

NOTICE TO STATE WATER PROJECT CONTRACTORS



Date: December 1, 2022

Number: 22-04

Subject: State Water Project Initial 2023 Allocation – 5 Percent with SWP Human Health and Safety Needs

From: Signed by Tony Meyers for
Ted Craddock
Deputy Director, State Water Project
Department of Water Resources

With the close of Water Year 2022 as critically dry, California has experienced its third consecutive dry year. Entering 2023 with the possibility of another dry year occurring, the Department of Water Resources (DWR) is initially allocating 5 percent of most¹ State Water Project (SWP) contractors requested Table A amounts. DWR is also provisionally allocating additional SWP water to ensure that the SWP contractors can meet their minimum water demands for domestic supply, fire protection, and sanitation (referred to herein as “human health and safety (HH&S) needs”) during the year².

The SWP HH&S allocation is made pursuant to Article 18(a) of the long-term water supply contract between DWR and each of the SWP contractors, and pursuant to the “Guidelines for State Water Project Allocation for Human Health and Safety Needs Pursuant to Article 18a of Water Supply Contracts,” August 31, 2022 (Attachment B). As described in Attachment B, SWP HH&S needs are determined to be no more than 55 gallons per capita per day, consistent with the State Water Resources Control Board emergency curtailment regulations adopted on August 12, 2022.³

In determining available SWP supplies, DWR has considered several factors including SWP contractors’ projected 2023 demands, existing storage in SWP conservation

¹ Attachment A presents these initial allocations.

² DWR’s provisional allocation for HH&S is subject to the contractors providing substantiating documentation of their unmet HH&S needs and subject to DWR’s confirmation according to the 2023 SWP HH&S Guidelines (Attachment B).

³ Cal. Code Regs., tit. 23, §§ 877.1(h), 878.1; see also

<https://www.waterboards.ca.gov/drought/delta/docs/2022/20220812-reg-oal-approved.pdf>

facilities, estimates of future runoff under very dry conditions, SWP operational and regulatory requirements from the federal Endangered Species Act and California Endangered Species Act, and water rights obligations under the SWRCB's authority. DWR may revise the SWP allocation if warranted by the year's developing hydrologic conditions and available SWP water supplies.

To develop the 5 percent water delivery schedule, DWR will utilize the 5 percent schedules submitted by the Contractors in October 2022 (as part of initial requests), including any subsequent updates that may have been provided to DWR. DWR will utilize the SWP HH&S needs schedules received from the contractors in November 2022 for the SWP HH&S delivery schedule. If a contractor foresees any changes to their water delivery schedule, please communicate such changes with DWR in a timely manner. Advanced Table A supplies will remain available for those Contractors with that contractual right if the Contractor is not requesting an SWP HH&S Allocation.

If you have any questions or need additional information, please contact John Leahigh, Assistant Division Manager, Water Management, SWP Division of Operations and Maintenance, at (916) 902-9876.

Attachment A: 2023 SWP Allocation Table

Attachment B: Guidelines for State Water Project Allocation for Human Health and Safety Needs Pursuant to Article 18a of Water Supply Contracts; August 31, 2022

