



GAVIN NEWSOM
GOVERNOR

JARED BLUMENFELD
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

NOTICE OF TEMPORARY URGENCY CHANGE PETITION

AND

ADVANCED NOTICE OF PUBLIC WORKSHOP

NOTICE IS HEREBY GIVEN that the State Water Resources Control Board (State Water Board or Board) is accepting written public comments on a Temporary Urgency Change Petition (TUCP) filed in response to ongoing critically dry conditions by the California Department of Water Resources and the United States Bureau of Reclamation (collectively Petitioners) requesting changes in water right license and permit terms¹ of the State Water Project (SWP) and the Central Valley Project (CVP) that were imposed pursuant to State Water Board Decision 1641 (D-1641).

ADVANCED NOTICE IS ADDITIONALLY GIVEN that the State Water Board will hold a public workshop to receive oral public comments on the TUCP at its regularly scheduled Board workshop on **Wednesday, January 5, 2022, at 9:00 a.m.** Information about participating in and viewing the Board workshop will be provided as part of the forthcoming Board meeting agenda for the January 4 and 5, 2022 Board meeting and workshop and will be posted on the State Water Board's website at least 10 days in advance at: https://www.waterboards.ca.gov/board_info/calendar/#12-2021.

WORKSHOP INFORMATION

At the workshop, the State Water Board will receive oral public input and comments on the December 1, 2021 TUCP, including whether and under what conditions the TUCP should be approved. The workshop will be informal and will not be an evidentiary hearing. Any comments on the TUCP will not be treated as testimony. Although there will be no sworn testimony or cross-examination of participants, the State Water Board and its staff may ask clarifying questions. A quorum of the State Water Board members may be present, but the Board will not take formal action at the workshop.

CHANGES REQUESTED IN THE TUCP

¹ The petition was filed for Permits 16478, 16479, 16481, 16482 and 16483 (Applications 5630, 14443, 14445A, 17512 and 17514A, respectively) of the Department of Water Resources' State Water Project and License 1986 and Permits 11315, 11316, 11885, 11886, 11887, 11967, 11968, 11969, 11970, 11971, 11972, 11973, 12364, 12721, 12722, 12723, 12725, 12726, 12727, 12860, 15735, 16597, 20245, and 16600 (Applications 23, 234, 1465, 5638, 13370, 13371, 5628, 15374, 15375, 15376, 16767, 16768, 17374, 17376, 5626, 9363, 9364, 9366, 9367, 9368, 15764, 22316, 14858A, 14858B, and 19304, respectively) of the United States Bureau of Reclamation's Central Valley Project.

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

On December 1, 2021, the Petitioners filed a TUCP with the State Water Board pursuant to California Water Code section 1435 et seq. in order to temporarily change the Petitioners' permit and license terms and conditions for the SWP and CVP that were imposed pursuant to D-1641 and require the Petitioners to meet specified flow and water quality objectives established in the Bay-Delta Water Quality Control Plan. Unless a shorter time period is specified, the changes sought by a TUCP may remain in effect for up to 180 days. An order approving a TUCP may be modified or revoked at the discretion of the State Water Board, and may be renewed.

As described further in the petition, the December 1, 2021 TUCP seeks modifications to D-1641 requirements during the February through April 2022 time period that, if approved, would modify: (1) required Delta outflow levels depending on conditions and forecasts; (2) allowable exports when unmodified D-1641 Delta outflow requirements are not being met; (3) required San Joaquin River flow requirements; and (4) required Delta Cross Channel (DCC) Gate closure requirements. According to the Petitioners, these changes would allow management of reservoir releases on a pattern that conserves upstream storage for fish and wildlife protection and Delta salinity control while providing critical water supply needs. The petition indicates that if sufficient precipitation were to occur to recover upstream storage, then the Petitioners would resume operating consistent with D-1641.

