviate the adverse consequences of curtailment orders.

Exceptional water conservation and abundant winter rain and snow ended the drought State of Emergency on April 7, 2017. However, some regions of California continue to face drought-related issues and groundwater basins remain critically low in some areas. Executive Order B-40-17 lifts the drought emergency in all California counties except Fresno, Kings, Tulare, and Tuolumne, where emergency drinking water projects will continue to help address diminished groundwater supplies. The order also rescinds two emergency proclamations from January and April 2014 and four drought-related executive orders issued in 2014 and 2015 (Executive Orders B-26-14, B-28-14, B-29-15, and B-36-15).

Local regulations, such as the Kern County General Plan, GMPs in the study area, and the Urban Water Management Plan (UWMP) for Improvement District No. 4 of KCWA and North of the River Municipal Water District are discussed on pages 3.6-7 through 3.6-9 of the draft EIR. Urban water suppliers prepare UWMPs every 5 years. These plans support the suppliers' long-term resource planning to ensure that adequate water supplies are available to meet existing and future water needs. ID4 submitted its UWMP to DWR on June 24, 2016, and North of the River Municipal Water District submitted its UWMP on October 11, 2016. The City of Bakersfield's 2015 UWMP includes both the City's domestic water system and wholesale water system. The City's 2015 UWMP is an update to the City's 2010 UWMP. The City has coordinated the preparation of the UWMP with a number of agencies, including KCWA Improvement District No. 4 and North of the River Municipal Water District. The City has requested copies of draft 2015 UWMPs from these agencies and provided a draft of the City's 2015 UWMP to these agencies. Generally, the City of Bakersfield and other agencies rely on surface and groundwater supplies to serve municipal and agricultural needs, and have determined that they have water supplies to serve their needs in the next 20-year horizon (California Water Service 2016; City of Bakersfield 2017). Because KWBA's rights would not involve any re-allocation of rights from those agencies, the project is not expected to have any adverse effect on those agencies and their water supplies. Consequently, the draft EIR analysis conclusions remain unchanged.

3.2 Responses to Agency Comment Letters

3.2.1 Responses to Comment Letter A1

3.2.1.1 Response to Comment A1-1

The comment identifies its jurisdictional area and indicates its jurisdictional authority over the project. The comment does not concern the adequacy of the EIR or the CEQA process. No further response or revision to the draft EIR is necessary.

3.2.1.2 Response to Comment A1-2

The comment cites the state code from which it draws its authority and notes the physical conditions under which a Central Valley Flood Protection Board permit would be required. The project does not propose any of the listed actions. The comment does not concern the adequacy of the EIR or the CEQA process. No further response or revision to the draft EIR is necessary.

3.2.1.3 Response to Comment A1-3

The comment outlines other conditions under which a permit may be required, such as alteration of existing facilities, and notes that federal Section 10 and 404 permits may be required and are the responsibility of KWBA.

Section 10 of the federal Endangered Species Act (ESA) addresses permit requirements necessary for authorization of the "take" of federally listed fish and wildlife species, as described on page 3.3-2 of the draft EIR. As described on pages 3.3-1 and 3.3-6 through 3.3-7 of the draft EIR, the KWB and existing water banking activities are authorized under Section 10 of ESA through implementation of the approved KWB Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP). Impact BIO-1 discusses the potential for effects on listed species for portions of the study area outside the KWB, which are not covered by the KWB HCP/NCCP and notes that, were such impacts to take place, they would be addressed through a separate ESA process, either under Section 7 or Section 10.

As described on page 3.6-1 of the draft EIR, Section 404 of the Clean Water Act requires that a permit be obtained from the U.S. Army Corps of Engineers (USACE) for the discharge of dredged or fill material into "waters of the United States, including wetlands." The project does not involve dredging or fill activities. Please see page 3.6-1 of the draft EIR for a detailed description of the conditions under which Section 404 permits are required.

The comment does not concern the CEQA process or the adequacy of the EIR. No further response or revision to the draft EIR is necessary.

3.2.1.4 Response to Comment A1-4

The comment provides links to its permitting and jurisdictional information. The comment does not concern the CEQA process or the adequacy of the EIR. No further response or revision to the draft EIR is necessary.

3.2.2 Responses to Comment Letter A2

3.2.2.1 Response to Comment A2-1

The comment quantifies the number of known abandoned, idle, and active oil and gas wells and related facilities within the KWB boundaries. The comment affirms its authority over oil and gas operations and notes that because the project proposes no construction or ground disturbance, additional review would be provided upon request. The comment does not concern the CEQA process or the adequacy of the EIR. No further response or revision to the draft EIR is necessary.

3.2.2.2 Response to Comment A2-2

The comment notes the need to contact the Division's Inland District office if any unknown wells are encountered during project operations. The comment does not concern the CEQA process or the adequacy of the EIR. No further response or revision to the draft EIR is necessary.

3.2.3 Responses to Comment Letter A3

3.2.3.1 Response to Comment A3-1

The comment describes the State Water Board's status as a CEQA responsible agency for approval of Water Right Application A031676 and states that it must consider the final EIR, together with other relevant evidence, before reaching its own conclusions about the project. KWBA understands that, as a responsible agency, the State Water Board will consider this EIR as part of a larger body of evidence in decision making on the referenced water right application (Application 31676).

3.2.3.2 Response to Comment A3-2

The comment notes the importance of the environmental analysis and adds that further hydrologic analyses and other considerations may also figure into its decision regarding Application 31676. Application 31676 and the subsequent water availability analysis that accompanied the draft EIR were developed based on early consultation with State Water Board staff, who indicated at the time that the water availability analysis employed an appropriate methodology for evaluating available water supplies and measuring the physical environmental impacts of this particular project. KWBA understands that additional hydrologic analyses regarding KWBA's and other pending water rights applications may be conducted by the State Water Board, if needed. The fact that a responsible agency may conduct additional analyses does not undermine in any way the data and analysis already conducted as part of this EIR.

3.2.4 Responses to Comment Letter A4

3.2.4.1 Response to Comment A4-1

The comment indicates that the City of Bakersfield commented on the 2012 NOP and supports many project objectives, including increased flow in the Kern River. The comment further expresses agreement with KWBA's determination that increased flows of water in the Kern River will provide multiple benefits to the region and indicates support of local water districts' water acquisition and provision. This comment does not concern the CEQA process or the adequacy of the EIR. No further response or revision to the draft EIR is necessary.

3.2.4.2 Response to Comment A4-2

The comment states that the City of Bakersfield is interested in the project because it is the operator and record keeper for the First Point of Measurement service area of the Kern River. KWBA acknowledges the City's interest in the project. This comment does not concern the CEQA process or the adequacy of the EIR. No further response is necessary.

3.2.4.3 Response to Comment A4-3

The comment notes that the City of Bakersfield holds pre-1914 Kern River water rights and expresses the opinion that the project would significantly impact those rights. The project seeks a State Water Board permit to divert high flow Kern River water after existing Kern River water rights, including the City's water rights, are met and only when such water is present.

Because the project only proposes to divert water from the Kern River after senior water rights are met, the project would have no impact on the City's pre-1914 appropriative water rights. Table 3 in Appendix L lists all entities that use the banking programs and have either pre-1914 water rights, purchased pre-1914 water, or divert Kern River flood water under the Flood Policy. The City of Bakersfield is included in the table. As stated on page 3.6-27 of the draft EIR, KWBA's water availability analysis (Appendix L) addresses both pre-1914 and appropriative water rights filings to demonstrate that water is available without affecting those entitlements. Appendix L states (page 2) that KWBA members have historically purchased Kern River water from holders of pre-1914 appropriative rights for KWB groundwater recharge purposes.

3.2.4.4 Response to Comment A4-4

The comment, along with comments A4-260, and A4-261, notes that the City of Bakersfield and others have filed competing applications to appropriate water from the Kern River and that Bakersfield recently prepared and certified a programmatic EIR in support of its application and Kern River Flow and Municipal Water Program (Kern Flow Program). The Kern Flow Program, according to the commenter, would use some of the same water proposed for use in the project. The commenter asserts that the EIR must discuss areas of controversy, including those arising out of competing applications to appropriate Kern River water, and specifically the recent litigation surrounding the Kern Flow Program.

The draft EIR summarized each of the pending applications to appropriate water filed with the State Water Resources Control Board, the surrounding controversies, and past and relevant litigation on pages ES-1, ES-2, 2-2 through 2-6, 5-5, and 5-8 (among other sections). Those discussions expressly addressed Bakersfield's water right application for its Kern Flow Program, and associated EIR. The commenter does not identify any specific physical environmental impacts that the draft EIR failed to address, or any relevant information from the prior litigation between KWBA and Bakersfield that is not considered in the draft EIR. Nevertheless, following is a summary of the 2012 Bakersfield Kern Flow and Municipal Water Program EIR (Kern Flow Program EIR) and the subsequent related litigation.

The City of Bakersfield in 2012 approved a programmatic EIR for its Kern Flow Program. That program sought to reaffirm the City's overall water supply plan, as well as to support the appropriation of additional water—up to an average of approximately 160,000 AFY—to "enhance the City's water supply to meet present and future demands for water." The Kern Flow Program proposes to rely on two discrete sources of water—70,000 AFY of "Source 1" water and about 87,000 AFY of "Source 2" water from the Kern River—for municipal purposes. According to the 2012 EIR, Source 1 water would consist of an annual average of 70,000 AFY of existing pre-1914 water rights held by Bakersfield that had been previously contracted to North Kern Water Storage District and other water users. Source 2 water would consist of an average of almost 90,000 AFY of "unappropriated" water that Bakersfield is currently seeking to appropriate by its application to the

State Water Board. This unappropriated Source 2 water, the Bakersfield EIR explains, is water that "formerly belonged to Kern Delta but was lost by non-use"—the so-called "forfeiture water" described in the KWB draft EIR (page ES-2). Unlike the KWB application which limits diversions to certain hydrologic conditions in the wettest years, Source 2 water under Bakersfield's application constitutes an "average" appropriation over a complete range of water-year types.

As the 2012 Bakersfield EIR explains, any Source 2 water awarded by the State Water Board would be subject to existing rights on the Kern River. Further, the "actual quantity" of Source 2 water, as described in the 2012 Bakersfield EIR, is "uncertain," "speculative," and "entirely dependent" on a later determination by the State Water Board. The City took the position that, because the determination of the quantity of water available "is out of the control of the City," the EIR was "not required to predict, guess or speculate as to the impacts associated with the later determination by an external regulatory agency of the quantity of water available for the Program." The 2012 Bakersfield EIR also posited that a new permit from the State Water Board "would likely include terms, conditions, limits and priorities which would impact the timing, quantity and extent of water devoted to the Program," thereby enhancing the speculative nature of the Source 2 water and—according to the City—reducing the need to analyze resulting impacts.

On the basis of the above assertions, Bakersfield's 2012 EIR expressly deferred analysis of the environmental impacts that might result from appropriating Source 2 water.

> The City has elected to defer review of certain secondary impacts associated with the use of new water supplies in the Program, including water supplies that may currently be used by other entities without authorization or a valid right or permit, until the SWRCB determines the quantity of unappropriated water available for use in the Program, and makes other determinations regarding the extent, timing, and availability of such water.

Bakersfield repeatedly confirmed during the administrative process and subsequent litigation that there would be no "approval" of the Kern Flow Program or project-level environmental review of any new sources of water until after the State Water Board determines how much water is available from the Kern River (if any).

On review of the 2012 Bakersfield EIR, the Tulare County Superior Court held that the EIR failed to adequately describe the Kern Flow Program in accordance with State CEQA Guidelines section 15124, subdivision (d)(2). In response to the writ issued by the Tulare Court, Bakersfield in 2016 prepared and certified a Recirculated Program EIR, which further emphasized the limited and conditional nature of the City actions at that time:

> After the [SWRCB] determines the quantity of unappropriated, surplus water available for appropriation on the Kern River, and presumably before the SWRCB determines and awards rights to such water to the City, the City will prepare, certify, and approve subsequent project level CEQA documents which tier off this program EIR, which CEQA documents will primarily review and consider impacts associated with the use of the specific quantity of water in the Program, including any applicable secondary and third party impacts. . . . If the SWRCB approves the City's application to appropriate and awards the City rights to all or some portion of the unappropriated Kern River water, the City will, if necessary, undertake, and certify and approve, additional project level CEQA documents which tier off this program EIR[.]

Bakersfield also repeatedly asserted that because no entities hold any right, title, or interest in the "surplus, unappropriated Kern River water," by definition the Kern Flow Program's appropriation of Source 2 water did not propose take water from any other water users.

The Tulare County Superior Court in proceedings on a later return to writ upheld the Recirculated EIR on the basis that the City "[was] not approving the program nor any specific activity at [that] point," as well as the unequivocal commitment by the City and its counsel to perform a full project-level environmental review once the amount of water available for appropriation is determined by the State Water Board. The trial court also ordered that the City strike its findings and statement of overriding considerations as premature. According to the court, "there can be no analysis of alternatives nor mitigation measures because these cannot be meaningfully addressed without knowing the potential effects of an agency action, and such effects cannot be known without knowing the amount of water subject to a change of use."

Unlike the 2012 Bakersfield EIR, the project EIR includes an extensive water availability analysis (Appendix L), which documents and evaluates the specific amount of Kern River water that the EIR concludes should be deemed unappropriated and available for appropriation. In this manner, the KWBA EIR does not defer environmental analysis and instead provides a project-level review of the possible direct, indirect, and cumulative impacts reasonably likely to result from the KWBA's appropriation of water. Further, the KWBA application does not seek to appropriate the of any water deemed forfeited in the North Kern Decision that appears to comprise Bakersfield's Source 2 water supply (which at this point is "speculative" according to the City). As noted in footnote 5 of the water availability analysis (Appendix L), "Kern Delta Water District First Point rights that were determined by the courts to have been forfeited were not considered in this analysis." The KWBA application seeks to appropriate new water only after all senior rights are met, which occurs only in wet or very wet years when there is unappropriated water available. Such hydrologic conditions have occurred only periodically in the past 20-plus years. During those time periods, the KWBA has been able to divert and store a portion of that water, thereby reducing flood risks on the Kern River system without impacting any Bakersfield water supply.

Lastly, based on the high variability of flows on the Kern River, the 2012 Bakersfield EIR documented that the Kern River has historically generated high volume flows in wet years that substantially surpass the amount of Source 2 water that the City seeks to appropriate. Consistent with the water availability analysis (Appendix L) in the draft EIR, for example, the Kern River experienced very high flows in 1983—1,459,000 AF at the Calloway Weir. That volume is many more times the amount of water the City is proposing to appropriate for use in its Kern Flow Program. This is further evidence that there is more than sufficient water under particular hydrologic conditions to accommodate KWBA's appropriation of up to a maximum of 500,000 AF in the wettest years.

For all of the above reasons, the controversies surrounding Bakersfield's application, the 2012 Bakersfield EIR for the Kern Flow Program, and related litigation do not alter the analysis of physical changes that might arise from the KWB application to appropriate unappropriated, surplus waters.

Please also see comments A4-40, A4-186, and A4-187.

3.2.4.5 Response to Comment A4-5

The comment expresses the City of Bakersfield's objection to KWBA's water right application, Application A031676, which is described in Section 2.1.3.2, *Water Right Application 31676*, of the draft EIR. This comment does not concern the CEQA process or the adequacy of the EIR. No further response or revision to the draft EIR is necessary in response to this comment.

3.2.4.6 Response to Comment A4-6

The comment cites CEQA Section 21061, which defines environmental impact reports and their purpose, and case law that set an early precedent for the definition of projects subject to consideration under CEQA. Chapter 1, *Introduction*, of the draft EIR describes the purpose and intended use of this EIR, and the CEQA process for this project. No further response or revision to the draft EIR is necessary in response to this comment.

3.2.4.7 Response to Comment A4-7

The comment cites language from CEQA and the State CEQA Guidelines regarding the content and organization of an EIR, then mischaracterizes the project EIR as being deliberately inconsistent with those requirements to avoid analyzing potential project impacts. The information used in the draft EIR analysis is sufficient for the analysis of the project's impact on the environment. The project seeks a State Water Board permit to divert high flow Kern River water after existing Kern River water rights are met and only when such water is present. As described on page 3.6-26, the specific quantity of water available for diversion to the KWB in any given year would depend on annual and seasonal hydrologic and climatologic conditions. As stated on page 3.6-36, the project would not recover more groundwater than has been recharged. Project operations would be consistent with the KWBA MOU and with the Joint Operations Plan, which set further parameters on long-term banking operations. Section 3.1.1, *Project Description Master Response*, Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, of this final EIR clarify project details, baseline conditions used for the analysis, and hydrologic and project information. Section 3.3.1, *Project Description Master Response*, revisits the descriptions of quantity, timing, and source of water that would be diverted and recharged under the project, existing Kern River water rights, existing and proposed KWB recovery operations, and the boundaries of the project study area.

3.2.4.8 Response to Comment A4-8

The comment mischaracterizes the scope of the project, and contends that the lead agency is concealing project impacts and avoiding public review and participation. There is no secret project and the public has been provided significant opportunity to review and comment, through detailed descriptions in the NOP, draft EIR, and appendices (including particularly Appendix L, Water Availability Analysis), which lay out the various sources of water and expectations concerning hydrology and the limited circumstances under which KWBA would divert wet-year water. The project, as described in draft EIR Chapter 2, *Project Description*, and clarified throughout the EIR analyses, would not constitute a change of use of all project water, which consists of unappropriated flows in very wet years that occur under rare circumstances. As described on page 3.6-26, such flows would be available for diversion in approximately 18% of water years, and primarily at levels well below the 500,000 AFY sought through KWBA's Application 31676. A portion of that water has historically been diverted and stored by the KWB when the Kern River has been in flood condition. Please see also Section 3.1.1, *Project Description Master Response*, for further clarification of the project characteristics.

Each resource section of the draft EIR provides discussion and analysis of potential project impacts. The analyses use baselines intended to provide the most accurate representation of conditions

under which the project would occur. Please see pages 3.1-7, 3.1-8, 3.6-32, and 3.6-33 of the draft EIR, as well as Section 3.1.2, *Baseline Master Response*, for further clarification of the baseline conditions used in the analyses.

Draft EIR Chapter 1, *Introduction*, provides an overview of the CEQA process. As required, an NOP soliciting input on the EIR scope from concerned agencies, organizations, and individuals was filed with the State Clearinghouse and publicly circulated. The NOP was released on February 16, 2012, and a public scoping meeting was held on February 28, 2012 (Appendix A). Upon completion of the draft EIR, KWBA filed a Notice of Completion with the State Clearinghouse, and circulated a Notice of Availability to interested parties. The draft EIR was sent to the State Clearinghouse for distribution, and was also made available to the public on the KWBA website and in the KWBA office for a 45-day review period.

Although CEQA does not require formal hearings at any stage of the environmental review process (State CEQA Guidelines § 15202[a]), KWBA held a public meeting on January 31, 2018, to encourage comments on the draft EIR. All comments received by KWBA in response to the draft EIR, along with responses to those comments, are incorporated into this final EIR.

3.2.4.9 Response to Comment A4-9

The comment generally asserts that the EIR does not comply with the policy, purpose, or requirements of CEQA. KWBA disagrees. The document satisfies the requirements of CEQA and the State CEQA Guidelines. It identifies, evaluates, and discloses environmental impacts related to the project and alternatives. The significance of any physical impact is assessed against baseline conditions reflecting the existing environment, as required by CEQA. As discussed in draft EIR Section 3.1.3.3, *Baseline Conditions*, the potential impacts of the project on hydrology, water quality, and groundwater are evaluated in relation to two baseline (operation) conditions. Two baselines more accurately characterize how the project will operate.

Please see the response to comment A4-8 for additional discussion of the EIR's compliance with CEQA environmental review process requirements.

3.2.4.10 Response to Comment A4-10

The comment generalizes that the EIR contains errors, omissions, and misstatements, and that the document is misleading and confusing. The analysis used available data, reports, and models prepared for the KWB. For example, a water availability analysis (Appendix L) was prepared to estimate how much water would be available for appropriation by KWBA in various water year types without affecting other Kern River rights holders' entitlements. In addition to the water availability analysis, supporting data and governing documents are included in the EIR as Appendices B, C, F, and M. The document presents all required setting and analysis information, and incorporates numbered subsections and impacts for clarity within each chapter. Please refer to the draft EIR table of contents to alleviate any confusion about the document's organization.

3.2.4.11 Response to Comment A4-11

The comment states that the project description is unclear and does not consider recovery and use of water by KWBA participating members. As described in both Chapter 2, *Project Description* (page

2-1) and the water availability analysis (Appendix L, page 3), the primary purpose of the Kern Water Bank, and the intent of the project, is to recharge, store, and recover water to improve water supply reliability for KWBA participating members, particularly under long-term drought conditions. Page 2-6 of the draft EIR states, "water stored within the KWB would ultimately be recovered using existing electric pumps and put to reasonable and beneficial uses—primarily irrigation uses—by KWBA's participating members" and reiterates that "[t]his EIR evaluates the environmental impacts of diversion of up to 500,000 AF of Kern River water for recharge, storage, and recovery for participating member entities' use." Section 2.1.3.2, *Water Right Application 31676* (commencing on draft EIR page 2-7), includes descriptions of the proposed POU and purpose of use, which it notes are identical to the existing POU and purpose of use. Sections 2.2.2.2, *Recovery*, and 2.2.2.3, *Monitoring*, outline the KWB recovery process and the monitoring of recovery activities, and describe the documents governing the recovery process, all of which are included as appendices (Appendices C, E, and F) to the draft EIR.

Please see Section 3.1.1, *Project Description Master Response*, for additional clarification of project details.

3.2.4.12 Response to Comment A4-12

The comment questions the adequacy of the project study area and claims that the EIR does not consider the Kern River corridor or the KWBA members' service areas. The study area for the EIR's resource-specific analyses consists of the area within the physical boundaries of the KWB generally, but several resource analyses, including those related to air quality, biological resources, greenhouse gases, hydrology and water quality, and utilities, use larger, resource-specific study areas. For descriptions of those larger study areas, please see draft EIR pages 3.2-5, 3.3-8, 3.4-5, 3.6-9, and 3.7-4. The project study area defined for each resource in the draft EIR accurately represents the area most likely to experience project impacts. The resource-specific study area includes Kern River Corridor and the service areas of KWBA members in the EIR, if it was determined that these areas are likely to experience project impacts for a particular resource area. Please also see Section 3.1.1, *Project Description Master Response*, for additional clarification of the reasons for selecting the study areas used in the analyses.

3.2.4.13 Response to Comment A4-13

The comment alleges that the project description is flawed and incomplete, and that the EIR therefore does not sufficiently consider project impacts, particularly the recovery and use of banked water, focusing only on project benefits. KWBA disagrees with the mischaracterizations of the project description.

As described in Sections 2.2.2.2, *Recovery*, and 2.2.3, *Monitoring*, KWB recovery operations, including recovery of water banked under the project, are subject to KWBA's existing operational commitments and extensive groundwater monitoring program, ensuring that banking project water would maintain a net surplus and would not result in a deficit in aquifer volume or a chronic lowering of the groundwater table levels. Impacts associated with the recovery and/or ultimate use of project water are identified in Section 3.2, *Air Quality* (Impacts AQ-1 through AQ-4), Section 3.4, *Greenhouse Gases, Climate Change, and Energy* (Impacts CC-1, E-1, and E-2), Section 3.5, *Geology and Seismicity* (Impacts GEO-1 and GEO-2), and Section 3.7, *Utilities* (Impacts UTIL-1 through UTIL-4).

As described throughout the EIR, the water diverted and banked under the project would be used to enhance reliability to existing users during extended drought conditions, would continue to be recovered at the same rate using existing facilities and operating provisions, and would continue to be used by the same entities in the same locations as has historically occurred. Because the project would not increase annual recovery and use of the banked water beyond the circumstances represented in baseline conditions, no significant project impacts are expected in association with those activities either at the KWB facility or within the participating members' POUs.

See the response to comment A4-11, and pages 6 through 11 of Appendix L, for additional details regarding the existing and proposed use of recovered KWB water.

3.2.4.14 Response to Comment A4-14

The comment claims that the EIR ignores or obscures significant project impacts related to surface water supplies, groundwater basin overdraft, other Kern River water users, the Kern River corridor, and riparian habitat.

As stated on page 3.6-34 of the draft EIR, the project is expected to be consistent with and fully comply with the federal, state, and local water supply and water quality laws and policies. KWBA would only divert available surplus Kern River water that is not otherwise used or stored by existing Kern River water right holders, and would not divert flows in normal or dry years when surplus flows are not available. As stated in the responses to comments A4-13 and A4-93, and throughout the draft EIR (pages 2-13 through 2-15, 3.2-14 through 3.2-15, 3.3-23 through 3.3-24, 3.4-15, and 3.5-7, 3.6-36 through 3.6-37), recovery rates are not expected to exceed the baseline condition and the project would not recover more groundwater than has been recharged. The impact analysis (Impacts HYDRO-2 and HYDRO-2a) in Section 3.6, *Hydrology and Water Quality*, indicates that, under KWBA's existing operational commitments and extensive groundwater monitoring program, project operation would not result in a deficit in aquifer volume or a chronic lowering of the groundwater table levels that would result in potential adverse impacts. Refer also to Section 3.1.3, *Hydrology and Water Quality Master Response*, for further clarification of groundwater and water supply impacts. The project would not take water held under other entities' rights, including beneficial uses (see also Section 3.1.1, *Project Description Master Response*). Project diversions would rely entirely on unappropriated flows after the other entities' senior water rights have been met. As stated on page 20 of the water availability analysis (Appendix L) and analyzed in draft EIR Section 3.3, *Biological Resources* (Impacts BIO-1 and BIO-2), project operations would in some wet years reduce peak flows within the Kern River and affect associated riparian areas within the study area. The evaluation of project impacts on riparian habitat indicates that any decreases in flows that would result from the project are not expected to cause a significant adverse effect on the riparian vegetation along the Kern River corridor. As stated on page 3.3-22 of the draft EIR, the project is not expected to result in significant impacts on riparian habitat or any other sensitive natural community.

3.2.4.15 Response to Comment A4-15

The comment claims that the EIR does not consider secondary impacts associated with a change in use of up to 500,000 AF of Kern River water from other districts and areas to the KWB, particularly secondary impacts associated with increased pumping, environmental damage, and replacement water supplies. As described in Section 3.6, *Hydrology and Water Quality*, and Appendix L, and

further clarified in Section 3.1.1, *Project Description Master Response*, the project would not take water from other Kern River water right holders' entitlements. The project seeks a State Water Board permit for unappropriated high flow Kern River water after existing water rights, including water rights held by the City of Bakersfield, are met. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision.

The historical record considered in the water availability analysis (Appendix L) indicates that the quantity of water requested by the project exists without impinging other Kern River water right holders' entitlements (see draft EIR pages 3.6-28 through 3.6-32, and Impact HYDRO-1 on page 3.6-36).

Further, as described on page 3.6-26, the specific quantity of water available for diversion to the KWB in any given year would depend on annual and seasonal hydrologic and climatologic conditions. As stated on page 3.6-36, the project would not recover more groundwater than has been recharged. Project operations would be consistent with the KWBA MOU and with the Long-Term Operations Plan, which sets further parameters on long-term banking operations. The project would not cause a change in the use of Kern River water by other entities.

3.2.4.16 Response to Comment A4-16

The comment asserts that the EIR does not consider feasible alternatives, provide an adequate cumulative analysis, discuss or analyze mitigation measures, or address known areas of controversy.

Draft EIR Chapter 4, *Alternatives*, describes the alternatives considered as part of the EIR. Alternatives considered but rejected, and the reasons for rejection, are summarized in Table 4-1. The alternatives analyzed represent different diversion amounts, project modifications, and other techniques to minimize effects. Chapter 4 provides a comparative analysis of the project, Alternative 1 (No Project Alternative), and Alternative 2 (the Diversion of up to 375,000 Acre-Feet [75% of Request] of Flood Flows a Year).

Cumulative impacts are discussed in Section 5.1, *Cumulative Impacts*. Where appropriate, the project's contribution to significant cumulative impacts are analyzed and discussed.

The analysis of project impacts found no significant impacts. Thus, no mitigation is required, and without the need for mitigation measures, no discussion or analysis of mitigation measures is necessary.

Please see the responses to comments A4-259 through A4-261, which address specific known areas of controversy.

3.2.4.17 Response to Comment A4-17

The comment claims that the EIR does not accurately or adequately analyze project impacts and appears intended to serve as an advocacy document.

The fact that a lead agency may also serve as a proponent of its own project does not in any way diminish the adequacy of the environmental analysis conducted in the EIR. Here, the project EIR has provided an in-depth and objective review of all potentially significant impacts of the project.

The project analysis uses available data together with studies conducted for the project. A water availability analysis (Appendix L) was prepared to estimate how much water would be available for appropriation by KWBA in various high water years after existing Kern River water rights are met. In addition to the water availability analysis, a wide range of federal, state, and locally sourced data, were used to inform the resource analyses. KWBA governing documents were considered and are included in the EIR as Appendices B, C, F, and M. Please refer to the References section at the end of each resource analysis for a complete list of supporting documentation used in preparation of the EIR.

Impacts associated with the project are discussed in each resource section. Potential impacts would be avoided or mitigated with implementation of established best management practices, use of existing and previously approved facilities, and adherence to existing governing documents such as the Long-Term Operations Plan and the KWBA MOU. The recovery operations plan includes a joint committee that regularly monitors potential groundwater level impacts of banking project recovery operations on neighboring agricultural and domestic wells based on groundwater modeling and specified triggers for potential mitigation actions, with significant impacts being avoided, eliminated, or mitigated.

3.2.4.18 Response to Comment A4-18

In comments A4-18, A4-37, A4-183, and A4-260, the commenter raises generally its concerns with prior litigation against the California Department of Water Resources (DWR) that challenged the Monterey Amendment and subsequent Monterey Plus EIR, along with the 2014 trial court ruling that found DWR failed to comply with CEQA in its transfer to the KWB (See *Rosedale-Rio Bravo Water Storage District v. California Department of Water Resources* (*Rosedale*) and *Central Delta Water Agency v. California Department of Water Resources* (*Central Delta*), Sacramento Co. Sup. Ct. Case Nos. 34-2010-80000703 and 34-2010-80000561). The City of Bakersfield claims those previous proceedings and the current project EIR amount to an effort by KWBA to avoid CEQA review for its overall water banking project, and that the current EIR is similarly deficient. Bakersfield also notes that KWBA's pumping and extraction of water from storage is subject to a number of restrictions and limitations as a result of the Monterey Plus EIR and related litigation which—according to Bakersfield—reveals that past operation of the KWB caused adverse and negative impacts on the environment. Lastly, without identifying a specific deficiency in the project EIR's treatment of the project's possible physical environmental impacts, Bakersfield asserts that the project EIR must identify and discuss known areas of controversy, including this recent litigation against DWR as it relates to operation of the KWB.

Contrary to the comments, the project EIR identifies DWR's Monterey Plus EIR and the prior litigation, as well as the operations plans now in place that govern KWBA's operation of the KWB (including limits on the recovery of water from storage) (see draft EIR, pages 2-2, 2-3, and 2-12 through 2-15). The Monterey Plus EIR, however, addresses existing and previous uses and operations of the KWB that, to the extent not already part of baseline operations (see Section 3.1.1, *Project Description Master Response*, and Section 3.1.2, *Baseline Master Response*), are distinct from the appropriation of Kern River water that is the subject of this EIR. The commenter also neglects to address the REIR approved in 2017, which addressed fully the operation of the KWB. Nevertheless, for clarity, this response provides further background on the Monterey Plus litigation.

The history of litigation relating to the Monterey Amendment dates back to 1994, when representatives of DWR and some of the SWP contractors executed a statement of principles in Monterey, California, known as the "Monterey Agreement." The Monterey Agreement was the basis for subsequent modifications to the SWP long-term water supply contracts in what was termed the "Monterey Amendment." In addition to numerous changes in SWP water supply contracts (including allocations of surplus water and permanent water transfers), the Monterey Amendment committed DWR to transfer the Kern Fan Element property, consisting of about 20,000 acres in Kern County, to the KCWA for potential development of a locally owned and operated water bank. DWR in 1996 transferred the Kern Fan Element to the KCWA. KCWA in turn transferred the property to KWBA, which was formed by KWBA's members, KCWA on behalf of its Improvement District No. 4, and other SWP contractors and KCWA member units, including Dudley Ridge Water District, Semitropic Water Storage District, Tejon-Castac Water District, Westside Mutual Water Company, and Wheeler-Ridge Maricopa Water Storage District. KWBA subsequently developed and constructed the KWB on the former Kern Fan Element property, which property became known as the KWB Lands. In *Planning and Conservation League v. Department of Water Resources* (*PCL v. DWR*), the Monterey Agreement EIR was thereafter challenged and ultimately decertified by the Third Appellate District on the grounds that DWR should have been the lead agency and that the EIR was, in part, inadequate.

The parties to that original Monterey Amendment litigation (*PCL v. DWR*) entered a court-approved settlement in 2003, whereby DWR agreed to prepare a new EIR for the Monterey Amendment "plus" certain other provisions of the settlement agreement (Monterey Plus). Among other elements, the settlement agreement confirmed KWBA shall retain title to the KWB Lands, added certain restrictions on the use of the KWB Lands, and required DWR to prepare an independent study regarding certain impacts of the KWB. The 2010 Monterey Plus EIR was challenged in two separate cases and, after it upheld the majority of the EIR, the trial court issued a ruling and writ of mandate in 2014 (2014 Writ) that DWR was required to further revise the 2010 EIR to include a description and analysis of the development, use, and operation of the KWB.

In response to the trial court's 2014 Writ, DWR in 2016 prepared and certified the Monterey Plus Revised EIR (REIR), which focused on impacts of the KWB. That REIR included and analyzed a new Long-Term Project Recovery Operations Plan that further governs and restricts recovery operations, and made clear that the KWB provides a supplemental back-up water supply to KWBA members for use principally during droughts. The REIR also confirmed that the KWB is only one of multiple sources of water to KWBA members. The REIR found crop conversion in the KWB service area would have occurred with or without the KWB for several reasons, including world commodity prices and other factors driving crop conversion, a local, regional and statewide shift that began before the Monterey Amendment, and concluded that the KWB did not directly or indirectly cause conversion to permanent crops. The REIR nonetheless analyzed the potential environmental impacts caused by crop conversion from annual to permanent crops. It is important to note that Bakersfield does not acknowledge the existence of this important further CEQA review, and that many of the questions raised in their comments are fully addressed in this document.

The Central Delta petitioners did not challenge DWR's return to the 2014 Writ in the Central Delta case, nor did the Rosedale petitioners, which consented to discharge of the writ. Rather, a new lawsuit was filed by some of the Central Delta petitioners and the Center for Food Safety challenging the adequacy of the REIR—*Center for Food Safety v. DWR*, Sacramento Co. Case No. 34-2016-80002649. The trial court ultimately discharged the 2014 Writ and, on October 2, 2017, denied the

new petition in its entirety. Among other conclusions, the trial court found in its lengthy decision that:

- The terms of the writ and Public Resources Code section 21168.9 precluded Central Delta Water Agency from re-litigating CEQA issues already decided;
- Substantial evidence supported the 2016 REIR evaluation and findings regarding the impacts of the KWB on crop conversion; and
- The Final REIR adequately responded to public comments regarding the impacts of "hardening of demand."

The Center for Food Safety case is now on appeal to the Third Appellate District, consolidated with the Central Delta appeal for argument, with a ruling possible sometime in 2019. Regardless of the outcome of those appeals, the underlying operation of the KWB is not at issue in the instant project EIR. The KWB has now been operational for over 20 years, with actual historical operations serving as the baseline for analysis in this project EIR. The water rights application pending before the State Water Board is a distinct and independent project, which is not expected to change the underlying operations of the KWB in any way. Indeed, the amount of water that the permit application is expected to yield is a fraction of the multiple water sources that currently supply the KWB and its members. Furthermore, the Monterey Plus REIR and all restrictions and provisions governing KWB operations have been put in place—including the Long-Term Project Recovery Operations Plan—and are now part of baseline project operations. These baseline operational controls, including long-term environmental permits and operations plan and other mitigation measures imposed under the REIR, serve to protect the underlying aquifer, neighboring groundwater wells, and other elements of the regional environment.

3.2.4.19 Response to Comment A4-19

The comment cites the lone paragraph of an opinion article in which the KWB is described as controversial to support the commenter's assertion that this EIR is deficient, invalid and deceptive.

KWBA disagrees with the opinion expressed in the comment. As noted in the responses to comments A4-7 and A4-13, and in Section 3.1.1, *Project Description Master Response*, Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, the information used in the draft EIR analysis is robust and sufficient for the analysis of the project's impacts on the environment. The draft EIR analysis is supported by data, modeling, and regulatory and environmental setting information, including data depicting historical baseline diversions. Further, the residents of the city of Bakersfield already receive significant benefits from the KWB via the water supplied by ID4, one of the KWBA's participants, to urban purveyors in the Bakersfield area.

3.2.4.20 Response to Comment A4-20

Citing a single sentence on page 2-6 of the draft EIR, the comment contends that the project description is misleading and incomplete because it doesn't address the specific ultimate use of project water, and that the EIR analysis is flawed because of this alleged deficiency. Page 2-10 of the draft EIR describes the existing and proposed use of KWB water. In addition to the cited sentence on page 2-6, the EIR repeatedly identifies and analyzes the project as including the storage, recharge,

recovery, and use of banked water by KWBA participating members (see pages 3.2-14 through 3.2-15, 3.3-23 through 3.3-24, 3.4-10, 3.4-13 through 3.4-15, 3.5-7, and 3.6-36 through 3.6-37). The EIR describes, in both text and graphic format, the project facilities and their locations (Figures 2-3 through 2-5, and pages 2-8, 2-11 through 2-12, 3.6-2, 3.6-3, 3.6-10, and 3.6-12), and the POU (pages 2-8 through 2-10, Figure 2-6, and pages 6 through 11 of Appendix L) for KWBA members' water. The EIR further describes existing and proposed diversion, recharge, and recovery activities (pages 2-3 to 2-4 and 2-12 to 2-15), as well as the governing documents that regulate recovery activities (pages 2-1 through 2-3, 2-13 through 2-16, and Appendices B, C, E, F, and M). Recovery facilities will not change, and most operations will continue under baseline conditions.

Impacts and environmental effects associated with the project are discussed in each resource section. As described in both Chapter 2, *Project Description*, and Section 3.6, *Hydrology and Water Quality*, diversion, recharge, and pumping capacity associated with the project would follow the guidance set forth in the MOU, the Joint Plan, and the Long-Term Operations Plan (Appendices B, C, and F). The EIR indicates that the project would only divert and recharge up to 500,000 AF of Kern River water during certain high flow conditions that has historically occurred in only 18% of water years (see discussion on page 3.6-35 of the draft EIR), and recover that water following the existing pattern of recovery during drought conditions (pages 3.6-36 and 3.6-37). As described on pages 2-9 and 2-10, the ultimate use of recovered project water would be identical to the use of historically banked water recovered from the KWB. Please also see Section 3.1.1, *Project Description Master Response*, Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*. To further define the myriad of possible uses of water stored in the KWB—particularly as to water under the proposed permit which is marginal when compared to the many other sources of stored water—would involve speculation, which CEQA does not require.

3.2.4.21 Response to Comment A4-21

The comment claims that the project description fails to discuss two project components, banked water recovery and use, and is therefore inadequate. The EIR describes and analyzes all project components. Please see the responses to comments A4-9, A4-11, and A4-20, and Section 3.1.1, *Project Description Master Response*, Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, for further clarification of the project components.

3.2.4.22 Response to Comment A4-22

The comment cites case law regarding the adequacy of an EIR project description to avoid piecemealing, and notes that an EIR must include all relevant parts of a project, including reasonably foreseeable future expansion and components that require another agency's approval.

KWBA agrees that piecemeal review of a project is not allowed under CEQA. The project considered in this EIR does not constitute piecemeal review. The State CEQA Guidelines define a project as "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment" (State CEQA Guidelines § 15378[a]). However, an action need not be considered as part of the project if it is not a reasonably foreseeable consequence of the first action, a future expansion of the first action that would change the scope of the first action's impacts, or both actions as integral parts of the same project (*Paulek v. California Department of Water Resources* [2014] 231 Cal.App.4th 35). The project description (Chapter 2) discusses all relevant parts of the project as proposed, including diversion,

recharge, recovery, and use, and the environmental analysis addresses the potential impacts that could occur in association with those actions. Section 2.1.3, *Proposed Project*, indicates that the project does not propose construction of new diversion, recharge, or recovery facilities. Page 2-6 of the draft EIR states that KWBA would ultimately recover the recharged water using existing electric pumps for use by KWBA's participating members. Sections 2.2.2.1, *Recharge*, and 2.2.2.2, *Recovery*, describe those facilities and their use. Section 2.2.2.1 also refers the reader to Kern Water Bank Operations in Section 3.6, *Hydrology and Water Quality*, for a more detailed description of KWB recharge operations. Section 2.1.3.2, *Water Right Application 31676*, includes descriptions of the proposed POU and purpose of use, which it notes are identical to the existing POU and purpose of use.

Please also see the responses to comments A4-9, A4-11, and A4-20, and Section 3.1.1, *Project Description Master Response*.

3.2.4.23 Response to Comment A4-23

The comment cites case law regarding the relationship between the adequacy of EIR analyses and the content of project descriptions. The project analysis used available data, reports, and models prepared for the KWB. The document presents all required setting and analysis information. The water availability analysis (Appendix L) was prepared to estimate how much water would be available for appropriation by KWBA in various water year types without affecting other Kern River water right holders' entitlements. Additional supporting data and governing documents are included in the EIR as Appendices B, C, F, and M. Please also see the responses to comments A4-9, A4-11, A4-20, and A4-22, and Section 3.1.1, *Project Description Master Response*.

3.2.4.24 Response to Comment A4-24

The comment reiterates the City of Bakersfield's claim that KWBA intentionally omits project components and details from the EIR to avoid analyzing significant impacts. The EIR describes and analyzes all project components. Please see the responses to comments A4-9, A4-11, and A4-20, and the master responses in Section 3.1.1, *Project Description Master Response*, Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*.

3.2.4.25 Response to Comment A4-25

The comment criticizes the project name and states that the EIR does not discuss water conservation, recovery, or use of the project water. The project, by nature, conserves water through storage, banking it underground for future use. As noted on page 2-14 of the draft EIR, since 1978, "430,000 AF of Kern River water bypassed the Intertie via the Kern River Flood Channel to flood farmland in the Tulare Lake Basin, where a large volume of that water simply evaporated." Further, the recharge basins, as described on pages 2-11 and 2-12, provide intermittent wetland habitat, a condition that the project would maintain.

As stated in Section 3.6.2, *Impact Analysis* (page 3.6-26), the ability to redivert water can provide significant water conservation benefits by maximizing the beneficial uses of Kern River water, preventing potential flooding, and lowering energy usage necessary to deliver water to KWBA participating members. In addition, as stated on page 3.3-23, all KWB activities are subject to the requirements of the KWB HCP/NCCP, which advances the environmental objective of setting aside

large areas of the KWB for the protection and enhancement of habitat for threatened, endangered, and sensitive species while meeting the conservation objective of storing water in the aquifer during times of surplus for recovery during times of shortage.

The project seeks a State Water Board permit for unappropriated high flow Kern River water after existing Kern River water rights are met. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision. Please see Section 3.1.1, *Project Description Master Response*.

3.2.4.26 Response to Comment A4-26

The comment asserts that the EIR does not consider impacts related to the recovery and use of project water. As noted on pages 2-10 and 2-11 of the draft EIR, the purpose and place of use for recovered water would be identical to the existing purpose and place of use for recovered KWB water. Section 3.2, *Air Quality*, addresses recovery pumping activities, agriculture-related emissions, and the potential for emissions associated with a shift from agricultural to other land uses (pages 3.2-9 through 3.2-12, 3.2-14, and 3.2-15). Similarly, Sections 3.3, *Biological Resources*, 3.4, *Greenhouse Gases, Climate Change, and Energy*, 3.5, *Geology and Seismicity*, 3.6, *Hydrology and Water Quality*, and 3.7, *Utilities and Service Systems*, address banked water recovery and use as applicable to those specific resource areas (see draft EIR pages 3.3-18, 3.4-4, 3.4-13 through 3.4-18, 3.5-7, 3.6-37, 3.6-38, 3.6-40, 3.7-4, and 3.7-5).

Section 5.2, *Growth-Inducing Impacts*, further addresses the potential impacts associated with the use of recovered project water.

Pages 6 through 11 of Appendix L also describe the use of recovered project water, including local municipal and irrigation needs and recharge to groundwater banking programs.

3.2.4.27 Response to Comment A4-27

The comment contends that the project description is incomplete and misleading, and that the EIR does not describe and discuss the KWBA participating members or their proposed use of the project water.

The draft EIR describes relevant project details. Chapter 2, *Project Description*, describes project components and provides details related to the quantity, timing, and source of water that would be diverted and recharged under the project, existing Kern River water rights, and existing and proposed KWB recovery operations.

The EIR describes the participating members' locations, as well as both their existing and proposed uses of KWB water. Please see the responses to comments A4-11 and A4-20 for discussions addressing the contention that the EIR does not describe the use of project water by KWBA participating members.

3.2.4.28 Response to Comment A4-28

The comment states that the EIR does not provide detailed information on the participating members, specifically the crops grown, existing water supplies, groundwater conditions, and water use in those districts.

Table 5-3 (page 5-11 of the draft EIR) lists crop types harvested in Kern County. KWBA currently provides a banked water supply serving the water districts associated with the project, a condition that would continue under the project. The remainder of those districts' water supplies are derived from other sources and are not under consideration as part of this project because, as described on pages 5-10 and 5-11, the project would not alter the amount of KWB water available to those districts in any given year, except for possible continued availability of KWB water in the later years of an extended drought.

Pages 2-9 and 2-10 describe the historical use of KWB water by these entities, noting that the proposed use would be identical.

Groundwater conditions are discussed on pages 3.6-16 through 3.6-19, 3.6-31 through 3.6-32, 3.6-36 through 3.6-37, and in Appendix M (Cross Valley Canal/Kern Water Bank Operating Guidelines During Shallow Groundwater Conditions). Groundwater regulations are discussed on pages 3.6-4 through 3.6-9.

3.2.4.29 Response to Comment A4-29

The comment mischaracterizes the scope of the project, claiming that the EIR does not provide adequate information related to the specific quantities and methods of water delivery to each KWBA member and the specific uses to which each member puts that water, including specific crops on which project water would be used and why, or how the project would change the use of the water supply within each KWBA member service area. As noted in the response to comment A4-7, the information used in the draft EIR analysis is sufficient for the analysis of the project's impact on the environment. Both the POU and purpose of use of project water would remain the same as the current participating members' POU and purpose of use of recovered KWB water (pages 2-9 and 2-10). KWBA does not control its members' specific water uses, and the crops grown on individual parcels change from year to year or over the course of decades. Table 5-3, Kern County Harvested Acres, 1995 and 2015, provides a snapshot of the type of crops raised in Kern County and how the distribution of those crops has changed over time, paralleling the statewide pattern over the same period (Table 5-4). Table 5-5, Kern Water Bank Participants' Acreage, 1995 and 2015, shows that the KWB participating members' agricultural use follows the countywide and statewide trends. This project, however, does not propose any change to either the POU or purpose of use.

As stated on page 3.6-36, the project would not recover more groundwater than has been recharged. Project operations would continue to be consistent with the KWBA MOU and with the Long-Term Operations Plan, which sets further parameters on long-term banking operations. The project would not cause an increase or change in the use of water by KWBA members, but would instead increase water reliability over periods of extended dry conditions.

Please also see Section 3.1.1, *Project Description Master Response*, Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, which clarify project details, baseline conditions used for the analysis, and hydrological and project information.

3.2.4.30 Response to Comment A4-30

The comment claims that the EIR should identify the KWBA participating member that would use project water for municipal and industrial purposes, and specify the amount of water to be used for

those purposes; identify specific users of project water, including specific developments; quantify water to be used for development and the power plant; and describe the timing and circumstances that would result in project water use for development and power plant. The information used in the draft EIR analysis is sufficient for the analysis of the project's impact on the environment. As stated on page 3.6-26, the specific quantity of water available for diversion to the KWB in any given year would depend on annual and seasonal hydrologic and climatologic conditions. The project would only divert and recharge up to 500,000 AF of Kern River water, which is likely to be a rare occurrence, as discussed on page 3.6-35.

Further, as described in the draft EIR (pages 2-9 and 2-10), the project would not change the purpose or location of use beyond existing conditions, including existing developments and a power plant; the project would not supply water for any new developments. The identity of any individual development, or the power plant, is therefore irrelevant to the EIR analysis, as are the details of those end users' water consumption.

Please also see Section 3.1.1, *Project Description Master Response*, which clarifies that the project would not increase availability of water to participating members, except by making water available at the end of an extended multi-year drought.

3.2.4.31 Response to Comment A4-31

The comment requests detailed information regarding the use of project water, and the process for water exchanges and for the diversion of project water into the California Aqueduct.

As stated on page 3.6-26 of the draft EIR, the specific quantity of water available for diversion to the KWB in any given year would depend on annual and seasonal hydrologic and climatologic conditions. KWBA diverts, and proposes to continue to divert, water from the Kern River for use in multiple locations, including to the California Aqueduct, for use by its members. The capacity of each diversion is listed on Table 3.6-9 (page 3.6-24). KWBA has the ability to use its Kern Water Bank Canal or the Pioneer Canal headworks and CVC to redivert unappropriated water to the California Aqueduct. The two points of rediversion to the California Aqueduct are the Kern County Water Agency Turnout at Milepost 238.19 and Kern County Water Agency Turnout at Milepost 238.04. Specific uses of water are determined by the KWBA members and, because they would remain unchanged under the project, would not influence the results of the EIR analysis.

