

**Agenda Packet for**

**Item 9A**

**Meeting of the Central Valley Flood Protection Board**

**November 22, 2013**

**Schedule and Cost Change Request**

**Terminus Dam, Kaweah River Project**

**Packet Contents:**

**Staff report (3 pages)**

**Attachments:**

- A. Resolution 2013-26 (3 pages)**
- B. SACCR (5 pages)**
- C. Cost Share Allocations Charts (2 pages)**
- D. District Resolution 2013-09 (3 pages)**



**Meeting of the Central Valley Flood Protection Board  
November 22, 2013  
Staff Report – Schedule and Cost Change Request  
Terminus Dam, Kaweah River Flood Control Project**

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**BOARD ACTION**

Consider approval of Resolution No. 2013-26 to:

1. Approve a schedule and cost change request from the U.S. Army Corps of Engineers to increase the total project cost and extend the project completion to September 2014 for the Terminus Dam, Kaweah River Flood Control Project.
2. Delegate to the Executive Officer the authority to sign the schedule and cost change request.

**SPONSORS**

The Terminus Dam, Kaweah River Flood Control Project (“Project”) was constructed by the U.S. Army Corps of Engineers (“USACE”), the Central Valley Flood Protection Board (“Board”), and the Kaweah Delta Water Conservation District (“District”) as partners on the project. The project has a flood risk management and a water supply component. All partners participated in the flood risk management component of the project; the Board was only authorized to participate in the flood risk management component of the project.

**LOCATION AND BACKGROUND**

The Project is located in north central Tulare County, approximately 50 miles southeast of Fresno and 70 miles North of Bakersfield. The project was substantially completed in the summer of 2005 and increased flood protection to approximately 1 in 70 years. The increased flood protection was achieved by raising the Terminus Dam Spillway 21 feet, increasing the capacity of Lake Kaweah from 143,000 AF to 185,600 AF.

After construction was complete in 2005 the District began submitting credit packages to USACE. The District submitted a total of twelve credit packages to USACE and the Board, requesting over \$18 million in credit for real estate acquisition expenses for the project. Pursuant to the cost share established in the local project cooperation agreement with the District, the Board paid 30% of the USACE-approved costs of acquisition.

Since 2010 Board staff have worked with USACE and the District to address several outstanding issues including the following:

- Prepare for a contract amendment for USACE to reimburse approximately \$652,000 to the District for work constructed on behalf of USACE
- Balance Davis Ranch property expenditures between the Board and the District
- Participate in mitigation monitoring discussions
- Modify the operations and maintenance (O&M) manual with USACE
- Submit a Board-only crediting package to USACE
- Perform quarterly financial reconciliations between the Board and the District
- Finalize real estate easements between the Board and the District
- Submit final closeout crediting packages to USACE, and
- Turnover the project from USACE to the District.

Since the completion of construction in 2005, there have been cost increases incurred by USACE for this project. The USACE's cost increases are the result of:

- Additional mitigation establishment time
- Unexpected improvements to mitigation site fences
- Extended processing times for internal reporting to authorize a contract amendment to refund approximately \$652,000 to the District
- Review of credit request submitted by the Board
- Discussions about operation and maintenance responsibilities of the project, and
- Updates to the O&M manual, among other items.

The Board received schedule and cost change request (SACCR) No. 3 on September 25, 2013. SACCR No. 3 covers costs incurred by USACE on the project since early 2009, and estimates costs through closeout in September 2014. Some of the current work items being addressed by USACE have taken much longer than expected, and have survived the transition of multiple project managers. This SACCR is being processed separately from the proposed USACE contract amendment to refund to the District approximately \$652,000 for previously constructed work. The reimbursement for previously constructed work required federal legislation to provide USACE the necessary authority to reimburse the District. This SACCR can be processed with District and Board approvals only.