ADDITIONAL INFORMATION

To receive additional information related to this and future drought related TUCP requests, interested persons or entities should subscribe to the State Water Board's "Drought Updates" email subscription list which appears in the "Water Rights" section near the bottom of the page at:

http://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.shtml#dwr.

This notice, the Petitioners' TUCP, objections, correspondence, and related information may also be viewed at:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/tucp.shtml.

WRITTEN COMMENTS AND OBJECTIONS

Pursuant to California Water Code section 1438, subdivision (d), any interested person or entity may file an objection to a TUCP request. Water Code section 1438 describes the procedures for addressing an objection. In order to be fully considered before the State Water Board takes action on the TUCP, any **objections filed in response to this notice should be submitted no later than 12 noon, on Friday, January 7, 2022, to both the State Water Board and the Petitioners.** Please file objections using the petition protest form, which can be downloaded at:

http://www.waterboards.ca.gov/waterrights/publications_forms/forms/docs/pet_protest.pdf.

Send objections or correspondence to the following: 1) the State Water Board, via email to Bay-Delta@waterboards.ca.gov; 2) DWR, c/o James Mizell, via email to James.Mizell@water.ca.gov; 3) Reclamation, c/o Amy Aufdemberge, via email to

Amy.Aufdemberge@sol.doi.gov; and 4) Reclamation, c/o Kristin White, via email to knwhite@usbr.gov.

As identified above, information about participating in and viewing the Board workshop will be provided as part of the forthcoming Board meeting agenda for the January 4 and 5, 2022 Board meeting and workshop and will be posted on the State Water Board's website at least 10 days in advance at:

https://www.waterboards.ca.gov/board_info/calendar/#12-2021. The workshop will only be conducted remotely as a result of the COVID-19 emergency and as authorized by Government Code section 11133. The video broadcast will be available at: <https://video.calepa.ca.gov/>.

QUESTIONS REGARDING THIS NOTICE

Questions concerning this notice may be directed to Craig Williams at Craig.Williams@waterboards.ca.gov, or to Chris Carr at Chris.Carr@waterboards.ca.gov.

DATE OF NOTICE: DECEMBER 3, 2021





STATE WATER BOARD ADOPTS RESOLUTION COMMITTING TO ADVANCE RACIAL EQUITY IN POLICY AND PRACTICE ACKNOWLEDGES ROLE OF SYSTEMIC RACISM IN CREATING ENVIRONMENTAL AND DRINKING WATER INEQUITIES

SACRAMENTO – The State Water Resources Control Board today adopted a resolution affirming its commitment to advancing racial equity and acknowledging that its programs were established within a structural framework that perpetuates inequities based on race. In the resolution, the State Water Board pledges to express this commitment through institutionalizing racial equity in its policies, programs and service to communities while fostering greater workforce diversity, equity and inclusion within the agency.

The Board's action follows a deliberate process of consultation and introspection by the agency after the Board directed staff to advance racial equity as an agency priority at its Aug. 18, 2020 meeting. While the State Water Boards' racial equity and environmental justice work began prior to 2020, the national reckoning on racial justice last year underscored the urgency of formally addressing racial inequity at the institutional level.

Staff hosted listening sessions for employees and the general public to provide input on the resolution for the Board's consideration. The sessions focused on the State Water Boards' engagement with communities of color and racial equity in the workplace. Feedback from those sessions indicated that communities of color feel excluded from decision making processes by the State Water Board on issues that affect them, and that employees perceive a lack of cultural competence and opportunity within the State Water Boards' workforce to increase diversity. Participants also expressed the need for an acknowledgment of existing racial inequities and environmental injustices.

"Systemic racism is part of the very structures we work within and can only be addressed through organized and persistent efforts at the institutional level," said E. Joaquin Esquivel, Chair of the State Water Board. "The resolution adopted today is a major step by the Board toward addressing racism and advancing racial equity institutionally, and this effort must begin with a recognition of the inequities that exist and why."