3.2.4.32 Response to Comment A4-32

The comment states that the EIR does not identify the amount of water to be dedicated to participating members' municipal, industrial, and irrigation use. The information used in the draft EIR analysis is sufficient for the analysis of the project's impact on the environment. The project does not propose to increase the amount of water available to KWBA members in any given year, but is intended to provide greater reliability in periods of extended dry conditions (see pages 2-8 and 2-14). The purpose of use and POU would remain the same as under baseline conditions (see pages 2-9 and 2-10, Section 3.1.1, *Project Description Master Response*, and Section 3.1.2, *Baseline Master Response*). Because there would be no change or new use of water associated with the project, and because the POU would remain the same, the amount of water used for each purpose within the POU would not influence the results of the analysis.

3.2.4.33 Response to Comment A4-33

The comment states that the EIR does not identify the specific intended uses of the water by each KWBA member, the purpose of the use, and the quantity of water used by each member service area. The information used in the draft EIR analysis is sufficient for the analysis of the project's impact on the environment. Please see the responses to comments A4-29 and A4-30. Because there would be no change of use associated with the project, and because the POU would remain the same, the specific intended uses of project water would be the same as the existing uses of KWB water within the participating members' POUs would not influence the results of the analysis.

3.2.4.34 Response to Comment A4-34

The comment asserts that the EIR lacks a description and analysis of water that would be set aside for environmental and instream benefits to vegetation and wildlife. The project consists, in part, of the setting aside of water in the recharge basins, a condition that provides environmental benefits. As stated on page 3.3-23 of the draft EIR, all KWB activities are subject to the requirements of the KWB HCP/NCCP, which advances the environmental objective of setting aside large areas of the KWB for the protection and enhancement of habitat for threatened, endangered, and sensitive species. The KWB provides environmental benefits, including the enhancement of habitat for threatened and endangered species, waterfowl, and other wildlife. These conditions would continue under the project. Existing wetland vegetation that occurs along the river channel downstream of the project is likely to benefit from reduced flows associated with project implementation by reducing scour and vegetation removal (page 3.3-21). Migratory water birds are expected to benefit from longer inundation periods with increased water diversions to existing recharge basins (page 3.3-23). Please see Section 3.1.1, *Project Description Master Response*, and Section 3.1.2, *Baseline Master Response*, for clarification of the project components and baseline conditions.

3.2.4.35 Response to Comment A4-35

The comment asserts that the EIR does not describe the timing, method, reason, or criteria associated with recovery of project water. The primary purpose of the Kern Water Bank is to recharge, store, and recover water to improve water supply for KWBA participating members (page 2-1). As stated on page 3.6-36, the project would not recover more groundwater than recharged under this project. Recovery operations are subject to the conditions specified in the KWB MOU (described in Section 2.2.3.1). Project operations would be consistent with the KWBA MOU and the Long-Term Operations Plan, which sets parameters on long-term banking operations.

Under the project, the KWB may store a greater volume of water, but the project does not involve or otherwise require any expansion of or changes to existing pumping facilities, pumping stations, and other operating facilities. As a consequence, while recovery operations might be able to continue in multiple dry years, recovery operations are not expected to exceed maximum baseline conditions in any given year. Recovery under the baseline includes the maximum amount of water actually recovered over an extended drought, in a single year, and in any single month, with existing recovery facilities (Section 3.1.3.3, *Baseline Conditions*). At most, with additional storage volumes, recovery facilities might be allowed to operate for additional months in the final year of an extended drought. Please see Section 3.1.1, *Project Description Master Response*, and Section 3.1.2, *Baseline Master Response*, for clarification of project activities and baseline conditions.

3.2.4.36 Response to Comment A4-36

The comment states that the relationship between groundwater conditions and recovery is unclear. As discussed on pages 3.6-31 through 3.6-32, groundwater modeling assessed the effects of KWB activities on groundwater resources in the Kern County Subbasin. The model indicated that groundwater levels were higher over significant areas outside of KWB lands for the entire period as a result of project operations (1995–2014). These areas of positive benefits extended as much as 6 miles away from KWB lands. The areas where groundwater levels were lower as a result of project operations were much more limited and reflected temporary changes at the end of significant recovery operations during extended droughts.

With consideration of future operations, the evaluation indicated that groundwater levels are expected to be higher over significant areas outside of KWB lands for virtually the entire period as a result of project operations (2015–2035). These areas of positive benefits extended as much as 5.5 miles away from KWB lands. Under the project, KWBA would not recover more groundwater than has been recharged.

3.2.4.37 Response to Comment A4-37

The comment asserts that the EIR does not discuss the relationship between recovery timing and the Kern County Subbasin's current state of overdraft, and refers to litigation that resulted in restrictions and limitations to KWBA's pumping and recovery activities.

The draft EIR discusses recovery operations in Section 2.2.2.2, *Recovery*, and in Section 3.6, *Hydrology and Water Quality* (pages 3.6-26 through 3.6-31), which states that, to minimize potential impacts related to overdraft within the Kern County Subbasin, project operation is and would continue to be in compliance with SGMA, local groundwater management plans (GMPs), and the 2015 Urban Water Management Plan for Improvement District No. 4 of the Kern County Water Agency and North of the River Municipal Water District. Groundwater levels and conditions are discussed on pages 3.6-19, 3.6-20, 3.6.-32 and 3.6-33 of the EIR. Impacts HYDRO-2 and HYDRO-2a analyze the project's impacts on groundwater levels.

Further, because the project would use existing pumping facilities and no expansion of pumping stations or other facilities is proposed or expected, recovery is not expected to exceed baseline conditions in any given year. Please see Section 2.2.3.1, *Kern Water Bank MOU*, of the draft EIR, as well as Section 3.1.1, *Project Description Master Response*, and Section 3.1.2, *Baseline Master Response*, for additional clarification of the relationship between baseline conditions and project recovery operations. Please also see the response to comment A4-18, which addresses the litigation referenced in the comment.

3.2.4.38 Response to Comment A4-38

The comment states that the EIR does not provide information on the past or current use, availability, or existence of the 500,000 AF proposed for diversion, or the entities currently or historically using that water, or the current extent, timing, and purpose of use of that water. The project seeks a State Water Board permit for high flow Kern River water after existing Kern River water rights are met. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision. The water proposed for diversion by KWBA is unappropriated water available

in a limited number of years. As stated on page 3.6-27 of the draft EIR, KWBA's water availability analysis (Appendix L) addressed both pre-1914 and appropriative water rights filings to demonstrate that water is available without affecting those entitlements. The project would only divert and recharge, for later recovery, up to a maximum of 500,000 AF of unappropriated Kern River water during high flow conditions, which has historically occurred in only 18% of water years, as discussed on page 3.6-35. The water to be recharged as part of the project would otherwise drain into the Intertie, flood farmlands, or leave the region. Please see Section 3.1.1, *Project Description Master Response*, and Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, for further clarification of the project's relationship to Kern River water use.

3.2.4.39 Response to Comment A4-39

The comment mischaracterizes the project, claiming that the EIR fails to address impacts caused by the transfer of the 500,000 AF of project water from other entities that have or are currently using that water. The project does not propose to "take" water from other entities' existing entitlements. Rather, the project seeks a State Water Board permit for high flow Kern River water after existing Kern River water rights are met. Further, the project does not seek appropriation of any water deemed forfeited in the North Kern Decision. The historical record and the water availability analysis indicated that unappropriated water in the quantity sought by the project exists. As stated on page 3.6-26, the specific quantity of unappropriated water available for diversion to the KWB in any given year would depend on annual and seasonal hydrologic and climatologic conditions. As discussed in Appendix L (page 12), and in Section 3.6, *Hydrology and Water Quality* (pages 3.6-26 through 3.6-31), the project would entail the diversion of unappropriated high flow Kern River waters for groundwater recharge within the KWB after the rights of existing users are met. The project would not take water held under other entities' rights. It would rely entirely on unappropriated water, available only during high flow conditions, after the other entities' water rights have been met.

3.2.4.40 Response to Comment A4-40

The comment mischaracterizes the project, implying that the KWBA would take Kern Delta forfeited water, and claims that the EIR should have provided comparative analyses of the project versus other proposed water diversion projects. As discussed in the water availability analysis (Appendix L, page 12) and in Section 3.6, *Hydrology and Water Quality* (pages 3.6-26 through 3.6-31), the project would rely entirely on unappropriated waters in excess of those required to satisfy existing rights. Further, the project does not seek appropriation of any water deemed forfeited in the North Kern Decision. As noted in footnote 5 of the water availability analysis, "Kern Delta Water District First Point rights that were determined by the courts to have been forfeited were not considered in this analysis." The project seeks a State Water Board permit for high flow Kern River water after existing Kern River water rights are met. The statement in question refers to the outside possibility that, although the project does not seek appropriation of Kern Delta forfeited water, should other water beyond the eventually become available, KWBA may pursue that water—at some as-yet unknown future time—and would conduct CEQA review of that water at that time.

The water availability analysis (Appendix L, page 13) considered the competing applications to appropriate Kern Delta water supply, and states that flows were evaluated and considered the water

availability during flood conditions, derived from historical records of diversion and use by existing water right holders and estimates of ability to use and recharge water under pending appropriative water right applications. Table 3 of Appendix L (page 8) lists the entities and water districts with projects that use Kern River water. The water availability analysis indicated that unappropriated water in the quantity sought by the project exists independent of the Kern Delta forfeiture water. An EIR's role under CEQA is not to weigh the merits of a project against those of competing applications, but to evaluate a project's potential impacts on existing environmental conditions. Please see Section 3.1.1, *Project Description Master Response,* for additional clarification of the source of project water.

3.2.4.41 Response to Comment A4-41

The comment asserts that the EIR does not explain the difference between the project water and the Kern Delta forfeiture water, or describe the availability, quantity, or current uses of the Kern Delta water. The project seeks a State Water Board permit for high flow Kern River water after existing Kern River water rights are met. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision. The water availability analysis (Appendix L) provides a detailed analysis and description of the Kern River water available without taking Kern Delta forfeiture water. As noted in footnote 5 of the water availability analysis, "Kern Delta Water District First Point rights that were determined by the courts to have been forfeited were not considered in this analysis." The project would only divert and recharge, for later recovery, up to 500,000 AFY of Kern River water, and as stated on page 2-6 of the draft EIR, the project seeks to obtain unappropriated Kern River water that has historically been available in only 18% of years. As discussed in the water availability analysis (Appendix L, page 12) and in Section 3.6, *Hydrology and Water Quality* (pages 3.6-26 through 3.6-31), the project would entail the diversion of unappropriated Kern River water after senior water rights are met. It would rely entirely on high flow conditions, which only occur periodically. Please see Section 3.1.1, *Project Description Master Response*, which clarifies the quantity, timing, and source of available water for the project.

3.2.4.42 Response to Comment A4-42

The comment alleges that the project description contradicts itself when describing the scope of the project, particularly the quantity and source of water. The project seeks a State Water Board permit for high flow Kern River water after existing Kern River water rights are met. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision. As noted in the project description (page 2-6), the project seeks an entitlement to divert unappropriated water from the Kern River surplus to existing Kern River rights and only when unappropriated water exists. The water supply itself would not be entirely new to the KWB, as KWBA has historically diverted flood flows for recharge and recovery when they have been available in wet years (see draft EIR pages 2-4, 2-13, and 2-14 and Appendix L, page 2). Thus, the diversion of high flow, unappropriated water represents the continuation of a pre-existing activity, using existing and previously approved KWB facilities, as stated on page 2-1 and demonstrated by the historical record (see Table 2-1, Total Recharge Deliveries by Kern Water Bank Authority, and Table 3.6-5, Kern Water Bank Sources of Water by Year and Water Year Type).

3.2.4.43 Response to Comment A4-43

The comment questions the veracity of baseline diversions of Kern River water. As stated on page 3.6-26 of the draft EIR, the specific quantity of water available for diversion to the KWB in any given year would depend on annual and seasonal hydrologic and climatologic conditions. The project would only divert up to 500,000 AF of Kern River water, during high flow conditions, as discussed on page 3.6-35. KWBA water records indicate that, historically, KWBA flood water diversions occurred 18% of the time, during wet water years (Table 3.6-10).

3.2.4.44 Response to Comment A4-44

The comment mischaracterizes the project, alleging that the project would take 500,000 AFY of water in addition to the amount of water it has historically diverted each year, and accuses the KWBA of trying to hide project impacts. The project does not involve the diversion of a total of 947,148 AFY of water. The maximum quantity of water that KWBA physically diverted and recharged from all sources was 566,000 AF in 2017, one of the wettest years on record. The project is for the diversion and recharge, for future recovery, of up to 500,000 AF of unappropriated Kern River water that is likely to occur in only 18% of wetter years. Section 3.1.1, *Project Description Master Response*, further clarifies details such as the source of water that would be diverted and recharged under the project, and existing and proposed KWB recovery operations.

3.2.4.45 Response to Comment A4-45

The comment alleges that the draft EIR's project description (Chapter 2) contains contradictory statements and inconsistencies that violate CEQA. The project descriptions in the draft EIR and herein have been consistent throughout. The project involves the diversion, recharge, and future recovery of up to 500,000 AF of unappropriated Kern River water that is likely to occur in only 18% of years, in wet or high flow years. As stated in Section 2.1.3, *Proposed Project* (page 2-6), the project would divert up to 500,000 AF of water per year from the Kern River for recharge and storage within the KWB through diversion works and existing or previously approved recharge facilities located on the KWB lands. Section 3.1.1, *Project Description Master Response*, clarifies project description details such as the source of water that would be diverted and recharged under the project, and existing and proposed KWB recovery operations.

3.2.4.46 Response to Comment A4-46

The comment asserts that the EIR does not provide adequate information regarding the ownership, use, and KWBA's right to use the project diversion points. Discussion of water diversion, including points of diversion, are discussed on pages 3.6-24 through 3.6-25. There are 17 diversion points located on the Kern River as detailed in Table 3.6-9 (page 3.6-24) and mapped in Figure 3.6-12. Diversions from these facilities are carried out by either the City of Bakersfield or Buena Vista Water Storage District. The diversions conducted by the City of Bakersfield are as requested by KCWA on behalf of the KWBA pursuant to the terms of the Pioneer Project Joint Operation Agreement dated December 31, 1996. The diversions by Buena Vista Water Storage District are made at KWBA's request pursuant to the KWB Canal and Buena Vista Main Canal Joint Use Agreement dated July 7, 1999. Both agreements clearly identify the owners of the facilities and provide for the use of the facilities under terms agreeable to the owners.

3.2.4.47 Response to Comment A4-47

The comment states that the EIR does not describe the circumstances associated with KWBA's proposed use of project diversion points. See the response to comment A4-46 for information related to diversion points. Section 3.1.1, *Project Description Master Response*, details related to the quantity, timing, and source of water that would be diverted and recharged under the project.

3.2.4.48 Response to Comment A4-48

The comment states that the EIR lacks information about current and proposed uses of diversion points. Discussion of water diversion from the Kern River including points of diversion are discussed on pages 3.6-24 through 3.6-25. KWBA points of diversion, their capacity, and additional details are provided in Table 3.6-9 (page 3.6-24). The points of diversion have been used historically for deliveries pursuant to the agreements referenced in the response to comment A4-46 and are part of the baseline. The Pioneer Project Joint Operation Agreement provides that diversions requested by KCWA on behalf of the KWBA are subject to available capacity as determined by the City of Bakersfield.

3.2.4.49 Response to Comment A4-49

The comment states that the EIR does not identify the order of preference in which the KWBA would use diversion points for the project. The diversion locations are listed in Table 3.6-9 and mapped in Figure 3.6-12 of the draft EIR. The focus of the project is the diversion of high flow Kern River water. Under such conditions, essentially all points of diversion would likely be utilized. Historically, most Kern River water has been delivered through the Basin 9 turnout and via the Kern River channel to the KWB Canal headworks. For example, in 2017, of the 319,000 AF of Kern River water delivered to the KWB, 247,000 AF was delivered in the Kern River channel as far as the McClung Weir (where the Basin 9 diversion point is located), with 113,000 AF of that water continuing downstream in the Kern River channel to the KWB Canal headworks diversion point. Only 42,000 AF of water was delivered via the River Canal East diversion point and only 30,000 AF was delivered via the Pioneer Canal headworks diversion point and the CVC. Diversions under the project are expected to follow this same pattern. Please also see the response to comment A4-46, which describes the agreements under which KWBA diverts water, and A4-48, which notes that diversions requested by KCWA on behalf of the KWBA are subject to available capacity as determined by the City of Bakersfield. It is important to note that these deliveries would provide all the environmental benefits to the Kern River channel that the City of Bakersfield expects from the Kern River Flow and Municipal Water Program.

3.2.4.50 Response to Comment A4-50

The comment claims that the EIR does not describe KWBA's ability to transport water from diversion points to the KWB. Water is transported to the KWB via the CVC, the Pioneer Project, from the River Canal, and directly from the Kern River. Transportation via the CVC is pursuant to the Contract Among Kern County Water Agency and Various Parties for the Operation of the Cross Valley Canal Extension and Intertie, dated January 20, 2010. Transportation through the Pioneer project is pursuant to the Statement of Principles by the Kern County Water Agency, Acting for itself and its Improvement District No. 4, Dudley Ridge Water District, Cawelo Water District, Semitropic

Water Storage District, Wheeler Ridge-Maricopa Water Storage District and Paramount Farming Company for the Development, Operation and Maintenance of the Kern Fan Element of the Kern Water Bank. Transportation via the Kern River Canal and Kern River channel is pursuant to the Pioneer Project Joint Operation Agreement referenced in response to comment A4-46.

3.2.4.51 Response to Comment A4-51

The comment asserts that the use of diversion points and related facilities would have impacts extending beyond the project study area. Impacts related to the use of diversion points outside of KWB are considered in the draft EIR analysis. Table 3.6-10 (page 3.6-25) shows the years (all wet water year types) in which KWBA diverted Lake Isabella flood releases, often termed flood flows. Flood water was diverted for groundwater recharge purposes. The amount of water remaining in the river after KWBA made these flood water diversions in these wet water years is also listed in Table 3.6-10. Diversion of unappropriated Kern River water for recharge would only occur in wet or high flow years during times of excess Kern River flows. As described in the response to comment A4-53, KWBA has access to the diversion points via existing agreements that clearly identify the owners of the facilities and provide for the use of the facilities under terms agreeable to the owners. Please see the response to comment A4-46, which identifies and describes the agreements under which KWBA uses these diversion points, and the response to comment A4-53, which clarifies that use of diversion points and related facilities would not change and would not result in significant impacts.

See also Section 3.11, *Project Description Master Response*, which addresses the adequacy of the project study area, and the responses to comments A4-46 through A4-48.

3.2.4.52 Response to Comment A4-52

The comment states that the EIR lacks an explanation of the circumstances surrounding KWBA's potential use of the City of Bakersfield's facilities, such as the Kern River Canal and the 2,800-acre recharge facility's Basins 9 and 10, for project diversions. The circumstances under which unappropriated Kern River water will be available are discussed in detail in the water availability analysis and on pages 3.6-26 through 3.6-31 of the draft EIR. Table 3.6-11 describes the water year type and Kern River conditions under which future deliveries are expected to be made. In general, diversions are expected in wet years when unimpaired flow at First Point of Measurement exceeds 1 million AF. Please see the response to comment A4-46, which identifies and describes the agreements under which KWBA uses the City's facilities, and the response to comment A4-53 for a discussion of the agreements that control the circumstances of KWBA's use of diversion points and the effects of such use.

3.2.4.53 Response to Comment A4-53

The comment asserts that the KWBA has no rights to use the diversion points and that the EIR must consider impacts associated with the acquisition of rights to, and use of, those diversion points. KWBA has access to the diversion points via existing agreements that clearly identify the owners of the facilities and provide for the use of the facilities under terms agreeable to the owners. That is not proposed to change under the proposed water rights permit. Further, there are no adverse physical impacts of using any particular diversion point. Consequently, the diversion of up to 500,000 AF of

surface waters via existing diversion points will not result in any new or adverse physical changes to the environment or to the diversion points, and the comment fails to identify any such impacts. See also the responses to comments A4-46 though A4-48.

3.2.4.54 Response to Comment A4-54

The comment states that the EIR does not identify the owners or current uses of the canals that would transport project water from the diversion points to the KWB, and does not analyze impacts, including those on other entities, associated with KWBA's use of the canals. As with the points of diversions discussed in response to comment A4-46 and the conveyance of water from diversion points to the KWB discussed in response to comment A4-50, the use of the canals necessary to transport project water to the KWB is provided for in the listed agreements. These various agreements provide for priorities and terms agreeable to the owners of the canals. That is not proposed to change under the proposed water right permit. Further, there are no adverse physical impacts of using any particular diversion point or canal. Consequently, the diversion of up to 500,000 AFY of surface waters via existing diversion points and canals already in use under these agreements will not result in any new or adverse physical changes to the environment.

3.2.4.55 Response to Comment A4-55

The comment states that the EIR fails to provide details related to rediversion of water into the California Aqueduct. KWBA points of diversion, and the capacity of the facilities are listed on Table 3.6-9 (page 3.6-24 of the draft EIR). The two points of rediversion to the California Aqueduct are the CVC and the KWB Canal, with capacities of 800 cfs and 750 cfs, respectively. However, the Pioneer Canal headworks limits Kern River deliveries to the CVC to 350 cfs. In addition, the specific quantity of water available for diversion to the KWB in any given year would depend on annual and seasonal hydrologic and climatologic conditions.

Overall, the volume of water rediverted is expected to be a small fraction of the Kern River water diverted to the KWB. For example, in 2017, of 319,000 AF of Kern River water delivered to the KWB, only 60,000 AF were rediverted to the California Aqueduct for use by KWBA members. As stated in draft EIR Section 3.6.2, *Impact Analysis* (page 3.6-26), the ability to redivert water can provide significant water conservation benefits by maximizing the beneficial uses of Kern River water, preventing potential flooding, and lowering energy usage necessary to deliver water to KWBA participating members. There are no adverse physical impacts associated with the marginal rediversion that might occur under existing operations or the new water right permit. See also Section 3.1.1, *Project Description Master Response*, Section 3.1.3, *Hydrology and Water Quality Master Response*, and the response to comment A4-56.

3.2.4.56 Response to Comment A4-56

The comment claims that the EIR does not consider impacts associated with the rediversion of water into the California Aqueduct or the end use of that water by entities outside Kern County. As described in Section 3.6, *Hydrology and Water Quality*, KWBA has the ability to redivert water to the California Aqueduct for beneficial use by KWBA members. The rediversion of water from the KWB to the California Aqueduct is subject to the approval of DWR and must meet the requirements of the Department of Water Resources Water Quality Policy and Implementation Process for Acceptance of

Non-Project Water into the State Water Project. These requirements ensure that the delivery of water to the aqueduct does not impact downstream users. With respect to the end use of the water, and as described throughout the EIR, the water diverted and banked under the project would be used to provide reliability to existing users during extended drought conditions, would continue to be recovered at the same rate using existing facilities and operating provisions, and would continue to be used by the same entities in the same locations as has historically occurred. Please see Section 3.1.1, *Project Description Master Response*, Section 3.1.3, *Hydrology and Water Quality Master Response*, and the response to comment A4-55 for further discussion of the rediversion of water from the KWB to the aqueduct. See Section 3.3.1, *Project Description Master Response*, and the response to comment A4-11 for additional clarification of details regarding the existing and proposed POUs and the timing of use of recovered KWB water.

3.2.4.57 Response to Comment A4-57

The comment claims that the EIR does not disclose or discuss the place of use, including timing and extent of use, of project water. Section 2.1.3.2, *Water Right Application 31676* (commencing on page 2-7 of the draft EIR), includes descriptions of the proposed POU and purpose of use, which it notes are identical to the existing POU and purpose of use. As described throughout the EIR, the water diverted and banked under the project would be used to provide reliability to existing users during extended drought conditions, would continue to be recovered at the same rate using existing facilities and operating provisions, and would continue to be used by the same entities in the same locations as has historically occurred. See Section 3.1.1, *Project Description Master Response*, and the response to comment A4-11 for additional detail regarding the existing and proposed POUs and the timing of use of recovered KWB water.

3.2.4.58 Response to Comment A4-58

The comment claims that the EIR study area should have included additional districts in which project water would be used. The draft EIR considers all of the districts anticipated to receive project water. See the POUs for the Kern River water considered in this document, which are listed on draft EIR pages 2-9 through 2-10 and identified on Figure 2-6. As stated in draft EIR Section 2.1.3.2, *Water Right Application 31676*, the POU will be in all or a portion of those districts. Please also see Section 3.1.1, *Project Description Master Response*, which addresses the adequacy of the project study area.

3.2.4.59 Response to Comment A4-59

The comment states that the EIR does not describe the circumstances under which water might be transferred to North Kern, including the quantity of water sent to North Kern, and the timing, extent, and method for the use of water within North Kern. As described throughout the EIR, the water diverted and banked under the project would be used to provide reliability to existing users during extended drought conditions, would continue to be recovered at the same rate using existing facilities and operating provisions, and would continue to be used by the same entities in the same locations as has historically occurred. At this time, it would be speculative to attempt to determine precisely when and under what circumstances North Kern would use its share. Please see Section 3.1.1, *Project Description Master Response*, and the response to comment A4-11 for additional detail regarding the existing and proposed POUs and the timing of use of recovered KWB water.

3.2.4.60 Response to Comment A4-60

The comment states that the EIR does not analyze impacts of project water use within districts other than KWBA participating members' service areas. As described in draft EIR Section 2.1.3.2, *Water Right Application 31676*, the project water would be used within the POUs identified on pages 2-9 and 2-10. The water would not be used by districts outside KWBA participating members' service areas. There would be no reduction or changes to the uses of Kern River water by others in the region. Impacts on groundwater supplies were evaluated based on the DWR KWB Model, which simulated response of the groundwater aquifer to stresses such as groundwater recharge and pumping, as discussed on pages 3.6-31 through 3.6-32. The DWR KWB Model evaluation considered both past (1995–2014) and future operations (2015–2035). With respect to past operations, the evaluation indicates that groundwater levels were higher over significant areas outside of KWB lands for the entire period as a result of project operations (1995–2014). With respect to future operations (under both current conditions and after additional buildout), the evaluation indicates that groundwater levels will be higher over significant areas outside of KWB lands for virtually the entire period as a result of project operations (2015–2035). The historical record as well as the water availability analysis indicate that the quantity of surplus surface water requested by the project exists and should be available for diversion and use by KWBA members. The potential availability of other unappropriated Kern River water for use by other water right applicants outside the KWBA participating members' service areas is unrelated to this project and would be subject to separate and subsequent proceedings.

3.2.4.61 Response to Comment A4-61

The comment claims that the EIR does not disclose or discuss the State Water Board application process or identify the State Water Board's intended use of the EIR. Please see draft EIR Section 2.1.3.1, *California Water Rights and Water Right Process*, which describes the process for obtaining a new appropriative water right from the State Water Board in California. As lead agency, KWBA has determined that preparation and certification of an EIR to satisfy CEQA is required before the KWBA Board of Directors can approve the project. As stated in Section 1.2, *Intended Uses of This EIR*, of the draft EIR, CEQA requires that state and local government agencies consider the environmental consequences of projects over which they have discretionary authority. State responsible and trustee agencies, such as the State Water Board, may rely on the EIR to satisfy CEQA for their individual project approvals. As a State responsible agency (see comment letter A3), the State Water Board is required to use the EIR, together with other relevant evidence, as part of its decision-making process regarding KWBA's water right Application 31676. However, as noted in Section 1.2, the State Water Board, or any other responsible or trustee agency, must prepare and issue its own findings regarding project approval (State CEQA Guidelines § 15096).

While the State Water Board process has yet to be established, the acquisition of post-1914 appropriative water rights generally consists of two main phases: (1) permitting and (2) licensing. Permitting involves submitting an application to request that the State Water Board authorize issuance of a permit for a project, which provides legal authorization to divert water in accordance with certain conditions. The application describes the project's source, place of use, purpose, point(s) of diversion and quantity to be diverted. Licensing is the process of reviewing the permitted project upon completion to confirm the amount of water put to beneficial use and that the permit conditions were met. A license is the final confirmation of the water right and remains effective as

long as its conditions are met and beneficial uses continue. Here, the project is an application for a permit.

Two initial State Water Board findings are required before a permit can be issued: (1) unappropriated water is available to supply the applicant,[44] and (2) the applicant's appropriation is in the public interest. If the proposed appropriation does not meet these criteria, conditions may be imposed to ensure they are satisfied. The State Water Board maintains a list of standard permit terms and may also include other special conditions in the permit.

The State Water Board is required by law to publish notice of the application. Any person may file a protest to the application, and the State Water Board encourages the applicant and any protestant(s) to make a good faith effort to resolve the protest(s). If the parties can agree to mutually acceptable conditions, the State Water Board considers the protest resolved. If a protest remains unresolved, a hearing is held before one or more members of the State Water Board. The State Water Board then evaluates and renders a decision based upon the record established during the hearing.

Consideration of environmental effects is required by CEQA before a permit can be issued. The State Water Board, in its role as the Responsible Agency, "complies with CEQA by considering the EIR . . . prepared by the lead agency and by reaching its own conclusions on whether and how to approve the project involved" (State CEQA Guidelines § 15096(a)). The State Water Board, prior to issuing a water rights permit, "must consider the environmental effects of the project as shown in the EIR" and will have the responsibility for mitigating or avoiding the "direct or indirect environmental effects of those parts of the project which it decides to carry out, finance, or approve" (*Id.* at 15096[f]-[g][1]). The State Water Board must also consider the effect of the project on public trust resources such as fisheries, navigation, recreation, and ecology.

The specific permitting procedures and schedule for the project are, however, presently unknown and ultimately subject to the State Water Board's consideration and determination.

3.2.4.62 Response to Comment A4-62

The comment claims that the EIR does not disclose or discuss the State Water Board application process. Please see the response to comment A4-61 and Section 2.1.3.1, *California Water Rights and Water Right Process*, of the draft EIR, which describes the process for obtaining a new appropriative water right from the State Water Board in California.

3.2.4.63 Response to Comment A4-63

The comment alleges that the project objectives are incorrect because the project would divert an additional 500,000 AF of Kern River water beyond current diversions rather than continuing to allow Kern River diversions of unappropriated water. The commenter misconstrues the project description. The project seeks an entitlement to divert high flow Kern River water after existing

[44] The State Water Board, Division of Water Rights sent a letter dated October 1, 2018 to KWBA and the various other applicants for Kern River water rights and, as part of the required water availability analysis, directed that they prepare "an analysis of available water (from either the forfeiture of Kern Delta rights or any infrequent peak flows above existing water rights and lost from the watershed) minus all existing water rights and any other known losses." The Division encouraged the applicants "to agree on a common data set, and if possible an approach to senior diverter accounting, in their analysis, and prepare a collaborative analysis if possible."

Kern River water rights are met and only when such unappropriated water is available. The project, as proposed, only seeks rights to divert, store, and put to beneficial use a maximum of 500,000 AFY, not more. While the permit, if granted, would not preclude the KWBA to continue to rely on other sources of water, these other sources are independent and not a part of this project. Further, to the extent Kern River surface waters are available for diversion and storage, such waters will most likely supplant, in whole or in part, other sources of water given limits of diversion and recharge facilities, among other practical limitations. In either event, the comment does not accurately represent the scope of the proposed action at issue it in this EIR.

3.2.4.64 Response to Comment A4-64

The comment asserts that the EIR provides no details about the use of water for environmental and instream benefits to vegetation and wildlife. As described in draft EIR Section 2.1.1.2, *Habitat Conservation*, and Section 2.2.4.1, *Habitat Conservation and Restoration*, the KWB serves the purpose of plant and wildlife habitat conservation and operates under an HCP/NCCP that provides for specific uses for the property through the year 2072. Section 2.1.1.2, *Habitat Conservation*, quantifies the KWB acreage set aside for various purposes under the HCP/NCCP, including 960 acres of Sensitive Habitat set aside for endangered species and 5,592 acres of Compatible Habitat that benefits wildlife and can be used for recharge, conveyance, and recovery of water. Pages 2-10 and 2-11 of the draft EIR note that KWB recharge basins provide intermittent wetland habitat along the Pacific Flyway. Pages 3.3-6 through 3.3-7 describe the KWB HCP/NCCP in greater detail.

The biological resources analysis (Section 3.3, *Biological Resources*) describes the project's anticipated effects on fish and wildlife habitat and species. Impact BIO-1 (page 3.3-19 through 3.3-21) finds that the project's additional water input into recharge basins may increase riparian habitat within those recharge basins. The EIR analysis (Impact BIO-2, page 3.3-22) also finds that project-related reductions in flow volume may reduce scour, which could reduce removal of riparian scrub from the Kern River channel and floodplain. Impact BIO-4 (page 3.3-23) states that migratory water birds are expected to benefit from the project's longer inundation periods with increased water diversions to existing recharge basins. Further, Impact BIO-6 (pages 3.3-23 and 3.3-24) indicates that the project would be consistent with the KWB HCP/NCCP.

Please see the response to comment A4-34, which also addresses project benefits to vegetation and wildlife.

3.2.4.65 Response to Comment A4-65

The comment claims that the EIR lacks information on the type, extent or nature of the Kern River water rights, or the current Kern River right holders. A description of the Kern River water appropriation and delivery process is provided on draft EIR pages 3.6-10 through 3.6-13, the water availability analysis (Appendix L), as well as in Section 3.1.1, *Project Description Master Response*, of this final EIR. The project does not seek to re-allocate any senior water rights. Further, the water availability analysis shows how much water has not been used in particular hydrologic year types and the amount that should therefore be available for appropriation by the KWBA and its members. Because senior rights were already presumed under the water availability analysis—and this project does not propose to re-allocate any senior rights—further information on senior rights is not necessary to evaluate the possible physical effects that may result from the project. The type, extent,

and nature of others' existing Kern River water rights are therefore unnecessary to the project analysis.

3.2.4.66 Response to Comment A4-66

The comment states that the EIR does not describe KWBA members' existing Kern River water rights. KWBA members currently hold no Kern River water rights. The project seeks an entitlement to divert unappropriated high flow Kern River water after existing Kern River water rights are met and only when such surplus water is present. KWBA previously diverted Kern River water for recharge purposes under the Kern River flood policies and the terms for mandatory releases from Isabella Dam. The State Water Board will ultimately determine how much surface water is available and permit water rights to KWBA, under any appropriate conditions. Please also see Section 3.1.1, *Project Description Master Response*, and Section 3.1.2, *Baseline Master Response*.

3.2.4.67 Response to Comment A4-67

The comment claims that the EIR provides no information about KWBA's prior Kern River water purchases and agreements, including the sources, amount, timing and circumstances surrounding the purchases and agreements. Draft EIR Section 2.1.1.3, *Existing Water Sources*, and the water availability analysis (Appendix L, page 2) describe KWBA's historical water sources, including the SWP, CVP, and the Kern River. The water purchase agreements are private contracts between the individual water right holders and KWBA and are independent and are not part of the environmental analysis of this project under CEQA.

3.2.4.68 Response to Comment A4-68

The comment states that the EIR is deficient because it does not address the project's effect on the status and extent of existing Kern River water rights and water right holders. The project seeks a State Water Board permit for unappropriated high flow Kern River water after existing Kern River water rights are met. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision. As defined in the project description and clarified in Section 3.1.1, *Project Description Master Response*, the project would divert unappropriated water in approximately 18% of years, after the rights of senior water right are met. The historical record considered in the water availability analysis (Appendix L) indicates that the quantity of water requested by the project exists without impinging other Kern River water right holders' entitlements (see draft EIR pages 3.6-28 through 3.6-32 and Impact HYDRO-1 on page 3.6-36). Therefore, there would be no loss of entitled water by other water districts with Kern River rights and no resulting impacts on those existing water rights or rights holders. Further, the previous amounts of water rights held by senior diverters, as well as amounts actually diverted, are not available to the KWBA. As the State Water Board staff have emphasized, it will be up to the individual applicant to show how much water is available for appropriation. Consequently, further information on existing and senior water rights is not necessary to evaluate the possible physical effects of this particular project. Please also see Section 3.1.1, *Project Description Master Response*, and Section 3.1.3, *Hydrology an Water Quality Master Response*, for further clarification of the project's relationship to existing Kern River water rights.

3.2.4.69 Response to Comment A4-69

The comment claims that the EIR must, but does not, comply with the *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th decision regarding CEQA water availability analyses. The comment misconstrues the holding in Vineyard, as well as the nature of this project. KWBA's application does not seek entitlements for future development that will, in turn, increase demand for new water supplies as was the case in Vineyard. Instead, this project seeks entitlements to existing and future water supplies to improve water supply reliability in multi-year droughts for pre-existing land uses (primarily agricultural). As described on draft EIR page 3.6-35, a water availability analysis was prepared to estimate how much water would be available for appropriation by KWBA in various high water years. The water availability analysis (Appendix L) found that there are surplus flows, and these flows should be available for appropriation. Kern Water Bank sources of water are shown in Table 3.6-6. The historical record, as well as the water availability analysis, indicate that unappropriated water in the quantity sought by the project exists. The discussion of the California Water Code on draft EIR page 3.6-5 notes that because the project is not a proposal for development requiring provision of ongoing and future water supply, the project proponent need only show that there is a "reasonable likelihood that unappropriated water is available for appropriation" (Water Code § 1260[k]). Moreover, the State Water Board will ultimate determine the amount of water available for diversion by KWBA, subject to appropriate conditions.

3.2.4.70 Response to Comment A4-70

The comment claims that the EIR provides insufficient information related to project water needs and availability, long-term water demand and availability, or alternative sources. The project seeks an entitlement to divert high flow Kern River water after existing Kern River water rights are met and only when such surplus water is present.

The historical record as well as the water availability analysis (Appendix L) indicate that unappropriated water in the quantity sought by the project exists. The specific quantity of water available for diversion to the KWB in any given year would depend on annual and seasonal hydrologic and climatologic conditions. KWBA would only divert available surplus Kern River water that cannot otherwise be used or stored by existing Kern River water right holders and would not divert flows in normal or dry years when surplus flows are not available. The State Water Board will ultimately determine the amount of water available for diversion and storage by KWBA.

See the response to comment A4-36 for additional discussion of the relationship between groundwater conditions and recovery.

3.2.4.71 Response to Comment A4-71

The comment claims the project study area is inadequate and cites case law related to study area delineation. The study area for the EIR's resource-specific analyses consists of the area within the physical boundaries of the KWB, as well as areas downstream or within the region that may be affected by the project. Section 3.1.1, *Project Description Master Response*, addresses the adequacy of the project study area the boundaries used in the draft EIR.

Although the commenter has quoted from case law the general principle that a legally adequate project description is key to an adequate EIR, the project description in the EIR is not legally

inadequate. "The description of the project … should not supply extensive detail beyond that needed for evaluation and review of the environmental impact" (State CEQA Guidelines § 15124). "A general description of a project element can be provided earlier in the process than a detailed engineering plan and is more amenable to modification to reflect environmental concerns" (*Dry Creek Citizens Coalition v. County of Tulare* (1999) 70 Cal.App.4th 20, 28). "The 'general description' requirement for the technical attributes of a project is consistent with the other CEQA mandates to make the EIR a user-friendly document" (*Id.*). "The EIR must achieve a balance between technical accuracy and public understanding" (*Id.*).

3.2.4.72 Response to Comment A4-72

The comment asserts that the project study area is too limited and does not meet CEQA requirements. Section 2.1.2.3, *Project Study Area*, on page 2-6 of the draft EIR, defines the project study area in general terms and directs the reader to the individual resource sections in Chapter 3 for resource-specific study area descriptions that differ from the overall project study area. See Figures 2-1 and 2-2. The draft EIR and its individual chapters, in turn, do not ignore impacts that might occur outside of the immediate KWB footprint, including downstream hydrology and water quality, regional air quality, and neighboring groundwater operations. However, due to the fact that the project is not proposing to change annual recovery operations and that the amount of water the proposed permit may yield is marginal and only a fraction of other water supplies that as recharge supplies for the KWB, there are few impacts of the project that are expected to occur beyond its boundaries. Nevertheless, it important to note that the EIR preparers did consider and evaluate all possible physical environmental impacts of the project—including those well beyond the boundaries of the KWB.

Additional comments are provided in the response to comment A4-75. Also see Section 3.1.1, *Project Description Master Response*.

3.2.4.73 Response to Comment A4-73

The comment claims that the EIR does not include the KWBA member service areas, and the POU for the project water, in the study area. As noted on page 2-6 of the draft EIR, resource sections in Chapter 3 also provide resource-specific study area descriptions that differ from the overall project study area. Moreover, the service areas are described at draft EIR pages 2-9 and 2-10. However, as one of many water supplies available to meet the needs of the KWBA members, as well as the fact that the project is intended to serve only to create a more reliable supplemental supply for recovery in the later years of multi-dry years, the project is not anticipated to result in any change in the use of water and overall cropping patterns in those member service areas. There is no physical change in the environment expected from the project associated with the places of use.

See also Section 3.1.1, *Project Description Master Response*, which addresses the adequacy of the project study area, and the response to comment A4-72.

3.2.4.74 Response to Comment A4-74

The comment incorrectly asserts that the EIR analyses use an inadequate study area that only consists of the area within the KWB boundaries. The comment is related to the adequacy of the project study area. The study area for the EIR's resource-specific analyses consists of the area within

the physical boundaries of the KWB as well as resource-specific relevant geographic areas beyond those boundaries. As discussed in individual resource sections of the draft EIR, if the project would result in impacts within KWBA members' service area boundaries for a particular resource area, then these areas are included in the study area for that resource impacts analysis. Discussion and analysis of project impacts are provided in each resource section. See also Section 3.1.1, *Project Description Master Response*, and the responses to comments A4-12, A4-58, A4-71 through A4-73, A4-122, A4-134, AND A4-197, which address the adequacy of the project study area.

3.2.4.75 Response to Comment A4-75

The comment claims that the baseline conditions used in the EIR do not meet CEQA or case law requirements of describing existing environmental conditions in the project vicinity. The master responses (Section 3.1.1, *Project Description Master Response*, Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*) clarify project details, hydrologic and project information, and address information in the draft EIR as sufficient for the analysis of the project's impact on the environment. Section 3.1.1, *Project Description Master Response*, includes additional discussion including the quantity, timing, and source of water that would be diverted and recharged under the project.

Baseline conditions of the Kern River are discussed on pages 3.6-10 through 3.6-16 of the draft EIR. Local groundwater levels are discussed on page 3.6-18. Figures 3.6-6 and 3.6-7 show the groundwater elevation and depth to groundwater in area of the Kern Water Bank, respectively.

3.2.4.76 Response to Comment A4-76

The comment states that the EIR cannot accurately analyze project impacts because it does not describe current Kern River flow conditions, the surrounding environment, or the timing and frequency of diversions. Median monthly flows (1894–2011) are shown in Table 3.6-1 (page 3.6-12), Kern River Flows (1970–2010) are shown in Table 3.6-2 (page 3.6-14), and Intertie Operation and Flow (1978–2012) are shown in Table 3.6-3 (page 3.6-15) of the draft EIR.

The environment in and around the Kern River is discussed on draft EIR pages 3.6-12 through 3.6-15, including the effect of and data for Lake Isabella Dam, First Point of Measurement, the Beardsley Weir and Canal, the Calloway Weir and Canal, the River Canal Weir and River Canal, the McClung Weir, the Kern Water Bank Canal, the Alejandro Canal, the Second Point of Measurement and Diversion Weir, the Sand Plug, the Intertie and Outlet Weir, the Outlet Canal, and the Kern River Flood Channel (Figures 3.6-2 and 3.6-3).

The commenter fails to identify any information that would question in any way the EIR's discussion and analysis of the physical impacts of this particular project. The master responses (Section 3.1.1, *Project Description Master Response*, Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*) clarify hydrologic and project information, and address information in the draft EIR as sufficient for the analysis of the project's impact on the environment.

3.2.4.77 Response to Comment A4-77

The comment mischaracterizes the project as an entirely new use of 500,000 AF of additional water, claims that the project EIR should analyze all other diversions and uses of Kern River water, not only those of the project, and that the baseline used in the EIR does not represent current Kern River baseline conditions. The project seeks a State Water Board permit for high flow Kern River water after existing Kern River water rights are met. KWBA previously diverted some of this same water for recharge purposes. CEQA mandates that an EIR describe and analyze the physical impacts of a particular project, and not every other project in a particular region. Such analysis is entirely infeasible and overbroad as KWBA does not have access to the data concerning every other diversion in the system, nor is that data necessary to conduct an appropriate assessment of direct, indirect, and cumulative impacts. West Yost already conducted a water availability analysis using a methodology concurred in by State Water Board staff before the environmental review commenced, which analysis informed the EIR's assessment of the physical impacts of KWBA diversions and shows that there is water surplus to the system. The master responses (Section 3.1.1, *Project Description Master Response*, Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*) clarify project details, hydrologic and project information, and address information in the draft EIR as sufficient for the analysis of the project's impact on the environment.

3.2.4.78 Response to Comment A4-78

The comment states that the EIR does not describe current Kern River flow conditions, the local environment, or the timing and frequency of diversions from the river and that it therefore cannot accurately analyze project impacts. Please see the responses to comments A4-76 and A4-77, and Section 3.1.1, *Project Description Master Response*, and Section 3.1.2, *Baseline Master Response*.

3.2.4.79 Response to Comment A4-79

The comment claims that the EIR does not provide any information about the nature, extent, or yield of Kern River water for the project. The project seeks an entitlement to divert unappropriated high flow Kern River water after existing Kern River water rights are met and only when such water is present. KWBA previously diverted this same water for recharge purposes. To estimate how much water would be available for appropriation by KWBA in various high water years, West Yost Associates prepared a water availability analysis (Appendix L). The model conservatively predicts the amount water available based on a given year type. No further study is necessary to identify the physical impacts of this project.

3.2.4.80 Response to Comment A4-80

The comment states that the EIR does not discuss Kern River water rights held by the City of Bakersfield and other entities, or describe the amount of water they divert and how the project would affect those diversions. The project seeks an entitlement to divert unappropriated Kern River water after existing water rights on the Kern River have been met and only when such water is present. KWBA previously diverted this same water for recharge purposes. Section 3.1.1, *Project Description Master Response*, clarifies details regarding existing Kern River water rights. Kern River water rights are also discussed on page 3.6-25 of the draft EIR. The capacities of the City of

Bakersfield's Kern River diversions are noted in Table 3.6-9 (page 3.6-24 of the draft EIR). KWBA would only divert available surplus Kern River water that cannot otherwise be used or stored by existing Kern River water right holders, and would not divert flows in normal or dry years when surplus flows are not available. Consequently, the project would not affect the diversion of water under the Kern River water rights held by the City of Bakersfield and other entities.

3.2.4.81 Response to Comment A4-81

The comment asserts that the EIR does not describe existing hydrologic conditions within KWBA's participating members' districts or consider how the project would change conditions in those districts. Draft EIR Section 2.1.3.2, *Water Right Application 31676* (commencing on page 2-7), includes descriptions of the proposed POUs and purpose of use, which it notes are identical to the existing POUs and purpose of use. As stated on pages 2-13 through 2-15 of the draft EIR and reiterated in Section 3.1.1, *Project Description Master Response*, banked water would be recovered in the same manner and under the same circumstances as historical recovery of banked water from the KWB, at the request of KWBA's participating members and subject to the conditions specified in the KWB MOU (Appendix B) and the Joint Plan (Appendix F) of the draft EIR. The KWB has previously diverted this same water for recharge purposes. Further, as stated in the draft EIR (pages 2-7 through 2-10 and Figures 2-5 and 2-6) and clarified in Section 3.1.1, *Project Description Master Response*, the project would not change the purpose, annual quantity, or POU of recovered KWB water. Because there would be no change or new use of water associated with the project, and because the POUs would remain the same, the hydrological conditions within the POU would not influence the results of the analysis. Discussion of existing hydrological conditions within the KWBA participating members' POUs is therefore irrelevant to the EIR analysis.

Further, as described in the draft EIR (pages 2-9 and 2-10), the project would not change the purpose or location of use beyond existing conditions. Specific uses of water in the POUs are determined by the KWBA members and, because they would remain unchanged under the project, would not influence the results of the EIR analysis. Please also see Section 3.1.1, *Project Description Master Response*, which clarifies that the project would not increase availability of water to participating members, except by making water available at the end of an extended multi-year drought.

3.2.4.82 Response to Comment A4-82

The comment states that the EIR does not accurately describe baseline groundwater conditions within the KWB, or provide data or calculations to support the statement that the KWB currently stores approximately 910,000 AF of water. Baseline groundwater conditions are described on pages 3.6-17 through 3.6-20 of the draft EIR, and groundwater modeling is described on pages 3.6-32 through 3.6-33. The volume of water in storage within the KWB is determined by KCWA after consultation with the City of Bakersfield, Buena Vista Water Storage District, and DWR regarding delivery volumes. The volumes through time are reported by the Kern Fan Monitoring Committee in their Operations Reports. Please also see the SGMA discussion in Section 3.1.1, *Project Description Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, which further clarifies the description of baseline groundwater conditions.

3.2.4.83 Response to Comment A4-83

The comment questions the availability of KWB water for recovery. See the responses to comments A4-36 and A4-82. In addition, project operations would be consistent with the KWBA MOU and the Long-Term Operations Plan, which sets further parameters on long-term banking operations. To the extent this proposed water right permit would add water to storage, that additional water would be available for recovery.