As part of the contract with USACE, the District and Board must pay to USACE a minimum cash contribution equal to 5% of the total cost of the project. The cash contribution has been requested by USACE since 2012 however, because the project cooperation agreement (PCA) via SACCR No. 2 states the project flood risk management costs are \$50,600,000 and the cost increases identified above are in excess of the existing project flood risk management costs authorized under the PCA, there is currently no contractual basis for making the necessary payment. The minimum cash contribution will be made only after approval of SACCR No. 3 by the Board. On November 7, 2013, the District

approved SACCR No. 3. The cost share required of the District and the Board is a minimum of 5% cash as part of a minimum 35% total cost share. The 30% balance of the cost share of the proposed SACCR No. 3 increase will be covered by creditable costs incurred by the District and the Board. The Board's approval of this SACCR will serve as an amendment to the PCA increasing the project flood risk management costs to \$52,334,000 and allow the Board to make the necessary minimum cash contribution to USACE.

**STAFF RECOMMENDATION**

Staff recommends that the board approve Resolution No. 2013-26 to approve the schedule and cost change request from USACE in order to make required minimum cash contributions for the Terminus Dam, Kaweah River Flood Control Project.

**LIST OF ATTACHMENTS**

- A. Proposed Resolution 2013-26
- B. SACCR No. 3, 6 September 2013
- C. Cost Share Allocations Charts for SACCR No. 2 and No. 3
- D. District Resolution 2013-09



# Attachment A

STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
CENTRAL VALLEY FLOOD PROTECTION BOARD  
TERMINUS DAM, KAWEAH RIVER PROJECT  
SCHEDULE AND COST CHANGE REQUEST APPROVAL  
RESOLUTION 2013-26

WHEREAS, the construction of the Terminus Dam and Lake Kaweah on the Kaweah River for flood control in the San Joaquin Valley, California, was authorized and completed pursuant to federal legislation commonly known as the Flood Control Act of 1944;

WHEREAS, the raising of the spillway at Terminus Dam and related improvements were authorized by Section 101(b)(5) of the Water Resources Development Act of 1996 (Public Law 104-303) ("WRDA1996"), and these improvements are identified as the Terminus Dam, Kaweah River, California Project ("Project") and consisted of both flood control and water supply components;

WHEREAS, California Water Code Sections 12657, and 12661.5 authorize the State of California, hereinafter referred to as the "State," to cooperate on the flood control component of the Project, and authorizes the State to provide the United States Department of the Army ("Government") with the assurances of local cooperation;

WHEREAS, California Water Code Section 12661.5 permits either The Reclamation Board (precursor to the Central Valley Flood Protection Board, "Board") or the Kaweah Delta Water Conservation District ("District") to be the nonfederal sponsor for the Project;

WHEREAS, on February 9, 2001, the Board entered into a Project Cooperation Agreement (PCA) with the Government and the District for construction of the Project;

WHEREAS, the Government issued the first schedule and cost change request (SACCR) on May 17, 2002, increasing the total project cost by \$12,700,000 to \$48,500,000 due to increases in the cost for construction, engineering and property acquisition costs; and

WHEREAS, the Board acknowledged the aforementioned cost increase by signing the Government's SACCR No. 1 on January 30, 2003 and Board staff amended the PCA in due course; and

WHEREAS, the Government issued a second SACCR on January 22, 2004 increasing the total project costs by \$7,300,000 to \$55,800,000 due to increases in design, mitigation acquisition, and construction costs for the project; and

WHEREAS, the Board acknowledged the aforementioned cost increase by signing the Government's SACCR No. 2 on February 20, 2004 and Board staff amended the PCA in due course; and

WHEREAS, the Project was substantially operational in the summer of 2005;

WHEREAS, the Government issued a third SACCR on September 6, 2013, increasing the total project costs by \$1,913,000 to \$57,713,000 due to additional mitigation costs, extended processing times for a contract amendment, credit request review, and operation and maintenance discussions; and

WHEREAS, the flood control portion of the total project cost increases by \$1,734,000 to \$52,334,000 in SACCR No. 3; and

WHEREAS, the District, on November 7, 2013 has acknowledged the cost increase of SACCR No. 3; and

WHEREAS, the Government is in its closeout process for the Project and intends to turn over the Project to the District in 2014, but to do so requires that the Board



acknowledge the cost increase and schedule change by signing and processing SACCR No. 3.