The resolution directs staff to develop a Racial Equity Action Plan that articulates the agency's vision and includes goals, objectives and metrics. The plan must include specific actions the Board will take to address systems that perpetuate racial inequities while establishing new, resilient systems. Staff will seek out and consider input from stakeholders to inform the action plan.

In the resolution, the Board explicitly recognizes white supremacy as an institutionally perpetuated system of exploitation and oppression of nations and people of color by white people for the purpose of maintaining and defending a system of wealth, power and privilege. Among several other points, it acknowledges that the impacts of this system, including forced relocation and enslavement, on Black, Indigenous and people of color gave rise to the environmental inequities these communities experience today. Per CalEPA's analysis, 90% of the most-polluted neighborhoods in California are in these communities,

which are also disproportionately burdened by contaminated drinking water sources. Race continues to be the strongest predictor of access to water, sanitation and government services overall.

The State Water Board's mission is to preserve, enhance and restore the quality of California's water resources and drinking water for the protection of the environment, public health and all beneficial uses, and to ensure proper resource allocation and efficient use for the benefit of present and future generations.

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2021-0050**

**CONDEMNING RACISM, XENOPHOBIA, BIGOTRY, AND RACIAL INJUSTICE
AND STRENGTHENING COMMITMENT TO RACIAL EQUITY, DIVERSITY,
INCLUSION, ACCESS, AND ANTI-RACISM**

WHEREAS:

1. As part of the California Environmental Protection Agency (CalEPA), the shared mission of the State Water Resources Control Board (State Water Board) and nine Regional Water Quality Control Boards (Regional Water Boards), collectively Water Boards, is to preserve, enhance, and restore the quality of California's water resources and drinking water for the protection of the environment, public health, and all beneficial uses, and to ensure proper water resource allocation and efficient use for the benefit of present and future generations. In relation to this mission, the Water Boards accept responsibility for confronting structural and institutional racism and advancing racial equity.
2. The Water Boards are a member of the Government Alliance on Race and Equity (GARE) and have adopted its definition of racial equity: racial equity occurs when race can no longer be used to predict life outcomes, and outcomes for all groups are improved. Because race intersects with many, if not all, other marginalized identities, prioritizing and addressing racial inequities improves outcomes for other marginalized communities.

Race as a Determinant of Environmental and Racial Inequities

3. Historically, decision-makers representing government agencies used race to establish structures and systems that continue to deliver disparate outcomes, including wealth, health, educational, and environmental inequities.
4. CalEPA's 2021 Pollution and Prejudice Story map demonstrates that historically redlined neighborhoods are "generally associated with worse environmental conditions and greater population vulnerability to the effects of pollution today." In addition, Black, Indigenous, and people of color are overrepresented in the neighborhoods that are the most environmentally degraded and are still experiencing severe racial wealth gaps caused by redlining and other land-use practices designed to oppress them. Many of these communities lack access to parks, open spaces, greenways, and green infrastructure to provide, for example, natural flood protection, water treatment, and groundwater recharge and replenishment.

5. The Office of Environmental Health Hazard Assessment's (OEHHA's) CalEnviroScreen mapping tool identifies communities that are disproportionately impacted by a combination of environmental stressors and socioeconomic disadvantages. The tool's 2021 update reveals that the top 10% of least-polluted neighborhoods are 67% white, and the top 10% of most-polluted neighborhoods are 90% Black, Indigenous, and people of color. Contaminated drinking water sources disproportionately burden low-income and Black, Indigenous, and people of color communities throughout California, further exacerbating persistent inequities, which can be seen in data collected by the Human Right to Water Framework and Data Tool 1.0 (released January 2021).
6. In 2021, the State Water Board released the 2021 Drinking Water Needs Assessment, which (1) identifies California small water systems and domestic wells that are failing, or at risk of failing, to provide access to safe drinking water; (2) estimates the cost of interim and long-term solutions for these systems; and (3) determines the statewide funding gap and affordability challenges that may be barriers to implementing these solutions. There are approximately 345 systems that fail to meet the goals of the human right to water. In addition, the needs assessment identified 617 at-risk public water systems, 611 at-risk state small water systems, and 80,000 at-risk domestic wells. It also identified 13 federally regulated tribal water systems that failed to meet the goals of the human right to water and 22 at-risk tribal water systems.