3.2.4.84 Response to Comment A4-84

The comment claims that the EIR lacks information about groundwater levels, well depths, recovery rates, current recovery trends, or migration or loss of water stored by KWBA. Groundwater levels and quality are discussed on draft EIR pages 3.6-16 through 3.6-19. Figures 3.6-8 and 3.6-9 show a time series of groundwater potentiometric surface at Kern Water Bank Authority at 11P Wells and 16L Wells, respectively. More recent (September 2018) time series data on groundwater potentiometric surface at Kern Water Bank Authority at 11P Wells and 16L Wells is provided in Chapter 4, *Draft EIR Errata*. The inclusion of this information, which post-dates the draft EIR, does not affect the results of the impact analysis in any way.

The project does not propose to change the manner or method of operations—including recovery. Rather, this water, which is only a fraction of all KWB water supplies, would simply enhance long-term water supply reliability for multi-dry years.

Please also see Section 3.1.1, *Project Description Master Response*, Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, which clarify project details, hydrologic and project information, and address information in the draft EIR as sufficient for the analysis of the project's impact on the environment.

3.2.4.85 Response to Comment A4-85

The comment states that the EIR does not adequately describe ongoing KWB recharge and banking operations. Draft EIR Section 2.2.2.2 (pages 2-12 through 2-14) discusses project operation and notes that all KWB recovery operations are subject to the conditions specified in the KWB MOU (Appendix B), the more recently adopted Long-Term Kern Operations Plan (Appendix C), and the Joint Plan (Appendix F). Kern Water Bank operations and recharge facilities are also discussed throughout Section 3.6, including pages 3.6-19 through 3.6-22. This project does not propose to change recovery operations, other than to provide additional water for storage and to enhance long-term water supply reliability in dry or multi-dry years. Please see Section 3.1.1, *Project Description Master Response*, which clarifies project description details regarding the quantity, timing, and source of water that would be recharged under the project, as well as existing and proposed KWB recovery operations.

3.2.4.86 Response to Comment A4-86

The comment asserts that the EIR lacks information on the Kern County Subbasin's groundwater levels, as well as recharge and recovery activities by nearby and more distant water banking projects. The Kern County Subbasin is discussed in the draft EIR. As noted on page 3.6-6, DWR has designated the Kern County Subbasin as a high priority basin. Further discussion of the subbasin is

provided on pages 3.6-16 through 3.6-17 of the draft EIR. KWBA's diversion of the marginal quantities of water requested under the project are expected to have no effect whatsoever on other water banking activities in the region, and the comment provides no evidence of such effects. The comment instead offers pure speculation about possibilities so remote as to be beyond analysis.

Please also see Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, which clarify project details and hydrologic information, and address information in the draft EIR as sufficient for the analysis of the project's impact on the environment.

3.2.4.87 Response to Comment A4-87

The comment claims that the EIR ignores the Kern County Subbasin's overdraft condition and therefore cannot accurately analyze project impacts. As noted on page 3.6-6, DWR has designated the Kern County Subbasin as a high priority basin. As required by SGMA, all Bulletin 118 basins designated as medium or high priority and critically overdrafted will be managed under a GSP. SGMA is described at length on pages 3.6-5 through 3.6-7 of the draft EIR. As of June 30, 2017, 11 local agencies have submitted GSA formation notices for the Kern County Subbasin. Each GSP needs to include measurable goals and objectives and implementation actions to achieve or maintain basin sustainability. The master responses (Section 3.1.1, *Project Description Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*) further clarify project details related to SGMA.

3.2.4.88 Response to Comment A4-88

The comment asserts that on page 2-11 of the draft EIR the KWBA states that the project is necessary to prevent or alleviate groundwater overdraft, and that the EIR contains no specific information about groundwater conditions. These statements are false. The master responses (Section 3.1.1, *Project Description Master Response*, Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*) clarify project details, hydrologic and baseline information, and address information in the draft EIR as sufficient for the analysis of the project's impact on the environment.

Groundwater levels and quality are discussed on draft EIR pages 3.6-16 through 3.6-19. The discussion includes groundwater levels within the Kern River Alluvial Fan Aquifer and within the project area.

3.2.4.89 Response to Comment A4-89

The comment asserts that the EIR does not provide adequate information about water demand and use within KWBA's participating members' service areas. Section 3.1.1, *Project Description Master Response*, clarifies project description details such as existing Kern River water rights and KWBA participating members' POUs. The project water would continue to be recovered at the same rate, using existing facilities and operating provisions, and would continue to be used by the same entities in the same locations as has historically occurred. Therefore, information about existing water demand and use within KWBA participating members' service areas is not necessary to evaluate the physical effects of this project. Section 3.1.3, *Hydrology and Water Quality Master Response*, clarifies hydrologic information, and addresses information in the draft EIR as sufficient for the analysis of the project's impact on the environment.

3.2.4.90 Response to Comment A4-90

The comment mischaracterizes the project as a supplemental water supply and alleges that the EIR does not accurately analyze project impacts because it does not describe existing water supplies within KWBA participating members' service areas. The project does not constitute a supplemental water supply. The draft EIR outlines the existing water supplies to the KWB, recovery operations, and the POUs for KWB water. KWB water would continue to be recovered at the same rate, using existing facilities and operating provisions, and would continue to be used by the same entities in the same locations as has historically occurred. The comment fails to identify any missing data or information, nor does the comment explain why such information would have any significance to the EIR's analysis. Information about existing water supplies within KWBA participating members' service areas is not necessary to evaluate the physical effects of this project. Section 3.1.1, *Project Description Master Response*, and Section 3.1.2, *Baseline Master Response*, clarify project details and baseline information, and address information in the draft EIR as sufficient for the analysis of the project's impact on the environment.

3.2.4.91 Response to Comment A4-91

The comment claims that the EIR must identify the number and water recovery amounts of all wells, including private wells, in the KWBA participating member districts to accurately analyze project impacts. As described in the draft EIR (pages 2-11 and 2-14) and Section 3.1.1, *Project Description Master Response*, the project would increase water reliability to existing users (KWBA participating members). The water would continue to be recovered at the same rate, using existing facilities and operating provisions, and would continue to be used by the same entities in the same locations as has historically occurred. Information about the number and production rates of wells within those districts is not necessary to evaluate the physical effects of this particular project.

3.2.4.92 Response to Comment A4-92

The comment asserts that the project uses a 2012 baseline that does not account for changed circumstances, contrary to CEQA principles and requirements. The Hydrology and Water Quality section of the draft EIR (Section 3.6) presents information on current baseline and existing conditions for the Kern River (pages 3.6-9 through 3.6-18) and KWB operations and associated hydrology (pages 3.6-20 through 3.6-22). The draft EIR also includes data collected in 2012 by KWB, as well as more recent data (through 2017) of KWB operations. Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, clarify project and hydrologic information, and address information in the draft EIR as sufficient for the analysis of the project's impact on the environment.

The commenter's reliance on *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439, and Communities for a *Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, does not support the contention that the baseline utilized in the EIR is inadequate. In those cases, the California Supreme Court held that the standard is not whether the baseline choice is objectively a "realistic measure of the physical conditions without the proposed project," but rather a lead agency's discretion will be "reviewed for substantial evidence supporting the measurement method." (*Neighbors*, 57 Cal.4th at 449, citing *Communities*, 48 Cal.4th at 328.) In particular, Neighbors involved review of a "future conditions" baseline;

whereas, CBE addressed a baseline that improperly relied on "permitted" emissions levels rather than "actual" historical emissions levels at a refinery. These cases are inapposite, as here the draft EIR relies on an existing conditions baseline, which relies on actual historical operations.

The commenter also misquotes *Citizens for East Shore Parks v. State Lands Commission* (2011) 202 Cal.App.4th 549 to argue that the EIR impermissibly turns back the clock to exclude existing conditions. To the contrary, the court in East Shore Parks was discussing *Riverwatch v. County of San Diego* (1999) 76 Cal.App.4th 1428, in which the appellate court reversed the trial court's ruling to revise an EIR's baseline to account for prior illegal and unauthorized activities affecting existing conditions. (*Riverwatch*, 76 Cal.App.4th at 1452-1453.) The court in East Shore Parks merely remarked that the respondents—the EIR challengers—could not turn back the clock and insist that the County utilize a baseline that excluded certain activities. (East Shore Parks, 202 Cal.App.4th at 559.)

The commenter further relies upon *Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99 for the contention that the selected baseline was improper. That case, like the others, recognized that the "date for establishing a baseline cannot be a rigid one," and that a lead agency may select a different baseline where warranted by the circumstances (*Id.* at 125).

3.2.4.93 Response to Comment A4-93

The comment mischaracterizes the project as changing the POU and type of use of up to 500,000 AF of Kern River water, and claims that the EIR fails to consider the impacts of such changes. The comment further claims that the EIR should consider the effects of changes to the POU and type of use of up to 500,000 AF of Kern River water in the context of drought conditions, global warming, and regulatory limitations on imported water supplies, increased Kern County agricultural production and population growth, a critically overdrafted basin, water shortages, subsidence, water quality degradation, and "severely strained local environmental conditions," affecting biological resources.

The project does not propose to change the POU or type of use of Kern River water or use such water for undefined needs. Section 3.1.1, *Project Description Master Response*, Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, clarify project and hydrologic information, and address information in the draft EIR as sufficient for the analysis of the project's impact on the environment. The primary purpose of the KWB is to recharge, store, and recover water to improve water supply reliability during dry periods for KWBA members, and the project does not propose to change the use of the water supply within each member district. There will be no reduction or changes to the entitlements of Kern River water by others in the region as a result of this project. The project seeks an entitlement to divert unappropriated high flow Kern River water after the rights of senior Kern River water right holders are met and only when such surplus water is present. KWBA previously diverted this same water for recharge purposes. The water availability analysis (Appendix L) found that there is sufficient unappropriated supply during wet years to bank water within the KWB and satisfy senior water right holders. The historical record as well as the water availability analysis indicate unappropriated water in the quantity sought by the project is available. KWBA would only divert available surplus Kern River water during high flow or flood conditions. Further, the project would not recover more groundwater than has been recharged. In addition, ongoing monitoring by the Department of Water Resources indicates land

subsidence is not occurring on KWB lands. The EIR considers the impacts of the project, as described in draft EIR Chapter 2, *Project Description*, and clarified in Section 3.1.1, *Project Description Master Response*, within the context of appropriate baseline conditions. Please see Section 3.1.1, *Project Description Master Response*, and Section 3.1.2, *Baseline Master Response*, for additional clarification of the relationship between baseline conditions and project recovery operations.

3.2.4.94 Response to Comment A4-94

The comment cites the State CEQA Guidelines and case law, claiming that the EIR presents an inadequate project description, an inaccurate baseline, and does not comply with CEQA impact analysis requirements. The project description and baseline provide the information necessary to accurately analyze the project's impacts on the environment. Please see Section 3.1.1, *Project Description Master Response*, and Section 3.1.2, *Baseline Master Response*, for further discussion of the EIR's compliance with CEQA project description and baseline requirements.

3.2.4.95 Response to Comment A4-95

The comment mischaracterizes the project and alleges that the EIR does not address project impacts on the local groundwater basin or water supply associated with that mischaracterization. The project proposes only to secure a permit for unappropriated water available for recharge and storage to ensure long-term reliability in water supplies from the KWB in multiple dry years. The project seeks only an entitlement to divert unappropriated high flow Kern River water after existing Kern River water rights are met and only when such water is present. KWBA previously diverted this same water for recharge purposes. The project would only divert, recharge, and later recover up to 500,000 AF of Kern River water during high flow conditions. Recharging this water would raise the local groundwater table level and result in a net increase in aquifer volume. Groundwater basin and supply impacts are discussed under Impact HYDRO-2 (pages 3.6-36 through 3.6-37 of the draft EIR). Project operation is not expected to interfere with groundwater recharge or substantially deplete groundwater supplies.

3.2.4.96 Response to Comment A4-96

The comment claims that the City of Bakersfield is competing for the same water and that the EIR must therefore consider the project's impacts on the City. As described in the draft EIR Section 3.6, *Hydrology and Water Quality*, and the water availability analysis (Appendix L), and further clarified in Section 3.1.1, *Project Description Master Response*, the project would not take water held under others' rights, including the City of Bakersfield. The project seeks an entitlement to divert unappropriated high flow Kern River water after existing Kern River water rights are met and only when such water is present. KWBA previously diverted this same water for recharge purposes. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision. The historical record considered in the water availability analysis (Appendix L) indicates that the quantity of water requested by the project is available without impinging other Kern River water right holders' entitlements (see draft EIR pages 3.6-28 through 3.6-32, and Impact HYDRO-1 on page 3.6-36).

3.2.4.97 Response to Comment A4-97

The comment states that the EIR does not review impacts associated with the use of project water on the environment, other users, or local water supplies. The project seeks an entitlement to divert unappropriated high flow Kern River water after existing Kern River water rights are met and only when such water is present. KWBA previously diverted this same water for recharge purposes. The historical record as well as the water availability analysis (Appendix L) show that unappropriated water in the quantity sought by the project exists. KWBA would only divert available surplus Kern River water that cannot otherwise be used or stored by existing Kern River water right holders, and would not divert flows in normal or dry years when surplus flows are not available. The project would only divert unappropriated Kern River flood waters, after the rights of senior Kern River water right holders are met and sufficient water exists. Please see Section 3.1.1, *Project Description Master Response*, for additional discussion clarifying that the project is not additive in nature.

3.2.4.98 Response to Comment A4-98

The comment cites the California Supreme Court's 2007 *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (*Vineyard*) (40 Cal.4th) decision and unspecified "related cases" to claim that the EIR does not meet the associated requirements for identifying and discussing the impacts of a large water supply and storage project.

The Vineyard decision identifies specific conditions that an EIR must meet when preparing an adequate water supply analysis for a proposed project, including: identification of the water sources needed for full buildout of a proposed project; analysis of the environmental impacts associated with providing water for the project; where both short-term and long-term supplies are needed, an analysis of long-term supplies and their impacts, at least at a programmatic level of detail; an assessment of the extent to which identified water sources are "certain" or "likely" to be available; and, where uncertainty exists regarding the availability of future water sources, identification of possible alternative water sources and an analysis of the environmental impacts of curtailing planned development due to inadequate supplies.

Of note with regard to this EIR, Vineyard is largely interpreted to apply to proposed land use development projects that require a source of water, whereas this project does not propose any land use development and any water right the State Water Board may grant under Application 31676 is intended entirely to support existing land uses. No new development is proposed to be served by this water, either within the KWB or its participating members' POUs. As described on page 2-1 of the draft EIR, the KWB is a water banking program designed to bank unappropriated water in wet years for later recovery to supplement inconsistent surface water supplies and to provide its members with a more stable, reliable, and sustainable source of water, particularly in dry years. As such, KWBA has no authority to authorize or curtail proposed land uses or planned development within its members' service areas. However, as described in detail on page 3.6-5 of the draft EIR, for the State Water Board to issue a water right, it must find that there is "unappropriated water available to supply the applicant" (Water Code § 1375[d]). Thus, every water right application submitted to the State Water Board must include "sufficient information to demonstrate a reasonable likelihood that unappropriated water is available for appropriation." (Water Code §

1260[k]).[45] To satisfy this requirement, West Yost and Associates prepared a water availability analysis (Appendix L) in support of Application 31676 for use in determining if water was available for diversion and to evaluate the potential environmental impacts that could result from the project's requested additional appropriations. For the purposes of the project, the project proponent need only show that there is a "reasonable likelihood that unappropriated water is available for appropriation" (Water Code § 1260[k]) since the project is not a proposal for development requiring provision of ongoing and future water supply. The water availability analysis (Appendix L) identifies the water source for the project as proposed and provides an assessment of the certainty and extent of water availability for the project, including the long-term likelihood of availability of that water based on historical Kern River flow and high flow water availability patterns. The EIR additionally provides analyses of the environmental impacts associated with the diversion, recharge, recovery, and use of high flow Kern River water for the project. Consideration of the No Project alternative and Alternative 2 identifies the environmental impacts associated with reasonably foreseeable future conditions without the project, and evaluates the impacts of using a lesser amount of water for the project.

3.2.4.99 Response to Comment A4-99

The comment cites CEQA case law and expresses general concern that the EIR dismisses impacts without explanations, supporting facts, or legal basis. CEQA (Section 21100[b][1]) and Sections 15126(a) and 15143 of the State CEQA Guidelines require the EIR to focus on the "significant environmental effects" of the project, specifically the physical conditions "existing within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance" (CEQA Section 21060.5). To the extent that a preliminary analysis in the draft EIR determined that the project would not result in impacts on certain resources, those resources were considered in the draft EIR and dismissed from further, detailed analysis (see Section 3.1.1, *Resources Dismissed from Further Analysis*, of the draft EIR). Specific comments on the methods of analysis are addressed individually below. For a detailed, resource-specific description of the methodology used to determine impacts, please refer to the Methods subsection of each environmental resource section in Chapter 3 of the draft EIR.

3.2.4.100 Response to Comment A4-100

Without providing any evidence or other substantiation of the claim, the comment states that the EIR fails to review impacts on agricultural and forestry resources, land use and planning, and population and housing. To the extent that a preliminary level of analysis determined that the project would result in no impacts on agricultural and forestry resources, land use and planning, and population and housing, those resource areas were considered in the draft EIR and dismissed from further, detailed description and analysis for the specific reasons provided in each individual analysis (see Section 3.1.1, *Resources Dismissed from Further Analysis*). Section 3.1.1 includes justification for dismissal from further consideration of each of these CEQA-mandated issues. Please see Chapter 4, *Draft EIR Errata*, of this final EIR for clarifying language that has been added to the

[45] Because this project does not propose new development that requires service by urban water suppliers, it is not subject to Senate Bill (SB) 610 (Water Code §§ 10910-10912) or SB 221 (Cal. Government Code § 66473.7), which require the preparation of assessments and analyses verifying available water supplies to certain residential or other development projects in the CEQA process. Nevertheless, the water availability analysis under Water Code section 1260[k] serves much the same function.

discussion of impacts in Section 3.1.1. The project is designed to provide supplemental water supplies so as to increase reliability of the KWB in the later years of a multi-year drought. But the amount of water the project is expected to yield is marginal in comparison to the existing water supplies available to serve KWBA members, including existing rights, water transfers, CVP water, and SWP water. Consequently, the project is expected to have no physical impacts associated with changes in cropping patterns, population growth, housing, or overall land uses. Land uses within the service areas will remain the same (or may evolve based on factors that are completely independent of the project water supply). Further, as this project is not proposing to take water from any existing Kern River water right holders' entitlements, the project is not expected to lead to any physical changes within the service area of the City of Bakersfield or other water users along the Kern River.

Please also see the responses to comments A4-105 through A4-112, which address the commenter's individual comments on these resources.

3.2.4.101 Response to Comment A4-101

The comment claims that the EIR should have provided a comparative analysis of project impacts on aesthetics and recreation versus those of the City of Bakersfield's proposed water project. As described on pages 3.1-1 and 3.1-5 of the draft EIR, consideration of the project's potential to result in impacts on visual resources or recreation indicated that there would be no impacts. Further, an EIR's role under CEQA is not to weigh the merits of a project against those of other projects, but to evaluate a project's potential impacts on existing environmental conditions.

3.2.4.102 Response to Comment A4-102

The comment erroneously claims that the EIR dismissed impacts from consideration because of a lack of comments during the scoping or NOP process, and notes that a lead agency is required to review and consider all potential impacts. The comment further quotes State CEQA Guidelines section 15143, which states, in part, that an EIR "shall focus on the significant effects on the environment." The EIR considers the project's potential to result in impacts on the resources in question, specifically citing the issues outlined in State CEQA Guidelines Appendix G. The inclusion of a sentence indicating that no NOP comments were received on these issues was never intended, and does not serve, as a justification for dismissal. Please see the response to comment A4-99 and Section 3.1.1, *Resources Dismissed from Further Analysis*, of the draft EIR, both of which outline the reasons for analyzing and dismissing these resources from further consideration. Please also see Chapter 4, *Draft EIR Errata*, of this final EIR for clarifying language added to Section 3.1.1, *Resources Dismissed from Further Analysis*.

3.2.4.103 Response to Comment A4-103

The comment claims that the EIR uses an outdated analysis that does not account for recent drought conditions, groundwater overdraft, and increased water demand to avoid reviewing project impacts. The draft EIR includes data collected in 2012 by KWBA, as well as more recent data (through 2017) of Kern Water Bank operations. Under existing operations, including operations that post-date the historical baseline period used for the project analysis, the diversion of significant amounts of water (from various sources) has occurred and is discussed in the EIR (pages 2-12 through 2-15, 3.6-13, and 3.6-20 through 3.6-22 of the draft EIR). Nearly all of the Kern River water diverted by KWB for

groundwater recharge occurred during wet water year types, and recovery takes place primarily in dry or multi-dry years. Consequently, existing operations have become part of the existing hydrologic regime on the river, with few impacts and more water available during high flow or flood conditions. Section 3.1.1, *Project Description Master Response*, Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, further clarify project and hydrologic information, and note that the information used in the draft EIR analysis is sufficient for the analysis of the project's impact on the environment.

3.2.4.104 Response to Comment A4-104

The comment claims that the EIR relies on a 2012 analysis and fails to consider newer regulations such as the SGMA. SGMA is discussed on pages 3.6-5 through 3.6-6 of the draft EIR. The regulatory setting has been adjusted to include the updated 2015 UWMPs for the Kern County Water Agency Improvement District No. 4 and North of the River Municipal Water District. The project was reviewed against both updated UWMPs and no revision to the analysis is necessary in association with these updated regulations. Please see Section 3.1.3, *Hydrology and Water Quality Master Response*, for a discussion of the State Water Board's emergency drought regulations, which are no longer in effect for Kern County.

3.2.4.105 Response to Comment A4-105

The comment mischaracterizes the project, and uses that misinterpretation to claim that KWBA would take water from other agricultural uses, resulting in agricultural impacts. The comment further claims that the EIR must analyze impacts associated with increased water supplies on agricultural resources within KWBA participating members, including increased agricultural production, conversion of undeveloped land to farmland, changes in cropping patterns, and changes in water consumption and use. As described in Section 3.6, *Hydrology and Water Quality*, and the water availability analysis (Appendix L) of the draft EIR, and further clarified in Section 3.1.1, *Project Description Master Response*, the project would not take water held under others' rights. The project seeks an entitlement to divert unappropriated high flow Kern River water after existing Kern River water rights are met and only when such water is present. KWBA previously diverted this same water for recharge purposes. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision. The historical record considered in the water availability analysis (Appendix L) indicates that the quantity of water requested by the project is available without impinging other Kern River water right holders' entitlements (see draft EIR pages 3.6-28 through 3.6-32, and Impact HYDRO-1 on page 3.6-36). Further, the project would not increase water availability to users, but would increase water reliability to existing users over extended dry periods. As described in Chapter 2, *Project Description* (see page 2-6 and Section 2.2.2, *Recovery*), and clarified in Section 3.1.1, *Project Description Master Response*, the water would continue to be recovered at the same rate, using existing facilities and operating provisions, and would continue to be used by the same entities in the same locations as has historically occurred. There would be no increase in water delivered to participating members in any given year, and therefore no resulting agricultural impacts. Please see Section 3.1.1.2, *Agricultural and Forestry Resources*, of the draft EIR, and Chapter 4, *Draft EIR Errata*, of this final EIR for discussions of the project's potential to affect agricultural resources.

3.2.4.106 Response to Comment A4-106

The comment asserts that the EIR should consider secondary impacts associated with increased agricultural production within KWBA participating members' POUs. As described in Chapter 2, *Project Description*, and clarified in Section 3.1.1, *Project Description Master Response*, the project would not provide additional water to its members, but would instead improve reliability over extended dry conditions. Because there would be no increase in available water, no changes to agricultural production are expected to result from the project, and there would be no secondary impacts to review.

3.2.4.107 Response to Comment A4-107

The comment mischaracterizes the project, stating that the EIR should consider secondary impacts on agriculture within water districts from which the project would take water. The project would not take water from other districts' Kern River entitlements. The project seeks an entitlement to divert unappropriated high flow Kern River water after existing Kern River water rights are met and only when such water is present. KWBA previously diverted this same water for recharge purposes. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision. As described in Chapter 2, *Project Description*, and clarified in Section 3.1.1, *Project Description Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, the project would divert unappropriated water available only in a limited number of high water years, after the rights of senior water right holders are met. Therefore, there would be no loss of entitled water by other water districts with Kern River rights, and no resulting secondary impacts on agricultural resources within those districts.

3.2.4.108 Response to Comment A4-108

The comment mischaracterizes the project, stating that the EIR should include a comparative analysis of agricultural impacts that considers impacts associated with diversion of project water at the expense of other competing applications to appropriate Kern River water. The project does not propose to compete with other applications for Kern River water. The project seeks an entitlement to divert high flow Kern River water after existing Kern River water rights are met and only when such unappropriated water is present. The KWBA previously diverted this same water for recharge purposes. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision. As described in Chapter 2, *Project Description*, and clarified in Section 3.1.1, *Project Description Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, the project would divert unappropriated water that would only be available in a limited number of high water years. Further, an EIR's role under CEQA is not to weigh the merits of a project against those of competing applications, but to evaluate a project's potential impacts on existing environmental conditions. Please see Section 3.1.1, *Project Description Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, for further clarification of the source of project water.

3.2.4.109 Response to Comment A4-109

The comment relies on the repeated mischaracterization of the project as an increased water supply and claims that the EIR inappropriately dismisses land use and planning from consideration. The comment states that because project water may be used for municipal purposes, it would result in

land use impacts outside the KWB lands. First, the EIR does review land use and planning impacts, albeit at a lesser level of detail reflecting the circumstances of the project. As discussed on page 3.1-3, because there would be no change in land use associated with the project, there would be no land use impacts within or in proximity to KWB lands. Second, as described in the draft EIR (pages 2-1, 2-8, 2-14, 3.6-37, 3.6-38) and Section 3.1.1, *Project Description Master Response*, the project would not take water held under others' rights or increase water availability to users but would bank water from rare high flow conditions to increase water reliability over extended dry periods for existing users. The water would continue to be recovered at the same rate, using existing facilities and operating provisions, and would continue to be used by the same entities in the same locations as has historically occurred (see draft EIR pages 2-9 and 2-10 and Section 3.1.1, *Project Description Master Response*). Thus, it is highly unlikely that there would be any primary or secondary land use and planning impacts associated with the project. Please see Chapter 4, *Draft EIR Errata*, of this final EIR for clarifying language that has been added to the discussion of land use impacts.

3.2.4.110 Response to Comment A4-110

The comment incorrectly claims that the project would take water that the City of Bakersfield or other entities might eventually want, thereby depriving the City and other entities of water for municipal use and affecting their as-yet-unknown future land use and planning decisions. The comment also asserts that the EIR should analyze the project's effects on land use and planning. The project does not propose to take water from Bakersfield or otherwise alter the City's or other entities' existing rights to Kern River water. The project proposes to divert and store unappropriated water, in limited circumstances, for future use in dry years by existing KWBA members. This EIR is not required under CEQA to consider the City's hypothetical future desire to use this water for urban expansion or other municipal purposes.

3.2.4.111 Response to Comment A4-111

The comment incorrectly claims that project water would be used for new development in the region and in southern California and that the EIR should, therefore, analyze the project's effects on population and housing. Please see page 3.1-3 for an analysis of the project's relationship to population and housing. As described in the EIR (page 2-10), the existing use of KWB water includes agricultural, municipal, and industrial uses, including developments. At no time does the EIR state that the project would be used to supply water to new development projects. Rather, as described in the EIR (on page 2-10, and in Section 3.6, *Hydrology and Water Quality*, the water availability analysis [Appendix L]), and Section 3.1.1, *Project Description Master Response*, the project would bank water from rare high flow conditions to increase water reliability over extended dry periods for existing users. After banking, the water would continue to be recovered from the KWB at the same rate, using existing facilities and operating provisions, for use by the same entities in the same locations as has historically occurred (see pages 2-10, 2-11, and Section 3.1.1, *Project Description Master Response*). Thus, it is highly unlikely that the project would have any impacts on population and housing in the KWBA members' service areas. Please see Chapter 4, *Draft EIR Errata*, of this final EIR for clarifying language that has been added to the discussion of population and housing impacts.

3.2.4.112 Response to Comment A4-112

The comment relies on a mischaracterization of the project to assert that the project would have impacts on population and housing by taking from the City of Bakersfield both its already-allocated water and water to which the City believes it is entitled because it has filed an application to appropriate additional Kern River water. The project does not propose to take water held under other entities' rights or compete with other applications for Kern River water. As described in Chapter 2, *Project Description*, and clarified in Section 3.1.1, *Project Description Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, the project would divert unappropriated water that would only be available under specific hydrologic and climatologic circumstances in a limited number of wet years. Once banked, this water would be recovered at the same rate, using existing facilities and operating provisions, for use by the same entities in the same locations as has historically occurred. The project would therefore have no effect on the City's water rights or regional population and housing conditions. Please also see page 3.1-3 of the draft EIR, and Chapter 4, *Draft EIR Errata*, of this final EIR for an analysis of the project's relationship to population and housing.

3.2.4.113 Response to Comment A4-113

The comment broadly claims that the EIR's impact analysis is incomplete, limited, flawed, and does not meet CEQA requirements. This is a generalization. For more specific information regarding the adequacy of analyses in the EIR, please see the responses to comments A4-93 through A4-112 and A4-114 through A4-202.

3.2.4.114 Response to Comment A4-114

The comment claims that the air quality analysis is incomplete, inconsistent, and not CEQA compliant. The project would not increase water availability to users, but would increase water reliability to users over extended dry periods. Whether, and the extent to which, increased water reliability from this project would affect agricultural activities and associated criteria pollutant emissions cannot be determined and is speculative. Agricultural activities are dependent on numerous factors beyond water supply, such as availability and suitability of land for agricultural production, crop selection and associated acreage requirements, construction and operation of new water infrastructure projects, and commodity market demand. From 1995 and 2015 criteria pollutants emissions decreased within the KWB service area due to land preparation and harvesting control measures required by Rule 4550. In addition, decreases in combustion emissions from mobile agricultural equipment have been observed in the KWB service area and reflect reductions driven by non-road diesel engine emission standards, diesel fuel regulations, and incentive programs to reduce emissions (Insight Environmental Consultants, Inc. 2015: 5-3–6-1). Therefore, the presumption that agricultural activities would inevitably increase with the project is highly speculative. In addition, according to statewide data, material increases in agricultural activities have been observed in areas of the San Joaquin Valley that do not have access to KWB water. Therefore, should increases in agricultural activities in the KWB service area be observed, they cannot be assumed to be solely attributable to the operation of the KWB. Additionally, the project does not seek the use of an "additional" 500,000 AF of water. The project seeks an entitlement to divert high flow Kern River water after existing Kern River water rights are met and only when such

surplus water is present. KWBA previously diverted this same water for recharge purposes. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision.

3.2.4.115 Response to Comment A4-115

The comment mischaracterizes the scope of the project, erroneously claiming that KWBA would divert an additional 500,000 AF of Kern River water beyond historical levels, requiring increased use of pumps and lift stations for recovery operations, thereby increasing air quality impacts. The project, as described in draft EIR Chapter 2, *Project Description*, and clarified in Section 3.1.1, *Project Description Master Response*, would not significantly divert, recharge, or recover water beyond its current recharge and recovery capabilities, or take water held under others' rights. The project seeks an entitlement to divert high flow Kern River water after existing Kern River water rights are met and only when such unappropriated water is present. KWBA previously diverted this same water for recharge purposes. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision. The project would divert and recharge unappropriated, high flows that occur under rare circumstances in approximately 18% of years (see draft EIR pages 2-6 and 3.6-26) and primarily at levels well below the 500,000 AFY sought through KWBA's Application 31676. Thus, no additional operation of pumps and lift stations beyond baseline levels is anticipated in any given year. In addition, under baseline conditions, the maximum amount of water from existing wells has been recovered and, because no new wells are proposed, additional recovery from new wells is not anticipated. Please see Section 3.2, *Air Quality*, of the draft EIR for a detailed analysis of project pumping and recovery activities, and Chapter 4, *Draft EIR Errata*, for clarifying language that has been added to the air quality analysis. These clarifications do not affect the results of the EIR analysis. Please also see the response to comment A4-8 and Section 3.1.1, *Project Description Master Response*.

3.2.4.116 Response to Comment A4-116

The comment mischaracterizes the scope of the project, erroneously claiming that the project would acquire an additional 500,000 AF of water, and uses that assumption to maintain that the project would have significant air quality impacts associated with increased agricultural production. The project does not seek the use of an "additional" 500,000 AF of water. The project seeks an entitlement to divert unappropriated high flow Kern River water after existing Kern River water rights are met and only when such water is present. KWBA previously diverted this same water for recharge purposes. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision.

Please see the response to comment A4-8 and Section 3.1.1, *Project Description Master Response*, for discussion of the commenter's mischaracterization of the project, and the response to comment to A4-114 for a discussion of the project's relationship to agricultural air quality impacts, and the response to comment A4-117 for a discussion of the project's relationship to agricultural production. See also Section 3.1.1, *Project Description Master Response*, which identifies the draft EIR pages describing recovery activities and reiterates that, because the project would use existing recovery facilities, the only operational modifications that could occur under the project would be an extended recovery period at the existing rate of recovery during drought conditions, subject to the conditions of the MOU and Joint Plan (Appendices B and F). Please also see Chapter 4, *Draft EIR*

Errata, for clarifying language that has been added to the air quality impact analysis. These clarifications do not affect the results of the EIR analysis.

3.2.4.117 Response to Comment A4-117

The comment uses the repeated mischaracterization of the project as an increased water supply to assert that the project would increase agricultural production in the project POUs. As described in the draft EIR (pages 2-1, 2-8, 2-14, 3.6-37, 3.6-38) and clarified in Section 3.1.1, *Project Description Master Response*, the project would not increase water availability but would increase water reliability to existing users. The water would continue to be recovered at the same rate, using existing facilities and operating provisions, and would continue to be used by the same entities in the same locations as has historically occurred (see pages 2-10, 2-11, and Section 3.1.1, *Project Description Master Response*).

The extent to which water reliability would affect agricultural production (e.g., cropping patterns) is speculative as it is dependent on numerous factors such as availability and suitability of land for agricultural production, crop selection and associated acreage requirements, construction and operation of new water infrastructure projects, and commodity market demand. Please see the response to comment A4-114 regarding the project's relationship to agricultural production. Because recovery and use of the banked water would not change beyond conditions represented in baseline conditions, no significant air quality impacts are expected in association with agricultural activities within the participating members' POUs. Please see Chapter 4, *Draft EIR Errata*, for clarifying language that has been added to the air quality impact analysis. These clarifications do not affect the results of the EIR analysis.

3.2.4.118 Response to Comment A4-118

The comment employs the City of Bakersfield's repeated mischaracterization of the project as an increased water supply of an additional 500,000 AF to imply that the project would take water from other water districts' entitlements, causing those districts to increase pumping and groundwater recovery, thereby causing air quality impacts. The project does not seek the use of an additional 500,000 AFY of water. The project seeks an entitlement to divert unappropriated high flow Kern River water after existing Kern River water rights are met and only when such water is present. KWBA previously diverted this same water for recharge purposes. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision. The project would not increase water availability to KWBA participating members, but would increase water reliability over periods of extended dry conditions. As defined in Chapter 2, *Project Description*, and clarified in Section 3.1.1, *Project Description Master Response*, the project would divert unappropriated water after the rights of senior Kern River water right holders are met. Therefore, there would be no loss of entitled water by other water districts with Kern River rights, and no resulting increases in pumping or air quality impacts. Please also see Section 3.2, *Air Quality*, of the draft EIR for a detailed analysis of project pumping and recovery activities.

3.2.4.119 Response to Comment A4-119

The comment asserts that diversion by KWBA of up to 500,000 AF of Kern River water would result in impacts on biological resources, including the Buena Vista Lake shrew. As described in Chapter 2,

Project Description, and Section 3.6, *Hydrology and Water Quality* (see draft EIR pages 2-6 and 3.6-26), the project would only divert high flow water, in amounts similar to historical diversions under these conditions. Based on existing riparian and wetland habitat conditions and current water availability within the Kern River channel, changes in flows are not expected to result in a substantial adverse effect on biological resources, including potential habitat for the Buena Vista Lake shrew within the study area, and would not result in adverse modification of designated critical habitat downstream of the KWB.

As discussed on draft EIR pages 3.3-20 through 3.3-21, based on the proximity of suitable Buena Vista Lake shrew habitat to existing water recharge basins, current habitat conditions in this area are likely to be most dependent on current management actions associated with the recharge basins and less dependent on high flows. During the extreme high water flow events under which the project would divert water, there would likely be sufficient water in the river system to support both channel flow in this area and water diversion to adjacent recharge basins. Therefore, the project is not expected to affect the known population of Buena Vista Lake shrew.

Other areas with suitable habitat for Buena Vista Lake shrew lack riparian recruitment, which will in time result in the complete loss of cottonwoods and willows from this habitat. However, this outcome would occur regardless of project implementation and is similar to the impact identified for the No Project alternative.

Please also see Section 3.1.1, *Project Description Master Response*, for further clarification of the amount and timing of project diversions.

3.2.4.120 Response to Comment A4-120

The comment claims that the project would take water for which the City of Bakersfield has applied and that it would have negative impacts on Kern River biological resources at the expense of the City of Bakersfield's proposed project. The comment further implies that the City's project would be better for biological resources. The water availability analysis (Appendix L, page 13) considered the competing applications and states that unappropriated flows were evaluated considering the water availability during high flow conditions, the data for which was derived from historical records of diversion and use by existing water right holders and from estimates of ability to use and recharge water under pending appropriative water right applications. Table 3 of Appendix L (page 8) lists the entities and water districts with projects that use Kern River water. The project does not seek the "diversion and new use" of water. The project seeks an entitlement to divert unappropriated high flow Kern River water after existing Kern River water rights are met and only when such water is present. The KWBA previously diverted this same water for recharge purposes. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision. Further, significant diversions under the project can actually support the City of Bakersfield's *Buena Vista Lake Shrew Habitat Management Plan for the Kern Fan Water Recharge Site* (City of Bakersfield 2004) because project water would be delivered via the Kern River channel. Please see Section 3.1.1, *Project Description Master Response*, for additional clarification of the source of project water.

The potential for the project to impact Kern River biological resources is discussed on pages 3.3-18 through 3.3-24 of the draft EIR. Further, an EIR's role under CEQA is not to weigh the merits of a project against those of competing applications, but to evaluate a project's potential impacts on existing environmental conditions.

3.2.4.121 Response to Comment A4-121

The comment restates the incorrect assertion that the project would have significant impacts on biological resources, such as riparian habitat and the Buena Vista Lake shrew, in and around the Kern River, including within the City of Bakersfield's 2,800-acre recharge facility. The biological resources study area considers the potential for impacts on the City's 2,800-acre recharge facility, which is located along the Kern River channel immediately upstream of the KWB and the Second Point of Measurement. As described in draft EIR Chapter 2, *Project Description,* and Section 3.6, *Hydrology and Water Quality* (see draft EIR pages 2-6 and 3.6-26), the project would only divert high flow water, in amounts similar to historical diversions under these conditions. As noted in the response to comment A4-119, changes in flows are not expected to result in a substantial adverse impact on biological resources, including riparian habitat and the Buena Vista Lake shrew.

3.2.4.122 Response to Comment A4-122

The comment claims that the EIR minimizes biological resources impacts through use of an insufficiently sized study area, and asserts that the biological resources study area should include the entire San Joaquin Valley portion of the Kern River channel, as well as adjacent wildlife and habitat areas, including the City's 2,800-acre recharge facility. Draft EIR Figure 3.3-1, Biological Study Area, shows the project study area for biological resources, both within and beyond the KWB boundaries. As depicted on Figure 3.3-1 and described on page 3.3-8, the biological resources study area extends both upstream and downstream of the KWB boundaries along the Kern River. As shown in Chapter 4, *Draft EIR Errata*, Figure 3.3-1 has been revised to clarify the location of the City's 2,800-acre recharge facility in relation to the biological resources study area. Please also see Section 3.1.1, *Project Description Master Response*, for clarification of KWBA's reasons for selecting the study area boundaries used in the EIR.

3.2.4.123 Response to Comment A4-123

The comment claims that the project has the potential to affect the timing and quantity of water flow in the Kern River, and that KWB proposes to divert substantial quantities of water out of the Kern River well upstream from KWB's territory, depriving the Kern River channel of water needed to restore and maintain flows of water. There are two diversion points upstream of the City of Bakersfield's 2,800-acre facility: the River Canal East and the Pioneer Canal headworks. As described in the response to comment A4-49, most Kern River water has historically been delivered through the Basin 9 turnout and via the Kern River channel to the KWB Canal headworks. For example, in 2017, of 319,000 AF of Kern River water delivered to the KWB, 247,000 AF was delivered in the Kern River channel as far as the McClung Weir, with 113,000 AF of that water continuing downstream in the Kern River channel to the KWB Canal headworks. Only 42,000 AF of water were delivered via the River Canal East diversion point and only 30,000 AF were delivered via the Pioneer Canal headworks diversion point and the CVC. Diversions under the project are expected to follow this same pattern. It is important to note that these deliveries will provide all the environmental benefits to the Kern River channel that the City of Bakersfield expects from the Kern Flow Program, and fully meet the primary objective of the City of Bakersfield's Buena Vista Lake Shrew Habitat Management Plan for the Kern Fan Water Recharge Site (2004; i.e., "…directing flows to the Kern River channel west of the railroad tracks will be the first priority under the Plan.").

3.2.4.124 Response to Comment A4-124

The comment states that the EIR contains no supporting evidence that reduced flows are unlikely to affect riparian vegetation that is likely dependent on groundwater, and questions the statement's veracity. Please see page 3.3-11 and the Kern River Botanical Survey (Appendix J) of the draft EIR for discussions of existing Kern River riparian vegetation's reliance on groundwater rather than high flows.

3.2.4.125 Response to Comment A4-125

The comment claims that the EIR ignores potential impacts on aquatic species, fish, and wildlife in the Kern River, along with non-groundwater dependent vegetation in and around the river. Pages 3.3-12 and 3.3-13 of the draft EIR describe two special-status fish species, the Kern brook lamprey (*Lampetra hubbsi*) and the Kern River rainbow trout (*Oncorhynchus mykiss gilberti*), covered by the KWB HCP/NCCP. On page 3.3-13, the text notes that the Kern River is often dry for extended periods, effectively eliminating fish habitat. The text further states that these species are unlikely to be listed or become established at the KWB in the foreseeable future. In addition, page 3.3-19 describes the limited potential for impacts on fish and aquatic species because of the sporadic nature of aquatic habitat in the Kern River. Please see the response to comment A4-124 regarding the relationship between the project and riparian vegetation.

3.2.4.126 Response to Comment A4-126

The comment suggests that the project would have significant impacts on habitat in and around the Kern River. The project proposes to divert up to 500,000 AFY of unappropriated Kern River water under such hydrologic and climatologic circumstances as are likely to occur in only 18% of years. The amount of water would not significantly exceed the KWB's ongoing and historical diversion, recharge, or recovery amounts. Please see Section 3.1.1, *Project Description Master Response*. Because project diversion, recharge, and recovery activities represent a continuation of the historical patterns of KWB operations, no significant effects on habitat are expected. As noted on page 2-16 of the draft EIR,

> The water conservation activities of the KWB (and other banking projects in Kern County) are also re-establishing thousands of acres of intermittent wetland habitat in the region. Willows, cottonwoods, sedges, and other wetland vegetation are reemerging, and the recharge basins and basin edges are providing nesting and foraging habitat for migrating water birds and other wildlife dependent on aquatic or semi-aquatic habitats. Recharge operations on the KWB provide tremendous benefits to water birds. To date, more than 40 species of water birds have been sighted on the KWB property, including Caspian terns, white-faced ibis, double-crested cormorants, and white pelicans (Appendix G).

3.2.4.127 Response to Comment A4-127

Citing CEQA case law, the comment generalizes that an EIR must contain facts and explanation to support its analysis rather than merely presenting conclusions or opinions. Appropriate data used to support the EIR analyses is presented in draft EIR Chapter 2, *Project Description*, as well as in each resource section and in Appendices G, H, I, J, K, and L). Please also see Section 3.1.3, *Hydrology and Water Quality Master Response*, which addresses the adequacy of data supporting the hydrology and water quality analysis.

3.2.4.128 Response to Comment A4-128

The comment expresses confusion at the use of the term "flood flows" in the EIR. As stated on draft EIR page 3.6-25, in wet water year types, KWBA has diverted Lake Isabella flood releases, often termed "flood flows." Kern River flood flows only occurred in 3 years, between 1995 and 2011, as shown in Table 3.6-10. The project seeks an entitlement to divert unappropriated high flow Kern River water after existing Kern River water rights are met and only when such water is present. The KWB previously diverted this same water for storage purposes. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision. As stated on page 2-6 of the draft EIR, future KWBA high flow diversions would occur in approximately 18% of years, during wet water years only, when high flows are available.

Please also see the response to comment A4-129 regarding the use of the term "flood flows" and the type of water subject to appropriation under Application 31676.

3.2.4.129 Response to Comment A4-129

The comment states that the use of the term "flood flows" is confusing because the State Water Board has defined unappropriated flows but not flood flows, and notes that it is up to the parties to establish the amount of unappropriated Kern River water. As stated on page 3.6-5 of the draft EIR, for the purposes of the project, the project proponent need only show that there is a "reasonable likelihood that unappropriated water is available for appropriation" since the project is not a proposal for development requiring provision of ongoing and future water supply. The project would allow KWBA to appropriate water in the Kern River found to be unappropriated water by the State Water Board. For further discussion, see the responses to comments A4-128 and A4-135.

3.2.4.130 Response to Comment A4-130

The comment mischaracterizes the project, claims that the EIR's conclusion that the project would not have significant impacts on special-status wildlife or plants is wrong, and asserts that the EIR must analyze the impact of diverting an additional 500,000 AF of water on wildlife and vegetation in and around the Kern River channel. The project, as described in draft EIR Chapter 2, *Project Description*, and clarified in Section 3.1.1, *Project Description Master Response*, would not significantly divert, recharge, or recover water beyond its current recharge and recovery capabilities, or take water in significant excess of historical diversion and recharge amounts. The project seeks an entitlement to divert unappropriated high flow Kern River water after existing Kern River water rights are met and only when such water is present. KWBA previously diverted this same water for recharge purposes. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision. The project would divert and recharge high flows that occur under rare circumstances in approximately 18% of years, and primarily at levels well below the 500,000 AFY sought through KWBA's Application 31676. Please see Section 3.1.1, *Project Description Master Response*, and Section 3.1.2, *Baseline Master Response*, which further clarify the historical conditions used to evaluate project impacts, and the conditions under which the project would occur. The analysis of project impacts on biological resources in and around the Kern River channel compares the project to baseline environmental conditions, which are defined in the draft EIR (pages 3.1-7 and 3.1-8).

3.2.4.131 Response to Comment A4-131

The comment disagrees with the draft EIR's determination on page 3.3-22 that the project would have a less-than-significant impact on wetlands and claims the finding is unsupported by data beyond a personal communication with a biologist. The referenced personal communication consists of a conversation specifically discussing field observations of Buena Vista Lake shrew habitat locations, along the Kern River both within the City's property on the Kern Fan Recharge area and within Cole's Levee Preserve, with a biologist responsible for monitoring and surveys on both properties. Please see page 3.3-11 and the Kern River Botanical Survey (Appendix J) of the draft EIR for discussions of existing Kern River riparian vegetation's reliance on groundwater rather than high flows. As discussed in the response to comment A4-123, the project can deliver water further downstream than deliveries to the City's 2,800-acre recharge facility, providing downstream benefits to wildlife habitat, and in support of the City of Bakersfield's Habitat Management Plan for the Buena Vista Lake Shrew.

3.2.4.132 Response to Comment A4-132

The comment mischaracterizes the project and claims that the EIR's statement on page 3.3-23 that "riparian wetland habitat and associated values would be enhanced by the project operations" is unsubstantiated and incorrect because diversion of an additional 500,000 AFY of Kern River water would reduce flows and negatively impact riparian wetland habitat. The project, as described in draft EIR Chapter 2, *Project Description*, and clarified in Section 3.1.1, *Project Description Master Response*, would not significantly divert, recharge, or recover water beyond its current recharge and recovery capabilities, or take water in significant excess of historical diversion and recharge amounts. Please see page 3.3-9 for a description of historical and existing Kern River channel conditions, including the presence of riparian wetland habitat and the river's history of highly variable flow conditions. As noted on page 3.3-21, reduced scour and vegetation removal resulting from project diversion of high flow water could benefit existing riparian wetland vegetation along the river channel downstream, and in-channel flows that support wetland vegetation would continue via existing water diversions to Buena Vista Water Storage District, a senior water right holder.

3.2.4.133 Response to Comment A4-133

The comment mischaracterizes the project and states that the project would conflict with City of Bakersfield policy identified in the City's Kern Flow Program Final Recirculated EIR. Please see Section 3.1.1, *Project Description Master Response*, for clarification of the project scope.

A review of adopted plans and policies was conducted as part of the EIR analysis. The policies identified in this comment are not part of the City's adopted general plan or any adopted City planning document, but are City water board policies "designed to preserve, protect, and promote the efficient use of its water resources" (City of Bakersfield 2016).

The commenter again relies on a repeated mischaracterization of the project to support an alleged inadequacy of the EIR. Please see Section 3.1.1, *Project Description Master Response*, Section 3.1.3, *Hydrology and Water Quality Master Response*, and the responses to comments A4-14, A4-15, A4-38 through A4-40, A4-42, A4-44, A4-63, A4-90, A4-95, A4-96, A4-107, A4-108, A4-110, A4-112, A4-114 through A4-116, A4-118, A4-120, A4-130 through A4-133, A4-136, A4-137, A4-140 through A4-143,

A4-164, A4-167 through A4-169, A4-171 through A4-173, A4-192 through A4-195, A4-200, A4-201, A4-240 through A4-242, A4-244, A4-250, A4-253, A4-265, O2-3 through O2-5, and O3-2 regarding the commenter's repeated mischaracterization of the project as taking water from other Kern River right holders. Because the project would not take water held under other entities' rights, including the City of Bakersfield, the City's policies for managing its own water supply are irrelevant to this project. Therefore, analysis of this project for consistency with City policies is unnecessary and inappropriate.