NOW, THEREFORE, BE IT RESOLVED that the Board:

1. Approves a schedule and cost change request from the Government to increase the total project cost and extend the project completion to September 2014 for the Terminus Dam, Kaweah River Flood Control Project; and
2. Delegates to the Executive Officer the authority to sign the schedule and cost change request.

By: \_\_\_\_\_ Date: \_\_\_\_\_  
William Edgar  
President

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Jane Dolan  
Secretary

Approved as to Legal Form and Sufficiency

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Jeremy Goldberg  
Staff Counsel





REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO  
CORPS OF ENGINEERS  
1325 J STREET  
SACRAMENTO, CALIFORNIA 95814-2922

Programs & Project Management Division

SEP 25 2013

Mr. Jay Punia, Executive Director  
Central Valley Flood Protection Board  
State of California  
3310 El Camino Avenue, Room 151  
Sacramento, CA 95821

Dear Mr. Punia:

A cost share review performed on the Lake Kaweah Enlargement Project (LKEP) revealed that the non-Federal Sponsor has not met the minimum cash contributions for this project. The current estimated total project cost, per the latest project cost estimate is \$57,713,000 (\$52,334,000 for flood risk management and \$5,379,000 for water supply). The Sacramento District has prepared an updated Schedule and Cost Change Request (SACCR) documenting these costs. The non-Federal sponsor's estimated contribution is \$21,410,000, consisting of \$2,769,000 in cash (of which \$2,616,700 is the minimum 5% contribution required for flood risk management, and \$152,000 is the cash towards the 35% portion of water supply), and \$18,641,000 for lands, easements, rights of way, relocations, and disposals (LERRDs). Our last letter to you, dated September 7, 2012 requested funds in the amount of \$110,000. No funds were provided in response to that request. The amount has increased to \$130,000 and funds are required as soon as possible to bring the project into the appropriate cost share balance and for continued efforts through September 30, 2013. It is estimated the Fiscal Year 2014 (October 1, 2013 through September 30, 2014) requirement will be \$14,750. Without these funds, it is anticipated that work stoppage on the project will occur in October 2013. The USACE is processing an Integral Determination Report which, if approved, will credit \$652,292 to KDWCD for prior integral work performed on the LKEP. Please refer to the funds request letter dated 10 September 2013, for additional information relating to the cost share status of the LKEP.

Since 2004, project efforts have included continued off-site mitigation at four sites of which two sites have since been turned over to the non-Federal sponsors, development of a comprehensive OMRR&R Manual for Terminus Dam, extensive high pool monitoring, replacement of utilities for the marina as a result of the LKEP, additional repair to roads as a part of the LKEP, installation of a wave eater system in the spillway, OMRR&R handover discussions, development and staffing of the project Integral Determination Report, review of LERRDS submissions and amending the Project Cooperation Agreement to include reimbursement and water rights language. This SACCR also addresses inflation over a nine year span relating to the cost of labor, resources and materials.

A copy of this letter is being sent to Mr. Mark Larsen of the Kaweah Delta Water Conservation District. If you have any questions, please contact Jimmy Myers, Project Manager, at (916) 557-6674.

Enclosure

Sincerely,

A handwritten signature in black ink, appearing to read "Lee E. Bass", written over a horizontal line.