Attachment A
2023 STATE WATER PROJECT ALLOCATION
12/1/2022

SWP CONTRACTORS	TABLE A (Acre-Feet)	TABLE A INITIAL REQUEST (Acre-Feet)	TABLE A APPROVED ALLOCATION (Acre-Feet)	TABLE A PERCENT INITIAL REQUEST APPROVED	HH&S INITIAL REQUEST* (acre-feet)
	(1)	(2)	(3)	(4) = (3)/(2)	(5)
<u>FEATHER RIVER</u>					
County of Butte	27,500	27,500	3,000	11%	0
Plumas County FC&WCD	2,700	2,700	135	5%	0
City of Yuba City	9,600	9,600	1,440	15%	0
Subtotal	39,800	39,800	4,575		
<u>NORTH BAY</u>					
Napa County FC&WCD	29,025	29,025	4,354	15%	0
Solano County WA	47,756	47,756	7,164	15%	0
Subtotal	76,781	76,781	11,518		
<u>SOUTH BAY</u>					
Alameda County FC&WCD, Zone 7	80,619	80,619	4,031	5%	0
Alameda County WD	42,000	42,000	2,100	5%	0
Santa Clara Valley WD	100,000	100,000	5,000	5%	48,806
Subtotal	222,619	222,619	11,131		48,806
<u>SAN JOAQUIN VALLEY</u>					
Oak Flat WD	5,700	5,700	285	5%	0
County of Kings	9,305	9,305	466	5%	51
Dudley Ridge WD	41,350	41,350	2,068	5%	0
Empire West Side ID	3,000	3,000	150	5%	0
Kern County WA	982,730	982,730	49,137	5%	0
Tulare Lake Basin WSD	87,471	87,471	4,374	5%	0
Subtotal	1,129,556	1,129,556	56,480		51
<u>CENTRAL COASTAL</u>					
San Luis Obispo County FC&WCD	25,000	25,000	1,250	5%	0
Santa Barbara County FC&WCD	45,486	45,486	2,275	5%	0
Subtotal	70,486	70,486	3,525		0
<u>SOUTHERN CALIFORNIA</u>					
Antelope Valley-East Kern WA	144,844	144,844	7,243	5%	7,053
Santa Clarita Valley WA	95,200	95,200	4,760	5%	0
Coachella Valley WD	138,350	138,350	6,918	5%	0
Crestline-Lake Arrowhead WA	5,800	5,800	290	5%	0
Desert WA	55,750	55,750	2,788	5%	0
Littlerock Creek ID	2,300	2,300	115	5%	0
Metropolitan WDSC	1,911,500	1,911,500	95,575	5%	195,449
Mojave WA	89,800	89,800	4,490	5%	0
Palmdale WD	21,300	21,300	1,065	5%	0
San Bernardino Valley MWD	102,600	102,600	5,130	5%	0
San Gabriel Valley MWD	28,800	28,800	1,440	5%	0
San Geronio Pass WA	17,300	17,300	865	5%	0
Ventura County WPD	20,000	20,000	1,000	5%	0
Subtotal	2,633,544	2,633,544	131,679		202,502
TOTAL	4,172,786	4,172,786	218,908	5%	251,359

* DWR's provisional allocation for HH&S is subject to the contractors providing substantiating documentation of their unmet HH&S needs and subject to DWR's confirmation according to the 2023 SWP HH&S Guidelines (Attachment B).

Guidelines for State Water Project Allocation for Human Health and Safety Needs Pursuant to Article 18a of Water Supply Contracts

On March 28, 2022, the California Department of Water Resources (DWR) released “Draft Guidelines for State Water Project Allocation for Human Health and Safety Need Pursuant to Article 18a of Water Supply Contracts.”¹ That document is applicable to calendar year 2022 State Water Project (SWP) Human Health and Safety (HH&S) allocation administration, including the future payback of 2022 *SWP HH&S deliveries*.

This document presents guidance to the SWP Contractors (Contractor or Contractors) on how DWR administers SWP allocations during times of shortage to meet the “*minimum demands of contractors for domestic supply, fire protection, or sanitation,*” due to drought or any other cause pursuant to Article 18a of the Water Supply Contracts for calendar years 2023 and beyond, including the payback of *SWP HH&S deliveries* in 2023 and beyond. This document stays effective until amended. These guidelines are subject to any Executive Orders or emergency proclamations issued by the California Governor, and any curtailment notices, orders or resolutions adopted by the State Water Resources Control Board (Board) that approve or implement emergency regulations regarding water conservation and/or water use. Any exception to these guidelines is subject to and at the DWR Director’s discretion.

