ATTACHMENT 1

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DESCRIPTION OF TEMPORARY URGENCY CHANGE REQUEST AND JUSTIFICATION FOR REQUEST

I. Introduction

California is in the midst of an unprecedented drought. Governor Brown has declared a drought state of emergency. The California Department of Water Resources (DWR) recently projected that State Water Project (SWP) contractors will receive zero percent of their allocation. In an effort to stretch stored SWP supplies and minimize the effects of the drought, Calleguas Municipal Water District (Calleguas), a wholesaler of SWP water, has encouraged water users in its Ventura County service area to implement feasible water use efficiency measures. The City of Thousand Oaks (City) and Camrosa Water District (Camrosa) have heeded this call and propose a temporary change to Permit 20952 that will allow Camrosa to divert Conejo Creek water more often to meet irrigation demands in the Pleasant Valley County Water District (PVCWD) service area, thereby reducing PVCWD's groundwater pumping and improving groundwater quality in Ventura County. By making groundwater supplies more reliable, local municipalities will reduce their demand for SWP water, and in turn lessen demand for water from the Sacramento-San Joaquin River Delta. Further, an immediate reduction in groundwater pumping is critical because the Fox Canyon Groundwater Management Agency (FCGMA) just adopted an ordinance that requires all groundwater producers to reduce pumping by 20% to extend the availability of existing groundwater supplies. By protecting SWP and local groundwater supplies, the City's proposed change will enhance local resiliency in case the drought should continue into the next water year.

II. Water Right Permit 20952 Requested Change

Term 5 of Permit 20952 establishes the maximum rate at which the City may divert water from Conejo Creek. (See Amended Permit 20952, attached hereto as Exhibit A.) The City's maximum rate of diversion at any time shall not exceed the sum of:

> The real-time rate of discharge from the Hill Canyon Waste Water Treatment Plant, less 2 cubic feet per second (cfs) to account for channel losses, and less 2

cfs to account for the City's dedication of treated waste water for maintenance and protection of fish and wildlife under Waste Water Change Petition WW-6; and

An additional 4 cfs, by direct diversion from January 1 through December 31 of each year at all times that the minimum bypass flow at the point of diversion is 6 cfs (including the 2 cfs the City dedicated to fish and wildlife).

With respect to the additional 4 cfs, the City requests that the State Water Resources Control Board (State Water Board) temporarily reduce the minimum bypass flow from 6 cfs to 2 cfs (Project).

A reduction in the bypass flow requirement will allow Camrosa to divert the additional 4 cfs allowed by Permit 20952 more often than it is currently able to given the hydrology of Conejo Creek. The additional water Camrosa plans to divert with this change will be used within the PVCWD service area, an existing place of use for water diverted under Permit 20952.

III. Background Supporting Requested Change

A. City Water Rights and Water Deliveries

The City owns and operates Hill Canyon Waste Water Treatment Plant (HCWWTP). The City discharges tertiary-treated waste water from the HCWWTP to Conejo Creek.

In September 1997, the State Water Board issued Water Rights Decision 1638 (D-1638), thereby approving City Application 29408 providing for issuance of a permit with specific conditions. D-1638 granted the City the right to divert up to 21.7 cfs from Conejo Creek. D-1638 established that the City's maximum rate of diversion at any time shall not exceed the sum of:

The real-time rate of discharge from the HCCWTP, less 2 cfs to account for channel losses, and less 2 cfs to account for the City's dedication of treated waste water for maintenance and protection of fish and wildlife under Waste Water Change Petition WW-6; and

An additional 4 cfs, by direct diversion from January 1 through December 31 of each year at all times that the minimum bypass flow at the point of diversion is 6 cfs (including the 2 cfs the City dedicated for fish and wildlife purposes).

D-1638 established the authorized place of use as the service areas of Camrosa and the PVCWD. (See Map of Camrosa and PVCWD service areas, attached hereto as Exhibit B.) D-1638 further provided that the City's permit is subject to the prior right under Water Right License 12598 (License 12598). License 12598 provides for diversion of 0.82 cfs from Conejo Creek at a point below the City's authorized point of diversion. D-1638 also required the City to develop and implement a detailed mitigation and monitoring program for any impacts that the diversion might have on southwestern pond turtles.

In February 1998, the State Water Board issued Permit 20952 to the City consistent with the terms of D-1638. In May 2012, the State Water Board issued Amended Permit 20952 to the City extending the permit term to December 31, 2025.