3.2.4.134 Response to Comment A4-134

The comment mischaracterizes the project and states that the project would conflict with the City of Bakersfield's Habitat Management Plan for the Buena Vista Lake Shrew, the Kern County Valley Floor Habitat Conservation Plan, and the Metropolitan Bakersfield Habitat Conservation Plan. As indicated in the project description and clarified in Section 3.1.1, *Project Description Master Response*, the project would rely on high flow water present in approximately 18% of years and would not decrease Kern River flows at any other time. The project seeks an entitlement to divert unappropriated high flow Kern River water after existing Kern River water rights are met and only when such water is present. KWBA previously diverted this same water for recharge purposes. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision. As described on pages 3.3-17 and 3.3-18 and shown on Figure 3.3-1, the biological resources study area for the Buena Vista Lake shrew includes the Kern River and associated riparian habitat areas outside the KWB. The study area includes the applicable portion of the City's 2,800-acre recharge facility along the Kern River channel, from diversion points 4 and 5 south to the Intertie. Please see Section 3.1.1, *Project Description Master Response*, for further clarification of the project scope and study area.

A review of adopted plans and policies was conducted as part of the EIR analysis. Page 3.3-7 discusses the Kern County Valley Floor Habitat Conservation Plan, which was not yet adopted at the time of draft EIR publication, and remains in draft form as of the writing of this response. The City's habitat management plan for the Buena Vista Lake shrew also is part of a draft, not-yet-adopted Bakersfield HCP, a joint effort between the City and Kern County. Please see Chapter 4, *Draft EIR Errata*, of this final EIR for a discussion of the Metropolitan Bakersfield Habitat Conservation Plan (MBHCP) adopted in 1994. The species included in the MBHCP are also covered by the KWB HCP/NCCP. Therefore, as described in Impact BIO-6 (page 3.3-23), the project is not expected to conflict with the provisions of any adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan. Clarification of this information does not affect any of the impact conclusions in the EIR. Finally, as described in the response to comment A4-123, the project would provide benefits to downstream portions of the Kern River channel in support of the actions proposed in Bakersfield's Habitat Management Plan for the Buena Vista Lake Shrew.

3.2.4.135 Response to Comment A4-135

The comment mischaracterizes the project, states that the draft EIR should provide a comparative analysis against the City of Bakersfield's proposed project, and asserts that the City's project would be better for biological resources than KWBA's project. As described in Chapter 2, *Project Description*, and clarified in Section 3.1.1, *Project Description Master Response*, the project would rely

on high flow water present in approximately 18% of years and would not decrease Kern River flows at any other time. The project does not seek the use of an "additional" 500,000 AF of water. The project seeks an entitlement to divert high flow Kern River water after existing Kern River water rights are met and only when such surplus water is present. KWBA previously diverted this same water for recharge purposes. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision. Further, an EIR's role under CEQA is not to weigh the merits of a project against those of other proposed projects, but to evaluate a project's potential impacts on existing environmental conditions. That being said, as described in the response to comments A4-123 and A4-134, the project would provide water in the Kern River channel, affording environmental benefits and in support of the City of Bakersfield's Habitat Management Plan for the Buena Vista Lake Shrew.

3.2.4.136 Response to Comment A4-136

The comment uses the City of Bakersfield's repeated mischaracterization of the project as an increased water supply of an additional 500,000 AF to imply that the project would take water from other water districts' entitlements, causing those districts to increase pumping and groundwater recovery, thereby causing greenhouse gas impacts. The project does not seek the use of an "additional" 500,000 AF of water. The project would increase water reliability over periods of extended dry conditions. The incremental increase in pumping by KWBA would occur in the later years of extended droughts, in the event that the KWB contained enough water to extend pumping into those years. As stated in the draft EIR (pages 2-6 and 3.4-9), the project would use the KWB's existing electric pumps for recovery activities. Further, as defined in Chapter 2, *Project Description*, and clarified in Section 3.1.1, *Project Description Master Response*, the project would divert high flow water in approximately 18% of years, after the rights of senior Kern River water right holders are met. The project seeks an entitlement to divert unappropriated high flow Kern River water after existing Kern River water rights are met and only when such water is present. KWBA previously diverted this same water for recharge purposes. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision. Therefore, there would be no loss of entitled water by other water districts with Kern River rights, and no resulting increases in their pumping, emissions, energy consumption, or greenhouse gas impacts.

3.2.4.137 Response to Comment A4-137

The comment uses the City of Bakersfield's repeated mischaracterization of the project as an increased water supply of an additional 500,000 AF to claim that the EIR ignores impacts resulting from the project taking water from other water districts' entitlements, causing those districts to increase pumping and groundwater recovery, thereby causing greenhouse gas impacts. The project would not take water held under other agencies' rights. The project does not seek the use of an "additional" 500,000 AF of water. The project seeks an entitlement to divert unappropriated high flow Kern River water after existing Kern River water rights are met and only when such water is present. As defined in Chapter 2, *Project Description*, and clarified in Section 3.1.1, *Project Description Master Response*, the project would not increase KWBA's water supply by 500,000 AF or take water at the expense of other agencies' existing Kern River water rights. Instead, the project would divert high flow flood water in approximately 18% of years, after the rights of senior Kern River water right holders are met. KWBA previously diverted this same water for recharge purposes. The project does not seek appropriation of any water deemed forfeited in the North Kern

Decision. No potential greenhouse gas impacts were ignored. Please see draft EIR Section 3.4, *Greenhouse Gases, Climate Change, and Energy*, for a detailed analysis of the projects' greenhouse gas impacts. Please also see the response to comment A4-118 and Section 3.1.1, *Project Description Master Response*.

3.2.4.138 Response to Comment A4-138

The comment cites CEQA case law related to Title 24 and consideration of energy impacts and claims that the greenhouse gas analysis is cursory and incomplete. Title 24 is not relevant to the project and is, therefore, not discussed in Section 3.4, *Greenhouse Gases, Climate Change, and Energy*, of the draft EIR. Similarly, no mitigation is required or identified in the EIR. As noted, no direct or indirect GHG emissions are expected from the project because there is no planned construction and will be no substantial operational changes between project and baseline conditions. Please see Section 3.1.1, *Project Description Master Response*, and the response to comment A4-118.

3.2.4.139 Response to Comment A4-139

The comment claims that the EIR's analysis related to subsidence, liquefaction, and related ground failure are wrong and unsupported by fact. As described in the project description and clarified in Section 3.1.1, *Project Description Master Response*, the project would not divert or recharge water into the KWB significantly beyond historical levels. Please see Section 3.1.1, *Project Description Master Response*, for further clarification of the amount of water proposed for diversion and recharge, and the conditions under which such diversions and recharge would occur. As discussed on page 3.5-6 of the draft EIR, DWR has monitored an extensometer located within the KWB since 1994. It indicates that the aquifer behaves elastically in response to banking operations, subsiding less than 0.2 foot and then rebounding the same amount or more. Over time, the average elevation of the land surface in the project area has risen approximately 0.8 foot.

The environmental setting discussion on pages 3.5-4 and 3.5-5 of the draft EIR notes that the potential for liquefaction in the project area is uncertain, but a conservative assessment of the general conditions indicates there is some risk. However, records described in Section 3.6, *Hydrology and Water Quality*, of the draft EIR indicate that even under maximum baseline recharge conditions, depth to groundwater beyond the boundaries of the KWB never rose above the 40-foot level. Page 3.5-5 states that subsidence resulting from groundwater overdraft occurs when excessive groundwater pumping depletes an aquifer.

Impact GEO-1 (page 3.5-7) uses the relevant information presented in the setting sections of Section 3.5, *Geology and Seismicity*, and Section 3.6, *Hydrology and Water Quality*, of the draft EIR to address the risk of liquefaction and related ground failure associated with the project as proposed.

Please also see the responses to comments A4-141 and A4-142.

3.2.4.140 Response to Comment A4-140

The comment mischaracterizes the project, maintaining that it would increase and add to KWBA's diversion and use of water, so that diversions could total a combined 947,148 AF in a year, based on the additional diversion of 500,000 AF. The project would not increase KWBA's water supply by 500,000 AF but would divert unappropriated water in approximately 18% of years, after the

existing rights of Kern River water right holders are met. The project does not seek the use of an "additional" 500,000 AFY of water. The project seeks an entitlement to divert unappropriated high flow Kern River water after existing Kern River water rights are met and only when such water is present. KWBA previously diverted this same water for recharge purposes. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision. Please see Section 3.1.1, *Project Description Master Response*, for further clarification of the project scope.

3.2.4.141 Response to Comment A4-141

The comment mischaracterizes the project as recharging an additional 500,000 AF of water into the KWB, then claims that the project, as mischaracterized, would increase the risks of liquefaction and related ground failures. As described in Chapter 2, *Project Description*, and clarified in Section 3.1.1, *Project Description Master Response*, the project would not significantly divert or recharge water into the KWB significantly beyond historical levels. Impact GEO-1 (page 3.5-7) addresses the risk of liquefaction and related ground failure associated with the project as proposed. Please see Section 3.1.1, *Project Description Master Response*, for further clarification of the amount of water proposed for diversion and recharge and the conditions under which such diversions and recharge would occur.

3.2.4.142 Response to Comment A4-142

The comment mischaracterizes the project as taking water from other entities, causing them to increase pumping, and states that the EIR does not adequately address project impacts on the risk of subsidence associated with others' increased pumping. The project would not take water held under other entities' rights and therefore would not cause those entities to increase pumping. Please see Section 3.1.1, *Project Description Master Response*, and Section 3.1.3, Hydrology Master Response, for more information on the characteristics of the project and water diversions.

3.2.4.143 Response to Comment A4-143

The comment relies on the City of Bakersfield's repeated mischaracterization of the project as an increased water supply to imply that the project would take water from other water districts' entitlements, causing impacts on the water supplies and rights of other agencies within Kern County. As stated in the draft EIR (page 2-1), the primary purpose of the Kern Water Bank is to provide water supply reliability for KWBA members, and the project is intended to increase reliability and enhance the dry-year water supply to KWBA's participating members through storage in the KWB. There would be no reduction of Kern River water held under others' rights. The project would not take water held under other entities' rights. As described in the draft EIR (page 2-6) and clarified in Section 3.1.1, *Project Description Master Response*, the project would rely entirely on high flow conditions in wet years, after other entities' water rights have been met. In addition, the project is expected to be consistent and fully comply with the federal, state, and local water supply laws and policies. Please see Section 3.1.1, *Project Description Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, for further clarification of the project water source.

3.2.4.144 Response to Comment A4-144

The comment asserts the value and scarcity of water in Kern County and mischaracterizes the scope of the project to claim that the EIR should review impacts on others' water rights and supplies in the region. As described in Chapter 2, *Project Description* (page 2-6), the project would only divert, for recharge and recovery, up to 500,000 AF of Kern River water during high flow conditions in a limited number of years and after others' water rights have been met. The project does not seek the use of an "additional" 500,000 AF of water. The project seeks an entitlement to divert unappropriated high flow Kern River water after existing Kern River water rights are met and only when such water is present. KWBA previously diverted this same water for recharge purposes. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision. There would be no reductions to rights to Kern River water held by others in the region. For a discussion of high flow water, see the response to comment A4-51. Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, clarify project and hydrologic information, and address information in the draft EIR as sufficient for the analysis of the project's impact on the environment. For further discussion of the adequacy of the project impact analysis, see the responses to comments A4-9, A4-14, A4-15, A4-26, A4-36, A4-37, and A4-39.

3.2.4.145 Response to Comment A4-145

The comment states that the EIR's description of local and regional water resources is outdated and should consider the City of Bakersfield's and Cal Water's UWMPs and the City's desire to use the same water that the project would divert.

The regulatory setting discussion in Section 3.6, *Hydrology and Water Quality*, has been updated in this final EIR to include the 2015 UWMP for KCWA Improvement District No. 4 and North of the River Municipal Water District. Please see Chapter 4, *Draft EIR Errata*, of this final EIR. Updates to other regulations related to water quality and hydrology, such as the State Water Board's emergency drought regulations, are discussed in Section 3.1.3, *Hydrology and Water Quality Master Response*. Review of the City of Bakersfield and the Cal Water Bakersfield District UWMPs indicated that the project is outside of their service areas and, as described in the project description and clarified in Section 3.1.1, *Project Description Master Response*, the project would not affect any district's existing entitlements, including those of the City. Therefore, the City of Bakersfield's and the Cal Water Bakersfield District UWMPs do not apply to the project and are not included in the EIR. Please see Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, for further clarification of project and hydrologic information.

3.2.4.146 Response to Comment A4-146

The comment states that the EIR should consider more recent UWMPs issued by ID4 and North of the River Municipal Water District, and by the City of Bakersfield and Cal Water. The regulatory setting discussion in Section 3.6, *Hydrology and Water Quality*, has been updated in this final EIR to include the KCWA Improvement District No. 4 and North of the River Municipal Water District's updated 2015 UWMP. Please see Chapter 4, *Draft EIR Errata*, of this final EIR. Updates to other regulations related to water quality and hydrology, such as the State Water Board's emergency drought regulations, are discussed in Section 3.1.3, *Hydrology and Water Quality Master Response*. Please also see the response to comment A4-145, which notes that review of the City of Bakersfield

and the Cal Water Bakersfield District UWMPs indicated that the project is outside of their service areas.

3.2.4.147 Response to Comment A4-147

The comment states that the EIR should consider Kern River water that is diverted downstream of the First Point of Measurement for delivery to water treatment plants that serve Bakersfield residents.

KWBA diverts from the Kern River at multiple diversion locations, and the capacities of these diversion points are listed on Table 3.6-9 (page 3.6-24). These diversion points are downstream of all water treatment plants. Diversion capacities associated with the project would follow the guidance set forth in the MOU, the Joint Plan, and the Long-Term Operations Plan.

3.2.4.148 Response to Comment A4-148

The comment states that, to adequately analyze project impacts, the EIR must describe the former and existing use of water proposed for diversion, including identifying where water diverted into the Intertie has previously been transferred, how it has been used, and the quantities of water diverted into the Intertie and thereafter transmitted for further use. Page 3.6-13 of the draft EIR provides further description of Intertie operations and states that "the volume of Kern River water that reached the Intertie ranged from 1,793 AF in 1997 to 664,036 AF in 1983. The number of days of Intertie operation also varies greatly, ranging from 3 days in 1986 to 283 days in 1983." Table 3.6-3, Intertie Operation and Flow from 1978 through 2012, quantifies Intertie flows for the years in which it has been operational.

The delivery of Kern River water to the Intertie increases SWP supplies to downstream SWP contractors, providing no benefits to Kern County and in opposition to the City of Bakersfield's policy that "Kern River water shall not be utilized outside the boundaries of the San Joaquin Valley Portion of Kern County."

3.2.4.149 Response to Comment A4-149

The comment notes that Bakersfield has monitored Kern River flow from 1976 to the present, and claims that the EIR relies exclusively on outdated water resource data, leading to inaccurate analyses of project impacts. The draft EIR includes data collected in 2012 by KWB, as well as more recent data (through 2017). As described in Section 3.13.3, *Baseline Conditions*, and on pages 3.6-32 through 3.6-33, of the draft EIR, the baseline conditions against which project impacts are judged reflects a range of flow conditions to most accurately represent project impacts. Please see Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, address the sufficiency of the information in the draft EIR for the analysis of the project's impact on the environment.

3.2.4.150 Response to Comment A4-150

The comment states that the EIR should consider Kern River flow data from the years since 2010. The draft EIR includes flow data collected in 2012 by KWB (Tables 3.6-1 through 3.6-3 in the draft EIR), as well as more recent hydrologic data (through 2017). As described on pages 3.6-32 and 3.6-

33 of the draft EIR, the baseline conditions against which project impacts are judged reflects a range of flow conditions to most accurately represent project impacts. Please see Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, which address the sufficiency of the information in the draft EIR for the analysis of the project's impact on the environment.

3.2.4.151 Response to Comment A4-151

The comment claims that the EIR does not consider groundwater data collected since 2012 in its impact analysis. As described on pages 3.6-32 and 3.6-33 of the draft EIR, the baseline conditions against which project impacts are judged reflects a range of conditions to most accurately represent project impacts. Please see Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, which address the sufficiency of the information in the draft EIR for the analysis of the project's impact on the environment.

3.2.4.152 Response to Comment A4-152

The comment maintains that the discussions of KWBA diversion locations in Chapter 2, *Project Description*, and Section 3.6, *Hydrology and Water Quality*, are incomplete and misleading because they do not describe the circumstances under which KWBA might use those diversion points or KWBA's right to use them. See the responses to comments A4-46 and A4-48.

3.2.4.153 Response to Comment A4-153

The comment asserts that the text on page 3.6-25 of the draft EIR is incorrect because Bakersfield, not the Kern River Watermaster, maintains Kern River flow records and operates the Kern River and all structures, canals and diversion points. The comment is correct that the Kern River Watermaster acts as a liaison between lower Kern River interests, including the City of Bakersfield and other water right holders, and the U.S. Army Corps of Engineers, which operates Isabella Dam. In that role, the Watermaster is responsible for the management of water stored within Lake Isabella and for directing releases from Isabella Dam either for water control purposes or to meet the downstream right holders' requirements (U.S. Army Corps of Engineers 2008). The comment is correct that the City maintains flow and water diversion records and operates the Kern River points of measurement, diversion points, and structures below Isabella Dam and above Second Point for the purposes of meeting the City's and other water agencies' Kern River water rights (City of Bakersfield 1975). As shown in Chapter 4, *Draft EIR Errata*, the second paragraph in the Water Diversions subsection (first paragraph on page 3.6-25 of the draft EIR) is revised to clarify the respective roles of the Watermaster and the City.

3.2.4.154 Response to Comment A4-154

The comment states that the Watermaster has no authority related to Kern River diversions or water right holders, and that the EIR's Flood Policy discussion on page 3.6-25 of the draft EIR is misleading because only the State Water Board has authority over the diversion, regulation, and use of Kern River water.

As stated on page 2-16 of the draft EIR, the State Water Board is the responsible agency for considering whether to approve permits and applications associated with implementation of the project. Moreover, the project seeks an entitlement to divert unappropriated high flow Kern River water after existing Kern River water rights are met and only when such water is present. However, based on the existing Flood Policy, and determinations made by the Watermaster, the KWB and other diverters on the river have diverted Kern River water pursuant to the Flood Policy.

3.2.4.155 Response to Comment A4-155

The comment asserts that the analysis is flawed because the EIR does not describe the amount of water acquired and used by KWBA's members. As stated on pages 2-13 through 2-15 of the draft EIR and reiterated in Section 3.1.1, *Project Description Master Response*, banked water would be recovered in the same manner and under the same circumstances as historical recovery of banked water from the KWB, at the request of KWBA's participating members and subject to the conditions specified in the KWB MOU (Appendix B) and the Joint Plan (Appendix F) of the draft EIR. The KWB has previously diverted this same water for recharge purposes. Further, as stated in the draft EIR (pages 2-7 through 2-10 and Figures 2-5 and 2-6) and clarified in Section 3.1.1, *Project Description Master Response*, the project would not change the purpose, annual quantity, or POU of recovered KWB water. Discussion of actual water use within the KWBA participating members' POUs is therefore irrelevant to the EIR analysis.

3.2.4.156 Response to Comment A4-156

The comment claims that the EIR does not analyze project impacts on the Kern River, including Kern River flows, the environment in and around the Kern River, the aquifer, or patterns of diversion and use of Kern River water.

The draft EIR discusses changes to the existing environmental conditions and the project's impacts on the environment and underlying aquifer throughout Section 3.6.2.3, *Impacts and Mitigation Measures*, of the draft EIR. Discussion related to flow and diversions is provided under Impact HYDRO-1 (page 3.6-35). The potential for alteration of the existing drainage pattern and river flows is discussed under Impact HYDRO-3 and Impact HYDRO-4 (pages 3.6-37 through 3.6-39). The frequency of future KWBA high flow Kern River water diversions would be similar to what has been diverted during the 1995 to 2011 period. Records show that between 1995 and 2011, flood flows were available for diversion only 18% of the time (i.e., in 3 years, all of which were wet water year types). Groundwater levels and supplies are discussed under Impacts HYDRO-2 and HYDRO-2a (pages 3.6-36 through 3.6-37). An overview of the 2015 quantitative assessment conducted by DWR of the effects of KWB activities on groundwater resources in the Kern County Subbasin using the DWR KWB Model is discussed on pages 3.6-31 through 3.6-32.

3.2.4.157 Response to Comment A4-157

The comment states that the EIR does not discuss or analyze project impacts on the quantity and timing of Kern River flows. On the contrary, discussions related to flow are provided under Impact HYDRO-1, Impact HYDRO-3, and Impact HYDRO-4 (pages 3.6-35 through 3.6-39). As described in the analysis of Impact HYDRO-1 (page 3.6-35), the frequency of future KWBA diversions would generally be comparable to historical diversion frequency. Records show that between 1995 and

2011, such flows were available for diversion only 18% of the time (i.e., in 3 years, all of which were wet water year types). The specific quantity of water available for diversion to the KWB in any given year would depend on annual and seasonal hydrologic and climatologic conditions. See also response to comment A4-80 for further discussion of the EIR's description of Kern River flows.

3.2.4.158 Response to Comment A4-158

The comment broadly claims that the EIR does not consider project impacts on plant and animal life in and around the Kern River. Please see Impacts BIO-1, BIO-2, BIO-3, BIO-4, BIO-5, and BIO-6, which address project impacts on biological resources in and around the Kern River.

3.2.4.159 Response to Comment A4-159

The comment states that the EIR does not analyze project impacts on groundwater recharge and supplies in and around the Kern River. The impacts associated with depleting groundwater supplies and groundwater recharge within the project area are discussed under Impact HYDRO-2 and HYDRO-2a (pages 3.6-36 through 3.6-37). The project would add to groundwater supplies and increase the quantity and quality of water available for storage within the KWB through the appropriation of available Kern River flood water and, thus, the project would beneficially add to groundwater supplies and recharge. Recharging this water would raise the local groundwater table level and result in a net increase in aquifer volume. Recovery operations for the project as compared to Baseline Condition 2 would not change, other than to allow the KWB to continue to recover water (within historical levels) in multi-dry years

3.2.4.160 Response to Comment A4-160

The comment cites CEQA case law regarding water supply analysis and asserts that the EIR fails to discuss the project's impact on the Kern River. Impacts related to surface and groundwater supplies are discussed under impacts HYDRO-1 (page 3.5-35) and HYDRO-2 (page 3.6-36), respectively. The historical record and the water availability analysis (Appendix L) show that unappropriated water in the quantity sought by the project exists. As defined in Chapter 2, *Project Description*, and clarified in Section 3.1.1, *Project Description Master Response*, the project would only divert available unappropriated Kern River water after the rights of senior water right holders are met and would not divert flows in normal or dry years when surplus flows are not available. KWBA has previously diverted this same water for recharge purposes. In addition, the project would add to groundwater supplies and increase the quantity and quality of water available for storage within the KWB through the appropriation of available high flow Kern River water, beneficially adding to groundwater supplies.

3.2.4.161 Response to Comment A4-161

The comment claims that the EIR does not analyze the project's impacts on the City of Bakersfield or adequately describe the City's water rights, diversion and use of water, or proposed future use of water. The project does not propose to take water from other entities, including the City of Bakersfield, or compete with other applications for Kern River water. As described in Chapter 2, *Project Description*, and clarified in Section 3.1.1, *Project Description Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, the project would divert unappropriated water

that would only be available under specific hydrologic and climatologic circumstances in a limited number of wet years. Once banked, this water would be recovered at the same rate, using existing facilities and operating provisions, for use by the same entities in the same locations as has historically occurred. The project would therefore have no effect on the City's water rights, diversion and use of water, or proposed future use of water.

3.2.4.162 Response to Comment A4-162

The comment states that the EIR does not describe baseline conditions, including the City's water rights, within Bakersfield. As described in the draft EIR (pages 2-1, 2-8, 2-14, 3.6-37, and 3.6-38) and Section 3.1.1, *Project Description Master Response*, the project would not take water held under others' rights or increase water availability to users, but would bank water from rare high flow conditions to increase water reliability over extended dry periods for existing users. KWBA previously diverted this same water for recharge purposes. The water would continue to be recovered at the same rate, and would continue to be used by the same entities in the same locations as has historically occurred (see draft EIR pages 2-9 and 2-10 and Section 3.1.1, *Project Description Master Response*). Because the project would not take water from the City, the City's baseline conditions and water rights are irrelevant to the project analysis.

See the responses to comments A4-7 and A4-80 for further discussion of baseline conditions and the responses to comments A4-65, A4-68, and A4-84 for water rights discussions.

3.2.4.163 Response to Comment A4-163

The comment asserts that the EIR should discuss the rights to and the use of Kern River water by other entities. As described in the draft EIR (pages 2-1, 2-8, 2-14, 3.6-37, 3.6-38) and Section 3.1.1, *Project Description Master Response*, the project would not take water from other parties. The project seeks a Water Board permit for unappropriated high flow Kern River water after existing water rights, including water rights held by the commenter, are met. The project does not take water held under other entities' rights, and KWBA would only divert available surplus Kern River water during high flow conditions. The quantity of water available for diversion to the KWB and use by KWBA participating members in any given year would depend on annual and seasonal hydrologic and climatologic conditions. See the responses to comments A4-65, A4-68, A4-84, and A4-187 for additional water rights discussions.

3.2.4.164 Response to Comment A4-164

The comment claims that the project would use City of Bakersfield water supplies and would impact the City's water supply and operation of the 2,800-acre recharge facility. See the response to comment A4-36, which describes groundwater modeling that assessed the effects of KWB activities on groundwater resources in the Kern County Subbasin.

3.2.4.165 Response to Comment A4-165

The comment states that the groundwater quality discussion on page 3.6-19 of the draft EIR is inadequate and should consider water quality in and near the Kern River channel and all areas that the project would affect. As indicated on the cited page, Kern River water typically has lower TDS

levels compared to both groundwater and SWP water sources, and wetter water years, such as those during which the project recharge activities would take place, exhibit better water quality than drier years.

Groundwater quality impacts are discussed in the draft EIR under Impacts HYDRO-2 (page 3.6-36) and HYDRO-5 (page 3.6-39). Recharging Kern River water under the project would have no negative impact on groundwater quality and ultimately would improve groundwater quality. Please see Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, which clarify hydrologic and project information, and address information in the draft EIR as sufficient for the analysis of the project's impact on the environment.

3.2.4.166 Response to Comment A4-166

The comment claims that the EIR's description of baseline water quality is inaccurate because some of the City's wells near the Kern River show evidence of contamination by arsenic, 1,2,3-TCP and other constituents. The following statement has been added to the Groundwater Quality section on page 3.6-19 of the draft EIR: "Some of Bakersfield's drinking water wells in the vicinity of the Kern River are contaminated with arsenic, 1,2,3-TCP and other constituents." The addition of this information does not alter the results of the EIR analysis.

3.2.4.167 Response to Comment A4-167

The comment mischaracterizes the project as a loss and transfer of up to 500,000 AF of Kern River water, and asserts that the project would impact regional groundwater quality. The project would not take water or transfer water from any other entities. The project seeks an entitlement to divert unappropriated high flow Kern River water after existing Kern River water rights are met and only when such surplus water is present. KWBA previously diverted this same water for recharge purposes. As stated in the responses to comments A4-13, A4-14, and A4-93, and throughout the draft EIR (pages 2-13 through 2-15, 3.2-14 through 3.2-15, 3.3-23 through 3.3-24, 3.4-15, and 3.5-7, 3.6-36 through 3.6-37), recovery rates are not expected to exceed the baseline condition and the project would not recover more groundwater than has been recharged. Impacts HYDRO-2 and HYDRO-2a in Section 3.6, *Hydrology and Water Quality*, indicate that, under KWBA's existing operational commitments and extensive groundwater monitoring program, project operation would not result in a deficit in aquifer volume or a chronic lowering of the groundwater table levels that would result in potential adverse impacts. Impact HYDRO-5 shows that the project would not result in negative impacts on groundwater quality. Refer also to Section 3.1.3, *Hydrology and Water Quality Master Response*, for further clarification of groundwater and water supply impacts.

Please also see Section 3.1.1, *Project Description Master Response*, which clarifies the quantity, timing, and source of available water for the project. For additional discussion related to groundwater conditions and impacts, see the response to comment A4-36.

3.2.4.168 Response to Comment A4-168

The comment mischaracterizes the project and claims that the project would take others' water, reducing their ability to recharge, and lead to increased concentrations of contaminants in groundwater within Kern County. The project does not take water held under other entities' rights (including any beneficial uses). The project seeks an entitlement to divert unappropriated high flow

Kern River water after existing Kern River water rights are met and only when such water is present. KWBA previously diverted this same water for recharge purposes. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision. In addition, there will be no reduction or changes to the uses of Kern River water by others in the region. As stated on draft EIR page 3.6-39, one of the greatest groundwater quality problems in the basin is the acceleration of salts accumulation. KWB operations would actually result in a net reduction of salts in the Kern Fan aquifer due to the export of salts during recovery operations. The proposed appropriation would have no negative impact on groundwater quality. Recharging Kern River water under the project compared to either Baseline Condition 1 or 2 would ultimately improve groundwater quality.

3.2.4.169 Response to Comment A4-169

The comment relies on mischaracterization of the project to claim that the project could affect groundwater and contaminant migration by changing water levels and causing other entities to increase pumping to compensate for alleged losses of water to the project.

The project does not take water held under other entities' rights. The project seeks an entitlement to unappropriated high flow Kern River water after existing Kern River water rights are met and only when such water is present. KWBA previously diverted this same water for recharge purposes. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision. The EIR includes an overview of the DWR KWB Model simulated response of the groundwater aquifer to stresses such as groundwater recharge and pumping by predicting groundwater elevations. As stated on page 3.6-32, with consideration of future operations, groundwater levels would be higher over significant areas outside of KWB lands for virtually the entire period as a result of project operations (2015–2035). These areas of positive benefits extended as much as 5.5 miles away from KWB lands. The areas where groundwater levels were lower as a result of project operations were much more limited and reflected temporary changes at the end of significant recovery operations. Further, the project would not recover more groundwater than has been recharged. Groundwater quality and contaminants were discussed under Impact HYDRO-5 (page 3.6-39).

3.2.4.170 Response to Comment A4-170

The comment relies on mischaracterization of the project to claim that the project could result in increased pumping, thereby increasing groundwater contaminant concentrations. As described in Chapter 2, *Project Description*, and clarified in Section 3.1.1, *Project Description Master Response*, the project would not divert or recharge water into the KWB significantly beyond historical levels. There would be no increased pumping.

As stated on page 3.6-39 of the draft EIR, diversion of the full amount in very wet years would not alter the chemistry or quality of the Kern River surface water, which would occur under both baseline conditions. KWB operations would result in a net reduction of salts in the Kern Fan aquifer due to the export of salts during recovery operations. Recharging Kern River water under the project compared to either Baseline Condition 1 or 2 would improve groundwater quality. The preferential recharge of Kern River water over SWP water would also provide a groundwater quality benefit, as Kern River water is of better quality than SWP water.

3.2.4.171 Response to Comment A4-171

The comment mischaracterizes the project as a new, increased, and changed use of water to claim that it would have significant impacts on local groundwater resources. As discussed on page 3.6-35 of the draft EIR, the project would only divert and recharge, for later recovery, up to 500,000 AFY of unappropriated Kern River water, which is likely to occur in only 18% of water years. Therefore, diversion and recharge would occur only during wet water years. The project seeks an entitlement to divert unappropriated high flow Kern River after existing Kern River water rights are met and only when such water is present. KWBA previously diverted this same water for recharge purposes. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision. As a result, there will be no reduction or changes to the uses of Kern River water by others in the region.

To minimize potential impacts related to overdraft within the Kern County Subbasin, project operation would be in compliance with SGMA, local GMPs, and the 2015 UWMP (Improvement District No. 4 of the Kern County Water Agency and North of the River Municipal Water District).

3.2.4.172 Response to Comment A4-172

The comment mischaracterizes the project as taking Kern River water from other Kern County entities, significantly impacting their water supplies and resulting in increased pumping and associated impacts on groundwater as those entities compensate for the hypothetical loss of that water. The project would not take water held under entities' rights. As described in draft EIR Chapter 2, *Project Description*, and further clarified in Section 3.1.1, *Project Description Master Response*, it would rely entirely on unappropriated, high flow conditions after the other entities' water rights have been met.

Section 2.2.2.2, *Recovery*, states (page 2-14) that a joint committee regularly monitors potential groundwater level impacts of banking project recovery operations on neighboring agricultural and domestic wells based on groundwater modeling and specified triggers for potential mitigation actions. Significant impacts are avoided, eliminated, or mitigated by implementing one or more corrective actions, including investigation of any claims and pump lowering, well replacement, and/or reduction or adjustment of banking project recovery operations, as appropriate. As also stated on page 2-14 of the draft EIR, the project does not propose to alter or otherwise increase annual recovery operations above historical levels.

3.2.4.173 Response to Comment A4-173

The comment relies on the mischaracterization of the project to claim that the project would impact the City of Bakersfield's water supply by making project water unavailable to the City and causing the City to pump more groundwater, lowering groundwater levels. As noted in the project description (page 2-6), the project seeks an entitlement to divert unappropriated high flow Kern River water after existing Kern River water rights are met and only when such water is present. The KWB previously diverted this same water for recharge purposes. As demonstrated in the water availability analysis (Appendix L) and the hydrology and water quality impact analysis (Section 3.6), the project would not take water from other entities, including the City of Bakersfield. It would rely entirely on unappropriated, high flow conditions after the other entities' water rights have been met. Please see Section 3.1.1, *Project Description Master Response*, which clarifies the quantity,

timing, and source of available water for the project. Please also see the responses to comments A4-4, A4-14, A4-42, and A4-181.

3.2.4.174 Response to Comment A4-174

The comment relies on the mischaracterization of the project as taking water from Bakersfield and other entities to claim that the EIR does not analyze the project's secondary, indirect impacts on groundwater resources.

Indirect impacts associated with the project were analyzed in the draft EIR. For example, Impact HYDRO-2a, on page 3.6-37 of the draft EIR discusses the impacts related to groundwater levels substantially impact existing infrastructure such as the CVC. As described in Impact HYDRO-2a, extremely shallow groundwater conditions could potentially impact the CVC by placing hydraulic pressure and cause piping behind the canals panels resulting in panel failure. However, KCWA and KWBA have entered into an agreement to monitor shallow groundwater conditions and conduct several proactive measures to prevent damage to the CVC. KWBA would also minimize recharge adjacent to the CVC (see Appendix M) to reduce potential impacts.

Project operation would be in compliance with SGMA, local GMPs, and the 2015 UWMP for Improvement District No. 4 of the Kern County Water Agency and North of the River Municipal Water District. Further, the project would not take water held under other entities' Kern River water rights. It would rely entirely on unappropriated, high flow conditions after the other entities' Kern River water rights have been met.

3.2.4.175 Response to Comment A4-175

The comment claims that the EIR does not support the analysis of groundwater impacts with facts or data. The comment further claims that the project would have adverse impacts on groundwater resources rather than the benefits described in the draft EIR.

The EIR analysis includes an overview of a quantitative assessment conducted by DWR of the effects of KWB activities on groundwater resources in the Kern County Subbasin using the DWR KWB Model, as discussed on pages 3.6-31 through 3.6-32. The DWR KWB Model simulated response of the groundwater aquifer to stresses such as groundwater recharge and pumping by predicting groundwater elevations. The DWR KWB Model evaluation considered both past (1995–2014) and future operations (2015–2035) by comparing actual historic water levels that reflect project operations and predicted future water levels that reflect project operations to those levels predicted had the project never operated. Please see Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, which address information presented in the draft EIR as sufficient for the analysis of the project's impact on the environment.

3.2.4.176 Response to Comment A4-176

The comment relies on the mischaracterization of the project to assert that the EIR's groundwater impact analysis understates the project's recovery impacts on groundwater resources. KWB maximum recovery rates are not proposed or expected to increase over actual historical baseline recovery operations in any given year. The KWB previously diverted this same water for recharge purposes and, under the project, the water would continue to be recovered at the same rate, using

existing facilities and operating provisions, and would continue to be used by the same entities in the same locations as has historically occurred (see draft EIR pages 2-9 and 2-10 and Section 3.1.1, *Project Description Master Response*).

Impacts on groundwater supplies were evaluated based on the DWR KWB Model, which simulated response of the groundwater aquifer to stresses such as groundwater recharge and pumping, as discussed on pages 3.6-31 through 3.6-32. The DWR KWB Model evaluation considered both past (1995–2014) and future operations (2015–2035). With respect to past operations, the evaluation indicates that groundwater levels were higher over significant areas outside of KWB lands for the entire period as a result of project operations (1995–2014). With respect to future operations (under both current conditions and after additional buildout), the evaluation indicates that groundwater levels will be higher over significant areas outside of KWB lands for virtually the entire period as a result of project operations (2015–2035).

3.2.4.177 Response to Comment A4-177

The comment states that the EIR provides an inaccurate, incomplete description of groundwater conditions in the KWB and the region, and does not accurately describe current groundwater conditions reflecting the recent drought, making impacts on groundwater resources "impossible to determine."

Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, clarify project and hydrologic information, and address information in the draft EIR as sufficient for the analysis of the project's impact on the environment. Groundwater conditions, including the results of groundwater modeling that assessed the effects of KWB activities on groundwater resources in the Kern County Subbasin, are discussed on pages 3.6-16 through 3.6-19, and 3.6-31 through 3.6-32 of the draft EIR and in the response to comment A4-176.

3.2.4.178 Response to Comment A4-178

The comment claims that the EIR ignores the Kern County Subbasin's state of critical overdraft. As stated on draft EIR page 5-9, portions of the Tulare Lake Basin have been subjected to long-term groundwater overdraft. In addition, as noted on page 3.6-6 of the draft EIR, DWR has designated the Kern County Subbasin as a high priority basin. SGMA requires all Bulletin 118 basins designated as medium or high priority and critically overdrafted to be managed under a groundwater sustainability plan (GSP). SGMA is described at length on pages 3.6-5 through 3.6-7 of the draft EIR. As of June 30, 2017, eleven local agencies have submitted GSA formation notices for the Kern County Subbasin.

3.2.4.179 Response to Comment A4-179

The comment states that the description of current storage does not address groundwater migration or others' increased pumping associated with the recent drought.

KWBA participating members have historically maintained a significant surplus groundwater balance. KWBA's pre-existing operational commitments and extensive groundwater monitoring program would ensure that banking additional water would maintain a net surplus and would not result in a deficit in aquifer volume or a chronic lowering of the groundwater table levels. Recovery

operations are subject to the conditions specified in the KWB MOU (described in Section 2.2.3.1 and provided in Appendix B). Project operations would be consistent with the KWBA MOU and the Long-Term Operations Plan.

The more reliable supply of stored water afforded by the project would provide valuable supplemental irrigation supplies during droughts and thereby potentially reduce pumping of native groundwater in KWBA members' service areas. As stated on page 3.6-36, the project would not recover more groundwater than has been recharged. In addition, measures prescribed in the KWB MOU to protect water levels include adjusting pumping rates or terminate pumping to reduce impacts, if necessary. See also the response to comment A4-177.

3.2.4.180 Response to Comment A4-180

The comment implies that the EIR makes false claims about KWBA members' groundwater balance, stating that the subbasin's overdraft status precludes this possibility. The statement refers to the KWB storage balance of approximately 910,000 AF of previously recharged water, not the determination by the California DWR that the larger Kern County Subbasin is in a condition of critical overdraft. KWBA members' storage balance is based on the amount of water recharged into the KWB minus appropriate losses as prescribed in the KWB MOU and recovery volumes. The balances are determined by the Kern County Water Agency and documented in the Operations Reports prepared by the Kern Fan Monitoring Committee. Surface water banked underground, such as 910,000 AF of water previously recharged by KWBA, are not subject to the native groundwater priority system.[46] In this manner, KWBA as the surface water appropriator maintains the right to utilize the stored water above all other users notwithstanding basin conditions related to native groundwater.

3.2.4.181 Response to Comment A4-181

The comment states that the EIR does not describe existing and past groundwater levels in and near the KWB, the timing and extent of KWBA's and nearby pumping, or subsidence, water quality issues, or well depths. Please refer to draft EIR pages 3.6-17 through 3.6-19 and Figures 3.6-8 and 3.6-9 for information on groundwater levels and conditions. Chapter 4, *Draft EIR Errata*, includes two additional hydrographs, Figures 3.6-8a and 3.6-9a, showing more recent groundwater levels as of September 2018. Inclusion of these figures does not affect the EIR analysis in any way. The hydrographs quantify groundwater levels and show the pattern, timing, and extent of both recharge and pumping activities over time, demonstrating that the groundwater levels fluctuate upward under wet conditions in response to recharge and downward during extended dry periods, such as the recent drought. As described in the response to comment A4-142, the project would not cause increased groundwater pumping and therefore would not cause land subsidence.

[46] Slater, *California Water Law and Policy*, Ch. 7: Foreign, Developed, and Salvaged Water, page 7.01 (citing Gould and Grant, *Cases and Materials on Water Law*, Sixth Edition, at 89 "A right to store water is subject to the priority system, but the right to stored water is independent of the priority system.").

3.2.4.182 Response to Comment A4-182

The comment asserts that the EIR relies on an assumption of groundwater availability equal to groundwater recharge, rather than accounting for losses to groundwater migration and other entities' pumping, and claims that recovery of project water would therefore negatively impact groundwater in the basin. Water diversions by KWB for groundwater recharge would occur during wet water year types, with recovery of water primarily during dry or multi-dry years. As stated on page 3.6-36 of the draft EIR, the project would not recover more groundwater than has been recharged. KWBA's existing operational commitments and extensive groundwater monitoring program would ensure that banking additional water would maintain a net surplus and would not result in a deficit in aquifer volume. Recovery operations are subject to the conditions specified in the KWB MOU, which provides for losses resulting from recharge operations, and would be consistent with the Long-Term KWB Operations Plan, which sets further parameters on long-term banking operations, governs recovery, and is protective of the groundwater basin. As such, and as stated on pages 2-13 through 2-15 of the draft EIR, recovery of banked water would occur in the same manner and under the same circumstances as historical recovery of banked water from the KWB, and subject to the conditions specified in the Joint Plan.

3.2.4.183 Response to Comment A4-183

In comments A4-18, A4-37, A4-183, and A4-260, the City of Bakersfield (Bakersfield) raises generally its concerns with prior litigation against the California Department of Water Resources (DWR) that challenged the Monterey Amendment and subsequent Monterey Plus EIR, along with the 2014 trial court ruling that found DWR failed to comply with CEQA in its decision to transfer the KWB to KWBA. (See R*osedale-Rio Bravo Water Storage District v. California Department of Water Resources* (*Rosedale*) and *Central Delta Water Agency v. California Department of Water Resources* (*Central Delta*), Sacramento Co. Sup. Ct. Case Nos. 34-2010-80000703 and 34-2010-80000561.) Bakersfield claims those previous proceedings and the current project EIR amount to an effort by KWBA to avoid CEQA review for its overall water banking project, and that the current EIR is similarly deficient. Bakersfield also notes that KWBA's pumping and recovery of water from storage is subject to a number of restrictions and limitations as a result of the Monterey Plus EIR and related litigation which—according to Bakersfield—reveals that past operation of the KWB caused adverse and negative impacts on the environment. Lastly, without identifying a specific deficiency in this EIR's treatment of the project's possible physical environmental impacts, Bakersfield asserts that the project EIR must identify and discuss known areas of controversy, including this recent litigation against DWR as it relates to operation of the KWB.

Contrary to the comments, the project EIR identifies DWR's Monterey Plus EIR and the prior litigation, as well as the operations plans now in place that govern KWBA's operation of the KWB (including limits on the recovery of water from storage) (see draft EIR Section 2.1.1, *Project Background*) The Monterey Plus EIR, however, addresses existing and previous uses and operations of the KWB that, to the extent not already part of baseline operations (see Section 3.1.1, *Project Description Master Response*, and Section 3.1.2, *Baseline Master Response*), are distinct from the appropriation of Kern River water that is the subject of this EIR. Nevertheless, for clarity, this response provides further background on the Monterey Plus litigation.

The history of litigation relating to the Monterey Amendment dates back to 1994, when representatives of DWR and some of the SWP contractors executed a statement of principles in Monterey, California, known as the "Monterey Agreement." The Monterey Agreement was the basis for subsequent modifications to the SWP long-term water supply contracts in what was termed the "Monterey Amendment." In addition to numerous changes in SWP water supply contracts (including allocations of surplus water and permanent water transfers), the Monterey Amendment committed DWR to transfer the Kern Fan Element property, consisting of about 20,000 acres in Kern County, to the KCWA for potential development of a locally owned and operated water bank. DWR in 1996 transferred the Kern Fan Element to the KCWA. KCWA in turn transferred the property to KWBA, which was formed by KWBA's member entities, KCWA on behalf of its Improvement District No. 4, and other SWP contractors, including Dudley Ridge Water District, Semitropic Water Storage District, Tejon-Castac Water District, Westside Mutual Water Company, and Wheeler-Ridge Maricopa Water Storage District. KWBA subsequently developed and constructed the KWB on the former Kern Fan Element property, which property became known as the KWB Lands. In *Planning and Conservation League v. Department of Water Resources* (*PCL v. DWR*), the Monterey Agreement EIR was thereafter challenged and ultimately decertified by the Third Appellate District on the grounds that DWR should have been the lead agency and that the EIR was, in part, inadequate.

The parties to that original Monterey Amendment litigation (*PCL v. DWR*) entered a court-approved settlement in 2003, whereby DWR agreed to prepare a new EIR for the Monterey Amendment "plus" certain other provisions of the settlement agreement (Monterey Plus). Among other elements, the settlement agreement confirmed KWBA shall retain title to the KWB Lands, added certain restrictions on the use of the KWB Lands, and required DWR to prepare an independent study regarding certain impacts of the KWB. The 2010 Monterey Plus EIR was challenged in two separate cases and, after it upheld the majority of the EIR, the trial court issued a ruling and 2014 Writ that DWR was required to further revise the 2010 EIR to include a description and analysis of the development, use, and operation of the KWB.

In response to the trial court's 2014 Writ, DWR in 2016 prepared and certified the Monterey Plus REIR, which focused on impacts of the KWB. That REIR included and analyzed a new Long-Term Project Recovery Operations Plan that further governs and restricts recovery operations, and made clear that the KWB provides a supplemental back-up water supply to KWBA members for use principally during droughts. The REIR also confirmed that the KWB is only one of multiple sources of water to KWBA members. The REIR found crop conversion in the KWB service area would have occurred with or without the KWB for several reasons, including world commodity prices and other factors driving crop conversion, a local, regional and statewide shift that began before the Monterey Amendment, and concluded that the KWB did not directly or indirectly cause conversion to permanent crops. The REIR nonetheless analyzed the potential environmental impacts caused by crop conversion form annually to permanent crops. As noted in the response to comment A4-18, the City did not acknowledge this document in its comments.

The Central Delta petitioners did not challenge DWR's return to the 2014 Writ in the Central Delta case, nor did the Rosedale petitioners, which consented to discharge of the writ. Rather, a new lawsuit was filed by some of the Central Delta petitioners and the Center for Food Safety challenging the adequacy of the REIR—*Center for Food Safety v. DWR*, Sacramento Co. Case No. 34-2016-80002649. The 2014 Writ was ultimately discharged and, on October 2, 2017, the trial court denied the new petition in its entirety. Among other conclusions, the trial court found in its lengthy decision that:

- The terms of the writ and Public Resources Code section 21168.9 precluded Central Delta Water Agency from re-litigating CEQA issues already decided;
- Substantial evidence supported the 2016 REIR evaluation and findings regarding the impacts of the KWB on crop conversion; and
- The Final REIR adequately responded to public comments regarding the impacts of "hardening of demand."

The Center for Food Safety case is now on appeal to the Third Appellate District, consolidated with the Central Delta appeal for argument, with a ruling possible sometime in 2019. Regardless of the outcome of those appeals, the underlying operation of the KWB is not at issue in the instant project EIR. The KWB has now been operational for over 20 years, with actual historical operations serving as the baseline for analysis in this project EIR. The water rights application pending before the State Water Board is a distinct and independent project, which is not expected to change the underlying operations of the KWB in any way. Indeed, the amount of water that the permit application is expected to yield is a minute fraction of the multiple water sources that currently supply the KWB and its member agencies. Furthermore, the Monterey Plus REIR and all restrictions and provisions governing KWB operations have been put in place—including the Long-Term Project Recovery Operations Plan—are now part of baseline project operations. These baseline operational controls, including long-term environmental permits and operations plan and other mitigation measures imposed under the REIR, will help protect the underlying aquifer, neighboring groundwater wells, and other elements of the regional environment.

3.2.4.184 Response to Comment A4-184

The comment notes that the Joint Plan requires KWBA to monitor impacts on neighboring wells and properties, and claims that the EIR does not address such impacts. Please see the responses to comments A4-175 and A4-183 for a discussion of well monitoring by KWBA.

3.2.4.185 Response to Comment A4-185

The comment asserts that the agreement between KWBA and KCWA regarding the CVC, described on page 3.6-37 of the draft EIR, shows that the project would have significant impacts on raised groundwater levels that the EIR should address.