Lee E. Bass, P.E.  
Deputy for Project Management

# Schedule and Cost Change Request (SACCR)

Alternate Eng. Form 5040-1-R

Project: Terminus Dam, California – Lake Kaweah Spillway Enlargement		SACCR # 3
		Date: 6 September 2013
From: CESPK-PM-C	To: CESPK-PRB	Project Manager Name <u>James Myers</u> Phone: (916) 557-6674
		Signature <u><i>James Myers</i></u> Date: <u>6 Sept. 2013</u>
<b>Section I – Request</b>		
<b>Description of Change Request:</b> Increase in total project cost estimate from \$55.8M to \$57.7M. Additional funds needed from the non-Federal sponsor to meet the 5% minimum cash contribution for the Lake Kaweah Enlargement Project (LKEP).		
<b>Justification for Change:</b> 1. Project costs have increased for the Non-Federal Sponsors and the Government due to the following:  a) Offsite Mitigation: Four offsite mitigation areas were designed, built and established. The Tulare Lakebed Mitigation Area (1,260 acres), the Oak Woodland Mitigation Area (4,600 acres), the Riparian Dry Creek Mitigation Area (40 acres), and the Endangered Species Mitigation Area (6 Acres) were created as part of the LKEP. The Tulare Lakebed Mitigation Area and the Oak Woodland Mitigation Area have been completed and turned over to the non-Federal local sponsor. Efforts continue to complete Riparian Dry Creek Mitigation Area and the Endangered Species Mitigation Area. On the Riparian Dry Creek site, the USACE contracted out for the replanting of 5 species of trees that took root and are actively growing, as replacements for some species originally planted that did not do well at the site. This last year the USACE issued another contract to give these replants an additional year of maintenance. In addition the USACE also changed out some of the fencing wood h-braces with steel pipe h-braces so they would maintain their integrity longer. The establishment of both the Riparian Dry Creek Mitigation Area, and the Endangered Species Mitigation Area are expected to be completed this winter with supporting O&M Manuals to be given to the non-Federal Sponsor as part of the handover process.		

- b) Development of project OMRR&R Manual.
- c) Extensive high pool monitoring.
- d) Monitoring of the Lemon Hill Boat Ramp for movement as a result of the LKEP.
- e) Replacement of utilities for the marina as a result of the LKEP.
- f) Additional repair to roads as a result of the LKEP.
- g) Installation of a wave eater system in the spillway.
- h) OMRR&R Hand Over Discussions: Multiple discussions have been held with the USACE and the non-Federal Sponsors to discuss roles and responsibilities for OMRR&R resulting from the LKEP. These discussions are ongoing.
- i) Inflation over 9 years relating to the cost of labor, resources, and materials.
- j) Development and staffing of the project Integral Determination Report.
- k) Amending the Project Cooperation Agreement to include reimbursement and water rights language.
- l) USACE review of LERRDs submitted by the non-Federal sponsors.

**Section II - Impact Assessment**

Organization	Description
CESPK-ED	Notable engineering effort is required to respond to O&M Manual ATR Comments and to continue to support the O&M Manual review through to completion. Civil Design B will remain active in offsite mitigation of the Riparian Dry Creek Mitigation Area (40 acres) and the Endangered Species Mitigation Area (6 Acres) through first quarter FY14 when both sites are handed over to the non-Federal Sponsor.
CESPK-PM	<p>PPMD will remain actively engaged in project handoff to the non-Federal sponsor, including resolving the differing of opinions between KDWCD and the USACE pertaining to roles and responsibilities of OMRR&amp;R. Other activities to project close out include the following:</p> <ul style="list-style-type: none"> <li>• Responding to the review and routing of the LKEP Integral Determination Report.</li> <li>• Amending the Project Cooperation Agreement to include reimbursement language and recommendation of water rights resulting from the LKEP.</li> <li>• Completion of an updated Terminus Dam O&amp;M Manual.</li> </ul>

Project: Terminus Dam, California – Lake Kaweah Spillway Enlargement

SACCR # 3

Date: 6 September 2013

### Section III - Project Manager's Evaluation

Category	Impact	Resources Required
Costs	\$1.2M (Federal) \$0.7M (Non-Federal)	CESPK-ED, CESPK-PM State of California, Kaweah Delta Water Conservation District
Schedule(months)	Delayed to FY14	The project completion date will be delayed to FY14.
Manpower	Engineering Division, Programs and Project Management Division	Both CESPK-ED and CESPK-PM are sufficiently staffed to resolve the pending items remaining on the LKEP and bring the project to conclusion.