Under an agreement between the City, Camrosa, and PVCWD, Camrosa diverts the water the City is entitled to divert under Permit 20952 (Conejo Creek Water). Camrosa diverts Conejo Creek Water then conveys it approximately three (3) miles to its storage ponds, and then to its customers for beneficial use. Camrosa delivers any surplus Conejo Creek Water to the PVCWD to meet its demands. (See Graphic of Conejo Creek Project Facilities and Water Flow, attached hereto as Exhibit C.) When available, PVCWD uses Conejo Creek Water in lieu of groundwater that it would otherwise pump from the Pleasant Valley Basin in Western Ventura County.

B. The Project Will Reduce Regional Demand For Imported State Water Project Surface Water Supplies

The Project will help relieve regional demand for imported SWP water supplies. Calleguas delivers imported SWP water to numerous water users in Western Ventura County, including Camrosa, the City of Camarillo (Camarillo) and the City of Oxnard (Oxnard). These agencies rely on both SWP water as well as local groundwater. These purveyors are more likely to use SWP supplies when groundwater quality is poor. By

reducing PVCWD's demand for groundwater, the Project will improve groundwater quality conditions and thereby lessen Camrosa, Camarillo and Oxnard's demand for imported SWP supplies.

Camarillo's water supplies include: (1) groundwater from the Pleasant Valley Basin, and (2) imported SWP water. (See Camarillo's 2010 UWMP, pp. 3-1, 3-5, attached hereto as Exhibit D.) Camarillo's typical supply mix is about 40% groundwater and 60% imported water. (*Id.* at p. 3-2.) The numbers, however, vary depending on weather conditions and groundwater blending requirements due to groundwater quality. (*Ibid.*) Camarillo's primary groundwater quality concern is seawater intrusion that is driven by low groundwater levels in the Pleasant Valley Basin. (*Id.* at p. 3-7.)

Oxnard's water supplies consist of imported SWP water as well as groundwater from the Oxnard Plain Basin, which is immediately adjacent and hydraulically connected to the Pleasant Valley Basin. (See Oxnard's 2010 UWMP at p. 3-1, 3-4, attached hereto as Exhibit E.) Oxnard currently desalts brackish groundwater and blends it with untreated groundwater, and SWP water prior to delivery. (*Id.* at pp. 3-1, 3-16, 3-17.) If either Camarillo or Oxnard's groundwater supplies are unreliable due to high salinity levels, then these municipalities are more likely to rely on additional imported water supplies from Calleguas. The same is true for Camrosa.

The Project will allow Camrosa to deliver additional Conejo Creek Water to PVCWD. This will reduce PVCWD's groundwater pumping and help raise groundwater levels in the Pleasant Valley Basin, and limit seawater intrusion into the Oxnard Plain and Pleasant Valley Basins. In doing so, groundwater will become a more reliable supply and local purveyors will be able to reduce demand for imported water from Calleguas. The Project is consistent with Calleguas's recent call for its water users to help stretch available SWP supplies by using alternative water sources during the drought.

Calleguas receives SWP water from the Metropolitan Water District of Southern California (Metropolitan), an SWP contractor. On November 20, 2013, the DWR announced an initial allocation of 5 percent (5%) to SWP contractors for 2014. On

January 17, 2014, Governor Brown proclaimed a State of Emergency due to the drought and called on Californians to reduce their water use by 20%. On January 31, 2014, the DWR reduced its projected SWP allocation from five (5%) percent to zero.

As of February 5, 2014, regional storage was sustaining southern California water users such that Metropolitan was not planning to reduce deliveries to its contractors, including Calleguas. Nevertheless, Calleguas resolved to encourage the water users in its service area to "implement feasible water use efficiency measures in an effort to extend stored water supplies and minimize effects associated with a prolonged drought condition." (See Calleguas Resolution No. 1816, attached hereto as Exhibit F.) The Project will improve water quality conditions in the Pleasant Valley and Oxnard Plain Basins, thereby enhancing and improving local groundwater supplies and limiting demand for SWP supplies from Camarillo, Oxnard, and Camrosa. By lessening demand for SWP supplies, the Project will reduce demand for Delta water.

C. The Project Will Improve Local Groundwater Quality

The Pleasant Valley Basin is an overdrafted groundwater basin that is subject to high salinity levels due to seawater intrusion. (2007 FCGMA Groundwater Management Plan, pp. 11, 26, 28-29, attached hereto as Exhibit G.) Groundwater from the Pleasant Valley Basin supports agricultural, municipal and domestic uses. The Project will allow PVCWD to receive more Conejo Creek Water and offset its groundwater pumping by an equal amount. This will help raise groundwater levels in the Pleasant Valley Basin, and improve water quality by limiting seawater intrusion.