Background

Since 2020 California has experienced extended dry conditions that led the Board to adopt emergency regulations to curtail water rights in many California watersheds, including the Sacramento-San Joaquin Delta (Delta)². Among other things, the Board’s curtailment orders ensure continued protection of water supplies necessary to meet human health and safety needs³ consistent with the State policies declaring water supplies for consumption, sanitation, and cooking as a human right (Water Code § 106.3); identifying domestic use as the highest water use (Water Code § 106); and providing water suppliers with authority to declare a water shortage emergency to allow sufficient water for human consumption, sanitation, and fire protection (Water Code § 350). Article 18a in the SWP Water Supply Contracts provides that, in any year in which a shortage in the supply of project water available for delivery to the Contractors may occur due to drought or any other cause, DWR may allocate the available SWP supplies “on some other basis if such is required to meet minimum demands of contractors for domestic supply, fire protection, or sanitation during the year.”

¹ See Attachment 1.

² See Attachment 2 for emergency regulations adopted by the Board on August 12, 2022.

³ See Attachment 2 Cal. Code Regs., tit. 24, §878.1.

Definitions

For clarity, the following terms are used within this document.

- *SWP HH&S needs* – Unmet water needs for domestic supply, fire protection,⁴ or sanitation within a Contractor's service area for that calendar year after using current year Table A water (if allocated), previously allocated but undelivered SWP surface water and other supplies.
- *SWP HH&S allocation* – SWP allocation made in a specific calendar year to meet *SWP HH&S needs* for that year.
- *SWP HH&S deliveries* – Water delivered under *SWP HH&S allocation*, classified by calendar year.
- *SWP HH&S balance* – The sum of a Contractor's *SWP HH&S deliveries*, classified by calendar year, less any amounts of *SWP HH&S payback*.
- *SWP HH&S payback* – Table A water relinquished by a Contractor to reduce or eliminate its *SWP HH&S balance*.
- *SWP HH&S payback year* – A calendar year in which a Contractor is required to relinquish its allocated Table A water to DWR to reduce or eliminate the Contractor's *SWP HH&S balance*.

SWP HH&S deliveries are considered SWP project water pursuant to Water Supply Contracts between DWR and each Contractor and are subject to conveyance charges and *SWP HH&S payback*. Prior to receiving *SWP HH&S allocation*, Contractors must provide documentation of actions, including but not limited to, implementation status of Water Shortage Contingency Plan, conservation measures, conjunctive use practices, and acquisition of alternate supplies to reduce and meet demands within their SWP service area.

SWP HH&S Needs

The followings are steps in the SWP HH&S calculation form to determine a Contractor's monthly *SWP HH&S needs* for a calendar year based on its current population:

- Step 1:** Human health and safety needs of a Contractor is equal to 55 gallons per capita per day (gpcd) multiplied by the entire population inside its service area that can receive SWP water.⁵ In considering requests for exceptions, DWR will consider criteria set forth in any then applicable Board emergency curtailment regulations.

⁴ See Attachment 2 for emergency regulations related to water use for fire protection (Cal. Code Regs., tit. 23, §877.1 and 878.1). See Attachment 3 for the July 5, 2022 request from Metropolitan Water District of Southern California for additional SWP water for wildfire prevention and Attachment 4 for the July 26, 2022 joint reply from DWR and CALFIRE.

⁵ This amount is based on the Board's current regulations. See Attachment 1 Cal. Code Regs., tit. 23, §878.1(b).

Step 2: Each Contractor shall identify SWP water supplies available to meet human health and safety needs from Step 1 within any applicable physical and contractual constraints. Each Contractor must identify:

1. Current year Table A allocation; and
2. Previously allocated but undelivered SWP surface water, which includes water provided under Article 12(e) and Article 14(b), and Article 56(c) water stored in a project surface water conservation facility (excluding previously banked groundwater).

Step 3: Each Contractor shall assess and identify other supplies available to meet human health and safety needs from Step 1.

Result: Monthly *SWP HH&S needs* of a Contractor is equal to human health and safety needs from Step 1, minus SWP supplies from Step 2, minus other supplies from Step 3.

DWR may require additional substantiating information from a Contractor to confirm the requested *SWP HH&S needs*. SWP HH&S calculations and re-calculations are subject to confirmation by DWR.

