

NOTICE OF EXEMPTION

To: Office of Planning and Research
Post Office Box 3044, Room 212
Sacramento, CA 95812-3044

From: Pacheco Water District
Post Office Box 2657
Los Banos, CA 93635

Fresno County Clerk
2221 Kern Street
Fresno, CA 93721

Merced County Clerk
2222 M. Street
Merced, CA 95340

Project Title: WIIN Act Conversion Contract

Project Location – Specific: Pacheco Water District

Project Location – City: N/A **Project Location – County:** Fresno & Merced

Description of Nature, Purpose and Beneficiaries of Project:

This project is for the execution of a contract (“Conversion Contract”) to amend and convert Pacheco Water District’s (“District”) existing contract with the United States, by and through the United States Bureau of Reclamation, for the delivery of Central Valley Project (“CVP”) water (“Project Water”). Authorized by the Water Infrastructure Improvements for the Nation Act (Pub. L. 114-322, 130 Stat. 1628) (the “WIIN Act”), the Conversion Contract continues water service to the District in the same amounts as the District’s original CVP contract dating back to 1977, and is in the same scope and nature as ongoing CVP operations. The Conversion Contract allows the District to repay in one lump sum the capital construction costs incurred by the United States Bureau of Reclamation (“Reclamation”) for the existing CVP facilities. The purpose of this Conversion Contract is to continue long-term and reliable delivery of Project Water to the District.

The beneficiaries of this project are the landowners and water rights holders within the District. By converting its existing contract, the District will ensure continued water delivery that allows the District to continue to make available irrigation water to the landowners and water rights holders in the District. The District, on behalf of its landowners, owns, operates, and maintains the facilities that supply Project Water from and deliver it to landowners in the District. Without the District, the landowners now receiving water would have a difficult time diverting and receiving surface water.

Name of Public Agency Approving Project: Pacheco Water District

Name of Person or Agency Carrying Out Project: Pacheco Water District

Exempt Status: (check one)

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));

- **Categorical Exemption. State type and section number:** Existing Facilities – Cal. Code Regs., tit. 14, § 15301; and Common Sense Exemption – Cal. Code Regs., tit. 14, § 15061, subd. (b)(3)
- **Statutory Exemption. State code number:** Rates, Tolls, Fares, Charges – Pub. Res. Code § 21080, subd. (b)(8), Cal. Code Regs., tit. 14, § 15273.

Reasons why project is exempt:

Rates, Tolls, Fares & Charges – Pub. Res. Code § 21080(b)(8); CEQA Guidelines § 15273 – This statutory exemption applies because part of the purpose of the Conversion Contract is to provide for the lump sum repayment of construction costs for the development of existing CVP facilities that provide water to the District. Since the passage of the Reclamation Act of 1902, federal water contractors have been required to repay an allocated portion of the construction costs for those water projects. The District first entered into Contract No. 7-07-20-W0005 to provide for water from the CVP (“Project Water”) beginning in March 24, 1977 (“Original Contract”). The District entered into its existing contract for Project Water, Contract No. 06-07-20-W0469 in or around 1986 (“Existing Contract”), which provides for CVP water to this day through the San Luis Unit of the Delta Division of CVP facilities.

Converting the District’s Existing Contract to a repayment contract allows the District to repay the capital construction costs allocated to the District in one lump sum, which would normally be repaid annually. Thus, the District is “modifying” or “restructuring” the capital construction charges it would annually be charging to its irrigation customers. This restructuring is necessary to maintain water services throughout the District. However, the District will not be charging its landowners any more for the payout costs, as those funds are already held within the District’s prudent reserves. Therefore, to the extent that this project may involve a change in rates, tolls, fares, or other charges necessary to repay the capital costs for the CVP facilities, this categorical exemption applies.

Existing Facilities – CEQA Guidelines, § 15301 – A Class 1 exemption “consists of the operation, repair, maintenance, permitting, leasing, licensing or minor alternation of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination The key consideration is whether the project involves negligible or no expansion of existing use.” (CEQA Guidelines, § 15301.) This categorical exemption applies because the Project Water the District receives pursuant to the Conversion Contract will be through existing San Luis Unit of the Delta Division facilities and involves no expansion of use beyond that already existing.

Moreover, this is a single contract conversion which will not result in successive similar projects. Entering into the Conversion Contract will merely ensure continued reliable delivery of Project Water to the District in the same amounts and through the same facilities as the District’s Existing Contract.

Common Sense Exemption – The “Common Sense Exemption” applies to this project. As described above, the Conversion Contract contemplates delivery in the same nature and scope as prior contracts which have been in place for over forty years. The District’s landowners and water rights holders have relied on this water for the same amount of time and in similar amounts. While the Project Water actually delivered will, as always, depend on seasonal and annual availability, the

Conversion Contract does not change the contracted quantity, purpose of use, timing, or facilities used. Therefore, there is no possibility the Conversion Contract may have a significant effect on the environment within the District's service area or in neighboring areas.

Lead Agency

Contact Person: CHASE Hurley

Area Code/Telephone/Ext: 209/704/5105

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature: 

Date: 12/28/2020 Title: BOARD PRESIDENT Pacheco Water District

- Signed by Lead Agency
 Signed by Applicant