The Pleasant Valley Basin is one of seven basins that are actively managed by the FCGMA. (Exhibit G at p. 7.) The Pleasant Valley Basin lies inland and adjacent to the Oxnard Plain Basin, another overdrafted basin within FCGMA's jurisdiction. (*Id.* at pp. 8, 26.) The Pleasant Valley and Oxnard Plain Basins are hydraulically connected by a common groundwater aquifer. (*Id.* at p. 11.) When groundwater levels are below sea level along the coastline, seawater flows into the Oxnard Plain Basin, and from there may flow into the Pleasant Valley Basin. (*Id.* at pp. 10, 26.)

Groundwater levels in the southern Oxnard Plain and portions of the Pleasant Valley Basins have been consistently below sea level for at least 60 years. (Exhibit G at p. 26.) A marked decline in groundwater levels between the 1980s and 2000s exacerbated a trough that extends from the coast to the City of Camarillo. (*Ibid.*) Further, a significant pumping trough in the Pleasant Valley Basin located near the Camarillo Airport and inland from areas of seawater intrusion could exacerbate and extend the intrusion. (Conejo Creek Project: *Effects of Two Project Scenarios*, pp. 6-7, attached hereto as Exhibit H.) In light of these conditions, the primary water quality issue in the Pleasant Valley and Oxnard Plain Basins is saline water intrusion. (Exhibit G at pp. 23, 26, 28.)

One of the key strategies for improving groundwater quality conditions in the Pleasant Valley Basin is to raise groundwater levels by reducing pumping in the area beneath and adjacent to the PVCWD. (Exhibit G at p. 26; Exhibit H at p. 7.) The FCGMA suggests that groundwater levels can best be raised by providing an alternative source of water to the south Oxnard Plain and Pleasant Valley Basins. (Exhibit G at p. 26.) The FCGMA has consistently recognized the value of delivering Conejo Creek water to the Pleasant Valley Basin to alleviate overdraft conditions and improve water quality. (*Id.* at pp. 45-46.)

Another project that has improved groundwater quality in the Pleasant Valley Basin is the Pleasant Valley Pipeline (PVP). United Water Conservation District (United) delivers surface water through the PVP to PVCWD. PVP water, however, is not reliable during drought conditions. United's surface supplies are highly variable and can disappear during drought periods. (Exhibit H at p. 9.) While United has delivered PVP water on an emergency basis during a past drought, an emergency delivery did not happen in 2013, and may not occur in 2014 unless there is significant winter runoff. (*Ibid.*) Lacking PVP water, PVCWD will rely more heavily on groundwater from the Pleasant Valley Basin. The Project will help relieve PVCWD's demand for groundwater in the absence of PVP water, and in turn will improve groundwater levels and quality.

The Project will help improve groundwater levels at a critical time. On April 11, 2014, because of the severe drought, the FCGMA adopted an ordinance that requires all groundwater producers to reduce groundwater pumping by 20% over the next year. The Project will immediately reduce groundwater pumping and extend the availability of such supplies as local users attempt to manage water supplies during the drought.

The Project will improve groundwater levels in the Pleasant Valley Basin, thereby limiting seawater intrusion and improving groundwater quality. By improving groundwater quality, the Project will help make local groundwater supplies more reliable for municipal, agricultural and domestic uses.

IV. Water Code Section 1435 Analysis

Water Code section 1435, subdivision (b) requires the State Water Board to make the following findings before issuing a temporary change order: (1) the permittee or licensee has an urgent need to make the proposed change; (2) the proposed change may be made without injury to any other lawful user of water; (3) the proposed change may be made without unreasonable effects upon fish, wildlife, or other instream beneficial uses; and (4) the proposed change is in the public interest.

A. The Project Will Ensure That Ventura County's Water Resources Are Put to Beneficial Use to the Fullest Extent Possible

There is an "urgent need" for the Project. "Urgent need" means that "the proposed temporary change is necessary to further the constitutional policy that the water resources of the State be put to beneficial use to the fullest extent to which they are capable and that waste of water be prevented." (Wat. Code, § 1435(c).) The Project meets this test.

Permit 20952 provides for use of Conejo Creek Water in the PVCWD service area, thereby offsetting PVCWD's groundwater production from the overdrafted and saline-intruded Pleasant Valley Basin. As discussed above, Camarillo, Oxnard, and Camrosa's water supplies include imported SWP water, as well as groundwater from the Pleasant Valley and Oxnard Plain Basins. The Project will make it more likely that

Camarillo, Oxnard, and Camrosa can rely on groundwater and thereby offset demand for SWP water. The Project responds to Calleguas's call to implement feasible projects to extend stored SWP water supplies and minimize the effects of the drought. In this respect, the Project will ensure that water imported from the Sacramento-San Joaquin River Delta is put to beneficial use to the fullest extent possible.