SWP HH&S Allocation

At any point in a calendar year, there are three potential allocation scenarios involving *SWP HH&S allocation*:

1. *SWP HH&S allocation only* – Due to limited water supplies, there is only *SWP HH&S allocation* for Contractors with *SWP HH&S needs* and zero Table A allocation for those without any *SWP HH&S needs*.
2. Hybrid: *SWP HH&S allocation* and Table A allocation – This happens when at least some Contractors receive both Table A and *SWP HH&S allocation* to help meet their human health and safety needs. If, during this same year, water supply conditions improve resulting in DWR increasing its Table A allocation, such Table A allocation increases will replace a recipient Contractor's *SWP HH&S deliveries* plus its remaining *SWP HH&S allocation* on a 1 acre-foot to 1 acre-foot basis.

For Example: A year starts with a Table A allocation of zero percent (0%). A Contractor has *SWP HH&S needs* of 300 acre-feet for that year. In the first month, this Contractor takes delivery of 15 acre-feet of *SWP HH&S deliveries*. In the second month of the year, DWR increases the Table A allocation resulting in the Contractor receiving 200 acre-feet of Table A water. After the allocation increase, DWR reclassifies the 15 acre-feet of *SWP HH&S deliveries* as Table A deliveries, and the Contractor will retain a supply of 185 acre-feet of its Table A water available for delivery for the remaining months of that year. This Contractor's recalculated

SWP HH&S needs are now 100 acre-feet for the remainder of the year.

3. Table A allocation – After initially providing *SWP HH&S allocation* to some Contractors based on their *SWP HH&S needs*, DWR increases the Table A allocation to the amount sufficient to meet human health and safety needs for all Contractors. All prior *SWP HH&S deliveries* to Contractors in that year are reclassified as Table A deliveries.

The following are conditions for receiving a *SWP HH&S allocation*:

1. A Contractor shall not transfer or exchange its *SWP HH&S allocation*, except for operational exchanges to minimize conveyance losses.
2. A Contractor receiving a *SWP HH&S allocation* or with an outstanding *SWP HH&S balance* will be prohibited from providing water for transfers and exchanges of its current year's Table A allocations and Article 56 carryover water stored in a project surface water conservation facility.⁶
3. A Contractor requesting *SWP HH&S allocation* must provide the implementation status of its Water Shortage Contingency Plan and certify measures such as conservation, conjunctive use, or other supply acquisition and utilization actions to DWR.
4. Unused *SWP HH&S allocation* is forfeited at the end of the calendar year and cannot be carried over to future years.

SWP HH&S Deliveries

A Contractor may stop or suspend taking *SWP HH&S deliveries* upon notification to DWR. All Contractors requesting *SWP HH&S deliveries* are responsible for coordinating delivery points and rates through their normal contacts at DWR Headquarters and the various DWR field divisions.

Conveyance charges for *SWP HH&S deliveries* shall be the same as for SWP project water deliveries and shall include transportation, variable operation, maintenance, power, and replacement (OMP&R) component charges, Off Aqueduct power facility charges, and any incremental OMP&R costs, as determined by DWR pursuant to each Contractor's Water Supply Contract.

SWP HH&S Payback

Contractors that have received *SWP HH&S deliveries* are required to relinquish to DWR allocated Table A water on a one acre-foot to one acre-foot basis as *SWP HH&S payback*

⁶ Exception: Transfers made from one Contractor's service area to another Contractor's service area on behalf of a landowner in both Contractors' service areas to better manage the landowner's water supplies (common landowner transfer) are not subject to this provision.

within five calendar years of receiving the *SWP HH&S deliveries*, regardless of Table A allocation percentages during the intervening years.

SWP HH&S payback may occur in any year within the five-calendar year period but must occur when a calendar year’s final Table A allocation is 40 percent or greater (hereinafter referred to as an *SWP HH&S payback year*). During each *SWP HH&S payback year*, each Contractor with a *SWP HH&S balance* is required to relinquish to DWR a minimum of 5 percent of its Maximum Annual Table A amount, or its outstanding *SWP HH&S balance(s)* if that balance is lower than 5 percent of its Maximum Annual Table A amount.