### Section IV - Coordination with Partner

Partner's Position and Acknowledgement:

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

### Section V - PRB Action & Resolution

CESPK-DE-P Recommendation and Signature:

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

District PRB Recommendation:

- Approval
- Approval with Modifications
- Disapproval
- Returned to PM w/o Action
- Referred to Division

Reason:



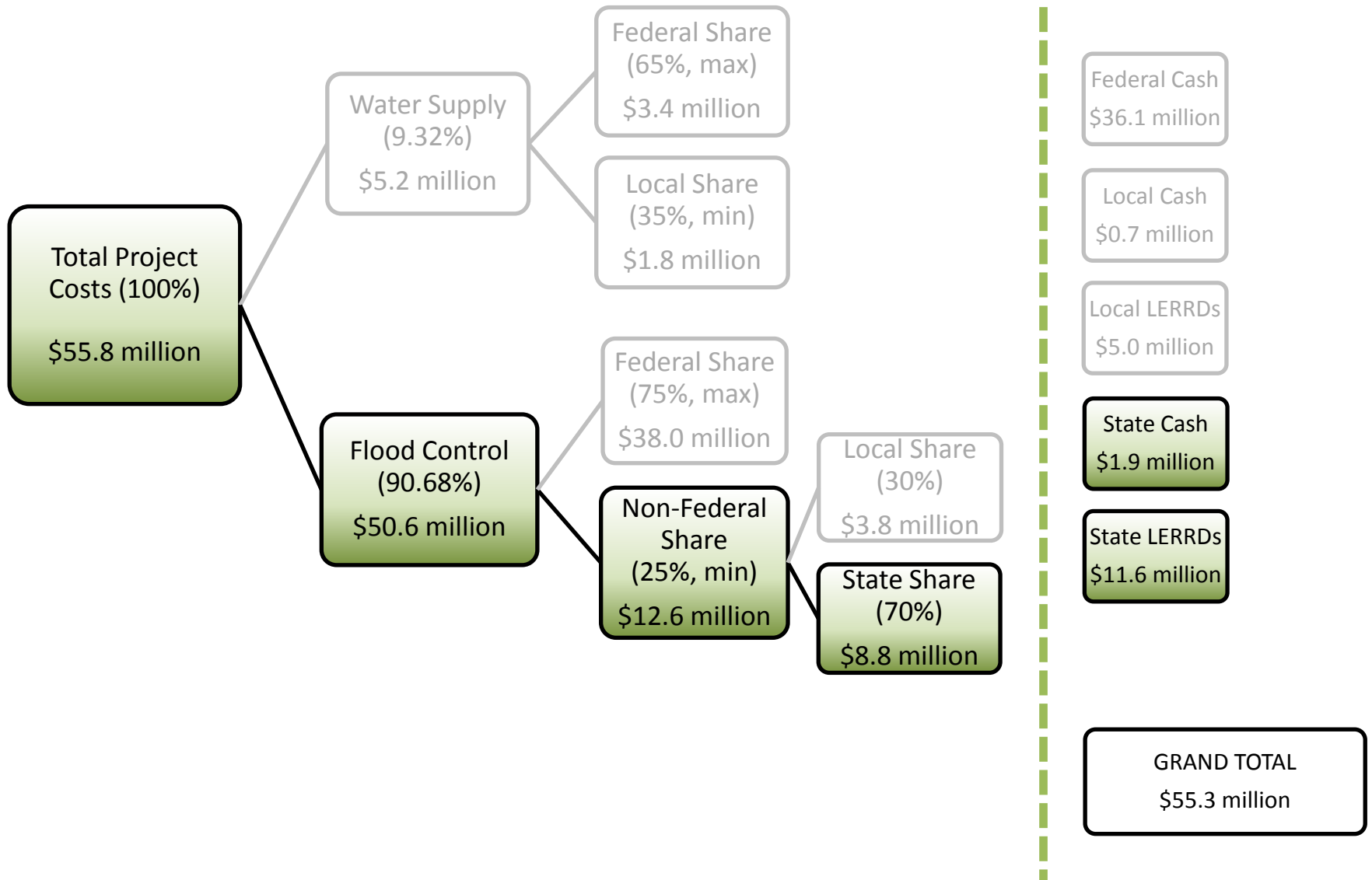


# Lake Kaweah Enlargement Project

## Current Cost Share Allocations

(Per SACCR No. 2, USACE January 22, 2004)