The comment as stated is nonsensical. The project will help to raise groundwater levels, which is a benefit in an overdrafted basin, as asserted in the City's DEIR. The Cross Valley Canal agreement ensures that extremely shallow groundwater conditions do not impact the canal's lining. As stated in the operating guidelines, during shallow groundwater conditions for the CVC (Appendix M), the frequency of groundwater monitoring will vary as groundwater levels change. During periods of adjacent recharge, depth to groundwater greater than 20 feet is monitored monthly, and depth to groundwater less than 20 feet is monitored weekly. However, during periods with no recharge, monitoring is conducted weekly until depth to groundwater is greater than 20 feet, after which monitoring is conducted semi-annually. The agreement ensures impacts on the CVC are avoided.

The DWR KWB Model discussed on pages 3.6-31 and 3.6-32 also considered shallow groundwater conditions that may result from future operations (from 2015 to 2035) under both current and buildout conditions. The report concludes that groundwater conditions will not be shallow enough

to affect infrastructure in areas adjacent to the KWB (see page 130, Table 3.3-7 and page 156 Table 3.4-7).

3.2.4.186 Response to Comment A4-186

The comment states that the map and text describing Kern County water banking projects (draft EIR pages 3.6-19 and 3.6-20) should describe the City of Bakersfield's recharge efforts through flow regulation within the Kern River channel, and asserts that the City's efforts have resulted in the City's ownership of significant groundwater supplies. The City of Bakersfield's 2,800-acre recharge facility is discussed and considered in the hydrology and water quality analysis in Section 3.6, *Hydrology and Water Quality* (pages 3.6-10, 3.6-19, and 3.6-26). In addition, Table 5-1 (page 5-5) identifies water resources projects that would contribute to the cumulative condition. City of Bakersfield projects include Water Right Application 31674, the 2,800-acre Groundwater Recharge Project, the Kern River Channel Maintenance Project, and the Kern River Flow and Municipal Water Program.

3.2.4.187 Response to Comment A4-187

The comment relies on the mischaracterization of the project as taking others' water supplies to claim that the EIR inadequately describes available Kern County water supplies and does not analyze the project's impacts on Kern River water right holders, and others' water supplies. Unappropriated water would be diverted after other entities' water senior rights have been met. Pages 6 through 11 of the water availability analysis (Appendix L) describes the rights of other entities to Kern River water, and the quantities and stated uses of that water. In addition, Table 3 of Appendix L (page 8) lists the entities and water districts and details of their recharge and spreading projects that have filed for Appropriative Water Rights for use of Kern River water. A broad description of the Kern River water appropriation and delivery process is also provided on draft EIR pages 3.6-10 through 3.6-13, as well as in the water availability analysis (Appendix L). Existing water rights are further discussed under comment response A4-3 and A4-65. However, because the project proposes to replace a portion of its existing recharge and recovery supply with water diverted directly from the Kern River, and would not take or otherwise affect the entitlements of other water right holders, a detailed description of existing water rights held by KWBA members and other entities is not relevant or necessary to the CEQA analysis of this project. Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, clarify project and hydrologic information, and address information in the draft EIR as sufficient for the analysis of the project's impact on the environment.

3.2.4.188 Response to Comment A4-188

The comment relies on mischaracterization of the project as providing an increased water supply to claim that the EIR should identify the amount and sources of water in KWBA member service areas, and that it does not address impacts associated with increased water availability in KWBA member districts' POUs.

As described in the draft EIR, the project would not increase water availability in KWBA members' POUs, but would increase water reliability for KWBA's participating members during extended dry years (see pages 2-1, 2-8, 2-11, and 2-14). Further, as described on pages 2-6 and 2-14 of the draft

EIR and reiterated in Section 3.1.1, *Project Description Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, KWB would continue to recover banked water using existing facilities and does not propose to alter or otherwise increase annual recovery operations above historical levels.

As described in the draft EIR (pages 2-7, 2-10, 2-11, and 2-17), the beneficial use of project water includes local municipal and irrigation needs. There will be no reduction or changes to the uses of Kern River water by others in the region. Current sources of water include diversions from Lake Isabella flood releases or the Kern River, during wet water year types only. The specific quantity of water available for diversion to the KWB in any given year would depend on annual and seasonal hydrologic and climatologic conditions. Therefore, the project would only divert up to 500,000 AFY of unappropriated Kern River water, during high flow conditions, as discussed on page 3.6-35 of the draft EIR.

3.2.4.189 Response to Comment A4-189

The comment states that the EIR should quantify, identify, and review water use by all Kern River rights holders to analyze project impacts on their water supplies. Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, clarify project and hydrologic information, and address information in the draft EIR as sufficient for the analysis of the project's impact on the environment. The Kern River Watermaster has implemented a Policy Re-Utilization of Isabella Lake Reservoir Flood Releases (Flood Policy). The Flood Policy has been implemented pursuant to the agreement and consent of other water right holders on the Kern River. A broad description of the Kern River water appropriation and delivery process is also provided on draft EIR pages 3.6-10 through 3.6-13, as well as in the water availability analysis (Appendix L). Water rights are further discussed under comment response A4-3 and A4-65. However, because the project would not take or otherwise affect the entitlements of other water right holders, a detailed description of existing water rights held by KWBA participating members and other entities is not relevant or necessary to the CEQA analysis of this project.

3.2.4.190 Response to Comment A4-190

The comment mischaracterizes the scope of the project as a new water supply for KWBA member service areas, and asserts that the EIR should analyze impacts on other entities' water supplies even if the project would not take water from them. The project would increase water reliability over periods of extended dry conditions. As defined in the project description and clarified in Section 3.1.1, *Project Description Master Response*, the project would divert high flow water in approximately 18% of years, after the rights of senior Kern River water right holders are met and only when such surplus water is present. The KWB previously diverted this same water for recharge purposes. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision. Recovery of stored water, which would be diverted by KWB for groundwater recharge during wet water year types, would occur primarily in dry or multi-dry years, under the same conditions as existing recovery operations. Therefore, there would be no loss of entitled water by other water districts with Kern River rights, and no impacts, including secondary impacts, on local water supplies or on the availability and use of local water supplies. Please also refer to Section 3.1.1, *Project Description Master Response*, and Section, 3.1.3, *Hydrology and Water Quality Master Response*, for further clarification of the nature of the project's water supply.

3.2.4.191 Response to Comment A4-191

The comment claims that the EIR's hydrology and water quality analysis is deficient because it considers impacts on the Buena Vista Water Storage District but not on Bakersfield, Kern Delta, or Kern County Water Agency.

The discussion on pages 3.6-28 and 3.6-29 of the draft EIR provides a description of the use of the Kern River channel beyond the Second Point of Measurement in wet years by a senior right holder, not an analysis of potential impacts on that right holder. As emphasized in the responses to numerous other and further clarified in Section 3.1.1, *Project Description Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, the project will not reduce deliveries of Kern River water to senior right holders.[47] Therefore, there would be no loss of entitled water and no related impacts on those senior Kern River water right holders.

3.2.4.192 Response to Comment A4-192

The comment states that the EIR should analyze project impacts on other entities that regularly use Kern River water pursuant to various agreements, including North Kern and Rosedale. The City of Bakersfield provides Kern River water to both North Kern and Rosedale under long-standing agreements, which provide water to both entities from the City of Bakersfield's first-point Kern River rights (e.g. Agreement for Use of Water Rights, 1952; Kern River Water Service Agreement between Anderson Canal, Inc., James Canal, Inc., Joyce Canal, Inc., Pioneer Canal, Inc., and Plunket Canal, Inc. (Canal Companies) and Rosedale-Rio Bravo, 1961; Agreement Amending the Kern River Water Service Agreement Dated August 31, 1961 to Provide for the Long-Term Sale and Delivery of Kern River Water by and Between City of Bakersfield and Rosedale-Rio Bravo Water Storage District, 1976; Agreement for the Sale of Kern River Water and Canals by and between City of Bakersfield and North Kern Water Storage District, 1976; and Agreement for the Sale and Delivery of Kern River Water between the City of Bakersfield and Rosedale-Rio Bravo Water Storage District, 1976). Other senior-rights holders may do the same. As stated in Section 3.1.1, *Project Description Master Response*: "KWBA's application for a water right only seeks to appropriate water surplus to existing rights on the Kern River. KWBA's application does not seek to appropriate any water deemed forfeited—partial or otherwise—under the North Kern Decision." The project will not diminish existing senior rights, and would therefore not impact those entities receiving water under those agreements.

3.2.4.193 Response to Comment A4-193

The comment states that the Rosedale-Rio Bravo Water Storage District is applying for the same water as the project and claims that because the project would compete with other entities' water right applications for Kern River water, the EIR must consider project impacts of taking water from them. Cumulative impacts, including impacts of other projects in addition to the project, are discussed in Section 5.1, *Cumulative Impacts*. Where appropriate, environmental resources for which there are significant cumulative impacts are further analyzed and discussed. While all the water

[47] See comments A4-14, A4-15, A4-38 through A4-40, A4-42, A4-44, A4-63, A4-90, A4-95, A4-96, A4-107, A4-108, A4-110, and A4-112; A4-114 through A4-116, and A4-118, A4-120; A4-130 through A4-133, A4-136, and A4-137; A4-140 through A4-143, A4-164; and A4-167 through A4-169; A4-171 through A4-173; A4-192 through A4-195, A4-200, and A4-201; A4-240 through A4-242, A4-244, A4-250, A4-253, A4-265; and O2-3 through O2-5 and O3-2.

right applications filed seek to appropriate unappropriated water for recharge, not all of the applications seek to appropriate the same water. KWBA's application, for example, seeks an entitlement to divert unappropriated high flow Kern River water after existing Kern River water rights are met and only when such water is present. The KWB previously diverted this same water for recharge purposes. Importantly, and unlike some other pending Kern River water right applications, the project does not seek appropriation of any water deemed forfeited in the North Kern Decision.

The master responses (Section 3.1.1, *Project Description Master Response*, Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*) further clarify project and hydrologic information, and address information in the draft EIR as sufficient for the analysis of the project's impact on the environment. Please also see the responses to comments A4-14, A4-15, A4-38 through A4-40, A4-42, A4-44, A4-63, A4-90, A4-95, A4-96, A4-107, A4-108, A4-110, A4-112, A4-114 through A4-116, A4-118, A4-120, A4-130 through A4-133, A4-136, A4-137, A4-140 through A4-143, A4-164, A4-167 through A4-169, A4-171 through A4-173, A4-192, A4-194, A4-195, A4-200, A4-201, A4-240 through A4-242, A4-244, A4-250, A4-253, A4-265, O2-3 through O2-5, and O3-2, regarding the commenter's repeated mischaracterization of the project as taking water from other Kern River right holders.

3.2.4.194 Response to Comment A4-194

The comment claims that the EIR must analyze potential impacts of the project on KCWA's high flow Kern River water rights. The project does not take water held under other entities' rights. The project would only divert high flow Kern River water after the rights of senior Kern River water right holders are met and unappropriated water is available. Potential impacts on KCWA are discussed in Section 3.1.1, *Project Description Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, clarify project and hydrologic information including water rights, and address the information in the draft EIR as sufficient for the analysis of the project's impact on the environment.

3.2.4.195 Response to Comment A4-195

The comment claims that the EIR should analyze secondary impacts of the project, such as increased groundwater pumping and water use by entities currently using project water. The project would not take water held under other entities' rights. The project seeks an entitlement to divert unappropriated high flow Kern River water after the rights of senior Kern River water right holders are met and only when such water is present. KWBA previously diverted this same water for recharge purposes. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision.

3.2.4.196 Response to Comment A4-196

The comment cites the State CEQA Guidelines regarding EIR analyses, and claims that the EIR's groundwater analysis is too limited and inaccurate. Groundwater conditions, including the results of groundwater modeling, which assessed the effects of current and future KWB operations on groundwater resources in the Kern County Subbasin, are discussed on pages 3.6-16 through 3.6-19, and 3.6-31 through 3.6-32 of the draft EIR. Groundwater impacts are discussed under Impacts

HYDRO-2 (3.6-36) and HYDRO-2a (3.6-37). As stated on page 3.6-37, under proposed operations, as with baseline conditions, KWBA is not expected to interfere with groundwater recharge or substantially deplete groundwater supplies. Recovery operations would not result in a chronic lowering of groundwater levels. Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, clarify hydrologic and project information, and address information in the draft EIR as sufficient for the analysis of the project's impact on the environment.

3.2.4.197 Response to Comment A4-197

The comment claims that the hydrology and water quality study area is arbitrary and too limited to accurately analyze project impacts. Section 3.1.1, *Project Description Master Response*, clarifies details regarding the boundaries of the project study area. Generally, the study area for the EIR's resource-specific analyses consists of the area within the physical boundaries of the KWB. However, the study area is more fully defined within each resource section text. For the hydrology project study area and impact analysis, the entire Kern River watershed was considered, as discussed on page 3.6-9 of the draft EIR. In addition, the Kern County Subbasin, within the Tulare Lake Hydrologic Region, is within the project study area for groundwater impact analysis, as discussed on page 3.6-16.

3.2.4.198 Response to Comment A4-198

The comment mischaracterizes the project and claims that the EIR's hydrology and water quality analysis is insufficient and not supported by facts. The project proposes to improve water supply reliability for KWBA members, and would not change water use within each member's service area. There would be no reduction or changes to the entitled uses of Kern River water held under others' rights in the region. As stated on page 3.6-37 of the draft EIR, KWBA can only recover water previously recharged and cannot deplete groundwater supplies. The project proposes only to increase water available for recharge and storage to ensure long-term reliability and certainty in water supplies from the KWB in multiple dry years. In addition, KWBA would only divert unappropriated Kern River water, during high flow conditions, when available. The historical record as well as the water availability analysis (Appendix L) show that unappropriated water in the quantity sought by the project is available.

3.2.4.199 Response to Comment A4-199

The comment mischaracterizes the project by claiming that the project causes a change in use of up to 500,000 AF of water and claims that the EIR does not support the analysis of drainage patterns with facts. As stated in Section 3.1.1.3 of the *Project Description Master Response*, the project does not cause a change in use of up to 500,000 AF of water. With respect to drainage patterns, flow in the Kern River is managed with a series of impoundment structures that are used to divert water into canals or recharge basins. No construction is proposed as part of the project, therefore there would be no change in impervious surface areas, and no effect on existing stormwater drainage systems. High flow water diverted from the Kern River would be delivered to existing and previously approved KWB groundwater recharge facilities. As discussed on pages 3.6-37 through 3.6-39, the project would not alter the existing drainage pattern of the site or area by changing the physical location of drainage paths. As under baseline conditions, the project would continue to bank high flow water flowing down the lower Kern River in years when such water is available for

diversion, reducing flows downstream. This reduction in flows could potentially provide beneficial flood protection downstream of the project diversion points by reducing peak flows. No further analysis is necessary.

3.2.4.200 Response to Comment A4-200

The comment mischaracterizes the project scope and states that the utilities analysis is too limited because it does not consider project impacts on the City of Bakersfield's domestic water supply. The project would increase water reliability over periods of extended dry conditions. As defined in the project description and clarified in Section 3.1.1, *Project Description Master Response*, the project would divert unappropriated water in approximately 18% of years, after the rights of senior water right holders such as the City of Bakersfield are met. Therefore, there would be no loss of entitled water by other water districts with Kern River rights, including the City of Bakersfield, and no effects on the City's drinking water supplies. Please see Chapter 4, *Draft EIR Errata*, of this final EIR for further clarification that has been added to Section 3.7, *Utilities and Service Systems*. These clarifications do not affect any of the impact conclusions in the EIR.

3.2.4.201 Response to Comment A4-201

The comment implies that the project would take the City of Bakersfield's water supplies and claims that the EIR should analyze impacts associated with the City's alleged loss of water.

The draft EIR summarized Bakersfield's water right application for its Kern Flow Program and associated EIR (2012 EIR). As outlined in the City's 2012 EIR, the City is seeking to appropriate an average of almost 90,000 AFY of "unappropriated" water that "formerly belonged to Kern Delta but was lost by non-use" (i.e., the "forfeiture water" described in the KWB draft EIR, page ES-2). The KWBA application does not seek to appropriate any water deemed "forfeited" by Kern Delta Water District. Further, based on the high variability of flows on the Kern River, the 2012 EIR documented that the Kern River has historically generated high volume flows in wet years that substantially surpass the amount of Source 2 water that the City is seeking to appropriate. Consistent with the water availability analysis (Appendix L) in the KWBA draft EIR, for example, the Kern River experienced very high flows in 1983—1,459,000 AF at the Calloway Weir. That volume is many more times the amount of water the City is proposing to appropriate for use in its Kern Flow Program. Consequently, there is no evidence that the KWBA project will result in any potential adverse impacts to Bakersfield's water supply, and the KWBA EIR need not evaluate further efforts by Bakersfield to obtain new sources of water.

The project would rely on high flow Kern River water available in approximately 18% of years, after the rights of senior water right holders such as the City of Bakersfield are met. There would be no loss of entitled water by other water districts with Kern River rights, including the City of Bakersfield, and no effects on the City's entitled water supplies. Please see the responses to comments A4-4 and A4-200, and Section 3.1.1, *Project Description Master Response*.

3.2.4.202 Response to Comment A4-202

The comment states that the EIR failed to consider relevant information, including the most recent UWMPs for ID4 and the North of the River MWD, the City of Bakersfield, or Cal Water, and that the project would have significant impacts on the City's domestic water supply. Please see the response

to comment A4-200 and Section 3.1.1, *Project Description Master Response*. The project would rely on high flow water available in approximately 18% of years, after the rights of senior water right holders such as the City of Bakersfield are met. The project would not affect, or result in the loss of, entitled Kern River banked or surface supplies by the City of Bakersfield. Please see Chapter 4, *Draft EIR Errata*, of this final EIR for updated discussions of UWMPs. The consideration of more recent UWMPs does not affect any of the impact conclusions in the EIR.

3.2.4.203 Response to Comment A4-203

The comment mischaracterizes the project scope and claims that the EIR does not discuss the water availability analysis (Appendix L) definition of flood water, negating the EIR's CEQA purpose.

The water availability analysis does not assert that Kern River flows above 3,162 cfs are unappropriated flood water (Appendix L, page 9). The water availability analysis states that once regulated flows reach about 200,000 AF per month (just under 3,400 cfs), the use of existing facilities is maximized and flood water flows to the Intertie (Appendix L, page 14). The project seeks an entitlement to divert unappropriated high flow water after existing water rights on the Kern River are met, including both those at the First and Second Point of Measurement, and only when such water is present. KWBA previously diverted this same water for recharge purposes. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision.

3.2.4.204 Response to Comment A4-204

The comment states that the City of Bakersfield disagrees with the water availability analysis' definition of unappropriated water (Appendix L) but believes that some of the project water is forfeiture water, and claims that the water availability analysis and the EIR do not disclose that the water availability analysis provides a theoretical analysis of water availability.

The water availability analysis does not assert that Kern River flows above 3,162 cfs are unappropriated flood water (Appendix L, page 9). The water availability analysis states that once regulated flows reach about 200,000 AF per month (just under 3,400 cfs), the use of existing facilities is maximized and flood water flows to the Intertie (Appendix L, page 14).The project seeks an entitlement to divert unappropriated high flow water after existing water rights on the Kern River are met, including both those at the First and Second Point of Measurement, and only when such water is present. The KWB previously diverted this same water for recharge purposes. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision.

3.2.4.205 Response to Comment A4-205

The comment claims that the EIR should consider other Kern River water right applications as project alternatives and that the EIR should analyze impacts associated with those applications, particularly Bakersfield's. Implementation of other Kern River water right applications would supply water to other entities, not to KWBA participating members, and would not provide KWBA members with the dry-year water supply reliability sought under the project. Such alternatives would necessarily fail to meet the basic intent of the project. Further, an EIR must consider a reasonable range of potentially feasible alternatives. Implementation of another agency's project that would not meet the project's intended purpose would not constitute a potentially feasible alternative. Consideration of these applications as alternatives to the project would therefore be

inappropriate. Impacts of other Kern River water right applications, including the City of Bakersfield's Kern Flow Program, are considered as part of the cumulative condition examined in Section 5.1, *Cumulative Impacts*. Further, other applications, such as the City of Bakersfield's, are not competing with the project because KWB's application does not seek appropriation of any water deemed forfeited in the North Kern Decision.

3.2.4.206 Response to Comment A4-206

The comment takes exception to the alternatives considered in the EIR, and claims that they do not constitute a reasonable range of viable alternatives under CEQA.

An EIR must consider a reasonable range of potentially feasible alternatives, and as noted by the comment, alternatives to the project were considered in the draft EIR. To the extent the comment refers to alternative projects by other agencies, implementation of another agency's project that would not meet the project's intended purpose would not constitute a potentially feasible alternative. Consideration of such applications as alternatives to the project would therefore be inappropriate. Impacts of other Kern River water right applications, including the City of Bakersfield's Kern Flow Program, are considered as part of the cumulative condition examined in Section 5.1, *Cumulative Impacts*. Further, other applications, such as the City of Bakersfield's, are not competing with the project because KWB's application does not seek appropriation of any water deemed forfeited in the North Kern Decision.

3.2.4.207 Response to Comment A4-207

The comment claims that the No Project alternative inaccurately represents future conditions and, therefore, does not comply with CEQA. The No Project alternative, described on page 4-3 of the draft EIR, considers the continuation of existing flow conditions without State Water Board approval of Application 31676. As described on draft EIR pages 2-4 and 2-5, six applications have been filed with the State Water Board to appropriate water from the Kern River, some of which seek rights to water forfeited under the North Kern Decision. The water availability analysis considered the diversion of water pursuant to all of the other applications and concluded that there is water available beyond the ability of all of the other applicants to absorb that water (see Appendix L, pages 14 through 16 and Table 6); thus, the conclusion that high-flow water would continue in its present pattern is valid. It is important to note that senior rights holders already divert all the Kern River water they can absorb in their facilities in wet years of the type considered by the project. The fact that there is water surplus to the capacities of senior rights holders is demonstrated by the fact that some of those rights holders delivered nearly 320,000 AF of high flow Kern River water to the KWB. Had the KWB not diverted that water, at least some of that water would have flowed to the Intertie. Furthermore, the assertion by the City that it will simply absorb all unappropriated water is contradicted by the fact their facilities could never accommodate that volume of water. For example, 2017 was a wet Kern River year in which the utilization of the 2,800-acre facility was maximized. Yet, during that time, the Kern County Water Agency administered the sale of 60,000 AF of water for the City and the City also provided Kern River water to others pursuant to the agreements listed in the response to comment A4-92. It is clear the City's 2,800-acre project cannot absorb all high flow water, let alone the volumes provided by their current senior right. Clarification has been added to the description of the No Project alternative on page 4-3 of the draft EIR. This clarification does not affect the results of the EIR analysis.

3.2.4.208 Response to Comment A4-208

The comment claims that the No Project alternative is inaccurate and renders the entire No Project analysis irrelevant because other entities would recharge Kern River water. The comment further claims that the City of Bakersfield's recharge would be best because the City believes its recharge locations are superior.

As discussed in the response to comment A4-207, senior rights holders do not have the capacity to absorb and recharge all high flow water. The water availability analysis considered the diversion of water to all of the other applications and concludes that there is water above the ability of all of the other applicants to absorb that water (See pages 14-16 and Table 6). In 2017, nearly 320,000 AF of Kern River water was delivered to the KWB by senior rights holders, clearly indicating that unappropriated water is available in wet years. With respect to recharge locations, KWB recharge basins are immediately adjacent to the river channel along its north side and KWB basins and City basins both recharge the Kern Fan alluvial aquifer. Recharge in the KWB basins will provide the same benefits as the City's locations.

3.2.4.209 Response to Comment A4-209

The comment asserts that under the No Project alternative the State Water Board would award unappropriated Kern River water to another applicant, and the City would ultimately be the recipient of such water. The comment indicates that awarding unappropriated water to Bakersfield would result in beneficial impacts and reduce project impacts on utilities and service systems, and further states that approval of other applications would also reduce demands on drinking water by keeping water near the City of Bakersfield. Consideration of applications is the responsibility of the State Water Board, and the City would not necessarily be the recipient of State Water Board approval, either through its own application or through Cal Water. Further, as indicated in Section 3.7, *Utilities and Service Systems*, and in the responses to comments A4-200 and A4-201, there would be no project impacts on the City's water supply or utility demands. Thus, because there are no project impacts on utilities and service systems, the potential granting of rights to unappropriated Kern River water to the City instead of KWBA would not reduce or eliminate project impacts. Furthermore, as indicated in response to comment A4-207, the City does not have the capacity to recharge the water under consideration for the KWB project.

3.2.4.210 Response to Comment A4-210

The comment makes a broad claim that the EIR does not consider reasonable range of alternatives or other viable alternatives. State CEQA Guidelines section 15126.6 states that alternatives analyzed shall "feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project." As discussed in Section 4.2, *Alternatives Development*, KWBA considered a variety of possible alternatives, utilizing various diversion amounts, project modifications, and other techniques, to meet project objectives and minimize effects. As noted on page 4-2 of the draft EIR, the range of alternatives considered was limited by the project's lack of significant impacts. The alternatives considered in the EIR minimize potential project effects by either decreasing diversions or representing conditions without project approval (the required No Project alternative) and thus comprise a reasonable range of alternatives to the project.

3.2.4.211 Response to Comment A4-211

The comment claims that the reduced diversion alternative is not viable or credible. However, the commenter expressly notes some of the substantive differences between the project and the alternative, including a difference in total diversion amounts. As noted on page 4-2 of the draft EIR, the range of alternatives considered was limited by the project's lack of significant impacts. The alternatives considered in the EIR minimize potential project effects by either decreasing diversions or representing conditions without project approval (the required No Project alternative) and thus comprise a reasonable range of alternatives to the project.

3.2.4.212 Response to Comment A4-212

The comment asserts that the EIR understates and mischaracterizes project impacts, thereby resulting in an inaccurate analysis of Alternative 2. The supposition that the EIR "grossly understates and mischaracterizes" the project's impacts is largely due to the commenter's repeated mischaracterization of the project as taking an additional 500,000 AFY of Kern River water (see comments A4-15, A4-39, A4-42, A4-44, A4-63, A4-90, A4-114 through A4-116, A4-130, A4-132, A4-133, A4-137, A4-140, A4-141, A4-168, A4-171, A4-240 through A4-242, A4-244, A4-250, and A4-265, which claim that the project would add 500,000 AFY of Kern River water to the water that KWBA's participating members presently acquire). Over and over again the commenter relies on this incorrect assumption to claim that the project will take water away from other users of Kern River water, reduce the recharge of Kern River water in other areas, shift groundwater pumping to other areas, and/or reduce flows in the Kern River channel as compared to the commenter's project. In fact, it is difficult to determine if any of the comments have any substance given the repeated mischaracterization of the project. As indicated in Section 3.1.1, *Project Description Master Response*, Section 3.1.3, *Hydrology and Water Quality Master Response*, and the responses to comments, the project will not reduce the delivery of Kern River water to existing valid rights holders, will not reduce the recharge of Kern River water by existing valid right holders, will not result in increased groundwater pumping by others, and will not reduce flows in the Kern River channel.[48] The project could, in fact, increase such flows.

The EIR's analysis compares the potential impacts of Alternative 2 to those of the project as proposed and described in the EIR, not as the commenter mischaracterizes it.

Please also see Section 3.1.1, *Project Description Master Response* and Section, 3.1.3, *Hydrology and Water Quality Master Response*, which clarify and reiterate the details and scope of the project under consideration—and against which Alternative 2 is compared—in this EIR.

3.2.4.213 Response to Comment A4-213

The comment expresses the opinion that Alternative 2 should be the environmentally superior alternative, based on an assumption that it would result in reduced impacts on air quality, greenhouse gases, biological resources, aquatic resources, wildlife, hydrology, and water quality

[48] See comments A4-14, A4-15, A4-38 through A4-40, A4-42, A4-44, A4-63, A4-90, A4-95, A4-96, A4-107, A4-108, A4-110, A4-112, A4-114 through A4-116, A4-118, A4-120, A4-130 through A4-133, A4-136, A4-137, A4-140 through A4-143, A4-164, A4-167 through A4-169, A4-171 through A4-173, A4-192 through A4-195, A4-200, A4-201, A4-240 through A4-242, A4-244, A4-250, A4-253, A4-265, O2-3 through O2-5, and O3-2.

compared to the project. This comment appears to rely on the commenter's oft-repeated mischaracterization of the project, in this case as taking water other than high flow water from the Kern River. Please see Section 3.1.1, *Project Description Master Response*, and Section, 3.1.3, *Hydrology and Water Quality Master Response*, which address this mischaracterization.

As described on pages 4-7 through 4-13 of the draft EIR, compared to the project as defined in the EIR and clarified in Section 3.1.1, *Project Description Master Response*, and Section, 3.1.3, *Hydrology and Water Quality Master Response*, Alternative 2 would divert and recharge less high flow water, thereby requiring more pumping of SWP water (with associated emissions and energy use), having a greater downstream flooding risk, realizing fewer benefits to wildlife, reducing groundwater quality benefits associated with the preferential recharge of Kern River water, incurring greater erosion and siltation in the Kern River channel, and resulting in less reduction of flows and associated downstream hazards, and could result in less water availability during extended droughts.

3.2.4.214 Response to Comment A4-214

The comment reiterates the City's assertion that the EIR should consider competing applications for Kern River water, especially those of the City of Bakersfield and Rosedale, as project alternatives. Implementation of other Kern River water right applications would supply water to other entities, not to KWBA participating members, and would not provide KWBA members with the dry-year water supply reliability sought under the project. Such alternatives would necessarily fail to meet the basic intent of the project. Please see the response to comment A4-205.

3.2.4.215 Response to Comment A4-215

The comment claims that the EIR should consider the City's Kern Flow Program as an alternative to the project, and asserts that the City's Kern Flow Program would provide greater benefits to the local environment and water supply.

State CEQA Guidelines section 15126.6 states that alternatives analyzed shall "feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project." As discussed in Section 4.2, *Alternatives Development*, KWBA considered a variety of possible alternatives, utilizing various diversion amounts, project modifications, and other techniques, to meet project objectives and minimize effects. As noted on page 4-2 of the draft EIR, the range of alternatives considered was limited by the project's lack of significant impacts. The alternatives considered in the EIR minimize potential project effects by either decreasing diversions or representing conditions without project approval (the required No Project alternative) and thus comprise a reasonable range of alternatives to the project. Further, the project does not seek appropriation of any water deemed forfeited in the North Kern Decision.

3.2.4.216 Response to Comment A4-216

The comment suggests that the EIR should have considered recharge in the Kern River channel as a project alternative, asserting that it would reduce adverse project impacts on both the environment and other water users. The commenter again mischaracterizes the project. As described on pages 3.6-27 through 3.6-29 of the draft EIR, deliveries down the channel are part of the project. Further, the project does contemplate the delivery of significant volumes of water to the KWB Canal headworks, which are be delivered via the Kern River channel. These deliveries would provide all of

the environmental benefits of the City's flow and recharge project. See also the response to comment A4-49.

State CEQA Guidelines section 15126.6 states that alternatives analyzed shall "feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project." As discussed in Section 4.2, *Alternatives Development*, KWBA considered a variety of possible alternatives, utilizing various diversion amounts, project modifications, and other techniques, to meet project objectives and minimize effects. As noted on page 4-2, the range of alternatives considered was limited by the project's lack of significant impacts. The alternatives considered in the EIR minimize potential project effects by either decreasing diversions or representing conditions without project approval (the required No Project alternative) and, thus, comprise a reasonable range of alternatives to the project.

3.2.4.217 Response to Comment A4-217

The comment makes a generalized claim that the EIR analysis is deficient and that the alternatives section is deceptive, ignores legitimate alternatives, and mischaracterizes alternatives. The alternatives analysis is not deceptive, considers legitimate alternatives, and accurately represents the alternatives considered. Please see the responses to comments A4-16, A4-205 through A4-216, and A4-218 through A4-226, which respond in detail to specific issues the commenter raises against the alternatives analysis.

3.2.4.218 Response to Comment A4-218

The comment asserts that the EIR does not comply with CEQA because it does not consider alternative water supplies among the project alternatives. State CEQA Guidelines section 15126.6 states that alternatives analyzed shall "feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project." As discussed in draft EIR Section 4.2, *Alternatives Development*, KWBA considered a variety of possible alternatives, utilizing various diversion amounts, project modifications, and other techniques, to meet project objectives and minimize effects. As noted on page 4-2 of the draft EIR, the range of alternatives considered was limited by the project's lack of significant impacts. The alternatives considered in the EIR minimize potential project effects by either decreasing diversions or representing conditions without project approval (the required No Project alternative) and thus comprise a reasonable range of alternatives to the project.

The alternatives proposed by the commenter would be unlikely to further reduce the project's already-minimal impacts. The acquisition of SWP water would require additional pumping, with attendant air quality and energy impacts. Table 4-1, Alternatives Considered, addresses the reasons why the purchase, exchange or transfer of water from other entities would result in greater water supply uncertainty and environmental impacts than the project. While the use of reclaimed wastewater for recharge could be an alternative for a local water agency, such recharge in the KWB would be largely infeasible because KWBA has no direct water users and therefore no reasonable access to such water without the additional impacts associated with conveyance construction and operation, including increased pumping.

3.2.4.219 Response to Comment A4-219

The comment alleges that no other options, such as recycled water use or conversation, were considered for increasing KWBA water supply. The comment states KWBA members will need to limit pumping under the SGMA.

State CEQA Guidelines section 15126.6 states that alternatives analyzed shall "feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project." As discussed in Section 4.2, *Alternatives Development*, KWBA considered a variety of possible alternatives, utilizing various diversion amounts, project modifications, and other techniques, to meet project objectives and minimize effects. As noted on page 4-2 of the draft EIR, the range of alternatives considered was limited by the project's lack of significant impacts. The alternatives considered in the EIR minimize potential project effects by either decreasing diversions or representing conditions without project approval (the required No Project alternative) and, thus, comprise a reasonable range of alternatives to the project.

Surface water banked underground, such as 910,000 AF of water previously recharged by KWBA, is not subject to the native groundwater priority system.[49] In this manner, KWBA as the surface water appropriator maintains the right to utilize the stored water above all other users notwithstanding basin conditions or regulations related to native groundwater.

3.2.4.220 Response to Comment A4-220

The comment asserts that the banking via transfer alternative considered and rejected in the EIR is confusing, asks how it would serve as an alternative to the project, and states that DWR would have no right to unappropriated Kern River water because DWR did not apply to appropriate it.

The commenter again makes an assumption based on mischaracterization of the project, stating that the project would directly conflict with competing water rights and demands on the Kern River and that the rejected alternative would be superior and easy to analyze. This assumption is incorrect. Please refer to Section 3.1.1, *Project Description Master Response*, Section 3.1.3, *Hydrology and Water Quality Master Response*, and the responses to comments A4-14, A4-15, A4-38 through A4-40, A4-42, A4-44, A4-63, A4-90, A4-95, A4-96, A4-107, A4-108, A4-110, A4-112, A4-114 through A4-116, A4-118, A4-120, A4-130 through A4-133, A4-136, A4-137, A4-140 through A4-143, A4-164, A4-167 through A4-169, A4-171 through A4-173, A4-192 through A4-195, A4-200, A4-201, A4-240 through A4-242, A4-244, A4-250, A4-253, A4-265, O2-3 through O2-5, and O3-2, regarding the commenter's repeated mischaracterization of the project as taking water from other Kern River right holders.

Compared to the direct diversion of Kern River water from established points of diversion into the KWB, banking via transfer would utilize a different method of water delivery to the KWB, relying on the availability of transfer water from other entities such as the SWP and DWR, in exchange for Kern River flows that would continue downstream. The EIR does not state that DWR would use Kern River water; rather, DWR and the SWP would receive flood flows into the California Aqueduct via the Intertie as has historically occurred, but less often and in reduced quantities than in the past. Compared to a water right granted by the State Water Board, this alternative is logistically

[49] Slater, *California Water Law and Policy*, Ch. 7: Foreign, Developed, and Salvaged Water, page 7.01 (citing Gould and Grant, *Cases and Materials on Water Law*, Sixth Edition, at 89 "A right to store water is subject to the priority system, but the right to stored water is independent of the priority system.")

problematic because of its complicated and uncertain nature, including reliance on other parties' willingness and ability to provide exchanged water.

3.2.4.221 Response to Comment A4-221

The comment claims that the EIR should consider operational and policy alternatives such as conservation, in lieu recharge, more efficient irrigation methods, pumping moratoria, changes in pumping locations, and POU demand reduction, alleging that SGMA will likely require KWBA to implement such actions in the future. As further discussed in Section 3.1.1, *Project Description Master Response*, because the project is a recharge project intended to improve groundwater supply, it is not expected that SGMA would affect KWB operations. Please also see Section 3.1.3, *Hydrology and Water Quality Master Response*, for further clarification of the project's relationship to SGMA. Further, KWBA is a water bank, not a water purveyor, and as such has no authority to implement restrictions on the end users in its member POUs.

3.2.4.222 Response to Comment A4-222

The comment reasserts that the EIR's alternatives analysis should have considered alternatives involving operational changes, and adds that the alternatives analysis should have considered other water supply sources and "other options available to" KWBA's participating members. As stated in the response to comment A4-221, KWBA is a water bank, not a water purveyor or regulatory agency, and as such has no authority to implement restrictions on the end users in its member POUs. Member participants would be subject only to state- and locally-imposed conservation requirements such as the State Water Board's Drought Emergency Regulations (see Section 3.1.3, *Hydrology and Water Quality Master Response*, for additional discussion of the relationship between the project and the State Water Board's Drought Emergency Regulations). As described on page 4-2 of the draft EIR, KWBA did consider other water supply sources but rejected them because of the uncertainty of obtaining water through exchange rather than through a State Water Board granted right. Please also see the response to comment A4-218, which discusses the feasibility of project alternatives and the process for selecting them.

3.2.4.223 Response to Comment A4-223

The comment contends that the EIR's alternatives analysis should consider the region's other existing water banking projects, claiming that use of those facilities would have fewer adverse impacts than the project. The comment further asserts that alternatives should include increased recharge using lined canals as well as increased recharge and recovery by KWBA participating members. It appears that, in making this statement, the commenter relies on the mischaracterization of the project as having significant impacts that require mitigation. Please see Section 3.1.1, *Project Description Master Response*, and Section, 3.1.3, *Hydrology and Water Quality Master Response*, for clarification of the project's characteristics.

As described on page 4-2 of the draft EIR, the effort to develop a range of alternatives to a project with no significant impacts poses a unique challenge. The use of other water banking facilities for recharge would not reduce project impacts. The KWB falls within the commenter's category of "existing banking projects." Thus, using other banking projects would only shift the diversion, recharge, and pumping to other locations within the same subbasin, could potentially increase

impacts associated with recovery pumping in order to move the water to KWBA participating members, and would not necessarily serve the KWBA participating member POUs. Increased recharge and recovery by KWBA participating members would not have the effect of minimizing potential project impacts, and would also require the construction of additional KWB facilities, resulting in environmental impacts that the project avoids.

In addition, the comment is in direct conflict with the assertions in comments A4-123, A4-124, A4-125, A4-126, A4-130, A4-131, and A4-132, which all suggest removing water from the Kern River channel and nearby areas will be detrimental to the environment. The unsubstantiated claim that moving water away from the Kern River corridor to other banking projects and/or to participating members districts would provide better benefits to the environment makes no sense in light of these previous comments.

The comment mentions increased recharge using lined canals. Lined canals do not increase recharge. Most of the water for the project will be delivered via the Kern River channel, encouraging recharge.

3.2.4.224 Response to Comment A4-224

The comment contends that the EIR's failure to consider alleged project impacts renders the discussion of the environmentally superior alternative flawed and erroneous. This comment appears to rely on the commenter's persistent mischaracterization of the project as taking an additional 500,000 AFY of Kern River water (see comments A4-15, A4-39, A4-42, A4-44, A4-63, A4-90, A4-114 through A4-116, A4-130, A4-132, A4-133, A4-137, A4-140, A4-141, A4-168, A4-171, A4-240 through A4-242, A4-244, A4-250, and A4-265, which claim that the project would add 500,000 AFY of Kern River water to the water that KWBA's participating members presently acquire).

Further, as discussed in each resource analysis within the draft EIR, and reiterated on page 4-2, the analysis found no significant impacts associated with the project.

3.2.4.225 Response to Comment A4-225

The comment suggests that the competing water rights applications to the State Water Board, including the commenter's application, would serve as environmentally superior alternative to the project. In addition to failing to achieve any of the KWBA and its members' fundamental objectives of obtaining supplemental water supplies for multi-dry years, nothing in CEQA would compel a lead agency to consider a competitor's project instead of its own. Regardless, the comment fails to substantiate that supplying competing projects would substantially lessen any significant impacts of the project.

3.2.4.226 Response to Comment A4-226

The comment expresses the opinion that the City of Bakersfield's water right application is superior and states that the City's intended use would have fewer impacts because it would "replenish the groundwater basin, reduce pumping, and contribute directly to the environment and other public trust uses." The comment also claims that the City's project would result in greater beneficial effects on aquatic, botanical and wildlife resources.

First, as stated in the response to comment A4-223, consideration of others' water projects—including the City's—as alternatives would only shift the diversion, recharge, and pumping to other locations within the same subbasin, could potentially result in increased impacts associated with recovery pumping necessary to move the water to KWBA participating members, and would not necessarily serve the KWBA participating member POUs.

Further, compared to the City's project, the project itself would replenish the same groundwater subbasin through recharge, minimize pumping through the use of existing KWB recovery facilities, and contribute to the environment and other public trust uses (see the responses to comments A4-34 and A4-121 through A4-126). The City's claimed "substantially greater positive impact on aquatic, botanical and wildlife resources" is debatable, as the project also would benefit those biological resources (see Impacts BIO-1 through BIO-4). Thus, the City's project would not serve as an alternative to reduce purported project impacts.

3.2.4.227 Response to Comment A4-227

The comment cites State CEQA Guidelines requirements and case law findings related to cumulative analyses to assert that the alleged inadequacy of the EIR's project analysis reappears in a cumulative analysis that does not identify project impacts, provide enough detail about other projects and potential projects in the region, and does not identify or discuss the project's cumulative impacts connected with other projects.

This comment appears to be based on the commenter's repeated mischaracterization of the project as depleting Kern River flows and taking water from other entities (see comments A4-15, A4-39, A4-42, A4-44, A4-63, A4-90, A4-114 through A4-116, A4-130, A4-132, A4-133, A4-137, A4-140, A4-141, A4-168, A4-171, A4-240 through A4-242, A4-244, A4-250, and A4-265, which claim that the project would add 500,000 AFY of Kern River water to the water that KWBA's participating members presently acquire). KWBA acknowledges that such hypothetical situations could lead to significant impacts that require mitigation; however, the project does not propose to increase diversions or take others' water as alleged. Please see Section 3.1.1, *Project Description Master Response*, and Section, 3.1.3, *Hydrology and Water Quality Master Response*, for clarification of the project's characteristics.

The analysis on pages 5-6 through 5-10 of the draft EIR does discuss the project's potential cumulative impacts, which, by definition, are evaluated in combination with the other cumulative plans and projects described on pages 5-3 through 5-6. The limited number of project impacts identified in the EIR as greater than "no impact," together with the site-specific nature of some of those potential less-than-significant project impacts, reduced the number of resources considered in the cumulative analysis (see pages 5-2 and 5-3 of the draft EIR). Please see Chapter 4, *Draft EIR Errata*, for clarifying text added to the descriptions of cumulative plans and projects in the draft EIR. These text changes are for clarification purposes and do not affect the results of the EIR analysis.

Finally, as described in the response to comment A4-207, the City could not possibly divert all of the unappropriated water.

3.2.4.228 Response to Comment A4-228

The comment claims that the EIR does not provide baseline Kern River conditions or analyze project impacts on the Kern River, and that it therefore fails to evaluate the project's cumulative impact on the Kern River and other local water supplies and sources. Similar to the commenter's assertions about the EIR's treatment of project impacts, this comment appears to be based on the repeated mischaracterization of the project as depleting Kern River flows and taking water from other entities. Please see the discussion, Existing Conditions in the Kern River and Kern County Subbasin, within Section 3.1.2, *Baseline Master Response*, for additional clarification of the EIR's treatment of Kern River baseline conditions including existing hydrological conditions, Kern River water rights, and demand for Kern River water. Please also see Section 3.1.3, *Hydrology and Water Quality Master Response*, which further addresses comments regarding existing hydrological conditions that include Kern River flows, Kern River water quality, and KWB operations.

The cumulative analysis on pages 5-6 through 5-10 of the draft EIR considers the combined impacts of the project—as described in Chapter 2, *Project Description*, of the draft EIR and clarified in Section 3.1.1, *Project Description Master Response*, and Section, 3.1.3, *Hydrology and Water Quality Master Response*—and the cumulative condition for resource issues found to have project impacts greater than "no impact" in this EIR.

3.2.4.229 Response to Comment A4-229

The comment claims that the cumulative impact analysis is biased and does not comply with CEQA because the EIR allegedly does not provide relevant information regarding the cumulative condition and "summarily dismisses" potential cumulative impacts without explanation "based primarily on speculation and wishful thinking." The draft EIR (pages 5-3 through 5-6) describes the type and quantity of cumulative growth anticipated under the identified planning documents and large development projects, and outlines the particulars of the water resources projects (pages 2-4 through 2-5, 5-5, and 5-6) considered in the cumulative analysis. Further clarification of the information presented on pages 5-4 and 5-6 is included in Chapter 4, *Draft EIR Errata*. Project impacts are described in each resource section (Chapter 3) of the draft EIR and, as stated on page 5-3 of the draft EIR, "those impacts that have the potential to incrementally contribute to the cumulatively significant impacts of other relevant projects in the region are analyzed." Thus, project impacts found to have "no impact" are not considered in the cumulative analysis, but project impacts found to be "less than significant" are considered. Please see Section 5.1.2, *Approach to Analysis*, on pages 5-1 through 5-6 of the draft EIR, which explains the rationale and method used in the cumulative impact analysis.

The anticipated environmental impacts associated with the cumulative condition are described within the text of each cumulative resource analysis on pages 5-6 through 5-10 of the draft EIR. In addition, the following summary of resources expected to sustain impacts under the cumulative condition has been added to Chapter 4, *Draft EIR Errata*.

> Under the cumulative condition—including adopted plans, and cumulative water resources and development projects—impacts on the following resources also affected by the project are expected to occur: air quality emissions, biological habitat and species, greenhouse gas emissions, energy consumption, and groundwater depletion.

This clarification does not affect the results of the cumulative analysis.

3.2.4.230 Response to Comment A4-230

The comment claims that the cumulative analysis excludes resources that the commenter alleges have significant project impacts, including aesthetics, agricultural and forestry resources, cultural resources, surface water quality, groundwater quality, land use and planning, recreation, public services, population and housing, and utilities.

The commenter appears to base this opinion on the repeated mischaracterization of the project and the associated, incorrect assumption that the project "would result in increased diversions from the Kern River, a decrease in flows of water in the Kern River, and a loss of water, with consequential impacts, by entities that are presently using the water that KWBA seeks for the project through its application." This statement is not true. As indicated in Section 3.1.1, *Project Description Master Response*, Section 3.1.3, *Hydrology and Water Quality Master Response*, and the responses to comments, the project will not reduce the delivery of Kern River water to existing valid rights holders, will not reduce the recharge of Kern River water by existing valid right holders, will not result in increased groundwater pumping by others, and will not reduce flows in the Kern River channel.[50]

Further, for the reasons analyzed and discussed on pages 3.1-1 through 3.1-5 of the draft EIR and clarified in Chapter 4, *Draft EIR Errata*, the project would have no impact on aesthetics, agricultural and forestry resources, cultural resources, land use and planning, recreation, public services, or population and housing. The EIR considers project impacts on surface water quality, groundwater quality, and utilities in Sections 3.6 and 3.7 of the draft EIR, and finds that the project would have no impact on surface water quality or groundwater quality (Impact HYDRO-5), and no impact on utilities and service systems (Impacts UTIL-1 through UTIL-4). With no project impact, the project could not contribute to cumulative impacts on these resource issues and further consideration in the cumulative analysis would be inappropriate.

3.2.4.231 Response to Comment A4-231

The comment asserts that the project resource analyses in Chapter 3 of the draft EIR are erroneous and that they therefore do not adequately support the exclusion of aesthetics, agricultural and forestry resources, cultural resources, surface water quality, groundwater quality, land use and planning, recreation, public services, population and housing, and utilities from the cumulative impacts analysis. The comment further claims that the EIR does not analyze those resources at either the project level or within the cumulative context, and that the EIR should therefore "not have assumed or predicted that there will not be significant impacts, or cumulative impacts, involving those resources."

As stated in the response to comment A4-100, to the extent that a preliminary level of analysis determined that the project would result in no impacts on these resources, agricultural and forestry resources, land use and planning, and population and housing were considered in the draft EIR and dismissed from further, detailed description and analysis for the specific reasons provided in each

[50] See comments A4-14, A4-15, A4-38 through A4-40, A4-42, A4-44, A4-63, A4-90, A4-95, A4-96, A4-107, A4-108, A4-110, A4-112, A4-114 through A4-116, A4-118, A4-120, A4-130 through A4-133, A4-136, A4-137, A4-140 through A4-143, A4-164, A4-167 through A4-169, A4-171 through A4-173, A4-192 through A4-195, A4-200, A4-201, A4-240 through A4-242, A4-244, A4-250, A4-253, A4-265, O2-3 through O2-5, and O3-2.

individual analysis (see Section 3.1.1, *Resources Dismissed from Further Analysis*, in the draft EIR). Section 3.1.1 of the draft EIR includes justification for dismissal from further consideration of each of these CEQA-mandated issues. Please see Chapter 4, *Draft EIR Errata*, of this final EIR for clarifying language that has been added to the discussion of impacts in Section 3.1.1. Please see the responses to comments A4-105 through A4-112, which address the City of Bakersfield's individual comments on these resources, and the response to comment A4-230, which restates the reasons why these resources should not be considered in the EIR's cumulative analysis.