Acknowledging Racism and Racial Inequities

7. Historically, the Water Boards' programs were established over a structural framework that perpetuated inequities based on race. These inequities persist, and prior to this resolution, the Water Boards had not explicitly acknowledged the role racism has played in creating inequities in affordability and access to clean and safe water and in the allocation and protection of water resources. Toward reconciliation, the State Water Board now acknowledges:
 - a. White supremacy is a systemically and institutionally perpetuated system of exploitation and oppression of nations and people of color by white people for the purpose of maintaining and defending a system of wealth, power, and privilege. In the United States, white supremacy led to the genocide and forced relocation of Native American people to facilitate white resettlement and the enslavement of Native American and Black people for white economic gain. White supremacy has been served by many other government policies targeting people of color, including, for example, race-focused immigration restrictions, the internment of Japanese Americans,

exclusionary housing and labor policies, and lack of investment in Black, Indigenous, and people of color communities. The impacts of federal, state, and local decision-making and policies made decades ago continue to impose challenges for Black, Indigenous, and people of color communities, which still grapple with the lasting effects of historical racial inequities stemming from those governmental decisions and policies.

- b. The colonization, displacement, and genocide of Native American people in the United States have contributed to the loss of water resource and watershed management practices that supported Native American people's traditional food sources and ways of life. Watersheds are now primarily managed through large-scale diversion of water for municipal, industrial, agricultural, and commercial beneficial uses to the detriment of traditional, local, and cultural uses and without compensation, recognition, or replacement. Historical land seizures, broken promises related to federal treaty rights, and failures to recognize and protect federal reserved rights, have resulted in the loss of associated water rights and other natural resources of value, as well as cultural, spiritual, and subsistence traditions that Native American people have practiced since time immemorial.
- c. As a result, California Native American Tribes continue to face barriers to defining, quantifying, accessing, protecting, and controlling their ancestral lands, water rights, instream flows, cultural resources, and beneficial uses. Redistribution of water has reduced or eliminated access to healthy traditional food sources such as smelt, salmon, freshwater mussels, and freshwater plants. Disconnection from traditional ancestral land and water and the unavailability of traditional foods have been linked to serious and pervasive health issues. In addition, low or non-existent instream flows, and associated water quality problems, impair or prevent water-related cultural, spiritual, and subsistence practices. These injustices are exacerbated by climate change and complex water resource and watershed management processes.
- d. The historical seizures of land from people of color have had, and continue to have, long-standing, oppressive impacts that extend beyond the loss of the land itself. These impacts include the loss of the associated water rights and other natural resources of value, lack of access to affordable and reliable governmental services, and forced relocation to areas with fewer or lower quality natural resources.

- e. In California, race predicts a person's access to governmental services and the quality and affordability of the services they receive. This includes the availability of safe drinking water and the collection, treatment, and reuse of wastewater. In fact, race is the strongest predictor of water and sanitation access.