## Attachment C

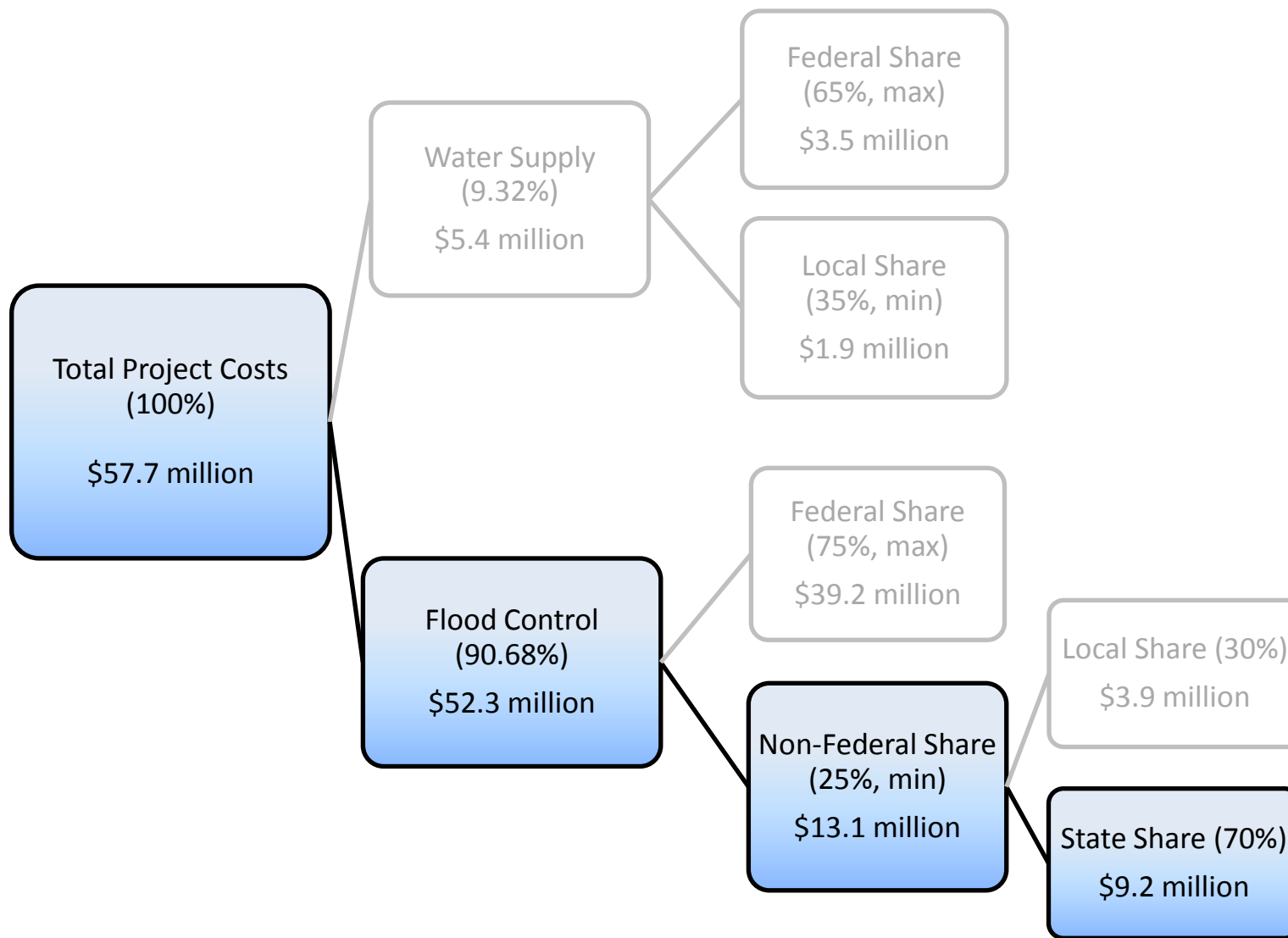




# Lake Kaweah Enlargement Project

## Proposed Cost Share Allocations

(Per SACCR No. 3, USACE September 6, 2013)