3.2.4.232 Response to Comment A4-232

The comment expresses the opinion that the City of Bakersfield's water right application would benefit the resources listed in comment A4-231: aesthetics, agricultural and forestry resources, cultural resources, surface water quality, groundwater quality, land use and planning, recreation, public services, population and housing, and utilities. The comment further claims that KWBA's project would "necessarily result in adverse impacts on those resources, and further contribute to adverse cumulative impacts on the environment and local water supply." The comment nowhere explains how the City's application for future water supplies would benefit these resources but this project would not. As the draft EIR notes, this project would have numerous beneficial effects, including on biological resources (pages 3.3-19 through 3.3-23), groundwater recharge (page 3.6-31), surface land levels (page 3.5-7), groundwater quality (page 3.6-39), and downstream flood protection (pages 3.6-34 and 3.6-38). Further, the KWBA project does not propose to take existing baseline water from the City of Bakersfield (or other senior water right holders); therefore, it is incorrect for the comment to assume that the project would result in significant impacts on these resources when comparing baseline conditions (see Section 3.1.2, *Baseline Master Response*).

Please also see the response to comment A4-233, which describes the differences between KWBA's and the City's applications, and notes that the City's Kern River Flow and Municipal Water Program EIR identifies impacts on aesthetics, agricultural and forestry resources, cultural resources, land use and planning, recreation, and public services, and significant and unavoidable population and housing impacts. Because KWBA's project has none of these impacts, it seems unlikely that the City's project, with its multitude of impacts, would be superior.

Further, and as described in the draft EIR (page 2-6), Section 3.1.1, *Project Description Master Response*, and the responses to comments, the KWBA application does not seek to appropriate the "forfeiture water" that appears to comprise Bakersfield's Source 2 water supply.[51]

3.2.4.233 Response to Comment A4-233

The comment asserts that the EIR should consider cumulative impacts associated with other applications for Kern River water, and acknowledges the City's contribution to cumulative impacts on utilities, surface water quality, and groundwater quality, as well as aesthetics, agricultural and forestry resources, cultural resources, land use and planning, recreation, public services and population and housing. KWBA's project seeks different water than the City seeks (see the response

[51] See comments A4-4, A4-15, A4-25, A4-38, A4-39, A4-40, A4-41, A4-42, A4-44, A4-45, A4-67, A4-68, A4-70, A4-76, A4-77, A4-79, A4-80, A4-93, A4-95, A4-96, A4-105, A4-107, A4-108, A4-114, A4-115, A4-116, A4-118, A4-120, A4-123, A4-128, A4-130, A4-134, A4-135, A4-136, A4-137, A4-140, A4-144, A4-168, A4-169, A4-171, A4-190, A4-193, A4-195, A4-203, A4-204, A4-205, A4-206, A4-207, A4-208, A4-244, A4-249, A4-250, and A4-253.

to comment A4-4). It is unlike the City's application, which as analyzed in the City's 2012 Kern Flow Program EIR would have impacts on aesthetics, agricultural and forestry resources, cultural resources, land use and planning, recreation, and public services, and significant and unavoidable population and housing impacts. Because KWBA's project would not add to the water that participating members currently acquire, it would not result in the impacts associated with increased water diversion and water supplies. Thus, as described in the draft EIR (Section 3.1.1, *Resources Dismissed from Further Analysis*) and reiterated in the responses to comments A4-231 and A4-235, the project would have no impact on utilities, aesthetics, agricultural and forestry resources, cultural resources, land use and planning, recreation, public services, or population and housing.

Further, the project does not propose to take Kern River water held under other users' rights. As explained in detail in the water availability analysis (Appendix L, page 12) and in Section 3.6, *Hydrology and Water Quality* (pages 3.6-26 through 3.6-31), the project would entail the diversion of unappropriated Kern River water for groundwater recharge within the KWB. Please also see Section 3.1.1, *Project Description Master Response*, for additional discussion clarifying that the project is not additive in nature.

The draft EIR describes surface water quality and groundwater quality (page 3.6-19) and analyzes the project's impacts on surface water quality and groundwater quality (page 3.6-39), finding no impact. Please also see Section 3.1.3, *Hydrology and Water Quality Master Response*, for further clarification of surface water quality and groundwater quality conditions and the project's relationship to them.

In addition, text has been added to Chapter 4, *Draft EIR Errata*, to clarify the explanations for dismissal of surface water quality and groundwater quality from cumulative consideration. This clarification does not affect the results of the cumulative impact analysis.

3.2.4.234 Response to Comment A4-234

The comment misstates the scope of the project and maintains that it would compete for some of the same water that the City of Bakersfield has applied for under its application with the State Water Board and that cumulative impacts would be increased. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision. As noted in footnote 5 of the water availability analysis (Appendix L), "Kern Delta Water District First Point of Measurement rights that were determined by the courts to have been forfeited were not considered in this analysis." As further demonstrated in the water availability analysis and the hydrology and water quality impact analysis (Section 3.6), the project would not take water from other entities. It would rely entirely on unappropriated, high flow conditions after the other entities' water rights have been met. Other entities' pending Kern River water right applications are described on pages 2-4 and 2-5 of the draft EIR, and are also considered in the analyses in Section 5.1, *Cumulative Impacts*. Table 5-1 lists cumulative water resources projects considered in this analysis, including the Kern Flow Program.

3.2.4.235 Response to Comment A4-235

The comment rephrases the statement made in comment A4-231, claiming that the EIR arbitrarily dismisses resources from consideration that should be included in the cumulative impacts analysis and fails to discuss, review or acknowledge the possibility of cumulative impacts on all impacted resources.

As stated in the responses to comments A4-100 and A4-231, to the extent that a preliminary level of analysis determined that the project would result in no impacts on these resources, agricultural and forestry resources, land use and planning, and population and housing were considered in the draft EIR and dismissed from further, detailed description and analysis for the specific reasons provided in each individual analysis (see Section 3.1.1, *Resources Dismissed from Further Analysis*, of the draft EIR). Section 3.1.1 includes justification for dismissal from further consideration of each of these CEQA-mandated issues. Please see Chapter 4, *Draft EIR Errata*, of this final EIR for clarifying language that has been added to the discussion of impacts in Section 3.1.1.

Please see the responses to comments A4-105 through A4-112, which address the City of Bakersfield's individual comments on these resources, and the response to comment A4-230, which restates the reasons why these resources should not be considered in the EIR's cumulative analysis.

3.2.4.236 Response to Comment A4-236

The comment claims that the cumulative analysis of air quality, greenhouse gases, climate change and energy, biological resources, and water resources and supply is deficient based on the commenter's opinion that the EIR "ignores or downplays" project impacts in Chapter 3, *Impact Analysis*, of the draft EIR. This comment relies on the commenter's repeated mischaracterization of the project.

As indicated in Section 3.1.1, *Project Description Master Response*, Section 3.1.3, *Hydrology and Water Quality Master Response*, and the responses to comments, the project will not reduce the delivery of Kern River water to existing valid rights holders, will not reduce the recharge of Kern River water by existing valid right holders, will not result in increased groundwater pumping by others, and will not reduce flows in the Kern River channel.[52]

Please see Section 3.1.1, *Project Description Master Response*, for clarification of the quantity, timing, and source of water diverted and recharged under the project. Because the project would not significantly increase the amount of water diverted, recharged, or recovered in any individual year, the analysis presented in Chapter 3 of the draft EIR—and on which the selection of cumulative resources is based—is accurate.

3.2.4.237 Response to Comment A4-237

The comment asserts that the EIR does not provide "relevant or helpful information" related to other regional projects, including the water resources projects listed on pages 5-5 and 5-6 of the draft EIR. The referenced pages describe the type and quantity of cumulative growth anticipated under the identified planning documents and large development projects, and list the water resources projects considered in the cumulative analysis. Pages 2-4 and 2-5 of the draft EIR outline the particulars of the Kern River water resources projects considered in the cumulative analysis. Further clarification of the cumulative information is included in Chapter 4, *Draft EIR Errata*. Please also see the response to comment A4-229.

[52] See comments A4-14, A4-15, A4-38 through A4-40, A4-42, A4-44, A4-63, A4-90, A4-95, A4-96, A4-107, A4-108, A4-110, A4-112, A4-114 through A4-116, A4-118, A4-120, A4-130 through A4-133, A4-136, A4-137, A4-140 through A4-143, A4-164, A4-167 through A4-169, A4-171 through A4-173, A4-192 through A4-195, A4-200, A4-201, A4-240 through A4-242, A4-244, A4-250, A4-253, A4-265, O2-3 through O2-5, and O3-2.

3.2.4.238 Response to Comment A4-238

The comment states that the EIR does not discuss or analyze cumulative projects' impacts on "groundwater levels, pumping volumes and rates, water quality or patterns of use in those other facilities or projects." Please see the response to comment A4-233, which clarifies the reasons why the EIR does not address these issues in the cumulative analysis, including the project's lack of impacts on these resources.

Please also see Section 3.1.3, *Hydrology and Water Quality Master Response*, for further clarification of surface water quality and groundwater quality conditions and the project's relationship to them.

In addition, text has been added to Chapter 4, *Draft EIR Errata*, to clarify the explanations for dismissal of surface water quality and groundwater quality from cumulative consideration. This clarification does not affect the results of the cumulative impact analysis.

3.2.4.239 Response to Comment A4-239

The comment asserts that the cumulative analysis is flawed, does not properly evaluate cumulative impacts, and lacks supporting data for air quality, greenhouse gases, biological resources, and hydrology. The comment further claims that overdraft conditions and drought increase cumulative hydrology impacts. KWBA acknowledges that overdraft and drought conditions, combined with increasing water supply demands, can exacerbate cumulative impacts. However, the comment appears to rely on the commenter's repeated mischaracterization of the scope of the project as being additive to the existing amounts of KWB diversion, recharge, and recovery water (see comments A4-15, A4-39, A4-42, A4-44, A4-63, A4-90, A4-114 through A4-116, A4-130, A4-132, A4-133, A4-137, A4-140, A4-141, A4-168, A4-171, A4-240 through A4-242, A4-244, A4-250, and A4-265, which claim that the project would add 500,000 AFY of Kern River water to the water that the KWBA's participating members presently acquire).

As discussed in the responses to comments A4-118, A4-241, A4-242, and A4-244 through A4-250, the draft EIR adequately addresses cumulative air quality, greenhouse gas, biological resources, and hydrology impacts. Supporting data for the project's contribution to cumulative impacts on each of these resources is presented throughout Sections 3.2, *Air Quality*, 3.3, *Biological Resources*, 3.4, *Greenhouse Gases, Climate Change, and Energy*, and 3.6, *Hydrology and Water Quality*, of the draft EIR as well as the text of Section 5.1, *Cumulative Impacts*. Please also see Section 3.1.1, *Project Description Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, of this final EIR for a discussion of the relationship between the project and Kern County Subbasin conditions, including groundwater overdraft, existing and proposed recharge and recovery operations, and the appropriateness of the EIR's scope of environmental review.

3.2.4.240 Response to Comment A4-240

The comment mischaracterizes the project and claims that the cumulative air quality analysis is not supported by facts and contradicts evidence. As described in Section 3.6, *Hydrology and Water Quality*, and the water availability analysis (Appendix L), and further clarified in Section 3.1.1, *Project Description Master Response*, the project would not increase water supply or availability, but would increase water reliability to existing users. The water would continue to be recovered at the same rate, using existing facilities and operating provisions, and would continue to be used by the

same entities in the same locations as has historically occurred. As a consequence, the project would not result in direct increases of pumping by KWBA in any given year.

Section 5.1.3.1, *Air Quality*, does not state that the project would result in adverse cumulative air quality impacts. Rather, the section states that while cumulative development through Kern County would generate potentially adverse emissions, the project would not contribute to air quality impacts. Specifically, there would be no construction-related emissions and operation and maintenance of the project would not result in a net increase in criteria pollutants because pumps would be operated at the same annual or seasonal duration and frequency as they currently are operated. Further, because the pumps are electric, the only sources of emissions are the power plants from which the pumps receive electricity. These facilities are already built and permitted to emit a maximum amount of criteria pollutants, and are required to implement emissions-reducing measures as part of continued operation. These requirements would ensure that there would be no net increase in pollutant emissions.[53] As described in Section 2.2.2.2, *Recovery*, and Section 2.2.3, *Monitoring*, KWB recovery operations, including recovery of water banked under the project, are subject to KWBA's existing operational commitments and extensive groundwater monitoring program, ensuring that banking project water would maintain a net surplus and would not result in a deficit in aquifer volume or a chronic lowering of the groundwater table levels. Impacts associated with the recovery and/or ultimate use of project water are identified in Section 3.2, *Air Quality* (Impacts AQ-1 through AQ-4), Section 3.4, *Greenhouse Gases, Climate Change, and Energy* (Impacts CC-1, E-1, and E-2), Section 3.5, *Geology and Seismicity* (Impacts GEO-1 and GEO-2), and Section 3.7, *Utilities* (Impacts UTIL-1 through UTIL-4).

As described throughout the EIR, the water diverted and banked under the project would be used to provide reliability to existing users during extended drought conditions, would continue to be recovered at the same rate using existing facilities and operating provisions, and would continue to be used by the same entities in the same locations as has historically occurred.

Please also see the response to comment A4-118.

3.2.4.241 Response to Comment A4-241

The comment mischaracterizes the project and claims that the cumulative greenhouse gases, climate change and energy analysis is not supported by facts and contradicts evidence. As stated on page 3.4-10 of the draft EIR, because climate change is the result of the individual contributions of countless past, present, and future sources, such impacts are inherently cumulative. The data and analysis presented in Section 3.4 of the draft EIR support the cumulative analysis presented in Chapter 5, *Cumulative Impacts*. Clarification has been added to Chapter 4, *Draft EIR Errata*, to reiterate the cumulative nature of greenhouse gases, climate change, and energy impacts, and to refer the reader to the detailed impact discussions in Section 3.4, *Greenhouse Gases, Climate Change, and Energy*, of the draft EIR. Please see pages 3.4-13 through 3.4-16 of the draft EIR for a thorough analysis and supporting data for the project's contribution to cumulative greenhouse gases, climate change and energy impacts. Please also see the response to comment A4-118.

[53] See also *Association of Irritated Residents v. Kern County Board of Supervisors* (2017) 17 Cal.App.5th 708, 735-36 (finding that the electric utility will be required to reduce greenhouse gas emissions at its generation facilities or to surrender compliance instruments to counterbalance the emission increases associated with increased power usage).

3.2.4.242 Response to Comment A4-242

The comment claims that the EIR's analysis of cumulative biological resources impacts is flawed because of a lack of significant impacts identified in the biological resources analysis, and that the cumulative analysis of biological resources is not supported by facts. The comment further attempts to promote the alleged merits of the commenter's own project by claiming that the EIR should provide a comparative analysis of the two projects and stating that there would be adverse impacts on local and regional biological resources if the State Water Board grants KWBA the right to divert up to 500,000 AFY from the Kern River and concurrently rejects the City's application.

This comment appears to rely on the commenter's persistent mischaracterization of the project as taking an additional 500,000 AFY of Kern River water (see comments A4-4, A4-15, A4-39, A4-42, A4-44, A4-63, A4-90, A4-114 through A4-116, A4-130, A4-132, A4-133, A4-137, A4-140, A4-141, A4-168, A4-171, A4-240 through A4-242, A4-244, A4-250, and A4-265, which erroneously claim that the project would add 500,000 AFY of Kern River water to the water that KWBA's participating members presently acquire). As addressed in the responses to those comments and as demonstrated in the water availability analysis (Appendix L), draft EIR Chapter 2, *Project Description*, the hydrology and water quality impact analysis (Section 3.6), and further clarified in Section 3.1.1, *Project Description Master Response*, of this final EIR, the project would rely entirely on high flow conditions after the Kern River water rights of senior water right holders have been met. Further, as noted in the responses to comments A4-40, A4-101, A4-108, A4-120, and A4-135, CEQA does not require an EIR to weigh the merits of a project against those of competing applications, but to evaluate a project's potential impacts on existing environmental conditions. Even in the context of analyzing cumulative impacts, the EIR analysis does not compare the relative severity of one project's impacts to another's.

As stated in response to comment A4-120, the project provides for flow in the Kern River channel upstream of Second Point in furtherance of the City's Buena Vista Lake Shrew Habitat Management Plan for The Kern Fan Water Recharge Site (2004). As stated on page 20 of the water availability analysis (Appendix L) and analyzed in draft EIR Section 3.3, *Biological Resources* (Impacts BIO-1 and BIO-2), project operations would in some wet years reduce peak flows within the Kern River downstream of Second Point and affect associated riparian areas. The evaluation of project impacts on riparian habitat indicates that any decreases in flows that would result from the project are not expected to cause a significant adverse effect on the riparian vegetation along the Kern River in this area. The analysis on page 3.3-22 of the draft EIR notes that the project is not expected to result in significant impacts on riparian habitat or any other sensitive natural community.

As noted in the responses to comments A4-40, A4-101, A4-108, A4-120, A4-135, A4-193, A4-212, and A4-242, an EIR's role under CEQA is not to weigh the merits of a project against those of competing applications, but to evaluate a project's potential impacts on existing environmental conditions.

3.2.4.243 Response to Comment A4-243

The comment states that the cumulative analysis of impacts on Buena Vista Lake shrew does not consider other projects, is wrong, and is not supported by facts.

The draft EIR's analysis of potential impacts to Buena Vista Lake shrew included assessments by the EIR preparer's expert biologist and hydrologist, who concluded that the limited habitat downstream of the KWB points of diversion for Buena Vista Lake shrew does not depend on the high waters that occur in those limited years when surplus and unappropriated water is expected to be available for the KWB. Further, the KWB and its HCP/NCCP provides habitat for Buena Vista Lake shrew. On balance, the project is expected to have no significant adverse effect on Buena Vista Lake shrew.

3.2.4.244 Response to Comment A4-244

The comment mischaracterizes the project by claiming the project changes the use of 500,000 AF of Kern River water and claims that the cumulative hydrology analysis is not supported by facts and not credible. Cumulative impacts, including impacts of other projects in addition to the project, are discussed in Section 5.1, *Cumulative Impacts*. The hydrology cumulative analysis examined existing and proposed water rights and diversions from the Kern River watershed to frame the cumulative context of the discussion. As discussed on pages 3.6-31 and 3.6-32, groundwater modeling assessed the effects of future operations (2015–2035) on groundwater levels. The project seeks an entitlement to divert unappropriated water that is junior in position to existing water rights on the Kern River and only when such water is present. The KWBA previously diverted this same water for recharge purposes. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision. The water availability analysis (Appendix L) found that there is sufficient supply during wet years to bank water within the KWB and still serve senior water right holders. The historical record, as well as the water availability analysis, indicated unappropriated water in the quantity sought by the project exists. KWBA would only divert available surplus Kern River water in accordance with the MOU, Long-Term Operations Plan, and the Joint Plan, and would not divert flows in normal or dry years when surplus flows are not available. No reanalysis or revisions to the draft EIR are necessary.

3.2.4.245 Response to Comment A4-245

The comment claims that the cumulative hydrology analysis is incorrect because the project would contribute to a cumulative reduction of Kern River water flows and changes in its use, resulting in significant cumulative impacts on Kern County water supply, water quality, stream flows, and water resources in general. Cumulative hydrologic impacts, including water supply, water quality, stream flows, and water resources, are discussed on pages 5-8 through 5-10. The project would divert high flow Kern River waters, after the rights of existing Kern River water right holders have been met, and sufficient water remains instream, specifically during high flow conditions. As described in the draft EIR (page 5-8 and 5-9) and the water availability analysis (Appendix L, Section 4.2), water for projects considered in the cumulative context is delivered beyond Second Point of Measurement. Regardless of the utilization of Kern River flows by other projects, these deliveries will continue unabated. As such, the flow conditions in the Kern River in high-flow conditions are not expected to change significantly and would not be cumulatively considerable. As stated on page 5-9, flow related changes in water quality together with stormwater and treated wastewater discharges from urban development in the Kern River watershed could have potentially significant cumulative impacts on water quality. However, the project would not alter the chemistry or quality of Kern River surface water. Recharging Kern River water would improve groundwater quality and result in no negative impact on groundwater quality. The project would not contribute to decreased water quality, and its implementation is not anticipated to be cumulatively considerable. The project seeks to divert and

store water at a location below most of the points of diversion for all other water right applicants and in only the wettest year types. During these wet years, other projects are expected to be operating at capacity and will not have the physical ability to take additional water. Potential for the project to contribute to cumulative impacts on water supply is not anticipated.

3.2.4.246 Response to Comment A4-246

The comment states that project diversion of high flow water, combined with others' diversion of non-high flow water, could have significant cumulative impacts on Kern River and its flows and that the EIR must analyze these impacts. The project would divert and store water in only the wettest year types. During these wet years, other projects are expected to be operating at capacity and will not have the physical ability to take additional water, as stated on page 5-9. Section 3.1.3, *Hydrology and Water Quality Master Response*, clarifies hydrologic information and addresses information in the draft EIR as sufficient for the analysis of the project's impact on the environment.

3.2.4.247 Response to Comment A4-247

The comment asserts that because Table 5-2, Overview of Projects Requesting Entitlements on the Kern River, does not include KCWA's Application No. 31677, the cumulative analysis is incomplete and deficient. Please see Table 5-1 (draft EIR, page 5-5), which includes KCWA's water right Application 31677 as part of the cumulative scenario despite its omission from Table 5-2. The content of Table 5-2 has been revised accordingly to include Application 31677 (see Chapter 4, *Draft EIR Errata*), which was already considered in the cumulative analysis. The inclusion of this information in Table 5-2 does not affect the results of the analysis.

3.2.4.248 Response to Comment A4-248

The comment takes exception to the EIR's conclusion that the project would not contribute to decreased water quality, stating that the project would cause increased pumping and associated migration and concentration of contaminants, and that the EIR does not adequately discuss cumulative water quality impacts. As stated on page 5-9, changes in water quality could result from cumulative projects and operations. However, the project would not alter the chemistry or quality of Kern River surface water. Recharging Kern River water under the project would improve groundwater quality and result in no negative impact on groundwater quality. KWB operations would result in a net reduction of salts in the Kern Fan aquifer due to the export of salts during recovery operations. New recharge activities would not result in migration of contaminated groundwater into other parts of the groundwater basin because no contaminant plumes currently exist in the underlying aquifer that could migrate into neighboring pumps. The project would not contribute to decreased water quality and its implementation is not anticipated to be cumulatively considerable.

3.2.4.249 Response to Comment A4-249

Basing its claim on the false assumption that the project would result in a change in use of 500,000 AF of additional Kern River water, the comment claims that the project would have significant and cumulatively considerable impacts on Kern River water supplies. The comment further asserts that KWBA's points of diversion are located within, among, and above points of diversion for Bakersfield

and other entities that divert and use Kern River water, rather than below other points of diversion, thereby causing impacts on others' Kern River water supplies. Please see Section 3.1.1, *Project Description Master Response*, for a discussion of the fact that the project is not additive. A correction has been added to Chapter 4, *Draft EIR Errata*, to reflect that most, not all, other diversions are above the KWB. The project seeks an entitlement to divert high flow water after existing Kern River water rights are met and only when such surplus water is present. The KWBA previously diverted this same water for recharge purposes and does not seek a change in use. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision. See also the response to comment A4-46.

3.2.4.250 Response to Comment A4-250

The comment mischaracterizes the project and asserts that the EIR fails to consider impacts of other projects on groundwater resources and other factors, such as drought and overdraft conditions, that would exacerbate project impacts. The comment also claims that the cumulative analysis is deficient because it does not address impacts associated with the project, as mischaracterized. Cumulative impacts on groundwater resources are discussed on pages 5-9 and 5-10. With decreasing water supplies in the project area, it is likely that increased groundwater production will take place with or without the project. If increased groundwater production occurs, the region is likely to experience localized lowering of water levels, with or without the project (subject to any limitations that may be imposed in the future under SGMA, as noted in Section 3.6.1.1 of the draft EIR). However, the project would benefit the subbasin because it would result in a net increase in recharge during wet water years. During dry years, recovery would be similar to baseline conditions and would result in a temporary lowering of the groundwater table. Overall, however, the project is expected to assist with integrated flood and water management, contribute to long-term supplies, and result in a net benefit to groundwater supplies and water levels. The project does not seek an "additional" 500,000 AF. The project seeks an entitlement to divert unappropriated water that is junior in position to existing water rights on the Kern River and only when such water is present. The KWB has previously diverted this same water for recharge purposes. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision. Section 3.1.3, *Hydrology and Water Quality Master Response*, clarifies hydrologic information and addresses information in the draft EIR as sufficient for the analysis of the project's impact on the environment.

3.2.4.251 Response to Comment A4-251

The comment cites the State CEQA Guidelines and states that a cumulative analysis should consider all projects that contribute to the same types of impacts as project impacts, not only similar projects. KWBA agrees. The cumulative analysis in the EIR considers a range of plans and projects, including local general plans, large development projects, and water resources projects. Projects considered in the cumulative condition are not limited to the type of project considered in the EIR (water right applications or water banking projects) but include water resources and large development projects—both in the vicinity of the KWB and within the KWBA member participants' delivery areas—that have the potential to affect the resources identified in draft EIR Section 5.1.2.2, *Resources Considered in Cumulative Impact Analysis*.

As stated in Section 5.1.2.3, *Cumulative Condition*, of the draft EIR, the cumulative analysis examines

projected growth and past, present, and reasonably foreseeable, relevant projects, focusing primarily on growth in both the KWB vicinity and KWB participants' service areas, water resources projects in the KWB vicinity, and development actions or projects with overlapping geographic or temporal effects that, when combined with the project, could contribute to cumulative impacts.

3.2.4.252 Response to Comment A4-252

The comment cites CEQA case law to support its statement that cumulative impacts cannot be determined to be less than significant because a project's contribution to an unacceptable existing environmental condition is small.

The cases relied upon by the commenter do not support the contention that the cumulative impacts discussion in the EIR was legally inadequate. In *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, the cumulative impacts analysis for air quality was deficient because it utilized legally incorrect assumptions and failed to provide any analysis of other projects that would contribute to cumulative air quality impacts. (*Id.* at 718.) The cumulative impact analysis regarding water resources was deficient for the same reason because it did not include any information regarding other projects. Essentially, there was "no analysis of cumulative impacts," contained in that EIR. (*Id.*) Similarly, the EIR at issue in *Los Angeles Unified Sch. Dist. v. City of Los Angeles* (1997) 58 Cal.App.4th 1019 was found to be deficient for failing to analyze the cumulative effect of increased noise in an area where noise was already significant.

In the absence of any evidence that the impacts analyzed in the EIR are likely to increase existing conditions, the commenter's reliance on these cases is misplaced. In both Kings County and Los Angeles Unified Sch. Dist., the facts were undisputed that an impact would increase, but the lead agency failed to consider the effect of that increase. In contrast, the project EIR analyzes the cumulative impacts in the context of existing and expected impacts caused by other projects (see Section 5.1.3, *Cumulative Impact Analysis by Resource*, of the draft EIR). With regard to water supply, for example, Table 5-2 in the draft EIR lists five reasonably foreseeable future projects on the Kern River that seek water entitlements.

Furthermore, CEQA requires less detail of a cumulative impacts analysis than it does for project-specific impacts. (State CEQA Guidelines § 15130, subd. (b).) Numerous courts have recognized and applied this rule. For example, in *Fairview Neighbors v. County of Ventura* (1999) 70 Cal.App.4th 238, the court held that an EIR was sufficiently informative of cumulative impacts. The court observed that "an EIR which completely ignores cumulative impacts of the project is inadequate. But a good faith and reasonable disclosure of such impacts is sufficient." (*Id.* at 245; see also *East Bay Mun. Utility Dist. v. Department of Forestry & Fire Protection* (1996) 43 Cal.App.4th 1113, 1129 [failure to quantify cumulative impacts did not render EIR inadequate]; *Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1033 [cumulative impact analysis was adequate where it added projected traffic to existing traffic].) Here, the cumulative effects analysis in the EIR adequately considers projected growth, and past, present, and reasonably foreseeable, relevant projects in the vicinity of the KWB.

3.2.4.253 Response to Comment A4-253

The comment claims that the EIR does not consider cumulative impacts arising out of the project's alleged secondary impacts on other entities', particularly the City of Bakersfield's, water supply.

The project does not seek a transfer of any water. The project seeks an entitlement to divert unappropriated water that is junior in position to existing water rights on the Kern River and only when such water is present. KWBA previously diverted this same water for recharge purposes. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision.

3.2.4.254 Response to Comment A4-254

The comment asserts that the EIR's growth-inducing impact analysis is erroneous, suggesting that the project would induce growth because KWB water could be used for urban supplies and new development.

While it is true that an EIR must discuss growth-inducing impacts even though those impacts are not themselves a part of the project under consideration, the discussion in Section 5.2.3 of the draft EIR makes clear that there would be no expected direct or indirect growth for urban supplies or development because the periodic and sporadic increase in water supply reliability would be enough merely to help meet existing demands (pages 5-10 and 5-11).

Moreover, an EIR is not required to make a detailed analysis of growth-related impacts in all cases. As the court in Napa Citizens held,

> [n]othing in the Guidelines, or in the cases, requires more than a general analysis of projected growth. The detail required in any particular case necessarily depends on a multitude of factors, including, but not limited to, the nature of the project, the directness or indirectness of the contemplated impact and the ability to forecast the actual effects the project will have on the physical environment (*Napa Citizens for Honest Gov't v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 369).

3.2.4.255 Response to Comment A4-255

The comment claims that the EIR does not identify or review growth inducing impacts associated with other related or similar projects in the region and that the project would have a cumulative impact on growth.

The comment misconstrues the nature of the project. Due to the limited years when surplus, unappropriated water is expected to be available, the project will not yield sufficient water so as to affect a change in existing and ongoing patterns of agricultural use within the service areas of the KWBA participating members. Further, only a fraction of the water proposed for appropriation is intended for municipal use; again, however, it is not enough to induce regional growth. Instead, the project is designed to enhance reliability of water supplies in the later years of a multi-dry-year period, but it is not to produce new water supplies for new land uses. As a consequence, the project will not induce growth at the project level, and the project's incremental contribution to the overall regional dry-year water supplies is not cumulatively considerable or significant. See also Section 3.1.1, *Project Description Master Response*.

3.2.4.256 Response to Comment A4-256

The comment mischaracterizes the project as increasing the amount of water available to KWBA participating member POUs, claims that the EIR must analyze development projects and increased

water availability within KWBA members' service areas, and claims that an absence of such analysis discredits the entire cumulative analysis.

The commenter uses the repeated mischaracterization of the project as an increased water supply to imply that the project would increase water use in the project POUs (see comments A4-29, A4-93, A4-106, A4-109, A4-111, A4-117, A4-118, A4-140, A4-188, and A4-190, and the responses to those comments). As described in the draft EIR (pages 2-1, 2-8, 2-14, 3.6-37, 3.6-38) and in this final EIR Section 3.1.1, *Project Description Master Response*, the project would not increase water availability, but would improve water reliability to existing users over extended dry conditions. The water would continue to be recovered at the same rate, using existing facilities and operating provisions, and would continue to be used by the same entities in the same locations as has historically occurred (see pages 2-10, 2-11 of the draft EIR and Section 3.1.1, *Project Description Master Response*, in this final EIR). Both the POUs and purpose of use of project water would be identical to the current POUs and purpose of use of recovered KWB water (pages 2-9 and 2-10 of the draft EIR). There would be no increase in water delivered to participating members in any given year, no resulting increase in water available for urban or municipal use in existing or new development, and therefore no reason to address project impacts on new development in the POUs.

3.2.4.257 Response to Comment A4-257

The comment relies on a mischaracterization of the project to assert that the EIR does not include in its cumulative analysis the impacts of reasonably foreseeable future aspects of project approval, and states that these include the loss of Kern River water to the region, decreases in Kern River flows and water available for diversion, decreases in groundwater resulting from a potential decrease in recharge from the use of unlined canals, and adverse water quality impacts.

The alleged "probable future aspects and impacts of the Project, including the loss of Kern River water to the region, decreases in Kern River flows and water available for diversion, decreases in groundwater resulting from a potential decrease in recharge from the use of unlined canals, and adverse water quality impacts" to which the commenter refers are based on the commenter's repeated mischaracterization of the project. As indicated in Section 3.1.1, *Project Description Master Response*, Section 3.1.3, *Hydrology and Water Quality Master Response*, and the responses to comments A4-14, A4-15, A4-38 through A4-40, A4-42, A4-44, A4-63, A4-90, A4-95, A4-96, A4-107, A4-108, A4-110, A4-112, A4-114 through A4-116, A4-118, A4-120, A4-130 through A4-133, A4-136, A4-137, A4-140 through A4-143, A4-164, A4-167 through A4-169, A4-171 through A4-173, A4-192 through A4-195, A4-200, A4-201, A4-240 through A4-242, A4-244, A4-250, A4-253, A4-265, O2-3 through O2-5, and O3-2, the project will not reduce the delivery of Kern River water to existing valid rights holders, will not reduce the recharge of Kern River water by existing valid right holders, will not result in increased groundwater pumping by others, and will not reduce flows in the Kern River channel. Therefore, it would be inappropriate and inaccurate to consider such scenarios in the cumulative impacts analysis.

3.2.4.258 Response to Comment A4-258

The comment claims that the EIR fails to—and must—provide information and analyze the impacts, including cumulative impacts, of the project water's use in KWBA members' service areas. The comment asserts that the EIR's conclusion of no significant and unavoidable project impacts is

incorrect, misleading, and contrary to unspecified CEQA requirements because the EIR does not discuss and analyze the end use of the project water.

This comment relies on the commenter's repeated mischaracterization of the project as taking an additional 500,000 AFY of Kern River water (see comments A4-14, A4-15, A4-38, A4-42, A4-44, A4-63, A4-90, A4-114 through A4-116, A4-130, A4-132, A4-133, A4-137, A4-140, A4-141, A4-168, A4-171, A4-240 through A4-242, A4-244, A4-250, and A4-265, which claim that the project would add 500,000 AFY of Kern River water to the water that KWBA's participating members presently acquire). Please see Section 3.1.1, *Project Description Master Response*, which clarifies the quantity, timing, and source of available water for the project.

Further, as described on pages 2-9 and 2-10 of the draft EIR and clarified in Section 3.1.1, *Project Description Master Response*, the project would not change the purpose or location of water use beyond the existing purposes or POUs of KWB water. Section 3.1.1, *Project Description Master Response*, also clarifies that the project would not increase the quantity of water available to KWBA members, except by making water available at the end of an extended multi-year drought. Please also see the responses to comments A4-11, A4-13, A4-33, A4-56 through A4-58, and A4-60 regarding the existing and project POUs.

The commenter fails to identify the CEQA requirements to which the EIR runs contrary, but KWBA assumes the commenter is referring to the lack of significant and unavoidable impacts in the EIR. Section 15126.2(b) of the State CEQA Guidelines states that an EIR must "[d]escribe any significant impacts, including those which can be mitigated but not reduced to a level of insignificance. Where there are impacts that cannot be alleviated without imposing an alternative design, their implications and the reasons why the project is being proposed, notwithstanding their effect, should be described" (14 CCR § 15126.2[b]). The project as proposed, rather than as mischaracterized by the commenter, would not result in either significant impacts requiring mitigation or significant and unavoidable impacts. As indicated in Section 5.3, *Significant and Unavoidable Impacts*, of the draft EIR, no significant and unavoidable impacts were identified for the project.

3.2.4.259 Response to Comment A4-259

The comment states that the EIR does not adequately summarize known areas of controversy.

Section 15123 of the State CEQA Guidelines requires that an EIR contain a brief summary of the proposed action and its consequences, including the areas of controversy known to the lead agency and raised by agencies or the public. (14 Cal. Code Regs., § 15123(b)(2).) However, there is no requirement that the summary go into the level of detail requested by the commenter. The court in *Browning-Ferris Indus. v. City Council* (1986) 181 Cal.App.3d 852 held that "the EIR should summarize the main points of disagreements among the experts." (*Id.* at 862.) However, that statement and the following discussion pertained to the standards for adequacy of an EIR generally, not the sufficiency of an EIR's summary section.

The areas of controversy listed in Section ES.3.3 of the draft EIR serve to notify the public of points of concern that the EIR addresses in more detail throughout its contents, as required by State CEQA Guidelines section 15123.

3.2.4.260 Response to Comment A4-260

The comment states that the EIR must summarize areas of controversy, not list them, and must include areas of controversy known to the lead agency, including recent litigation against KWBA and the pending dispute regarding KWB operations, and controversies related to competing applications to appropriate Kern River water. The comment further notes that the City of Bakersfield and others have filed competing applications to appropriate water from the Kern River and that Bakersfield recently prepared and certified a programmatic EIR in support of its application and Kern Flow Program. The Kern Flow Program, according to the commenter, would use some of the same water proposed for use in the project. The commenter asserts that the EIR must discuss areas of controversy, including those arising out of competing applications to appropriate Kern River water, and specifically the recent litigation surrounding the Kern Flow Program.

The draft EIR summarized each of the pending applications to appropriate water filed with the State Water Resources Control Board, the surrounding controversies, and past and relevant litigation on pages ES-1, ES-2, 2-2 through 2-6, 5-5, and 5-8 (among other sections). Those discussions expressly addressed Bakersfield's water right application for its Kern Flow Program, and associated EIR. The commenter does not identify any specific physical environmental impacts that the draft EIR failed to address, or any relevant information from the prior litigation between KWBA and Bakersfield that is not considered in the draft EIR. Nevertheless, following is a summary of the 2012 Bakersfield Kern Flow Program EIR and the subsequent related litigation.

The City of Bakersfield in 2012 approved a programmatic EIR for its Kern Flow Program. That program sought to reaffirm the City's overall water supply plan, as well as to support the appropriation of additional water—up to an average of approximately 160,000 AFY—to "enhance the City's water supply to meet present and future demands for water." The Kern Flow Program proposes to rely on two discrete sources of water—70,000 AFY of "Source 1" water and about 87,000 AFY of "Source 2" water from the Kern River—for municipal purposes. According to the 2012 EIR, Source 1 water would consist of an annual average of 70,000 AFY of existing pre-1914 water rights held by Bakersfield that had been previously contracted to North Kern Water Storage District and other water users. Source 2 water would consist of an average of almost 90,000 AFY of "unappropriated" water that Bakersfield is currently seeking to appropriate by its application to the State Water Board. This unappropriated Source 2 water, the Bakersfield EIR explains, is water that "formerly belonged to Kern Delta but was lost by non-use"—the so-called "forfeiture water" described in the KWB draft EIR (page ES-2). Unlike the KWB application which limits diversions to certain hydrologic conditions in the wettest years, Source 2 water under Bakersfield's application constitutes an "average" appropriation over a complete range of water-year types.

As the 2012 Bakersfield EIR explains, any Source 2 water awarded by the State Water Board would be subject to existing rights on the Kern River. Further, the "actual quantity" of Source 2 water, as described in the 2012 Bakersfield EIR, is "uncertain," "speculative," and "entirely dependent" on a later determination by the State Water Board. The City took the position that, because the determination of the quantity of water available "is out of the control of the City," the EIR was "not required to predict, guess or speculate as to the impacts associated with the later determination by an external regulatory agency of the quantity of water available for the Program." The 2012 Bakersfield EIR also posited that a new permit from the State Water Board "would likely include terms, conditions, limits and priorities which would impact the timing, quantity and extent of water

devoted to the Program," thereby enhancing the speculative nature of the Source 2 water and—according to the City—reducing the need to analyze resulting impacts.

On the basis of the above assertions, Bakersfield's 2012 EIR expressly deferred analysis of the environmental impacts that might result from appropriating Source 2 water.

> The City has elected to defer review of certain secondary impacts associated with the use of new water supplies in the Program, including water supplies that may currently be used by other entities without authorization or a valid right or permit, until the SWRCB determines the quantity of unappropriated water available for use in the Program, and makes other determinations regarding the extent, timing, and availability of such water.

Bakersfield repeatedly confirmed during the administrative process and subsequent litigation that there would be no "approval" of the Kern Flow Program or project-level environmental review of any new sources of water until after the State Water Board determines how much water is available from the Kern River (if any).

On review of the 2012 Bakersfield EIR, the Tulare County Superior Court held that the EIR failed to adequately describe the Kern Flow Program in accordance with State CEQA Guidelines section 15124, subdivision (d)(2). In response to the writ issued by the Tulare Court, Bakersfield in 2016 prepared and certified a Recirculated Program EIR, which further emphasized the limited and conditional nature of the City actions at that time.

> After the [SWRCB] determines the quantity of unappropriated, surplus water available for appropriation on the Kern River, and presumably before the SWRCB determines and awards rights to such water to the City, the City will prepare, certify, and approve subsequent project level CEQA documents which tier off this program EIR, which CEQA documents will primarily review and consider impacts associated with the use of the specific quantity of water in the Program, including any applicable secondary and third party impacts. . . . If the SWRCB approves the City's application to appropriate and awards the City rights to all or some portion of the unappropriated Kern River water, the City will, if necessary, undertake, and certify and approve, additional project level CEQA documents which tier off this program EIR.

Bakersfield also repeatedly asserted that because no entities hold any right, title, or interest in the "surplus, unappropriated Kern River water," by definition the Kern Flow Program's appropriation of Source 2 water did not propose take water from any other water users.

The Tulare County Superior Court in proceedings on a later return to writ upheld the Recirculated EIR on the basis that the City "[was] not approving the program nor any specific activity at [that] point," as well as the unequivocal commitment by the City and its counsel to perform a full project-level environmental review once the amount of water available for appropriation is determined by the State Water Board. The trial court also ordered that the City strike its findings and statement of overriding considerations as premature. According to the court, "there can be no analysis of alternatives nor mitigation measures because these cannot be meaningfully addressed without knowing the potential effects of an agency action, and such effects cannot be known without knowing the amount of water subject to a change of use."

Unlike the 2012 Bakersfield EIR, the project EIR includes an extensive water availability analysis (Appendix L), which documents and evaluates the specific amount of Kern River water that the EIR concludes should be deemed unappropriated and available for appropriation. In this manner, the KWBA EIR does not defer environmental analysis and instead provides a project-level review of the possible direct, indirect, and cumulative impacts reasonably likely to result from the KWBA's

appropriation of water. Further, the KWBA application does not seek to appropriate the of any water deemed forfeited in the North Kern Decision that appears to comprise Bakersfield's Source 2 water supply (which at this point is "speculative" according to the City). As noted in footnote 5 of the water availability analysis (Appendix L), "Kern Delta Water District First Point rights that were determined by the courts to have been forfeited were not considered in this analysis." The KWBA application seeks to appropriate new water only after all senior rights are met, which occurs only in wet or very wet years when there is unappropriated water available. Such hydrologic conditions have occurred only periodically in the past 20-plus years. During those time periods, the KWBA has been able to divert and store a portion of that water thereby reducing flood risks on the Kern River system.

Lastly, based on the high variability of flows on the Kern River, the 2012 Bakersfield EIR documented that the Kern River has historically generated high volume flows in wet years that substantially surpass the amount of Source 2 water that the City seeks to appropriate. Consistent with the water availability analysis (Appendix L) in the draft EIR, for example, the Kern River experienced very high flows in 1983—1,459,000 AF at the Calloway Weir. That volume is many more times the amount of water the City is proposing to appropriate for use in its Kern Flow Program. This is further evidence that there is more than sufficient water under particular hydrologic conditions to accommodate Bakersfield's appropriation of Source 2 water and KWBA's appropriation of up to a maximum of 500,000 AF in the wettest years.

For all of the above reasons, the controversies surrounding Bakersfield's application, the 2012 Bakersfield EIR for the Kern Flow Program, and related litigation do not alter the analysis of physical changes that might arise from the KWB application to appropriate unappropriated, available water.

Please also see comments A4-40, A4-186, and A4-187.

3.2.4.261 Response to Comment A4-261

The comment asserts that the EIR must address disputes related to the City's competing application, must describe KWBA's legal challenges to the City's EIR, even though they have been resolved, and must describe the potential for additional litigation over all competing applications. Please see the responses to comments A4-4 and A4-260regarding the City of Bakersfield's and others' competing applications to appropriate water from the Kern River and the City's recently-prepared and certified programmatic EIR in support of its application and Kern Flow Program.

The draft EIR summarized each of the pending applications to appropriate water filed with the State Water Resources Control Board, including the City's application, and identified the surrounding controversies, and past and relevant litigation on pages ES-1, ES-2, 2-2 through 2-6, 5-5, and 5-8 (among other sections). Those discussions expressly addressed the City of Bakersfield's water right application for its Kern Flow Program, and associated EIR. Please see the response to comment A4-260 for a summary of the 2012 Bakersfield Kern Flow Program EIR and the subsequent related litigation. Further, litigation is not an unexpected part of the CEQA process in California, with hundreds of lawsuits filed every year and a multitude of court of appeal decisions. The potential for additional litigation over other Kern River water right applications is always a possibility, but not one that needs to be described in detail in the EIR.

For all of the reasons described in the response to comment A4-260, the controversies surrounding Bakersfield's application, the 2012 Bakersfield EIR for the Kern Flow Program, and related litigation

do not alter the analysis of physical changes that might arise from the KWB application to appropriate unappropriated, available water. Please also see comments A4-40, A4-186, and A4-187.

3.2.4.262 Response to Comment A4-262

The comment claims that the EIR is flawed because it does not include mitigation measures, and that it must include measures to mitigate or replace reduced flows of water in the Kern River.

This comment relies on a mischaracterization of the project as taking an additional 500,000 AFY of Kern River water (see comments A4-14, A4-15, A4-38, A4-42, A4-44, A4-63, A4-90, A4-114 through A4-116, A4-130, A4-132, A4-133, A4-137, A4-140, A4-141, A4-168, A4-171, A4-240 through A4-242, A4-244, A4-250, and A4-265, which claim that the project would add 500,000 AFY of Kern River water to the water that KWBA's participating members presently acquire).

The project, as described in draft EIR Chapter 2, *Project Description*, and clarified in Section 3.1.1, *Project Description Master Response*, Section 3.1.3, *Hydrology and Water Quality Master Response*, and the responses to comments, would not reduce flows in the Kern River channel. Please see Section 3.1.1, *Project Description Master Response*, which clarifies the quantity, timing, and source of available water for the project.[54]

The analysis of project impacts found no significant impacts, as clearly indicated in Table ES-1. Where an EIR concludes that an impact is less than significant, no mitigation is required (State CEQA Guidelines § 15126.4[a][3]). Thus, no mitigation is required and without the need for mitigation measures, no discussion or analysis of mitigation measures is necessary in either the resource analysis text or the executive summary.

3.2.4.263 Response to Comment A4-263

The comment states that the EIR does not discuss or include any potential mitigation measures. The analysis of project impacts found no significant impacts, as clearly indicated in Table ES-1. Where an EIR concludes that an impact is less than significant, no mitigation is required (State CEQA Guidelines § 15126.4[a][3]). Thus, no mitigation is required and without the need for mitigation measures, no discussion or analysis of mitigation measures is necessary in either the resource analysis text or the executive summary.

3.2.4.264 Response to Comment A4-264

The comment states that the analysis ignores significant impacts and that the EIR's impact analysis section does not include any mitigation measures. Please see the response to comment A4-263, which explains why no mitigation is necessary.

[54] See comments A4-14, A4-15, A4-38, A4-42, A4-44, A4-63, A4-90, A4-95, A4-96, A4-107, A4-108, A4-110, A4-112, A4-114 through A4-116, A4-118, A4-120, A4-130 through A4-133, A4-136, A4-137, A4-140 through A4-143, A4-164, A4-167 through A4-169, A4-171 through A4-173, A4-192 through A4-195, A4-200, A4-201, A4-240 through A4-242, A4-244, A4-250, A4-253, A4-265, O2-3 through O2-5, and O3-2.

3.2.4.265 Response to Comment A4-265

The comment mischaracterizes the project as taking an additional 500,000 AFY of Kern River water for use within and outside Kern County, and claims that KWBA deliberately ignores other, competing demands for Kern River water.

The statement that the project would appropriate "another 500,000 af of water annually" for recharge and recovery is incorrect. As described in draft EIR Chapter 2, *Project Description*, and clarified in Section 3.1.1, *Project Description Master Response*, and Section, 3.1.3, *Hydrology and Water Quality Master Response*, the project's diversion and recharge of up to 500,000 AF of Kern River water is likely to occur in only 18% of years.

The further statement that the project water would be used outside of Kern County is also incorrect. As also noted in the response to comment A4-56, the water diverted and banked under the project would be used to provide reliability to existing users during extended drought conditions, would continue to be recovered at the same rate using existing facilities and operating provisions, and would continue to be used by the same entities in the same locations as has historically occurred. See Section 3.1.1, *Project Description Master Response*, and the response to comment A4-11 for additional clarification of details regarding the existing and proposed POUs, which are the same.

KWBA does not ignore other, competing demands for Kern River water. In the draft EIR, competing applications are first described on pages 2-4 and 2-5. Competing Kern River water right applications are further addressed within the context of the cumulative impact setting and analysis. However, unlike many of the other applications described in the EIR, KWBA's Application 31676 seeks a State Water Board permit for high flow water that would be available after existing Kern River water rights are met on the Kern River and only when such surplus water is present. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision.

3.2.4.266 Response to Comment A4-266

The comment expresses the opinion that the KWBA fails to comply with CEQA and requests that the KWBA withdraw its EIR from further consideration until it prepares a new EIR addressing all issues and alleged CEQA violations raised by the commenter.