If a Contractor fails to relinquish water to DWR to eliminate a year-specific *SWP HH&S balance* that is approaching five years old as prescribed herein, after consultation with the Contractor, DWR will deduct the amount of Table A water necessary to eliminate the year-specific *SWP HH&S balance* when it becomes five years old. *SWP HH&S balances* are not subject to cancellation. All *SWP HH&S payback* water will become part of the overall SWP supply.

For Example: A Contractor, whose Maximum Annual Table A Amount is 2,000 acre-feet, has encumbered an *SWP HH&S balance* of 200 acre-feet in 2023, Year 0. Payback over years 1 through 5 could be accomplished as shown in Table 2.

Table 2: SWP HH&S Payback Example based on Hypothetical Conditions for a Contractor with Maximum Annual Table A Amount of 2,000 acre-feet (af)

Calendar Year(s)	Year	Final Allocation		Table A Relinquished		2023 SWP HH&S Balance (af)	Remaining Allocation Available	
		%***	af	%***	af		%***	af
2023	0	-	-	-	-	200	-	-
2024	1	20	400	0	0	200	20	400
2025*	2	50	1,000	5	100	100	45	900
2026	3	35	700	2.5	50	50	32.5	650
2027	4	30	600	0	0	50	30	600
2028**	5	35	700	2.5	50	0	32.5	650

* 2025 in this example is an *SWP HH&S payback year*, due to its final SWP allocation greater than 40 percent, so a mandatory minimum payback of 5% of a Contractor’s Maximum Annual Table A Amount is required to be relinquished.

** 2028 in this example is Year 5, when the Contractors’ remaining *SWP HH&S balance* is due to be paid back.

*** Percent of SWP Water Supply Contract Maximum Annual Table A Amount

Scheduling

When preparing initial water delivery schedules for 2023, Contractors shall submit a SWP HH&S calculation form for the 0% Table A allocation scenario.

After *SWP HH&S allocation* is confirmed by DWR for a Contractor, it is the Contractor’s responsibility to update and submit water delivery schedules to DWR according to Water Supply Contract Article 12 to reflect the SWP project water supplies used to help meet its

human health and safety needs, and to reflect the confirmed *SWP HH&S allocation*, in a timely manner.

SWP HH&S Delivery Records

All *SWP HH&S needs* calculation forms submitted to DWR will be reviewed in a timely manner. After DWR confirms calculations are consistent with this document, the *SWP HH&S needs* calculation form will be provided to all Contractors. DWR will also provide to all Contractors, on a monthly basis, a detailed accounting for *SWP HH&S needs, allocation, and deliveries* for the current year, and *SWP HH&S balances* and *payback*. DWR intends to utilize the SWC Water Operations Committee meetings to provide status updates of *SWP HH&S needs and deliveries*.

Points of Contact

Accompanying these guidelines is an *SWP HH&S* calculation form to be utilized by Contractors planning for or requesting *SWP HH&S allocation*. Please reach out to DWR Managers Anna Fock at anna.fock@water.ca.gov or Patrick Luzuriaga at patrick.luzuriaga@water.ca.gov for the form or with questions or comments related to these guidelines.

Attachments [available separately]

Attachment 1: “Draft Guidelines for State Water Project Allocation for Human Health and Safety Need Pursuant to Article 18a of Water Supply Contracts” by DWR on March 28, 2022

Attachment 2: Emergency regulations to curtail water diversions in the Delta Watershed effective on August 12, 2022 and to expire on August 14, 2023

Attachment 3: Letter from Metropolitan Water District of Southern California for additional *SWP* water for wildfire prevention on July 5, 2022

Attachment 4: Joint reply from DWR and CALFIRE to Metropolitan Water District of Southern California on July 26, 2022, regarding additional *SWP* water for wildfire prevention