# Attachment D

**RESOLUTION NUMBER 2013 - 09  
OF THE  
BOARD OF DIRECTORS  
OF THE  
KAWEAH DELTA WATER CONSERVATION DISTRICT**

WHEREAS, the District entered into a Project Cooperation Agreement ("PCA"), dated February 9, 2001, with the United States of America ("Army Corps of Engineers") and the State of California for the Lake Kaweah Enlargement Project ("Project");

WHEREAS, the PCA provides that the District will be the non-federal sponsor for the portion of the Project allocated to agricultural water supply storage, which portion has been determined to be 9.32 percent of the "total project costs" as that phrase is defined in the PCA;

WHEREAS, the District entered into a Local Project Cooperation Agreement ("LPCA"), dated February 9, 2001, with the State of California, acting by and through The Reclamation Board ("State"), for the Project;

WHEREAS, the LPCA provides that the District and the State will share in the costs of the portion of the Project allocated to flood control, which portion is 90.68% of the "total project costs" as that phrase is defined in the PCA;

WHEREAS, by District Resolutions Numbers 2002-14 and 2002-15 the Board of Directors approved the execution of Schedule and Cost Change Request #1, dated May 17, 2002, which increased the estimate of the total costs of the Project from \$35,800,000 to \$48,500,000;

WHEREAS, by District Resolution Number 2005-004 the Board of Directors approved the execution of Schedule and Cost Change Request #2, which increased the estimate of the total costs of the Project from \$48,500,000 to \$55,800,000 and changed the Project completion date to December, 2004;

WHEREAS, the Army Corps of Engineers has determined that the estimate of the total costs of the Project should be increased from \$55,800,000 to \$57,700,000;

WHEREAS, the aforementioned estimated cost increase appears appropriate in light of the increased Project costs;

WHEREAS, the benefit/cost ratio for the Project, even if costs are \$57,700,000, remains above unity;

WHEREAS, the Army Corps of Engineers has prepared a Schedule and Cost Change Request #3 ("SACCR #3") to memorialize the District's agreement as to the increase in the total Project costs estimate from \$55,800,000 to \$57,700,000;

WHEREAS, the Army Corps of Engineers has asked the State to sign the SACCR #3 in which it will acknowledge the aforementioned increase in the estimated total costs of the Project;

WHEREAS, the Project is virtually completed and the Board of Directors

finds it to be in the best interest of the District to approve the SACCR #3 and arrange for the additional cash contribution, if any, or credit that may be required of the non-federal sponsors,

NOW, THEREFORE, upon motion made by Director Gomes, seconded by Director Ritchie, and unanimously carried,

IT IS HEREBY RESOLVED, that the Board of Directors approves the SACCR #3 and authorizes any District officer or director to execute it or any other appropriate document indicating such approval.

### CERTIFICATE OF RESOLUTION

I, Mark Larsen, hereby certify as follows:

1. That I am the Secretary of the Kaweah Delta Water Conservation District; and
2. That the foregoing resolution, consisting of 3 pages is a true and correct copy of a resolution of the Board of Directors of the District passed at the meeting of the Board of Directors regularly held on November 5, 2013, at the District's principal executive office, located at 2975 Farmersville Boulevard, Farmersville, California 93223.

IN WITNESS WHEREOF, I have signed this certificate this 7<sup>th</sup> day of November, 2013, at the District's principal executive office.

  
\_\_\_\_\_  
Mark Larsen, Secretary