Bakersfield's request is conclusory, and does not present any of the circumstances surrounding recirculation. A lead agency need not undertake every suggested study. Moreover, the opinion of Bakersfield's lawyer is not substantial evidence. Regardless, KWBA can rely on the opinions of its own experts, including West Yost who evaluated water availability and concluded that more than sufficient surplus, unappropriated water is available to serve the project as well as other projects in the region. Further, recirculation (which is what the comment appears to be requesting) is not required where the final EIR merely clarifies or amplifies information contained in the draft EIR, which is the case here.

3.3 Responses to Organization Comment Letters

3.3.1 Responses to Comment Letter O1

3.3.1.1 Response to Comment O1-1

The comment states that the Rosedale-Rio Bravo Water Storage District letter is intended to supplement the February 23, 2018, Kern Fan Authority letter (comment letter O2) and that Rosedale has concerns about the project scope. KWBA acknowledges that Rosedale's letter supplements that of the Kern Fan Authority. For KWBA's responses to the Kern Fan Authority's comments please see comment letter O2 and the responses to comments O2-1 through O2-8.

3.3.1.2 Response to Comment O1-2

The comment cites CEQA case law related to the definition of a project and the content of an EIR and its project description, and asserts that the project description is inadequate for the analysis of potential impacts, alternatives, or mitigation measures. The information used in the draft EIR analysis is sufficient for the analysis of the project's impact on the environment. The project analysis used available data, reports, and models prepared for the KWB. The document presents all required setting and analysis information. The water availability analysis (Appendix L) was prepared to estimate how much water would be available for appropriation by KWBA in various water year types without affecting other water users' entitlements. Additional supporting data and governing documents are included in the EIR as Appendices B, C, F, and M. Please see the responses to comments A4-7, A4-11, A4-13, A4-19 through A4-23, and A4-27, which address the content and adequacy of the project description. Please also see Section 3.1.1, *Project Description Master Response*, Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, which clarify project details, baseline conditions used for the analysis, and hydrologic and project information.

3.3.1.3 Response to Comment O1-3

The comment asserts it is unclear if the project will change the Kern River Flood Policy or otherwise displace historical recharge activities. The project does not alter the Kern River Flood Policy. The project seeks an entitlement to divert water that is junior in position to existing water rights on the Kern River and only when surplus water is present. The KWB has previously diverted this same water for recharge purposes. As a result, the project does not alter historical recharge activities.

3.3.1.4 Response to Comment O1-4

The comment relies on a mischaracterization of the project as taking others' water rights to assert that the EIR should address impacts associated with the diminishment of the natural, normal, and unavoidable recharge of water that would have occurred in the Rosedale Rio Bravo Water Storage District under pre-project conditions. As defined in the project description and clarified in Section 3.1.1, *Project Description Master Response*, the project would divert unappropriated water in approximately 18% of years, after the rights of senior water right holders are met. Therefore, there would be no loss of entitled water by other water districts with Kern River rights, no diminishment

of their ability to recharge water, and no resulting impacts. Please see the responses to comments A4-7, A4-14, A4-15, and A4-118, which address the mischaracterization of the project as taking others' water supplies. Please also see Section 3.1.1, *Project Description Master Response*, Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, which clarify project details, baseline conditions used for the analysis, and hydrologic and project information.

3.3.1.5 Response to Comment O1-5

The comment states that under SGMA, the EIR must address impacts related to the displacement of historical recharge activities within the basin and the relocation of water use to areas that do not overlie usable groundwater supplies. Section 3.6, *Hydrology and Water Quality*, discusses SGMA and the project's relationship to it (pages 3.6-5 through 3.6-7). The project would not displace historical recharge activities or relocate water use. Please see the responses to comments A4-7, A4-14, A4-15, and A4-118, which address the mischaracterization of the project as taking others' water supplies, and the responses to comments A4-11 through A4-13, which address the POUs for the project water, which are the same as the existing POUs for recovered KWB water. Please also see Section 3.1.1, *Project Description Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, which clarify project details and hydrologic and project information used in the EIR analysis.

3.3.1.6 Response to Comment O1-6

The comment reiterates Rosedale's request that KWBA address the issues raised in comments O1-1 through O1-5. Please see the responses to comments O1-1 through O1-5.

3.3.2 Responses to Comment Letter O2

3.3.2.1 Response to Comment O2-1

The comment claims that the project description is inadequate because it does not address second priority rights to the use of KWBA recharge and recovery facilities by other Kern River water right holders. Second priority rights to the KWB have been exercised by member units in the past, including Rosedale, a member of the Kern Fan Authority, Cawelo, and Tehachapi. Rosedale recharged approximately 30,000 AF in 2005 for later recovery within Rosedale. In 2011, Cawelo and Tehachapi recharged approximately 6,100 AF and 6,700 AF, respectively. In 2013, they recovered approximately 1,350 AF and 2,006 AF, respectively. The second priority has not otherwise been utilized. In general, KWB recharge facilities are fully utilized by KWB participants in wet years from a variety of sources, including the SWP, the CVP, and the Kern River, leaving little to no capacity for second-priority use. Further, KWB recovery facilities are seldom, if ever, available during severe droughts for second-priority recovery of stored water. Given the marginal use by second priority water right holders, the project is not expected to have any significant adverse effects on these storage rights.

3.3.2.2 Response to Comment O2-2

The comment claims that the EIR should analyze the water use and needs of other Kern River water right holders. The project seeks an entitlement to divert water that is junior in position to existing water rights on the Kern River and only when such surplus water is present. KWBA previously diverted this same water for recharge purposes and does not seek a change in use. The project does not seek appropriation of any water deemed forfeited in the North Kern Decision. The water availability analysis for Application 31676 expressly evaluates the amount of water that historically remained in the Kern River after senior water rights were met. Consequently, analyzing the uses and needs of pre-existing, senior water right holders is unnecessary to accurately evaluate the physical impacts of the project.

3.3.2.3 Response to Comment O2-3

The comment asserts that the EIR should address second priority rights to the use of KWBA facilities by other Kern River water right holders such as Buena Vista Water Storage District. Second priority rights to the KWB have been exercised by member units in the past, including Rosedale, a member of the Kern Fan Authority, Cawelo, and Tehachapi. Rosedale recharged approximately 30,000 AF in 2005 for later recovery within Rosedale. In 2011, Cawelo and Tehachapi recharged approximately 6,100 AF and 6,700 AF, respectively. In 2013, they recovered approximately 1,350 AF and 2,006 AF, respectively. The second priority storage rights have not otherwise been utilized. In general, KWB recharge facilities are fully utilized by KWB participants in wet years from a variety of sources, including the SWP, the CVP, and the Kern River, leaving little to no capacity for second-priority use. Further, KWB recovery facilities are seldom, if ever, available during severe droughts for second-priority recovery of stored water.

3.3.2.4 Response to Comment O2-4

The comment asserts that the EIR should state that beneficial regional effects of the project would occur whenever additional water is diverted to the KWB, regardless of source. KWBA agrees, and the draft EIR recognizes (pages 2-10, 2-12, 3.3-19, 3.3-22, and 3.6-33) that diversion of water to the KWB for recharge provides benefits regardless of source. Section 3.6, *Hydrology and Water Quality*, discusses (pages 3.6-3 through 3.6-5) beneficial uses of surface water in general and within the Kern River watershed (pages 3.6-14 and 3.6-16). However, the diversion and recharge of Kern River water is more environmentally sound than groundwater pumping without recharge and, as described in Section 3.6, *Hydrology and Water Quality*, recharging Kern River water under the project compared to either Baseline Condition 1 or 2 would improve groundwater quality, and the preferential recharge of Kern River water over SWP water would also provide a groundwater quality benefit, as Kern River water is of better quality than SWP water (page 3.6-40).

Further, the project under consideration in the EIR is, specifically, the diversion of up to a maximum of 500,000 AFY of high flow water as defined in Chapter 2, *Project Description*, and Section 3.6, *Hydrology and Water Quality*, and clarified in Section 3.1.1, *Project Description Master Response*. The EIR therefore considers the impacts of the project as defined.

3.3.2.5 Response to Comment O2-5

The comment relies on the mischaracterization of the project as an increased water supply of an additional 500,000 AF to imply that the project would take water from other water districts and claim that the EIR must analyze potential environmental impacts associated with changing the place of use and purpose of use of a substantial amount of Kern River water from existing water right holders to KWBA participating members.

As described in Section 3.6, *Hydrology and Water Quality*, and Appendix L, and further clarified in Section 3.1.1, *Project Description Master Response*, the project does not propose to take water from other senior rights holders on the Kern River.

The historical record considered in the water availability analysis (Appendix L) indicates that the quantity of water requested by the project is available for diversion without impinging other Kern River water right holders' entitlements (see draft EIR pages 3.6-28 through 3.6-32, and Impact HYDRO-1 on page 3.6-36). Further, as described on page 3.6-26, the specific quantity of water available for diversion to the KWB in any given year would depend on annual and seasonal hydrologic and climatologic conditions. As stated on page 3.6-36, the project would not recover more groundwater than has been recharged. Project operations would be consistent with the KWBA MOU and with the Long-Term Operations Plan, which set further parameters on long-term banking operations. The project would not cause a change in the use of Kern River water by other entities and there would be no change to ownership, place of use, or purpose of use. No analysis of such a scenario is necessary.

3.3.2.6 Response to Comment O2-6

The comment asserts that the draft EIR does not adequately address areas of controversy but only provides a bulleted list that does not include second priority rights.

Please see the responses to comments A4-259 through A4-261, which address specific known areas of controversy. In addition, please see Section 3.1.1.8, *Second Priority Use Rights*, of this final EIR and the responses to comments O2-1 and O2-3.

3.3.2.7 Response to Comment O2-7

The comment asserts that the EIR should consider a specific third alternative that it claims may be environmentally superior, involving the recharge of surplus Kern River water by Kern River water right holders exercising second priority rights. The comment further notes that two potential alternatives, off-site banking and banking via transfers, are dismissed on page 4-3 of the draft EIR.

As described in Section 3.1.1.8, *Second Priority Use Rights*, of this final EIR, second priority rights refer to rights held by member units of KCWA to utilize the KWB for recharge and/or recovery of water for use within KCWA boundaries. Second priority rights are seldom used because KWB recharge facilities are usually fully utilized by KWBA members in wet years from a variety of sources, including the SWP, the CVP, and the Kern River, leaving little to no capacity for second-priority use. Further, and perhaps of greater significance to those considering storing water in the KWB is that recovery facilities are seldom, if ever, available during severe droughts for second-priority recovery of stored water. In addition, use of the KWB by second-priority users would not

serve the water supply needs of KWBA participating members in dry years and would likely displace water that those members could recover under such circumstances. As described in the response to comment A4-206, implementation of another agency's project that would not meet the project's intended objective or purpose would not constitute a potentially feasible alternative. For these reasons, consideration of the recharge of surplus Kern River water by Kern River water right holders exercising second priority rights as a project alternative would be inappropriate.

The off-site banking and banking via transfers alternatives described in the draft EIR are dismissed, but not without initial consideration and supporting explanations. As described on page 4-3 of the draft EIR and noted in the response to comment A4-16, alternatives considered but rejected, and the reasons for their rejection, are summarized in Table 4-1. Please also see the responses to comments A4-205 and A4-210, which discuss the selection of viable alternatives.

3.3.2.8 Response to Comment O2-8

The comment expresses the Kern Fan Authority's opinion that the EIR does not meet CEQA requirements. KWBA disagrees. The document satisfies the requirements of CEQA and the State CEQA Guidelines. Please see the responses to comments A4-8 and A4-9, as well as Section 3.1.1, *Project Description Master Response*, and Section 3.1.2, *Baseline Master Response*, for additional discussion of the EIR's compliance with CEQA requirements.

3.3.3 Responses to Comment Letter O3

3.3.3.1 Response to Comment O3-1

The comment expresses North Kern Water Storage Districts support of KWBA's effort to design and operate a project that will continue KWBA's current practice to maximize to the fullest extent possible the conservation and beneficial use of Kern River water, consistent with historical Kern River water rights and priorities, and provide significant environmental benefits while avoiding or minimizing adverse environmental impacts to the region. This is not a comment on the adequacy of the EIR. KWBA acknowledges North Kern's support. No further response is necessary.

3.3.3.2 Response to Comment O3-2

The comment indicates that any plan or project that would change the historical Kern River water supply used for recharge into the subbasin by NKWSD and others north of the Kern River could have significant impacts. The project would not change the historic Kern River water supply used for recharge by NKWSD and others north of the Kern River. As described throughout the EIR, the water diverted and banked under the project would be used to add reliability to existing users during extended drought conditions, would continue to be recovered at the same rate using existing facilities and operating provisions, and would continue to be used by the same entities in the same locations as has historically occurred.

The project would not take water from other senior rights holders (see also Section 3.1.1, *Project Description Master Response*). As stated on page 20 of Appendix L and incorporated into the EIR analysis, project operations would in some wet years reduce peak flows within the Kern River.

However, project diversions would rely entirely on unappropriated, high flow conditions after the other entities' water rights have been met.

Please see Section 3.1.1, *Project Description Master Response*, Section 3.1.2, *Baseline Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*, for additional discussion of the project's relationship to surrounding entities.

3.3.3.3 Response to Comment O3-3

The comment notes that reductions in Kern River water supply have the potential to cause direct, indirect, and cumulative impacts related to increased pumping or reduced groundwater recharge in the Kern County Subbasin. The project is not expected to reduce the Kern River water supply, increase net groundwater pumping, or decrease recharge in the Kern County Subbasin. As stated on page 2-6 of the draft EIR, the project seeks to obtain high flow Kern River water that is anticipated to be available in only 18% of years for recharge and later recovery. Diversions for groundwater recharge would occur during wet water year types, and recovered or pumped primarily in dry or multi-dry years. During wet water years, the project would result in a net increase in recharge and groundwater levels. During dry years, recovery would be similar to baseline conditions because the project would use existing pumping facilities. Please also see Section 3.1.1, *Project Description Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*.

3.3.3.4 Response to Comment O3-4

The comment states that, if it reduces Kern River water supply, the project could cause direct, indirect and cumulative impacts within North Kern and the broader region from an accelerated rate of decline in depth to groundwater and reduced storage levels. During dry years, recovery would be similar to baseline conditions and would result in a temporary lowering of the groundwater table. However, the project would result in a net increase in recharge and groundwater levels during wet water years. Please also see Section 3.1.1, *Project Description Master Response*, and Section 3.1.3, *Hydrology and Water Quality Master Response*.

3.3.3.5 Response to Comment O3-5

The comment states that, if it reduces Kern River water supply, the project could cause direct, indirect and cumulative subsidence impacts within North Kern and the broader region. The project would not reduce Kern River water supply. As defined in Chapter 2, *Project Description* (page 2-6), and clarified in Section 3.1.1, *Project Description Master Response*, the project would divert unappropriated water in approximately 18% of years, after the rights of senior water right holders are met. Further, as described in the draft EIR (page 2-6), project water stored within the KWB would be recovered, for use during dry conditions, using existing electric pumps. The project would not cause a net increase in groundwater pumping and would therefore not cause land subsidence. Please also see the response to comment A4-142.

3.3.3.6 Response to Comment O3-6

The comment states that, if it reduces Kern River water supply, the project could cause direct, indirect and cumulative groundwater quality impacts due to increased concentrations of salts and

other minerals within North Kern and the broader region. The project would not reduce Kern River water supply or increase pumping, two actions that could alter the chemistry or quality of groundwater. As stated in Section 3.6, *Hydrology and Water Quality*, on page 3.6-39, KWB operations would result in a net reduction of salts in the Kern Fan aquifer due to the export of salts during recovery operations. The ratio of salts removed to those imported is 1.5:1. The recharge of high quality Kern River water under the project would help maintain this beneficial salt removal and improve groundwater quality. The project would not contribute to decreased water quality.

3.3.3.7 Response to Comment O3-7

The comment states that, if it reduces Kern River water supply, the project could cause direct, indirect and cumulative impacts within North Kern and the broader region due to operational expenses to replace reduced Kern River supplies including increased operation of wells and pumps. As described in Section 3.6, *Hydrology and Water Quality*, and Appendix L, and further clarified in Section 3.1.1, *Project Description Master Response*, the project would not take water from senior rights holders within North Kern or the broader region.

The historical record considered in the water availability analysis (Appendix L) indicates that the quantity of water requested by the project is available for diversion at the KWB without impinging other Kern River water right holders' entitlements (see draft EIR pages 3.6-28 through 3.6-32, and Impact HYDRO-1 on page 3.6-36).

Further, as described on page 3.6-26, the specific quantity of water available for diversion to the KWB in any given year would depend on annual and seasonal hydrologic and climatologic conditions. As stated on page 3.6-36, the project would not recover more water than has been recharged. Project operations would be consistent with the KWBA MOU and with the Long-Term Operations Plan, which sets further parameters on long-term banking operations. The project would not reduce the Kern River water supply or cause North Kern or other entities to increase pumping, and would therefore not affect others' operational expenses. As defined in the project description and clarified in Section 3.1.1, *Project Description Master Response*, the project would divert high flow water in approximately 18% of years, after the rights of senior Kern River water right holders are met. Therefore, there would be no loss of entitled water by other water districts with Kern River rights, and no increases in pumping or operational expenses would result.

3.3.3.8 Response to Comment O3-8

The comment states that, if it reduces Kern River water supply, the project could cause direct, indirect and cumulative impacts within North Kern and the broader region due to increased consumption of energy and the potential for air quality and greenhouse gas impacts. As indicated in the response to comment O3-7, the project would not reduce Kern River water supply within North Kern and the broader region or cause North Kern or other entities to increase groundwater pumping. Please also see the responses to comments A4-115, A4-118, A4-136, and A4-137, which further address the project's relationship to other pumping activities and impacts on air quality and greenhouse gases.

3.3.3.9 Response to Comment O3-9

The comment asserts that, if it reduces Kern River water supply, the project could cause direct, indirect and cumulative impacts within North Kern and the broader region due to changes in agriculture and land use. The project would not affect water availability or land uses, including agriculture, within North Kern or the broader region. As described in Section 3.6, *Hydrology and Water Quality*, and Appendix L, and further clarified in Section 3.1.1, *Project Description Master Response*, the project would not take entitled water from other Kern River water right holders. The historical record considered in the water availability analysis (Appendix L) indicates that the quantity of water requested by the project is available without impinging other Kern River water right holders' entitlements (see draft EIR pages 3.6-28 through 3.6-32, and Impact HYDRO-1 on page 3.6-36).

Further, as described on page 3.6-26, the specific quantity of water available for diversion to the KWB in any given year would depend on annual and seasonal hydrologic and climatologic conditions. As stated on page 3.6-36, the project would not recover more water than has been recharged. Project operations would be consistent with the KWBA MOU and with the Long-Term Operations Plan, which set further parameters on long-term banking operations. The project would not cause a change in the availability or use of Kern River water by other entities within North Kern or the broader region and would not affect land uses or agriculture within North Kern or the broader region.

3.3.3.10 Response to Comment O3-10

The comment states that, if it reduces Kern River water supply, the project could cause direct, indirect and cumulative impacts on to domestic, municipal and industrial water use, and associated socioeconomic impacts, within North Kern and the broader region.

The project would not affect the availability of water for domestic, municipal, or industrial water uses within North Kern or the broader region. As described in Section 3.6, *Hydrology and Water Quality*, and Appendix L, and further clarified in Section 3.1.1, *Project Description Master Response*, the project would not take or otherwise affect the entitlements of other Kern River water right holders. The historical record considered in the water availability analysis (Appendix L) indicates that the quantity of water requested by the project is available without impinging other Kern River water right holders' entitlements (see draft EIR pages 3.6-28 through 3.6-32, and Impact HYDRO-1 on page 3.6-36).

Further, as described on page 3.6-26, the specific quantity of water available for diversion to the KWB in any given year would depend on annual and seasonal hydrologic and climatologic conditions. As stated on page 3.6-36, the project would not recover more water than has been recharged. Project operations would be consistent with the KWBA MOU and with the Long-Term Operations Plan, which set further parameters on long-term banking operations. The project would not cause a change in the availability or use of Kern River water within North Kern or the broader region for domestic, municipal, or industrial purposes, or cause associated socioeconomic impacts, within North Kern or the broader region.

3.3.3.11 Response to Comment O3-11

The comment asserts that, if the project would reduce North Kern's current water allocation, KWBA must analyze potential environmental impacts on North Kern and the region north of Kern River arising from a reduction in the diversion and use of Kern River water currently made by North Kern, and others, north of the Kern River. The project does not propose to take water from Kern River senior rights holders, and therefore would not reduce or in any way affect North Kern's water allocation. The project description (page 2-6) states that the project would divert up to 500,000 AFY of high flow Kern River water after the rights of existing senior rights holders are met. The project description further states (page 2-6) that diversion of 500,000 AF of high flow Kern River water is expected to be a rare occurrence, as the requisite flows would only be available for diversion in approximately 18% of years. Please also see the water availability analysis (Appendix L, page 12), Section 3.6, *Hydrology and Water Quality* (pages 3.6-26 through 3.6-31), Section 3.1.3, *Hydrology and Water Quality Master Response*, and Section 3.1.1, *Project Description Master Response*, for further discussion of the conditions under which the project diversions would occur.

3.3.3.12 Response to Comment O3-12

The comment questions the water availability analysis text indicating that KWBA reserves the right to make a claim for future water that the State Water Board may deem available for appropriation, and states that releases to the Kern River required by the Forfeiture Judgment are used in full by existing junior right holders, such as North Kern and others, under existing entitlements and would never be available to KWBA or any applicant through the statutory permitting system administered by the State Water Board. The commenter is questioning a hypothetical future situation, not part of the project considered in the EIR. The referenced statement merely notes that KWBA may apply for other Kern River water, should it become available in the future. KWBA acknowledges that if such a situation were to occur in the future, separate or supplemental environmental analysis would be necessary. Consideration of a future, as-yet-undefined project does not affect the analysis of the project, and no changes to the EIR are necessary.

3.3.3.13 Response to Comment O3-13

The comment states that North Kern and the City of Shafter have applied for all unappropriated Forfeiture water and KWBA's reservation to make a claim is subject to North Kern's rights and application, and will require CEQA analysis. Please see the response to comment O3-12. The commenter is questioning a hypothetical future situation, not part of the project considered in this EIR. The referenced water availability analysis statement merely notes that KWBA may apply for other Kern River water, should it become available in the future. KWBA agrees that if such a situation were to occur in the future, separate or supplemental environmental analysis would be necessary, and notes that any entitlement to future unappropriated Kern River water, by any applicant, would be subject to a State Water Board decision at that time. Consideration of a future, as-yet-undefined project does not affect the analysis of the project, and no changes to the EIR are necessary.

3.3.3.14 Response to Comment O3-14

The comment requests text changes to the water availability analysis (Appendix L). These clarifications do not affect any of the impact conclusions in the EIR, and the North Kern text of Table 3, page 8 of Appendix L is revised as follows.

> North Kern Water Storage District has the perpetual a permanent right to access divert, transport and use all water accruing to certain water rights as stated in the 'Agreement for Use of Water Rights', dated January 1, 1952, which rights include both First and Second Point water and also purchases First Point water entitlements under provisions of the Miller-Haggin Agreement of 1888 (as amended and supplemented), and the Shaw Decree of 1900. Kern River water is delivered diverted and transported by North Kern through the Beardsley and Calloway Canals, and the Pioneer Canal Inlet to Cross-Valley Canal. Monthly delivery capacity estimated from 2006 Kern River Annual Hydrographic Report.

3.3.3.15 Response to Comment O3-15

The comment requests text changes to the water availability analysis (Appendix L) regarding North Kern, City of Bakersfield, and Kern Delta Water District First Point of Measurement entitlements. These clarifications do not affect any of the impact conclusions in the EIR, and the text of the water availability analysis (Appendix L), Section 3.2, *Kern River Pre-1914 Water Right Allocations*, paragraph 3, has been revised as follows.

> The First Point rights are allocated in order of priority according to the diversion rights identified on the 'Kern River First Point Flow and Diversion Record.' Allocations of First Point and Second Point flows are made on a daily basis in accordance with the provisions of the Miller-Haggin Agreement of 1888 (as amended and supplemented), the 1900 Shaw Decree, and the 1962 Kern River Water Rights and Storage Agreement. Depending on the month, all the waters of the Kern River are first divided and apportioned each day between the two parties to the Miller-Haggin Agreement on a percentage basis depending on the total unregulated natural flow measured at the First Point of Measurement. The First Point parties are entitled to divert and use all the water divided and apportioned to the First Point parties each day of each month under the Miller-Haggin Agreement in the order of priority stated in the 'Kern River First Point Flow and Diversion Record,' provided that any such water that the First Point parties are entitled that passes the Second Point of Measurement shall, upon passing, belong to the Second Point parties. ~~In January, February and September through December, flows up to 1,200 cfs are allocated to First Point users. Flows above 1,200 cfs are apportioned between First Point and Second Point users. From March through August, flows up to 300 cfs are allocated to First Point users. Flows above 300 cfs are apportioned to First Point and Second Point users in varying ratios, depending on the amount natural flow. All of the First Point rights are filled when the river is running over 3,162 cfs, so that any flow over that amount would also necessarily be surplus, excess water that would be released to Second Point (Bogart, 2009). This typically occurs in very wet years. When an individual right-holder is unable to use all of its allocation, water is released to the river and is made available for junior right holders to use. As discussed in Section 4.1, once Kern River regulated flow reaches about 200,000 acre-feet/month (just under 3,400 cfs), the use of existing facilities is maximized and flood water flows to the Intertie.~~

3.3.3.16 Response to Comment O3-16

The comment requests text changes to the water availability analysis (Appendix L). These clarifications do not affect any of the impact conclusions in the EIR, and the text of paragraph 1, page 11 of Appendix L is revised as follows.

The City of Bakersfield, North Kern, and Kern Delta Water District hold all of the First Point rights. The North Kern Water Storage District holds the perpetual right to divert, transport and use all water accruing to certain water rights as stated in the 'Agreement For Use of Water Rights' dated January 1, 1952 ~~also diverts and uses water from the First Point service area, pursuant to a water supply agreement that gives the District access to the First Point rights held by the City of Bakersfield in perpetuity.~~ The Buena Vista Water Storage District holds essentially all of the Second Point rights, and the Kern County Water Agency holds the Lower River rights.

3.3.3.17 Response to Comment O3-17

The comment requests text changes to the water availability analysis (Appendix L). These clarifications do not affect any of the impact conclusions in the EIR, and the text of paragraph 2, page 11 of Appendix L is revised as follows.

The City of Bakersfield has historically used Kern River water for municipal and industrial uses within the City, as well as for groundwater replenishment, with principal replenishment at the City's 2800 Acre recharge facility. In 1976, Bakersfield entered into ~~35-year~~ long-term contracts to sell a portion of its Kern River water supply to four agricultural districts. ~~As indicated in its 2009 testimony for the Kern River Fully Appropriated Stream hearings,~~ Bakersfield proposes to take back a significant quantity of this water both to meet increasing demand and to discharge water to the Kern River (Core, 2009). In 2014 the Ventura County Superior Court entered a final judgment (affirmed by the Court of Appeal, Second Appellate District) that the Extension Term of Agreement 76-89 between North Kern and Bakersfield is a valid and enforceable contract, in full force and effect. The City of Bakersfield is permanently enjoined from taking any action inconsistent with Agreement 76-89 and the Final Statement of Decision of the judgment. The City also has a long-term contract with Rosedale-Rio Bravo Water Storage District. In addition to the long-term contract water, Bakersfield also sells surplus water to local agencies when available

3.3.3.18 Response to Comment O3-18

The comment requests text changes to the water availability analysis (Appendix L). These clarifications do not affect any of the impact conclusions in the EIR, and the text of paragraph 3, page 11 of Appendix L is revised as follows.

North Kern Water Storage District uses Kern River water for irrigation, stock watering, groundwater replenishment and (recharge), and municipal and industrial purposes. The District is also a Central Valley Project contractor, receiving Class 1 and Class 2 water from the Friant-Kern project. The District takes diversions from the Kern River through the Beardsley and Calloway canals, and the Pioneer Canal Inlet to Cross-Valley Canal for both irrigation stock watering, deliveries and groundwater replenishment (recharge) for irrigation and municipal and industrial purposes. The District also has spreading basins that are filled using Kern River, Poso Creek and other available supplies including flood waters from the Kern River.

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3.4.2 Personal Communications

Kern Water Bank Authority pers. comm. Email from Jonathan Parker, Kern Water Bank Authority General Manager. June 15, 2018.

Chapter 4
Draft EIR Errata

Section 15088(d) of the State CEQA Guidelines indicates that responses to comments that make important changes in the draft EIR text may take the form of revisions to the text in the body of the EIR or a separate section of the final EIR indicating that the text is revised. This chapter follows the latter route and provides changes to the EIR text as a separate chapter, with the text changes clearly distinguished. These changes constitute the revisions to the draft EIR required by State CEQA Guidelines Section 15132(a).

This chapter contains changes made to the text of the draft EIR in response to comments received during the public review period, or for purposes of clarification or correction. The revisions contain clarifications and corrections that have been identified, either through public comments or by the KWBA, since publication of the draft EIR on January 12, 2018. The text revisions do not result in substantive changes to either the analyses or conclusions presented in the draft EIR. None of the corrections or additions constitutes significant new information or substantial project changes requiring recirculation as defined by Section 15088.5 of the CEQA Guidelines.

4.1 Changes to the Draft EIR

The following changes to the draft EIR text are incorporated into the final EIR as presented below. Changes to the draft EIR text are shown by ~~strikethrough~~ of text that has been deleted and <u>underlining</u> of new text that has been inserted.

4.1.1 Executive Summary

In Section ES.2, *Description of the Project*, the first sentence has been revised as follows.

The project is to divert up to 500,000 AFY <u>of high flow water</u> from the Kern River for recharge and storage within the KWB through existing diversion works and recharge facilities located on the KWB property (Figure ES-1).

In Section ES.2, *Description of the Project*, second full paragraph, the first sentence has been revised as follows.

Application 31676 proposes to divert up to a maximum of 500,000 AFY to storage or directly ~~at a rate of 10 cubic feet per second (cfs) for a total of 5,000 AFY~~ for municipal ~~use~~, ~~750 cfs for a total of 490,000 AFY for~~ irrigation ~~use~~, and ~~15 cfs for a total of 5,000 AFY for~~ industrial use.

In Section ES.2, *Description of the Project*, the third full paragraph has been revised as follows.

The specific quantity of water available for diversion to the KWB in any given year would depend on annual and seasonal hydrologic and climatologic conditions, and would<u>, to the extent that has happened during historical operation,</u> supplement water already received by KWBA participating members from the State Water Project (SWP) and the Central Valley Project (CVP) via the California Aqueduct, the CVP via the Friant-Kern Canal, and directly from the Kern River through purchases or transfers. The appropriation of water under this application would also ~~supplement and~~ permit water historically diverted from the Kern River to the KWB in above-

normal water years when excess water has been made available for diversion to avoid additional flood risks downstream. If the State Water Board grants KWBA a water right permit to appropriate the requested amount, this water would remain in the Kern River channel for instream beneficial purposes until diverted generally west and downstream of the greater Bakersfield area.

4.1.2 Chapter 1, Introduction

In Section 1.1, *Purpose of this Environmental Impact Report*, the first sentence has been revised as follows.

This project Environmental Impact Report (EIR) satisfies the requirements of the California Environmental Quality Act (CEQA) and the State CEQA Guidelines (14 California Code of Regulations [CCR] 15000 et seq.) by identifying, evaluating, and disclosing environmental impacts, and recommending mitigation measures, as applicable, related to the Kern Water Bank Conservation and Storage Project (project) and alternatives that are to be considered prior to project disapproval or approval by the Kern Water Bank Authority.

4.1.3 Chapter 2, Project Description

In Section 2.1.1.3, *Water Resources,* the second paragraph, last two sentences have been revised as follows.

In general, and as described in detail in Section 3.6, *Hydrology and Water Quality*, these Kern River floodwaters would have otherwise flowed to the Kern River–California Aqueduct Intertie (Intertie) and been lost to Kern County or have flooded productive agricultural lands. Additional details regarding KWB facilities and operations are further outlined in Section 2.2, *Existing KWB Conditions*.

In Section 2.1.2.3, *Study Area,* the first paragraph has been revised as follows.

The study area for purposes of the environmental analysis in this EIR depends upon the nature and type of resource topic being analyzed. The study area for some impacts, such as geology and seismicity, is the same as the KWB project area (the KWB facilities and physical boundary). For other impacts, the study area includes the participating members' service areas or the appropriate watershed or air basin (for example, the air quality analysis in Section 3.2, *Air Quality Resources*, focuses on the San Joaquin Valley Air Basin [SJVAB]). Each resource-specific study area is defined in its respective resource analysis section of this EIR.

In Section 2.1.3, *Project,* the first paragraph has been revised as follows.

The project is to directly divert up to 500,000 AF of water per year from the Kern River for recharge, ~~and~~ storage, and later recovery within the KWB through existing diversion works and recharge facilities located on the KWB lands, and/or to deliver water directly to KWBA's participating members' service areas via the KWB Canal or Cross Valley Canal (CVC). This EIR addresses the appropriation of high flow Kern River water, only available under certain hydrologic conditions and after the rights of senior Kern River water right holders have been met, that otherwise would have: (1) been diverted to the Intertie, (2) flooded farmlands, or (3) left Kern County. The EIR does not consider the appropriation of the Kern Delta forfeited water (i.e., the water that is the focus of the City of Bakersfield's *Kern River Flow and Municipal Water Program Final Environmental Impact Report*). The State Water Board has not yet determined

whether the Kern Delta water, or other Kern River water, is unappropriated. KWBA may conduct additional CEQA review should the State Water Board (or other entities) decide that other Kern River Water is available for appropriation.

In Section 2.1.3, *Project,* the second paragraph, the last two sentences have been revised as follows.

The water stored within the KWB would ultimately be recovered using existing electric pumps and put to reasonable and beneficial uses—primarily irrigation uses—during dry periods by KWBA's participating members. KWBA is seeking to secure a permit and then a license from the State Water Board for the full amount requested in Application 31676 (Appendix D).

In Section 2.1.3.2, *Water Right Application 31676*, the first paragraph has been revised as follows.

Application 31676 proposes to directly divert ~~surface waters at a rate of 10 cfs for 5,000 AFY for municipal use, 750 cfs for 490,000 AFY for irrigation use, and 15 cfs for 5,000 AFY for industrial use or divert~~ up to 500,000 AFY for underground storage for municipal, industrial, irrigation, and water quality uses. If approved, this would allow for the appropriation of up to a total of 500,000 AFY of water from the Kern River. Any water directly diverted in a given year would reduce the quantity placed into storage by the same volume. The priority date of the water right would be September 26, 2007, the filing date of the application.

In Section 2.1.3.2, *Water Right Application 31676*, the second paragraph, first sentence, has been revised as follows.

The requested amount of 500,000 AFY is the estimated maximum quantity of Kern River water that KWBA can physically divert and recharge in a given year (Appendix L).

In Section 2.1.3.2, *Points of Diversion,* the first paragraph has been revised as follows.

The proposed points of diversion include existing impoundment structures and associated diversion structures along the Kern River. The impoundment structures (e.g., the River Canal Weir) followed by the diversion points related to that impoundment (e.g., the Kern River Canal East), and their respective capacities, are listed below and shown on Figures 2-3 and 2-4.

In Section 2.1.3.2, *Points of Diversion,* the second paragraph has been revised as follows.

Most water diverted under the project would be delivered via the Kern Water Bank Canal, located near Enos Lane, and the City of Bakersfield's 2,800-acre recharge facility's Basins 9 and 10, which receive river water via McClung Weir and Basin 1. Basins 9 and 10 deliver water to the Pioneer Project and then in turn to the KWB. The Basin 9 and 10 capacities are 600 and 150 cfs, respectively. However, the maximum delivery to the KWB via these diversion points is limited to about 400 cfs.

In Section 2.1.3.2, *Points of Diversion,* the third paragraph, fifth sentence, has been revised as follows.

Basin 2 delivers water to the ~~2800-Acre~~2,800-acre recharge facility and the Pioneer Project and then in turn to the KWB (up to 150 cfs).

In Section 2.1.3.2, *Points of Diversion,* Figure 2-5, *Points of Rediversion,* has been revised as follows to correct the numbering of two diversion points.

In Section 2.1.3.2, *Place of Use,* the first paragraph has been revised as follows.

The POU for the Kern River water considered in this document is throughout KWBA's participating members' service areas and lands in Kern and southernmost Kings Counties. The KWB POUs for the supplies identified in this EIR are shown in Figure 2-6, and are the same as the existing POUs for water historically banked in the KWB and recovered by the participating members. As stated in Application 31676, the POU will be in all or a portion of the below districts. These POUs include the service areas of water districts in which KWBA participating members and their water users have land holdings.

In Section 2.1.3.2, *Purpose of Use,* the first paragraph has been revised as follows.

As indicated in Application 31676, the purpose of use for the appropriated water would be the same as the existing uses of recovered KWB water, and would include groundwater storage for municipal, industrial, irrigation and water quality uses and direct diversion for municipal, industrial, and irrigation uses. Although the participating members' service areas support a wide variety of crops (e.g., alfalfa, cotton, fruits, grain/pasture, grapes, nursery, nuts, and vegetables), primarily in Kern County, high-value perennial tree crops predominate in the service areas. The more reliable supply of ~~S~~stored water afforded by the project would provide the valuable ability to prolong ~~supplemental~~ irrigation ~~supplies~~ during droughts and thereby potentially reduce pumping of native groundwater in KWBA members' service areas. A portion of the stored water would also be used for municipal and industrial uses; one of the participating members would continue to supply existing developments in southern Kern County, and all of the member entities, including the participating members, would continue to provide a back-up supply to an existing power plant in southern Kern County.

In Section 2.1.3.2, *Purpose of Use*, the second paragraph, second sentence, has been revised as follows.

Groundwater storage would also continue to provide for the preservation and enhancement of wildlife.

In Section 2.1.4.2, *Project Objectives,* the second paragraph, first sentence, has been revised as follows.

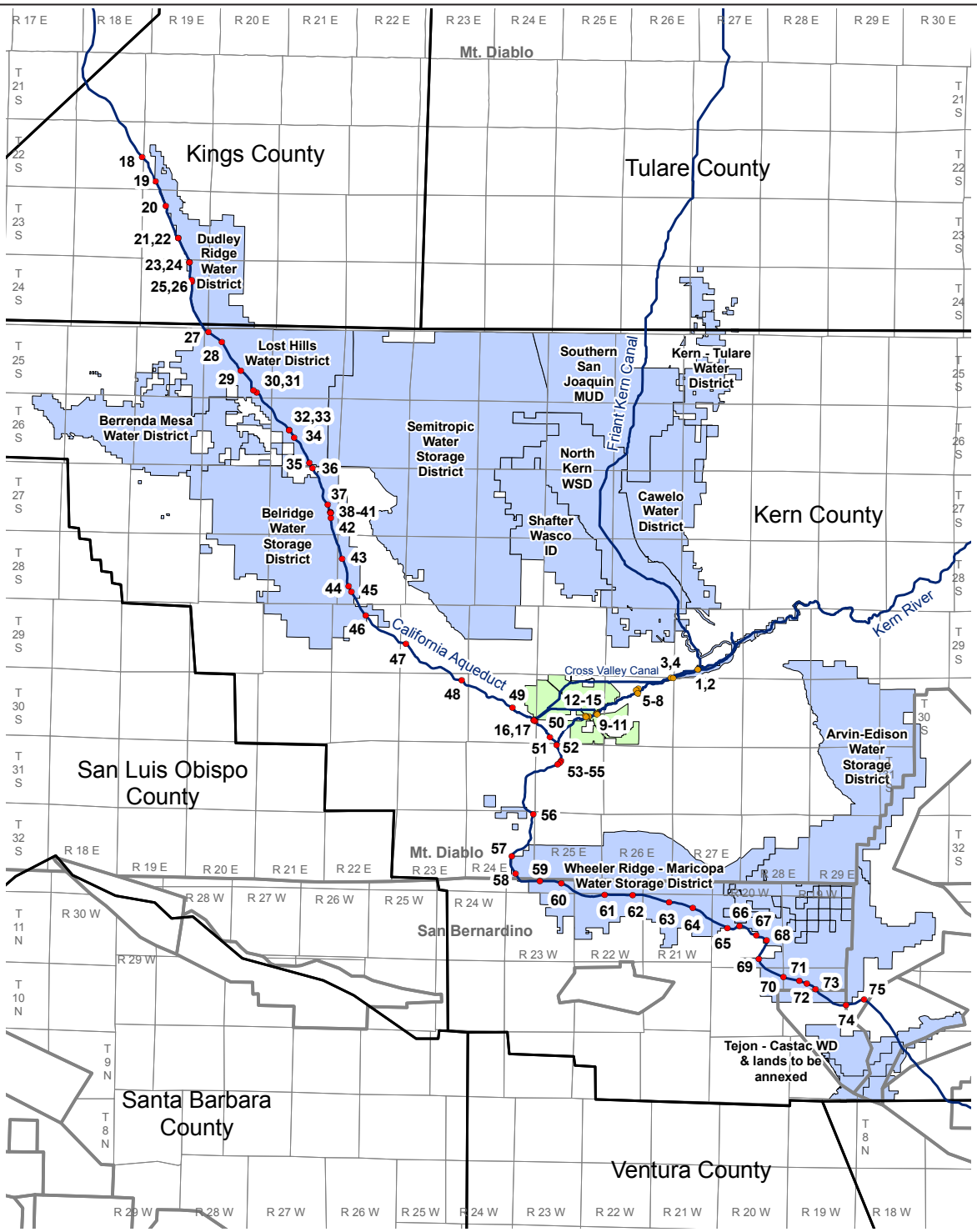
Utilizing high flow water from the Kern River would provide multiple benefits to KWBA's participating members and the region.

In Section 2.2.3.1, *Kern Water Bank MOU,* the first paragraph, first sentence, has been revised as follows.

The KWB is operated, and will continue to operate, under the requirements of the KWB MOU, as well as the requirements of applicable recovery operations plans described above.

In Section 2.3.1, *Consideration of Project Approval,* the first paragraph, fourth sentence, has been revised as follows.

This EIR will also be used by responsible agencies, such as the State Water Board, to consider the project's environmental effects and how or whether to approve permits associated with implementation of the project.



ICF Graphics...00415.12 (10-3-2018)

Figure 2-5
Kern Water Bank Points of Rediversion

4.1.4 Chapter 3, Environmental Setting and Impact Analysis

3.1, Approach to Analysis

In Section 3.1.1, *Resources Dismissed from Further Analysis,* the first paragraph has been revised as follows.

The analysis in the February 2012 IS (Appendix A) concluded the project would result in either no impact or impacts that are less than significant for the following topics: Aesthetics, Agricultural and Forestry Resources, Cultural Resources, Hazards and Hazardous Materials, Land Use and Planning, Mineral Resources, Noise, Population and Housing, Public Services, Recreation, and Transportation and Traffic. More recent analysis of the project's potential impacts on these resources is presented below. To the extent that the analysis below determined that the project would not result in impacts on these resources, they are considered here and dismissed from further analysis. No comments were received on the NOP (Appendix A) or during agency scoping meetings that indicated these topics should be addressed further in this EIR.

In Section 3.1.1.1, *Aesthetics,* the first paragraph has been revised as follows.

No state- or locally-designated scenic routes or scenic resources are present near the Kern Water Bank (KWB). In addition, the existing facilities are visually consistent with the local landscape, which is comprised of agricultural uses, waterways, and groundwater recharge facilities. The places of use (POUs) for the project water exhibit a wide range of visual character, from agricultural uses to urbanized areas. The proposed project would divert, recharge, and recover Kern River water in wet years, under high flow conditions, in the same locations, at the same rates of recharge and recovery, and using the same facilities that have historically been used for KWB diversion, recharge, and recovery operations. The amount of water diverted, recharged, stored, and recovered under the project would not exceed the maximum historical diversion, recharge, or recovery amounts. The POUs for the project water would be identical to existing POUs for KWB recovered water. Because the diversion, recharge, and recovery locations, rates, and POUs would be identical to baseline conditions, use of the project water would also result in no visual changes within either the KWB, its surrounding area, or the member entities' POUs. No visible changes would result from implementation of the proposed project. Therefore, the Kern Water Bank Conservation and Storage Project's (project's) diversion and recovery of additional Kern River flood flows into the existing ponds would not affect any scenic resources or vista. There would be no impact.

In Section 3.1.1.2, *Agricultural and Forestry Resources,* the first paragraph, first sentence, has been revised as follows.

The project would be located entirely within the existing KWB and its members, and would use existing facilities.

In Section 3.1.1.2, *Agricultural and Forestry Resources*, the second paragraph has been revised as follows.

KWBA has historically diverted Kern River water, comprising both purchased water and high flow flood water, into the KWB in quantities equivalent to those expected under the proposed project. Because the project would use existing KWB facilities to divert high flow Kern River

water into the existing KWB recharge ponds for recharge and recovery at rates limited by the use of existing pumping facilities, followed by use of the water at historical rates and purposes in existing POUs, it represents a continuation of existing water banking activities on the project site and existing water use within the member districts, and would potentially improve the reliability of the agricultural water supply in extended dry conditions for existing KWB participants rather than convert agricultural land to non-agricultural use, affect Williamson Act contracts, or conflict with existing agricultural or timberland use or zoning. There would be no impact.

In Section 3.1.1.4, *Hazards and Hazardous Materials*, the first paragraph has been revised as follows.

The project consists of the diversion, recharge, and recovery of Kern River flood water, when available, using existing facilities, and the use of that water within existing POUs. Because they would use existing facilities, the project diversion, recharge, and recovery activities are expected to be comparable to historical KWB diversion, recharge, and recovery operations. Under the project, recovery is not expected to exceed baseline conditions in any given year, but would allow recovery facilities to operate for additional months or years, at the same rate they are currently able to operate, during extended droughts. No construction activities are included in the project. As such, the project would not involve the routine transport, use, or disposal of hazardous materials and would not create a significant hazard to the public or the environment. There would be no impact.

In Section 3.1.1.5, *Land Use and Planning*, the first paragraph has been revised as follows.

The KWB is in a rural area surrounded by largely agricultural uses, with residential communities one or more miles to the northeast, east, and southwest. No new facilities are proposed as part of the project, and it would not divide any established community within or near the KWB. Project water would continue to be recovered at the same rate, using existing facilities and operating provisions, and would continue to be used by the same entities in the same locations as has historically occurred. No division of established communities would result from the project in the KWB members. There would be no impact.

In Section 3.1.1.5, *Land Use and Planning*, the second paragraph, last three sentences, have been revised as follows.

As noted above, project water would continue to be recovered at the same rate, using existing facilities and operating provisions, and would continue to be used by the same entities in the same locations as has historically occurred. In any given year, no additional water would be available to members beyond the amount currently available, but the project could recover, and therefore provide, water at existing rates for an extended time during long-term dry periods. The availability of water at historical rates for additional time during extended droughts would not cause any changes in land use, or resulting conflicts with zoning, plans, or policies, in the KWB members. There would be no impact.

In Section 3.1.1.7, *Noise*, the second paragraph has been revised as follows.

The project would not involve any construction activities and would use existing KWB facilities. As such, there will be no introduction of new stationary noise sources and no increase in peak noise levels. Existing electric pumps may be used at times for ~~the~~ project recovery operations, as described in Section 3.2, *Air Quality*. Because the pumping of banked water is and would

continue to be limited by the capacity of the existing pumps, ~~T~~these activities would not result in a substantial increase in temporary or periodic noise levels or the permanent ambient noise level of the area. There would be no impact.

In Section 3.1.1.8, *Population and Housing*, the first paragraph has been revised as follows.

The project would not directly induce population growth as no construction or expansion is proposed. No indirect effects associated with extension of infrastructure would result in either the project area, its surroundings, or the member districts, as the project would not cause growth or the extension of roads or other infrastructure. The project, like any water banking project, could indirectly induce population growth through increased availability of banked groundwater; however, water stored within the KWB by the participating members is used primarily for agricultural irrigation in existing areas, and not for urban use. In addition, the project is intended to increase water reliability for existing agricultural uses and existing populations rather than to accommodate increased water use or urban growth. Recovery, and therefore distribution, of project water will rely on KWB's existing recovery facilities. Because the water would continue to be recovered at the same rate, using existing facilities and operating provisions, and would continue to be used by the same entities in the same places of use as has historically occurred, no direct or indirect land use change or growth is expected to result from the use of project water in member areas. The project is proposed to increase long-term water supply reliability, not to expand or support new land uses. Further, in any given year, there would be no increase in recovery or delivery of water, beyond current quantities, that could be used to induce growth in the POUs. Section 5.2, *Growth-Inducing Impacts*, provides further discussion of potential indirect effects of the Kern River water considered in this document on population growth in the KWB's POU areas, as identified in Chapter 2, *Project Description*.

In Section 3.1.1.9, *Public Services*, the first paragraph has been revised as follows.

Project activities would not increase the number of people or structures in the KWB area or within the participating members' POUs. The project ~~, and~~ would therefore not substantially change or result in a need for additional fire or police protection, schools, parks, or other public facilities in either the project area or the member participants' POUs (see also Sections 3.1.1.4 and 3.1.1.8). There would be no impact.

In Section 3.1.1.10, *Recreation*, the first paragraph has been revised as follows.

Several recreational facilities are located in the project vicinity, including the Kern County Raceway Park, Tule Elk State Reserve, Kern River Parkway, and Buena Vista Aquatic Recreational Area. In addition, and in accordance with the KWB HCP/NCCP, public and private hunting activities, birdwatching, water education, and organized nature hikes take place within the KWB. Recovery of project water would use the same facilities at the same rates as historical operations. The POUs for the project water would be identical to those presently in use, and water would not be delivered in greater quantities or at a higher rate than has historically happened. ~~However, b~~Because neither existing operations nor the project's diversion, recharge, and recovery operations affect the ~~area's~~ population or use of recreational facilities in either the KWB area or the member district POUs, the project would not affect the use of neighborhood or regional parks. Further, the project represents a continuation of existing uses within the KWB and its member district POUs and would, therefore, not affect or increase demand for ongoing hunting, birdwatching, water education, and organized nature hike activities. In addition,

because the project would not include new recreational facilities or require the construction or expansion of existing facilities in either the KWB area or the member districts, there would be no associated physical effect on the environment. There would be no impact.