As discussed above, PVCWD uses Conejo Creek Water in-lieu of pumping groundwater from the Pleasant Valley Basin. Given the overdraft and water quality problems in the Pleasant Valley Basin, there is an "urgent need" for the Project. Any additional Conejo Creek Water that Camrosa can deliver to PVCWD will reduce PVCWD's groundwater pumping by an equal amount, and help stabilize Pleasant Valley Basin water levels and counteract seawater intrusion. The Project will help maintain the quality of local groundwater resources and achieve the FCGMA's objective of maximizing in-lieu recharge opportunities for the Pleasant Valley Basin by providing an alternative source of water.

In 2014, PVCWD may not receive water through the Pleasant Valley Pipeline from United, and will need to pump groundwater, absent an alternative. The Project will provide this alternative supply in the form of Conejo Creek Water, and will preserve local groundwater supplies for future use.

By protecting SWP and local groundwater supplies for future use, the Project enhances local resiliency, should the drought continue into the next water year. By providing for PVCWD to use additional Conejo Creek Water in-lieu of groundwater, the Project will put the water resources of the state to beneficial use to the fullest extent possible.

B. The Project Will Not Injure Other Legal Users of Water

The Project will not injure any other legal user of water. Currently, Permit 20952 is subject to the prior right under License 12598. As such, Permit 20952 requires the City to bypass 0.82 cfs when the holder of License 12598 is diverting water from Conejo Creek. The City is not requesting any change in this permit condition. If the State Water

Board grants the City's petition, the City will still be required to bypass 0.82 cfs for the holder of License 12598.

In D-1638, the State Water Board concluded that riparian water users are protected by the fact that the 4.0 cfs that the City is authorized to divert, in addition to the available waste water, is water that is attributable to return flows from imported water. Riparian water users cannot claim a right to imported supplies, and therefore they cannot be injured by the City's diversion of return flows.

Absent a change to the bypass flow condition for the holder of License 12598, and with the City's 4.0 cfs diversion constituting water that is attributable to return flows, the Project will not injure any other legal user of water.

C. The Project Will Not Result In An Unreasonable Effect Upon Fish, Wildlife or Other Instream Beneficial Uses

The City's 1996 Final Subsequent Environmental Impact Report (1996 FSEIR) prepared for the City's application to divert Conejo Creek Water recognized that the Project would reduce flows in Conejo Creek, and thereby may affect emergent freshwater marsh habitat important to pond turtles. (D-1638 at p. 59.) As mitigation, the City recommended a 2 cfs minimum flow requirement to protect downstream riparian habitat and wildlife. (*Id.* at p. 60.) The City anticipated that the 2 cfs would remain in Conejo Creek until reaching Camarillo's Waste Water Treatment Plant (WWTP) discharge to Conejo Creek. (*Id.* at p. 60.) The 1996 FSEIR considered the 2 cfs as improving conditions in and around Camarillo's WWTP discharge – an important location because of the large concentration of southwestern pond turtles. (*Id.* at p. 60.)

The State Water Board ultimately required a minimum bypass flow of 6.0 cfs at the City's point of diversion.[1] The State Water Board, however, left the door open for the City to propose a lower minimum flow requirement upon a showing that "the City has

[1] The Department of Fish and Game (DFG) opposed the City's proposed 2.0 cfs bypass proposal on the basis that the 2.0 cfs proposal was from a 1980 United States Department of Interior document without any biological support. (D-1638 at p. 65.) DFG recommended that, for the protection of riparian habitat and wildlife, a minimum flow of 6.0 cfs be required at the point of diversion and 9.2 cfs be required at the location of the Camarillo WWTP outfall. (*Id.* at pp. 61, 65.)

developed a habitat improvement program that would fully compensate for loss of turtle habitat at lower flows ...." (D-1638 at p. 61; see also p. 64 [an acceptable mitigation plan is one that shows that the proposed habitat improvements will provide for no net loss of southwestern pond turtles or their habitat].)

To date, the City's pond turtle habitat improvement program has provided for no net loss of habitat or turtles. The 2005 Annual Report for the Southern Pacific Pond Turtle Mitigation Program (2005 Annual Report) concluded that "no substantial change in habitat conditions [below the diversion] has occurred due to the operation of the diversion during the past four years."[2] (2005 Annual Report, p. 19, attached hereto as Exhibit I.)