Advancing Racial Equity and Environmental Justice

8. The evidence of past and persisting racism and racial inequity is compelling. On a community scale, race is strongly correlated with more severe pollution burdens. However, until recently, few of the Water Boards' policies, programs, or plans expressly considered or addressed racial inequities. As a government agency, the State Water Board recognizes the need to acknowledge racial inequity and to take action to address racial inequity within the agency and as part of the programs the Water Boards' carry out for the communities we serve.
9. Over the last decade, the Water Boards have increasingly emphasized actions to address environmental injustices, including: (1) creating the Safe and Affordable Funding for Equity and Resilience (SAFER) Program, a comprehensive approach to implementing the state's commitment to the Human Right to Water by ensuring the estimated 1 million Californians being served contaminated water have solutions for safe, affordable drinking water; (2) improving engagement with California Native American Tribes and recognizing and protecting tribal beneficial uses; (3) developing a comprehensive response to climate change, including addressing disproportionate impacts on vulnerable communities; and (4) administering funding for projects that remediate the harm—or threat of harm—to human health, safety, and the environment caused by existing or threatened surface water and groundwater contamination. Much of this funding is set aside or targeted for projects in disadvantaged and severely disadvantaged communities. The Water Boards recognize the need to further address environmental injustice and racial inequity.
10. Since 2018, the Water Boards have been participating in GARE, an international network of governmental organizations working to achieve racial equity and advance opportunities for all. The GARE network utilizes a racial equity model of change comprising iterative stages of normalizing, organizing, and operationalizing.
11. Since 2018, the Water Boards' staff have been actively engaged in CalEPA's racial equity team, which is implementing CalEPA's "Plan to Achieve Racial Equity" to: (1) improve access to data and information on racial equity; (2) improve communication with communities and partners; (3) improve language access; (4) advance racial equity trainings for the

CalEPA workforce; and (5) improve workforce hiring, retention, and promotion practices to advance racial equity within the environmental protection role that each board, department, and office shares with CalEPA.

12. The Water Boards' workforce does not reflect the racial composition of the state. United States Census Bureau data collected via the 2019 American Community Survey (ACS) show that 37% of California's population is white, yet the Water Boards' workforce census data from 2020 show that 57% of the Water Boards' workforce and 69% of the Water Boards' management is white. Similarly, the 2019 ACS data show that 63% of California's population comprises Black, Indigenous, and people of color, compared to only 43% of the Water Boards' workforce and 31% of the Water Boards' management. In 2019, the Water Boards released the document, "Immediate Hiring Practices Action Plan for Advancing Workforce Diversity at the Water Boards," which aligns with CalEPA's "Practices to Advance Racial Equity in Workforce Planning." Both documents were developed to articulate the benefits of a diverse workforce and to identify practices to advance racial equity. The Water Boards' plan directs hiring managers and supervisors to take specific short-term actions to improve workforce diversity while a more holistic plan is being developed.
13. In April and May 2020, CalEPA collaborated with GARE to survey staff of all CalEPA boards, departments, and offices, including the Water Boards, to establish baseline progress toward efforts to advance racial equity. Responses reveal that the Water Boards are beginning to normalize workplace conversations about racial equity by establishing a shared language, set of facts, and approaches. In addition, the summary report of the Water Boards' staff responses indicates that more work is needed to further normalize racial equity, and it includes a specific recommendation for the Water Boards to center racial equity work on the perspectives and experiences of Black staff. Overall, the survey responses strongly support the need for additional training and tools for advancing racial equity and for stronger communication with staff.
14. Although the Water Boards' racial equity and environmental justice work began prior to 2020, the national and worldwide backlash against racism toward Black people and related Black Lives Matter protests of 2020 accelerated and informed the State Water Board's decision to address racial inequities within the Water Boards and through the Water Boards' work.