In Section 3.1.4, *References*, the first reference has been revised as follows.

California Department of Conservation, Division of Land Resource Protection. 2016. *Rural Land Mapping Edition, Kern County Important Farmland 2014*. Sheet ~~1~~ 2 of 3. Available: ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2014/ker14_~~w~~c.pdf. Accessed: March 6, 2017.

3.2, Air Quality

In Section 3.2.2.3, *Impacts and Mitigation Measures,* Footnote 1 has been revised as follows.

[1] According to the KWBA, 500,000 acre-feet per year is the maximum volume of water that it can physically divert and recharge within the KWB in the wettest years and under ideal conditions under this permit.

In Section 3.2.2.3, *Impacts and Mitigation Measures,* the fourth paragraph has been revised as follows.

Because the project does not include new construction or changes in operations, or proposed new land uses, the project is not expected to result in any new or increased criteria air pollutant emissions that would exceed any thresholds of significance criteria stated in the State CEQA Guidelines or established by SJVAPCD. The project, however, would enhance KWB participating members' water supply reliability through additional storage within the KWB. The enhanced water supply reliability could potentially contribute to the conversion of additional land for agricultural operations or changes in crop types or amounts, potentially resulting in new and/or changed indirect criteria air pollutant emissions that could exceed established and adopted thresholds of significance criteria. Any new and/or changed agricultural activities c~~w~~ould affect agricultural-related emissions resulting from land preparation, harvesting, mobile agricultural equipment, agricultural burning, windblown dust from agricultural land, paved and unpaved roads, and other sources. Alternatively, the enhanced water supply reliability could potentially contribute to agricultural changes (e.g., crop changes) that reduce agricultural activities and associated agricultural-related emissions. However, any such indirect impacts are speculative as they are dependent on numerous factors independent of water reliability, such as availability and suitability of land for agricultural activities, crop selection and associated acreage requirements, construction and operation of new water infrastructure projects, and commodity market demand, and it is not feasible to quantify the impacts of any such changes. In addition, according to statewide data, material increases in agricultural activities have been observed in areas of the San Joaquin Valley that do not have access to KWB water. Therefore, any changes in agricultural activities cannot be solely attributed to the establishment and operation of the KWB (Insight Environmental Consultants Inc., p. 6-1).

In Section 3.2.2.3, *Impacts and Mitigation Measures,* the fifth paragraph has been revised as follows.

Furthermore, as described above, in Section 3.2.1.2*, Environmental Setting*, agriculturally-related criteria air pollutant emissions are expected decline into the future, and current federal and state regulations and SJVAPCD rules and incentive programs are expected to continue to reduce emissions. For instance, SJVAPCD's Rule 4550 (Conservation Management Practices) requires

farmers with 100 or more contiguous acres to implement multiple conservation management practices in order to reduce fugitive dust emissions from agricultural operations. Practices include reducing or eliminating the need to disturb soil; protecting soil from wind; modifying equipment or processes to physically produce less dust; applying dust suppressants; planting permanent crops such as trees and vines; or reducing agricultural burning. From 1995 and 2015, criteria pollutants emissions decreased within the KWB service area due to land preparation and harvesting control measures required by Rule 4550. In addition, decreases in combustion emissions from mobile agricultural equipment have been observed in the KWB service area and reflects reductions driven by non-road diesel engine emission standards, diesel fuel regulations, and incentive programs to reduce emissions (Insight Environmental Consultants Inc. 2015, p. 5-3-6-1). Therefore, indirect air quality impacts related to increased water supply reliability in the KWB service area are anticipated to be less-than-significant.

3.3, Biological Resources

In Section 3.3.1.1, *Regulatory Setting, Local,* the following section has been added.

Metropolitan Bakersfield Habitat Conservation Plan

The Metropolitan Bakersfield Habitat Conservation Plan (MBHCP), a joint plan adopted by Kern County and the City of Bakersfield in 1994, covers areas within both the City of Bakersfield and Kern County. The MBHCP's stated purpose is "to acquire, preserve and enhance native habitats which support endangered and sensitive species, while allowing urban development to proceed as set forth in the Metropolitan Bakersfield 2010 General Plan" (City of Bakersfield and County of Kern 1994). A portion of the MBHCP study area overlaps with the eastern part of the KWB. The MBHCP identifies 17 species of concern, noting that biological surveys conducted since 1980 indicate that several of the species of concern may no longer occur in the area.[1] Species of concern addressed by the MBHCP that have also been recently identified within the project study area include the San Joaquin kit fox, blunt-nosed leopard lizard, Tipton kangaroo rat, San Joaquin (Nelson's) antelope squirrel, San Joaquin pocket mouse, San Joaquin wooly-threads, Hoover's wooly-star, slough thistle, and recurved larkspur. All of the species included in the MBHCP are also covered by the KWB HCP/NCCP.

In Section 3.3.1.2, *Environmental Setting, Biological Resources Study,* the first paragraph has been revised as follows.

For the purposes of this EIR, the biological resources study area (study area) consists of the KWBA property and its existing facilities encompassing approximately 20,500 acres. In order to assess potential indirect impacts to biological resources outside the property boundaries, the biological resources study area also includes portions of the Kern River and associated riparian habitat south of the first KWB point of diversion (Figures 3.3-1 and 3.6-12). This portion of the Kern River is included in the study area because the project has a potential to affect the timing and quantity of water flowing through this area which could result in impacts to existing vegetation and habitat.

[1] Species of concern covered in the 1994 MBHCP include San Joaquin kit fox, blunt-nosed leopard lizard, Tipton kangaroo rat, giant kangaroo rat, San Joaquin (Nelson's) antelope squirrel, short-nosed kangaroo rat, San Joaquin pocket mouse, Bakersfield cactus, California jewelflower, San Joaquin wooly-threads, Hoover's wooly-star, Kern mallow, Tulare pseudobahia, striped adobe lily, Bakersfield saltbush, slough thistle, and recurved larkspur.

In Section 3.3.1.2, *Environmental Setting, Biological Resources Study,* Figure 3.3-1, *Biological Study Area*, has been revised to clarify the study area's relationship to the 2,800-acre facility as follows.

In Section 3.3.2.1, *Methods,* the second paragraph has been revised as follows.

Key impacts were identified and evaluated based on the environmental characteristics of the study area and the magnitude, intensity, and duration of activities related to the project implementation. Direct impacts are not anticipated because construction of new facilities is not proposed and operation of existing facilities would not change as a result of project implementation. The appropriation of additional water to the KWB could result in indirect impacts on biological resources through habitat alteration by changing the amount and duration of water flows within the Kern River (downstream of diversion points 4 and 5, Figure 3.6-12) and the amount of water piped to existing KWB retention ponds. Because the water banked under the proposed project would continue to be recovered at the same rate, with the same facilities, and used by the same entities in the same locations as has historically occurred, no project impacts on biological resources are expected within the participating members' POUs. For purposes of this analysis, impacts to BVLS were assessed qualitatively by determining how the project would affect riparian and wetland habitat and whether this affect would result in the loss or degradation of essential habitat components and primary constituent elements for BVLS.

In Section 3.3.2.3, *Impacts and Mitigation Measures, Special-Status Wildlife*, the first paragraph has been revised as follows.

Overall, the project is not expected to result in direct impacts on special-status wildlife because no new construction or ground disturbing activities are proposed. Some common and special-status wildlife species, particularly water birds, would benefit from longer and more frequent ponding of recharge basins if additional high flow water is diverted onto the KWB.

In Section 3.3.3, *References, the fifth reference* has been revised as follows.

City of Bakersfield and County of Kern. 1994. Metropolitan Bakersfield Habitat Conservation Plan. April 1949. Available: https://psbweb.co.kern.ca.us/planning/pdfs/MetroBakHCP.pdf. Accessed: August 26, 2018.

3.4, Greenhouse Gases, Climate Change, and Energy

In Section 3.4.1.1, *Regulatory Setting, Kern Water Bank Authority*, the first paragraph has been revised as follows.

As provided in KWBA Board Resolution 2016-2, KWBA ~~will~~ implements efficiency measures related to pumping operations, including: monitoring the efficiency of its recovery well pumps at regular intervals during recovery periods; using monitoring data to strategically and actively rehabilitate, retrofit, and/or replace pumps as needed during recovery periods; maintaining a reporting program that would report on pump efficiency, electricity efficiency, and plans for future pump rehabilitation, retrofit, or replacement; purchasing new pumps that comply with current pump efficiency regulations; and considering the replacement of older pumps with new pumps with increased efficiency technology (Kern Water Bank Authority 2016).

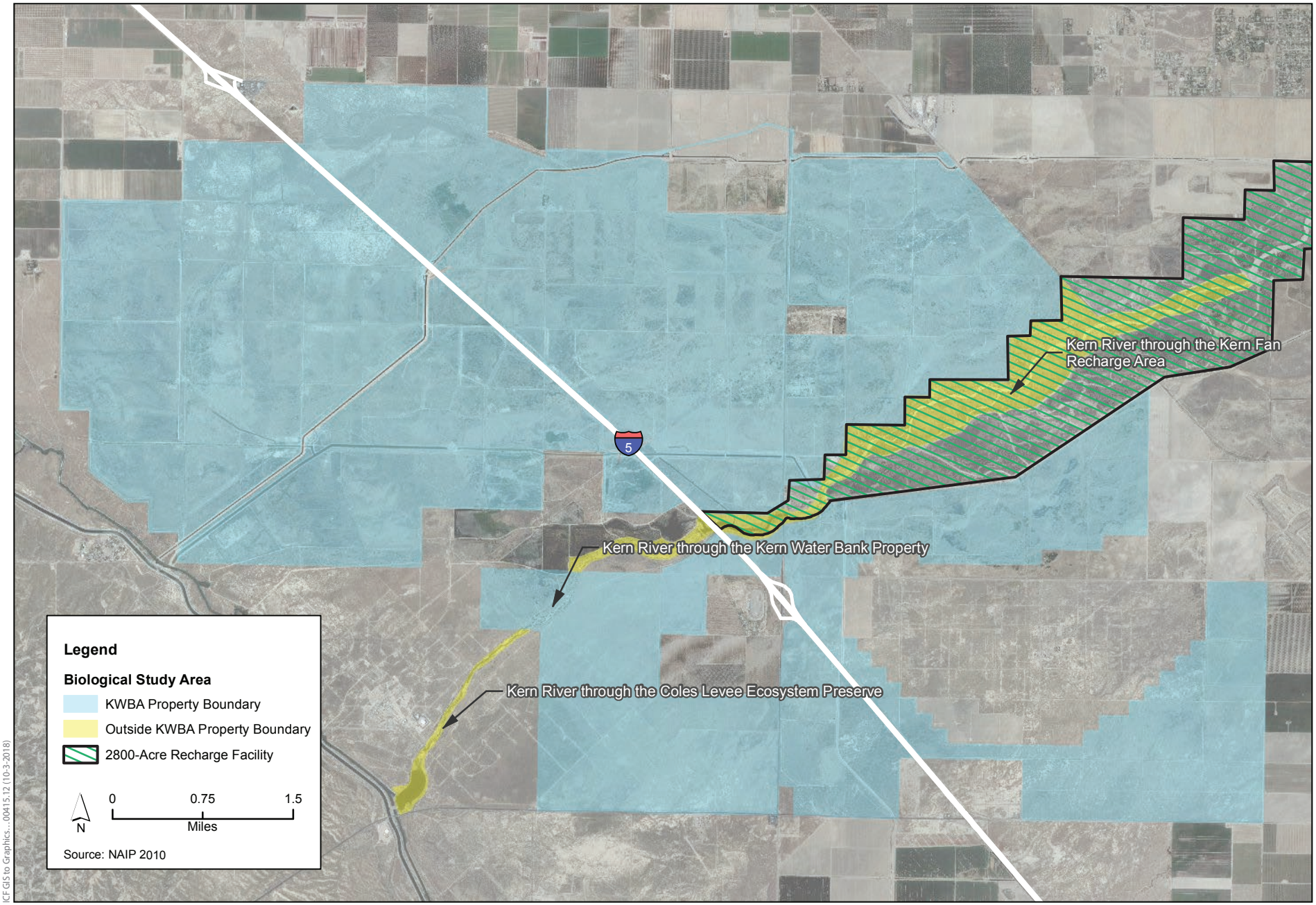


Figure 3.3-1
Biological Study Area

In Section 3.4.2.1, *Methods,* the second paragraph has been revised as follows.

The analysis of potential GHGs that may result from the project (distinct for existing and ongoing project operations) is dependent on the incremental increase in pumping that is reasonably expected to occur to recover stored Intertie water (as opposed to other sources of stored water) during the later part of an extended drought. As described in Chapter 2, *Project Description*, the project would rely on existing pumping facilities and does not propose to increase annual recovery operations above historical levels. To quantify GHG emissions for the project, the most reasonable and straightforward approach is to determine the expected yield of the project and prorate that increment against non-project water stored over the period under consideration, then estimate the increment of stored water that could have been recovered during the historical period.

3.5, Geology and Seismicity

No changes.

3.6, Hydrology and Water Quality

In Section 3.6.1.1, *Regulatory Setting, Sections 303 and 305: Impaired Waters and Water Quality Reporting,* the first paragraph has been revised as follows.

In addition to the impaired water body list required by CWA Section 303(d), CWA Section 305(b) requires states to develop a report assessing statewide surface water quality. Both CWA requirements are being addressed through the development of a 303(d)/305(b) integrated report that will address both an update to the 303(d) list and a 305(b) assessment of statewide water quality. The State Water Board developed a statewide ~~2012~~ 2014/2016 Integrated Report (Clean Water Act Section 303(d) List/305(b) Report) based on the integrated reports from each of the nine regional water boards. ~~After the 2012 Integrated Report was approved by the State Water Board at a public hearing on April 8, 2015, the report was submitted to EPA. EPA partially approved the 303(d) list portion of the Integrated Report on June 26, 2015 and, after Topaz Lake was added, gave its final approval on July 30, 2015.~~ After approval of the 303(d) List portion of the California Integrated Report by the State Water Board, the complete 2014 and 2016 California Integrated Report was submitted to U.S. EPA for final approval of the California 303(d) List. The California 303(d) List was approved by U.S. EPA on April 6th, 2018. The 305(b) portion of the Integrated Report requires no approval by the State Water Board or EPA.

In Section 3.6.1.1, *Regulatory Setting, 2010 Urban Water Management Plan (Improvement District No. 4 of the Kern County Water Agency and North of the River Municipal Water District),* the first paragraph has been revised as follows.

~~2010~~ 2015 Urban Water Management Plan (Improvement District No. 4 of the Kern County Water Agency and North of the River Municipal Water District)

An Urban Water Management Plan (UWMP) is a planning tool that generally guides the actions of water management agencies by providing a broad perspective on a number of water supply issues. UWMPs are prepared by urban water suppliers every 5 years. Primarily, the plan forecasts continued participation in water banking projects to provide sufficient recharge, storage and recovery capacity to meet the needs of the Kern County Water Agency Improvement District No. 4 (ID4). ID4's water banking projects allow ID4 to cushion impacts associated with the SWP's variability and re-regulate high flow waters for recovery during dry years. Kern

County Water Agency Improvement District No 4 submitted their UWMP on June 24, 2016 and North of the River Municipal Water District submitted their UWMP on October 11, 2016.

In Section 3.6.1.2, *Environmental Setting,* the first paragraph has been revised as follows.

The following section discusses salient hydrologic features of the project study area, including an overview of the Kern River watershed, the hydrology of the lower Kern River and major water diversion points, groundwater elevations, and surface water and groundwater quality. The discussion describes how KWBA has historically operated and the hydrologic changes that would occur if the project were implemented.

In Section 3.6.1.2, *Environmental Setting, Groundwater Levels,* the second paragraph has been revised to reflect the inclusion of two additional hydrograph figures, as follows.

The August 2012 groundwater levels are a single snapshot in time of groundwater conditions. Historic water levels in the project area have varied through time in response to wet and dry cycles and water banking operations. Long-term groundwater hydrograph plots of potentiometric surfaces are shown in Figure 3.6-8 for the 11P wells and in Figure 3.6-9 for the 16L wells[2] (located at township and range T30S/R25E). Figures 3.6-8a and 3.6-9a depict more recent (September 2018) groundwater hydrograph plots of potentiometric surfaces for the same wells. These hydrographs are for clustered monitoring wells that are completed at various depths as indicated in the figures. The shallower completions document water levels in the aquifer, whereas the deeper completions represent hydraulic head in the aquifer. Both hydrographs show a steady decline in water levels through the early 1990s due to drought conditions. The recharge activities of the KWB and other banking projects can be seen in the dramatic rise in water levels from 1995 through 1999. Several recharge and recovery cycles, coinciding with wet and dry periods, are documented after this time by rises and falls in water levels and hydraulic head.

In Section 3.6.1.2, *Environmental Setting, Surface Water Quality,* the second paragraph, first sentence, has been revised as follows.

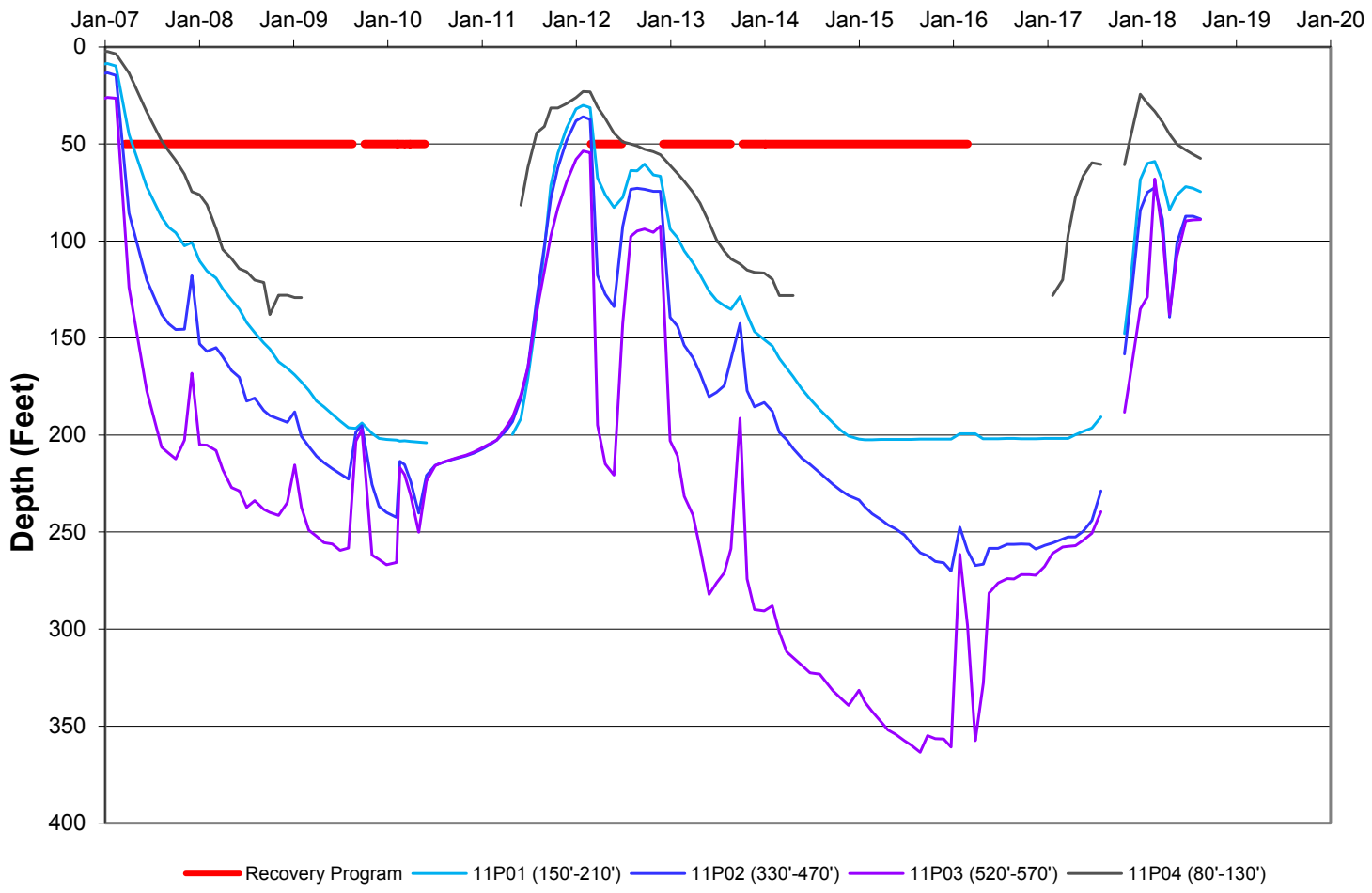
Total dissolved solids (TDS)3 in the Kern River, as reported by Improvement District No. 4 for 2011, was 96 milligrams per liter (mg/L), arsenic4 was 4 micrograms per liter (µg/L), and nitrate5 was not detected (Kern County Water Agency 2011).

[2] Wells are numbered on the state well numbering system.

[3] TDS represents the total concentration of dissolved substances in water. TDS is made up of inorganic salts, as well as a small amount of organic matter. These minerals can originate from a number of sources, both natural and as a result of human activities.

[4] Trace metals such as arsenic occur naturally in the environment. Many trace metals are necessary for healthy biological function, where deficiencies in certain trace metals can result in disease and ailment. At elevated levels, trace metals can be toxic.

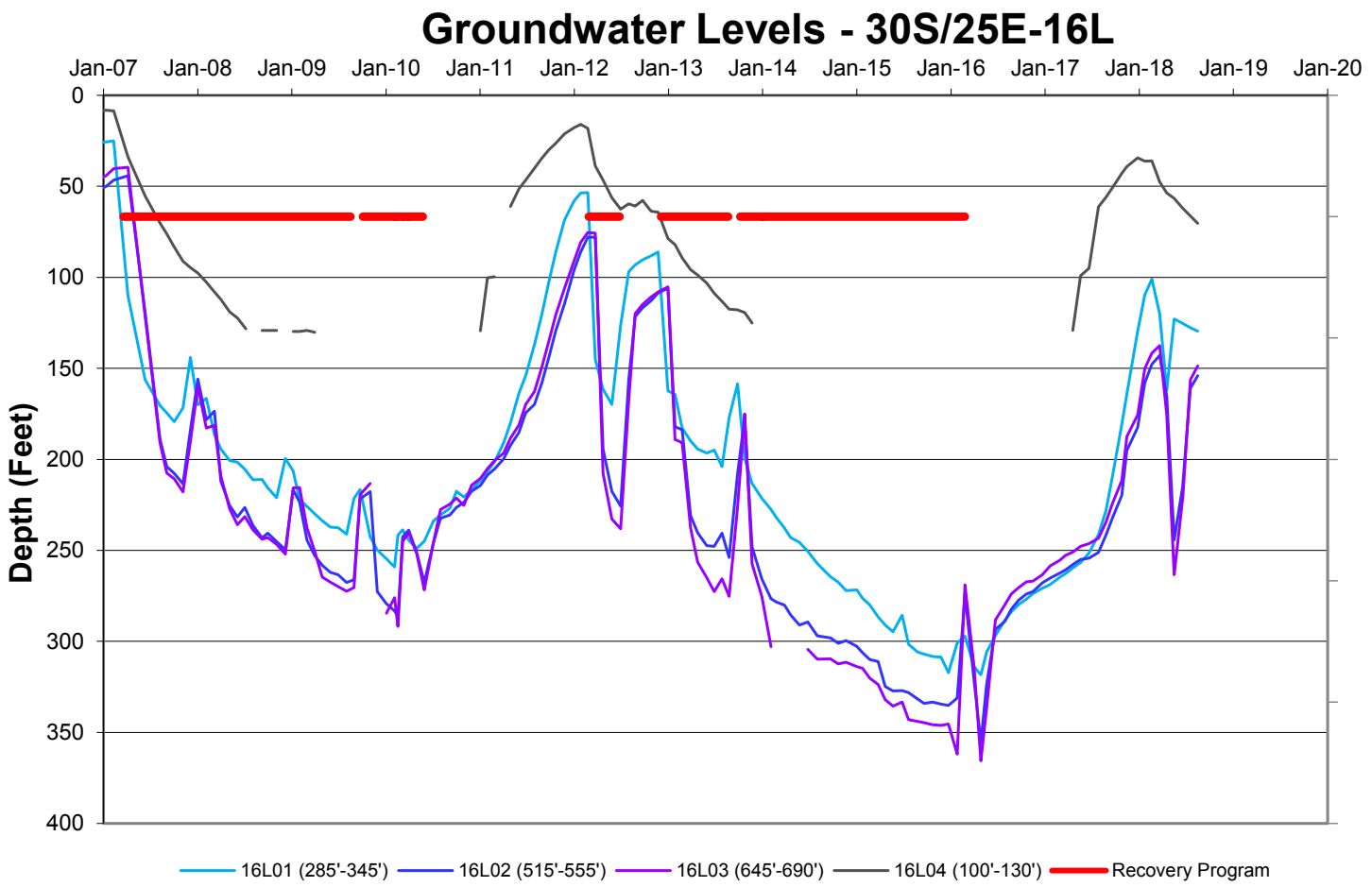
[5] Drinking water standards have been set for nitrate because nitrate and nitrite can cause effects in humans at elevated levels.



Source: Kern Water Bank Authority 2018.

ICF Graphics...00415.12 (10-3-2018)

Figure 3.6-8a
January 2018 Timeseries of Groundwater Potentiometric Surface at Kern Water Bank Authority 11P Wells



Updated: September 6, 2018

Source: Kern Water Bank Authority 2018.

ICF Graphics ...00415.12 (10-3-2018)

Figure 3.6-9a
January 2018 Timeseries of Groundwater Potentiometric Surface at Kern Water Bank Authority 16L Wells

In Section 3.6.1.2, *Environmental Setting, Table 3.6-5, Kern Water Bank Sources of Water by Year and Water Year Type,* last 3 rows have been revised as follows.

2017 (Est. thru September)[c]	D~~ry~~ Wet	246,000	53.1%	1,600	0.3%	216,000	46.6%	463,600
Aver.[d]		77,224		20,499		35,894		133,618
Total		1,488,038	58.5%	368,982	14.5%	690,100	27%	2,547,120

In Section 3.6.1.2, *Environmental Setting, Groundwater Quality,* the first paragraph has been revised as follows.

Extensive monitoring conducted in the Kern Fan area has established that baseline water quality is very good. The average TDS concentration measured at 84 KWB recovery wells in 2011 and 2012 is 291 mg/L . TDS concentrations generally increase from east to west, coincident with a general change in water type from calcium or sodium bicarbonate to calcium sulfate. Some of Bakersfield's drinking water wells in the vicinity of the Kern River are contaminated with arsenic, 1,2,3-TCP and other constituents. No pesticides or other organic contaminants are confirmed present in any of the KWB recovery wells.

In Section 3.6.1.2, *Environmental Setting, Water Diversions*, the first paragraph has been revised as follows.

KWBA diverts water from the Kern River at multiple diversion locations, most of which are upstream of the KWB. The potential project diversion locations are the same as those historically used by KWBA, and are listed in Table 3.6-9 and mapped in Figure 3.6-12. There are 17 diversion points located on the Kern River as detailed in Table 3.6-9 and mapped in Figure 3.6-12. Diversions from these facilities are carried out by either the City of Bakersfield or Buena Vista Water Storage District. The diversions conducted by the City of Bakersfield are as requested by KCWA on behalf of the KWBA pursuant to the terms of the *Pioneer Project Joint Operation Agreement* dated December 31, 1996. The diversions by Buena Vista Water Storage District are made at KWBA's request pursuant to the *KWB Canal and Buena Vista Main Canal Joint Use Agreement* dated July 7, 1999. Both agreements clearly identify the owners of the facilities and provide for the use of the facilities under terms agreeable to the owners. A major diversion point for KWBA is Location 10 on Figure 3.6-12, the Kern Water Bank Canal diversion, which has a capacity of 800 cfs. This diversion is about 1 river mile upstream of I-5. In part, the limiting factor for diversion to KWB facilities is recharge capacity of the ponds, not diversion capacity, because recharge capacity decreases over time as groundwater levels rise and sediments become saturated, as illustrated in Figure 3.6-13. KWBA also has the ability to use its Kern Water Bank Canal or the Pioneer Canal Headworks and Cross Valley Canal to redivert flood water to the California Aqueduct for delivery to KWB members for beneficial uses.

In Section 3.6.1.2, *Environmental Setting, Water Diversions*, the paragraphs following Table 3.6-9 have been revised as follows.

Pursuant to the 1962 *Kern River Water Rights and Storage Agreement*, the Kern River Watermaster prepares records of Kern River flows, storage, and releases from Lake Isabella. The Kern River Watermaster is responsible for the management of water stored within Lake Isabella and for directing releases from Isabella Dam either for water control purposes or to meet the downstream right holders' requirements (U.S. Army Corps of Engineers 2008). The Kern River

Watermaster coordinates between lower Kern River interests, including the City of Bakersfield and other water right holders, and the U.S. Army Corps of Engineers, which operates Isabella Dam. The City of Bakersfield maintains flow and water diversion records and operates the Kern River points of measurement, diversion points, and structures below Isabella Dam for the purposes of meeting the City's and other water agencies' Kern River water rights (City of Bakersfield 1975).

Since at least 1986, the Kern River Watermaster has implemented a Policy Re-Utilization of Isabella Lake Reservoir Flood Releases (Flood Policy). The Flood Policy has been implemented pursuant to the agreement and consent of other water right holders on the Kern River. The Flood Policy provides that during periods in which (1) abnormal flow is being released from Lake Isabella by order of USACE, and (2) such flow is entering into the California Aqueduct through the Intertie,

> [w]ater will be made available to any person, interest or group in Kern County who wish to divert that water, up to the amount of water flowing into the Intertie, provided such interest, person or group acknowledges their desire to divert said water by executing an "Order" which shall include, among other things, a description of the point they wish to divert such flow, the rate of flow they wish to divert and provide a schedule such that the request may be honored by the operating Kern River entity. This policy is without prejudice to the rights of any of the Parties.

In Section 3.6.2.1, *Methods, KWBA Proposed Operations*, the fourth paragraph has been revised as follows.

~~Kern River water can also be rediverted into the California Aqueduct via the Kern Water Bank Canal and Cross Valley Canal and then delivered~~ KWBA also proposes to redivert high flow water to the California Aqueduct via the Kern Water Bank Canal or the Pioneer Canal headworks and CVC for subsequent delivery either directly to KWBA participating members through California Aqueduct turnouts or by exchange, for beneficial use (Figure 3.6-12). The ability to redivert water in this way can provide significant water conservation benefits by maximizing the beneficial uses of Kern River water, preventing potential flooding, and lowering energy usage necessary to deliver water to KWBA participating members.

In Section 3.6.3, *References,* the following reference has been added.

Kern County Water Agency. 2011. Improvement District No. 4 Report on Water Conditions 2011.

3.7, Utilities and Service Systems

In Section 3.7.1.1, *Regulatory Setting, 2010 Urban Water Management Plan (Improvement District No. 4 of the Kern County Water Agency and North of the River Municipal Water District)*, the following heading and first paragraph have been revised as follows.

~~2010~~ 2015 Urban Water Management Plan (Improvement District No. 4 of the Kern County Water Agency and North of the River Municipal Water District)

An UWMP is a planning tool that generally guides the actions of water management agencies by providing a broad perspective on a number of water supply issues. UWMPs are prepared by urban water suppliers every 5 years. Primarily, the plan forecasts continued participation in water banking projects to provide sufficient recharge, storage and recovery capacity to meet the needs of the Kern County Water Agency Improvement District No. 4 (ID4). ID4's water banking

projects allow ID4 to cushion impacts associated with the SWP's variability and re-regulate high flow waters for recovery during dry years. Kern County Water Agency Improvement District No 4 submitted their UWMP on June 24, 2016 and North of The River Municipal Water District submitted their UWMP on October 11, 2016.

In Section 3.7.2.1, *Methods,* the first, second, third, and fourth paragraphs have been revised as follows.

For the purposes of this analysis, utilities and service systems include wastewater management, and stormwater drainage. Utilities are provided throughout the project area, including the KWBA property and participating members' service areas, by various entities including counties, cities, community services/special districts, or private companies.

This analysis considers the potential for implementation of the project to interfere with provision and/or use of utilities and service systems (wastewater management, and stormwater drainage) within the project study area, including the KWB and the participating members' POUs. The key effects were identified and evaluated based on the environmental characteristics of the project area and the magnitude, intensity, and duration of activities related to operation of the project.

No construction activities are planned for the project; therefore, utilities and service systems impacts related to construction are not considered in this analysis. Because the project is limited to the diversion and recovery of ~~additional~~ high flow water, available under limited conditions, to serve existing uses at the present rate of recovery and, potentially, over a longer duration within an extended drought, it would not generate any solid waste beyond that already generated by KWB operations, and solid waste is not considered further in this analysis.

Impacts on water supply are addressed in Section 3.6, *Hydrology and Water Quality*, Impacts HYDRO-1 and HYDRO-2, and are not addressed in this impact analysis.

In Section 3.7.2.3, *Impacts and Mitigation Measures,* under Impact UTIL-4, the first and second paragraphs have been revised as follows.

Under the project, diversion, recharge, and recovery of currently unappropriated flood water to the KWB would continue through KWBA's operation of existing infrastructure and facilities on the Kern River and within the KWB, which includes diversion structures, primary water supply and transport canals, and recovery wells. The proposed project would not increase the maximum amount of water delivered to KWBA members in any given year; rather, the project would increase water reliability over periods of extended dry conditions. Diversion of project water would rely entirely on high flow conditions and would not without impinge on other Kern River water right holders' entitlements. Use of the recovered water would represent a continuation of existing conditions within the participating members' service areas and would not involve the use of additional water or require expansion of drainage, water treatment, or wastewater treatment infrastructure.

Implementation of the project would not result in impacts on utilities and service systems because there would be no construction under the project, and there would be no substantial changes to operations that could affect wastewater management or stormwater drainage in the project study area, including the participating members' service areas. Any changes in operations under the project would consist of the extension of recovery at existing rates into the later years of an extended dry period, would not involve the construction or use of local or regional wastewater treatment plants (i.e., wastewater treatment or handling), and would not

conflict with the Central Valley Regional Water Board wastewater treatment requirements. Similarly, implementation of the project would not require increased use of existing stormwater drainage facilities, nor would it require the construction of new stormwater facilities. Indeed, the project would increase the certainty and reliability of dry-year water supplies, which would help ensure the longer-term availability of water to serve KWBA's participating members without affecting other Kern River water right holders' entitlements.

4.1.5 Chapter 4, Alternatives Analysis

In Section 4.3.1, *Alternative 1—No Project,* the first paragraph has been revised as follows.

Under the No Project Alternative, the State Water Board would not approve water right Application 31676 and the KWBA would not divert unappropriated flood flows in the Kern River for groundwater recharge. Instead, the State Water Board may approve a water right application for some other applicant on the Kern River, most likely for an application that is already seeking and includes Kern Delta forfeiture water. Any~~the~~ surplus water that is available in wet water years after all water diversion ~~needs~~ rights have been met would continue to flow downstream and either (1) be diverted at the Intertie and conveyed toward southern California via the California Aqueduct; or (2) flood farmlands in the Tulare Lake Basin. KWBA would continue to buy water from other sources and recharge and recover that water consistent with the KWB's historical practices.

In Section 4.3.2, *Alternative 1—No Project Diversion of up to 375,000 Acre-Feet (75% of Request) of Flood Flows a Year*, the first paragraph has been revised as follows.

Under Alternative 2, the KWBA would divert up to 375,000 acre-feet of unappropriated Kern River flood flows per year for groundwater recharge. This amount represents 75% of the total diversion requested under the project. In wet water years, after all water diversion needs have been met, any flood flows in excess of that amount would flow into the Intertie and be conveyed downstream toward southern California via the California Aqueduct or potentially to~~ward~~ flood farms within the Tulare Lake Basin. To supplement the smaller amount of diverted water, KWBA would continue to buy water, although a smaller quantity, from other sources and would continue recovery pumping in a manner consistent with historical practices.

4.1.6 Chapter 5, Other CEQA Considerations

5.1, Cumulative Impacts

In Section 5.1.2.1, *Resources Excluded from Cumulative Impact Analysis*, the first paragraph's second, third, and fourth bullets have been revised as follows.

- Utilities: There is no development planned within the immediate KWB area that requires or will require the construction of substantial utilities. In any case, the project has no new construction either in the KWB area or the POUs, and makes use of existing facilities to operate, so it would not contribute to the need for additional utilities either in the KWB vicinity or in the POUs. Therefore, there is no project contribution to cumulative utilities impacts.
- Surface Water Quality: As discussed in Section 3.6, *Hydrology and Water Quality*, surface water quality in the area is generally good. There is no project impact on surface water

quality, and no cumulative impact on surface water quality from existing conditions. In any case, the project has no new construction and makes use of existing facilities to operate. The project~~It~~ would not involve activities that would impact surface water quality; therefore, there is no project contribution to cumulative surface water quality impacts.

- Ground Water Quality: As discussed in Section 3.6, ground water quality in the area is generally very good. There is no project impact on groundwater quality, and no cumulative impact on groundwater quality from existing conditions. In any case, the project's risk of impacts on groundwater quality from recharge or recovery operations would remain the same as existing conditions. Operations to date have shown no adverse water quality impacts. KWBA's monitoring program ensures that the project would have no adverse effects on groundwater quality; therefore, there is no project contribution to cumulative groundwater quality impacts.

In Section 5.1.2.1, *Resources Excluded from Cumulative Impact Analysis*, the second paragraph has been revised as follows.

In addition, as described in Section 3.1.1, *Resources Dismissed from Further Analysis*, several resources were identified in the Initial Study as having little to no impact. ~~t~~These following resources were considered in Section 3.1.1 and eliminated from detailed discussion in this EIR because it was determined that the project would result in ~~either~~ no impact ~~or a less-than-significant impact~~ for these resources. They are therefore not considered in the cumulative impact analysis.

In Section 5.1.2.3, *Cumulative Condition*, the fourth paragraph has been revised as follows.

The following adopted local plans comprise the preparing agencies' comprehensive, long-term visions for physical development or resource conservation. These plans, along with the growth projections described previously, are considered in combination with the project for assessing cumulative impacts.

- Kern County General Plan
- City of Bakersfield General Plan
- Kern River Plan
- Grapevine Specific and Community Plan (Kern County 2016)

This revision does not affect the results of the draft EIR cumulative analyses.

In Section 5.1.2.3, *Cumulative Condition*, the seventh paragraph has been revised as follows.

Large development projects considered in this cumulative impact analysis are located within the member participants' delivery areas and would contribute to cumulative water supply impacts.

- Tejon Mountain Village. Tejon Mountain Village is a gated, golf-course community with a mix of residential, commercial, and recreational land uses on approximately 5,100 acres of a 26,417-acre site in the mountains of southern Kern County. The project is currently under construction and is expected to be completed within 20 to 30 years. At buildout, Tejon Mountain Village is planned to include up to 3,450 residential units ranging from multi-family to large-lot single-family units; up to 160,000 square feet (sf) of commercial uses including a mixed-use commercial are near I-5, general retail, food establishments, neighborhood commercial, and business/professional office uses; up to 750 lodging units

within hotel, spa, and resort facilities dispersed throughout the plan area; up to 350,000 sf of facilities associated with two 18-hole golf courses, equestrian facilities, riding and hiking trails, fire stations, two helipads, private community centers, electrical substation facilities, water treatment and wastewater treatment facilities, and access and utilities necessary to serve the development (Kern County 2009). Approximately 21,335 acres of the 26,417-acre site will be retained as ranchland and other undeveloped open space.

- Tejon Industrial Complex. The Tejon Industrial Complex is a 1,400-acre industrial park bisected by I-5 near the Laval Road/Wheeler Ridge interchange in southern Kern County. The Kern County Board of Supervisors approved development of the western area of the site, which has been largely developed with industrial and highway commercial uses, in 2000. The eastern 1,100-acre portion of the site is also partially built out with a mix of highway commercial, retail, and industrial uses, and is subject to the more-recent (2005) Tejon Industrial Complex East Specific Plan (Kern County 2005). The Tejon Industrial Complex East Specific Plan calls for development of a mixed-use industrial park development including approximately 15.2 million sf of industrial and public facilities along with 275,000 square feet of commercial-office support services (Kern County 2005).

This revision does not affect the results of the draft EIR cumulative analyses.

The following clarifying text is added immediately above Section 5.1.3, Cumulative Analysis by Resource, of the draft EIR.

Under the cumulative condition—including adopted plans, and cumulative water resources and development projects—impacts on the following resources also affected by the project are expected to occur: air quality emissions, biological habitat and species, greenhouse gas emissions, energy consumption, and groundwater depletion. As to groundwater depletion, however, evidence shows that water banking activities are overall beneficial to groundwater levels and supplies.

This revision does not affect the results of the draft EIR cumulative analyses.

In Section 5.1.3.2, *Greenhouse Gases, Climate Change, and Energy,* the first paragraph has been revised as follows.

The global climate change and energy impacts are described in Section 3.4, *Greenhouse Gases, Climate Change, and Energy*. As stated on page 3.4-10, because climate change is the result of the individual contributions of countless past, present, and future sources, such impacts are inherently cumulative. The project would not involve any new construction and would make use of existing facilities to operate. Further, existing operations and associated energy consumption are not expected to increase markedly with the project, particularly as recharge operations are by gravity and thus would not result in any increase in energy consumption. The project would not increase recovery pumping beyond current quantities in any given year; rather, it could provide water to meet existing demand for a longer period during a multi-year drought. There is therefore a potential for the project to result in incremental and marginal increases in associated water recovery operations by pumping as the additional stored water would be available for recovery in the later years of a multi-year drought. Increased recovery operations over a longer period during a multi-year drought could, in turn, result in incremental increases in GHG emissions and energy consumption from recovery pumping in certain years, as described in the project analysis on pages 3.4-13 through 3.4-16. However, these increases are

not anticipated to result in any substantial changes in GHG emissions and energy consumption over the life of the project or even in any given year.[6] Energy efficiency measures already incorporated in KWB pumps and PG&E's ongoing efforts to add renewable energy sources to its portfolio further reduce any wasteful, inefficient, and unnecessary consumption of energy during future recovery operations. Consequently, the project is not expected to contribute to cumulative greenhouse gas, climate change, and energy impacts in the region or in the state.

In Section 5.1.3.4, *Water Resources and Supply, Table 5-2. Overview of Projects Requesting Entitlements on the Kern River* has been revised as follows.

Project Name	Allocation Request (AF)	Type of Right Requested	Date of Request
North Kern Water Storage District	500,000	Appropriative	April 25, 2007
City of Bakersfield	90,000	Appropriative	May 4, 2007
Rosedale-Rio Bravo Water District	65,750	Appropriative	January 29, 2010
Buena Vista Water Storage District	700,000	Appropriative	August 20, 2007
Kern Water Bank Authority	500,000	Appropriative	September 26, 2007
Kern County Water Agency (ID No. 4)	2,279,000	Appropriative	September 27, 2007

Source: State Water Resources Control Board 2013.
AF = acre-feet.

In Section 5.1.3.4, *Water Resources and Supply, Water Quality,* the second paragraph has been revised as follows.

As described in Section 3.6, the project would not alter the chemistry or quality of Kern River surface water, and recharging Kern River water under the project compared to either Baseline Condition 1 or 2 would improve groundwater quality and result in no negative impact on groundwater quality. The analysis in Section 3.6 found that the project would have no impact on surface water or groundwater quality. Therefore, the project would not contribute to decreased water quality and its implementation is not anticipated to be cumulatively considerable and would be less than significant.

In Section 5.4, *References,* the following references have been added.

Kern County. 2005. *Tejon Industrial Complex East Specific Plan*. Available: https://psbweb.co.kern.ca.us/planning/pdfs/SPs/TIC_E_sp.pdf. Accessed: September 30, 2018.

Kern County. 2009. *Addendum, Kern County Planning Commission Board of Supervisors Staff Report*. September 22. Available: https://www.kerncounty.com/planning/pdfs/eirs/TMV/tmv_bos_sr_part1.pdf. Accessed: September 30, 2018.

Kern County. 2016. *Grapevine Final Specific and Community Plan*. December. Available: https://psbweb.co.kern.ca.us/planning/pdfs/SPs/grapevine_scp_final.pdf. Accessed: September 30, 2018.

[6] The analysis of climate change is distinct from that of air quality. While air quality impacts are measured over a short time period, climate change effects are measured cumulatively over multiple years.

4.1.7 Appendix L, Water Availability Analysis

Response to Comment O3-15

In Appendix L, Section 3.2, *Kern River Pre-1914 Water Right Allocations*, the third paragraph has been revised as follows.

The First Point rights are allocated in order of priority according to the diversion rights identified on the 'Kern River First Point Flow and Diversion Record.' Allocations of First Point and Second Point flows are made on a daily basis in accordance with the provisions of the Miller-Haggin Agreement of 1888 (as amended and supplemented), the 1900 Shaw Decree, and the 1962 Kern River Water Rights and Storage Agreement. Depending on the month, all the waters of the Kern River are first divided and apportioned each day between the two parties to the Miller-Haggin Agreement on a percentage basis depending on the total unregulated natural flow measured at the First Point of Measurement. The First Point parties are entitled to divert and use all the water divided and apportioned to the First Point parties each day of each month under the Miller-Haggin Agreement in the order of priority stated in the 'Kern River First Point Flow and Diversion Record,' provided that any such water that the First Point parties are entitled that passes the Second Point of Measurement shall, upon passing, belong to the Second Point parties. ~~In January, February and September through December, flows up to 1,200 cfs are allocated to First Point users. Flows above 1,200 cfs are apportioned between First Point and Second Point users. From March through August, flows up to 300 cfs are allocated to First Point users. Flows above 300 cfs are apportioned to First Point and Second Point users in varying ratios, depending on the amount natural flow. All of the First Point rights are filled when the river is running over 3,162 cfs, so that any flow over that amount would also necessarily be surplus, excess water that would be released to Second Point (Bogart, 2009).~~ This typically occurs in very wet years. ~~When an individual right-holder is unable to use all of its allocation, water is released to the river and is made available for junior right holders to use. As discussed in Section 4.1, once Kern River regulated flow reaches about 200,000 acre-feet/month (just under 3,400 cfs), the use of existing facilities is maximized and flood water flows to the Intertie.~~

In Appendix L, Section 3.3, *Pre-1914 Water Right Holders*, the second paragraph has been revised as follows.

The City of Bakersfield, North Kern, and Kern Delta Water District hold all of the First Point rights. The North Kern Water Storage District holds the perpetual right to divert, transport and use all water accruing to certain water rights as stated in the 'Agreement For Use of Water Rights' dated January 1, 1952 ~~also diverts and uses water from the First Point service area, pursuant to a water supply agreement that gives the District access to the First Point rights held by the City of Bakersfield in perpetuity~~. The Buena Vista Water Storage District holds essentially all of the Second Point rights, and the Kern County Water Agency holds the Lower River rights.

In Appendix L, Section 3.3, *Pre-1914 Water Right Holders*, the second paragraph has been revised as follows.

The City of Bakersfield has historically used Kern River water for municipal and industrial uses within the City, as well as for groundwater replenishment, with principal replenishment at the City's 2800 Acre recharge facility. In 1976, Bakersfield entered into ~~35-year~~ long-term contracts to sell a portion of its Kern River water supply to four agricultural districts. ~~As indicated in its 2009 testimony for the Kern River Fully Appropriated Stream hearings,~~ Bakersfield proposes to take back a significant quantity of this water both to meet increasing demand and to discharge water to the Kern River (Core, 2009). In 2014 the Ventura County Superior Court entered a final judgment (affirmed by the Court of Appeal, Second Appellate District) that the Extension Term of Agreement 76-89 between North Kern and Bakersfield is a valid and enforceable contract, in full force and effect. The City of Bakersfield is permanently enjoined from taking any action inconsistent with Agreement 76-89 and the Final Statement of Decision of the judgment. The City also has a long-term contract with Rosedale-Rio Bravo Water Storage District. In addition to the long-term contract water, Bakersfield also sells surplus water to local agencies when available.

In Appendix L, Section 3.3, *Pre-1914 Water Right Holders*, the third paragraph has been revised as follows.

North Kern Water Storage District uses Kern River water for irrigation, stock watering, groundwater replenishment and (recharge), and municipal and industrial purposes. The District is also a Central Valley Project contractor, receiving Class 1 and Class 2 water from the Friant-Kern project. The District takes diversions from the Kern River through the Beardsley and Calloway canals, and the Pioneer Canal Inlet to Cross-Valley Canal for both irrigation stock watering, deliveries and groundwater replenishment (recharge) for irrigation and municipal and industrial purposes. The District also has spreading basins that are filled using Kern River, Poso Creek and other available supplies including flood waters from the Kern River.

In Appendix L, Section 4.1, *Analysis of Delivery Capacities During Flood Conditions*, the fourth paragraph has been revised as follows.

Based on the facilities' capacities identified, river operations were then evaluated for 1998. 1998 was an El Nino year, which had the sixth largest volume of runoff on record. Kern River water was introduced to the Intertie under mandatory flood control releases, starting April 29th, with deliveries made to the Intertie through July 10th. ~~Average monthly flow at First Point for May 1998 was 3,900 cfs, and average monthly flow for June 1998 was 4,625 cfs, both of which exceed the total First Point rights of 3,162 cfs.~~