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## ICYMI: Court Strongly Sides with DWR, Rejects All Legal Challenges to Continued Long-Term Operation of State Water Project Through 2085

*Appeals Court Affirms Contract Amendment for Long-Term Operation of State  
Water Project, Ensuring Continued Delivery of Affordable Water Supplies for 27  
Million Californians*

**Sacramento, CA** – Last week, the Third District Court of Appeals ruled in favor of the California Department of Water Resources (DWR), upholding amendments to DWR's water supply contracts with water agencies throughout the state for the long-term operation of the State Water Project (SWP). The amendments extend the 1960s-era contracts to 2085. After reviewing the amendments in an Environmental Impact Report (EIR) in accordance with the California Environmental Quality Act (CEQA), DWR filed an action to approve the amendments in 2018. Parties opposed DWR's action, and two additional petitions were filed challenging the amendments under CEQA, the Delta Reform Act, and the public trust doctrine. The court's ruling last week in favor of DWR confirms that water supply contracts for water from the most important piece of water infrastructure in the state can be extended far into the future.

DWR's water supply contracts with public water agencies were executed with initial terms of 75 years ending between 2035 and 2042 and "evergreen" clauses that allow continued service beyond the 75-year terms upon election by the public water agencies. Because the SWP relies heavily on revenue bonds, the approaching end of the initial term presented an existential financial challenge for DWR. Despite the "evergreen" provision, the stated term prevented DWR from issuing revenue bonds and spreading repayments beyond 2035, as opposed to spreading repayment over the customary 30 years. The resulting cost compression would dramatically escalate the cost of the SWP for these public water agencies and their ratepayers.

The Court of Appeal's 51-page opinion rejected all challenges to the sufficiency of DWR's EIR, rejected all arguments that the amendment violates the Delta Reform Act or the public trust doctrine, and validated DWR's authority to execute the amendment. Importantly, the Court acknowledged that "[g]iven the long history of the State Water Project and its critical role in distributing water to millions of residents in the state and hundreds of thousands of farmland, [DWR] was not required to envision a world in which the contracts terminate and the State Water Project comes to a halt." The Court thus reasoned that extending the terms of the contracts to 2085 has no environmental impacts beyond those of the ongoing project. DWR prevailed in all respects.

### **Statement from Jennifer Pierre, General Manager of the State Water Contractors:**

"The court's ruling is essential to the long-term reliability and affordability of the SWP and the 27 million people and 750,000 acres of farmland that depend on it.

You wouldn't finance a house with a 17-year mortgage if you could choose to bring your monthly interest payments down by using a 30-year mortgage. This is no different.

The SWP is California's most critical piece of infrastructure, with a service area that would be the world's eighth largest economy if it were its own nation. It supports 8.7 million full-time jobs, over 750,000 acres of farmland and provides water for almost three-quarters of the state's population living in disadvantaged communities. California wouldn't be the fifth largest economy in the world without it, and we owe it to California's homes, farms and businesses to keep their taps flowing."

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