The 2005 Annual Report also noted that "it does not appear that the water diversion is having an adverse impact on the southern pacific pond turtles downstream [of the diversion] on Conejo Creek." (Exhibit I at p. 19.) This conclusion was supported by a comparison of pre-construction survey results (2000) with results following four years of operation of the diversion facility (2005). (*Id.* at pp. 19-20.) The pre-construction survey found fewer turtles in a specific downstream creek reach than were found in that reach after four years of operating the diversion facility. (*Ibid.*) Further, in 2005, surveyors observed a young juvenile in this same downstream reach. (*Id.* at p. 19.) The presence of a young juvenile "is a positive sign of population recruitment and could be a sign of long-term survival of the existing population." (*Ibid.*) Pre-diversion surveys did not yield juvenile observations. (*Ibid.*) This is an indication that the diversion has not affected the pond turtle population.

Populations of turtles are doing well at the City's off-site mitigation area. In 2005, surveyors observed thirty turtles at this off-site area. (Exhibit I at p. 19.) In November 2005, surveyors observed three turtles within the created mitigation ponds at the off-site mitigation area below the HCWWTP, compared to only one turtle in 2004. (*Ibid.*) The 2005 Annual Report ultimately concluded that after four years of operating the diversion

[2] Since the time that the State Water Board issued D-1638, the name of the pond turtle has changed from the southwestern pond turtle to the southern pacific pond turtle.

"no net loss of southern pacific pond turtle population or habitat has occurred in this reach of Conejo Creek due to the implementation of the water diversion." (*Ibid.*)

The City's Project is not expected to have an unreasonable effect on pond turtles or their habitat. Reducing the minimum bypass flow from 6 cfs to 2 cfs will reduce the rate of water exchange at downstream pool features that support pond turtles. Depending on the profile of the creek at a given location, pool extent (depth, width, length) is not expected to change commensurate with inflow, and a pool's value to pond turtles would correspondingly be unaffected. Data presented in the 2005 Annual Report showed that water velocity did not directly relate to water depth at three sampled locations below Howard Road Bridge (the location of highest value habitat for turtles). In fact, decreases in velocity were associated with unchanged water depth (Station 4A), and increases in velocity were associated with decreased water depth (Station 4B), between May and November 2005. Thus a reduction in flow is not expected to affect a pool's value as pond turtle habitat.

In conjunction with the Project, the City plans to monitor southern pacific pond turtle habitat and populations both before and after the bypass flow is reduced. Should the City's monitoring results indicate that the Project is affecting pond turtle habitat or populations, Camrosa, in consultation with the City, will adjust its operations accordingly.

This evidence supports the conclusion that the Project will not have an unreasonable effect on fish and wildlife in an around Conejo Creek.

D. The Project Is In the Public Interest

The Project is in the public interest. The Governor's Drought State of Emergency Proclamation calls on Californians to reduce water use. Also, the Legislature has articulated a strong public policy in favor of using reclaimed water to satisfy beneficial uses. (See Wat. Code, § 461.) The State Water Board has further stated that "reclaimed water should be especially encouraged in areas where it can help reduce ground water pumping and overdraft." (D-1638 at p. 42.)

The Project, by providing for additional water reuse, responds to the Governor's call to reduce water use. The Project will further the policy of using reclaimed water to satisfy irrigation beneficial uses. Also, the Project will help reduce pumping in an overdrafted groundwater basin and thereby improve groundwater quality. As such, the Project will advance the broad public interests articulated by the Governor, Legislature and the State Water Board.

Locally, the Project is in the public interest because it furthers Calleguas, FCGMA, and United's water management objectives. The Project will help Calleguas extend the availability of stored SWP supplies, and thereby help reduce pressure to export water from the Delta. The Project will advance the FCGMA's interests by reducing demand on an overdrafted groundwater basin, which in turn will help prevent further water quality degradation associated with saline water intrusion. The Project will extend the availability of groundwater supplies during the drought, which will help the FCGMA as it implements its ordinance requiring a 20% reduction in pumping. Finally, United encourages local projects that deliver surface water for in-lieu groundwater recharge. Each of these entities has acknowledged the value of the Project in attached support letters. (See Calleguas, FCGMA, and United Support Letters, attached hereto as Exhibit J.)

V. Conclusion

For the foregoing reasons, the City respectfully requests that the State Water Board approve the City's petition to temporarily reduce the bypass flow requirement in Permit 20952 from 6 cfs to 2 cfs.