15. During its August 18, 2020 meeting, the State Water Board directed staff to advance racial equity. Executive Director Eileen Sobeck established the Racial Equity Steering Committee and Working Group. The Racial Equity Steering Committee's charge is to ensure leadership remains committed to furthering racial equity and to direct the Working Group's progress on implementing the following priorities: (1) establish a foundation of internal and external engagement that values listening and collaboration to drive action; (2) draft a resolution on racial equity to be considered for adoption by the State Water Board and also leveraged by the Regional Water Boards to adopt their own resolutions; and (3) develop racial equity strategies and action plans to drive the Water Boards' efforts to institutionalize racial equity.
16. In November and December 2020, the Racial Equity Steering Committee and Working Group hosted four public listening sessions to solicit input on the challenges that Black, Indigenous, and people of color are facing and how the Water Boards can better facilitate equitable participation from these communities in their decision-making and policy development processes. Feedback from participants included several common themes, such as: a general distrust of government; feeling excluded from decision-making processes that ultimately affect them; not feeling heard when presenting issues to the Water Boards or that participation results in a change; a desire for more evidence that state government is committed to providing safe drinking water to disadvantaged communities; and concern that the Water Boards' decision-makers and staff do not reflect the diversity of the communities they serve.
17. In March 2021, the Racial Equity Steering Committee and Working Group hosted employee listening sessions to learn how the Water Boards can foster a workplace where all staff feel they belong and can contribute, and where the impacts of institutional racism are being recognized and addressed. To encourage honest, open discussion, each session was facilitated by professional racial equity consultants. Several common themes emerged during the sessions, such as: a general lack of opportunities to increase diversity and promote inclusion within the workforce; a need for mandatory training for all Water Boards staff in the areas of racial equity, racism, implicit bias, and cultural competence; the importance of allocating resources to support racial equity efforts; and the need to bring a racial equity lens to the Water Boards' decision-making processes, including more meaningful opportunities for community involvement.

18. To better represent and serve California's communities, the Water Boards must address the connection between protecting and managing water resources and systemic and institutional racism while fostering greater workforce diversity, equity, and inclusion within the agency.

THEREFORE, BE IT RESOLVED THAT:

The State Water Resources Control Board:

1. Condemns acts of racism, xenophobia, bigotry, white supremacy, and institutional and systemic racism; adopts racial equity, diversity, and inclusion as core values; and acknowledges the role of government agencies—including the Water Boards—in redressing racial inequities and dismantling institutional and systemic racism.
2. Commits to making racial equity, diversity, inclusion, and environmental justice central to our work as we implement our mission so that the access the State Water Board creates, and outcomes we influence, are not determined by a person's race and the benefits are shared equitably by all people.
3. Commits to centering our work and decision-making on Black, Indigenous, and people of color who are disproportionately represented in the most vulnerable communities and in unsheltered populations, while ensuring the full benefits of the Water Boards' programs for all people.
4. Reaffirms our commitment to upholding California's human right to water law, upholding the State Water Board's human right to water resolution, and demonstrating that every human being in California—including people from Black, Indigenous, and people of color communities—deserves safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitation purposes.
5. Reaffirms our commitment to the protection of public health and beneficial uses of waterbodies in all communities, and particularly Black, Indigenous, and people of color communities disproportionately burdened by environmental pollution through: cleanup of contaminated soil, soil vapor and groundwater; control of wastes discharged to land and surface water; restoration of impaired surface waters and degraded aquifers; and promotion of multi-benefit water quality projects to increase access to parks, open spaces, greenways, and other green infrastructure.
6. Commits to expanding implementation of the State Water Board's Climate Change Resolution to address the disproportionate effects of extreme hydrologic conditions and sea-level rise on Black, Indigenous, and people of

color communities, prioritizing: the right to safe, clean, affordable, and accessible drinking water and sanitation; sustainable management and protection of local groundwater resources; healthy watersheds; and access to surface waters that support subsistence fishing.

7. Reaffirms our commitment to improving communication, working relationships, and co-management practices with all California Native American Tribes, including seeking input and consultation on the Water Boards' rules, regulations, policies, and programs to advance decisions and policies that better protect California's water resources. The State Water Board recognizes our parallel relationship to the people we serve and values tribes' traditional ecological knowledge and historic experience with managing California's water resources since time immemorial.
8. Directs staff to create a proposal by January 2022 to establish an Office of Equity, Diversity, and Inclusion to achieve a workplace, workforce, and work outcomes that reflect racial equity.
9. Directs staff to normalize conversations about racial equity and foster a workforce that competently integrates racial equity into the State Water Board's work by: (1) developing and implementing training curricula for racial equity, diversity, inclusion, and environmental justice; (2) incorporating racial equity concepts into existing mandatory Water Boards training courses; (3) educating staff about Equal Employment Opportunity (EEO) laws and the Water Boards' EEO Office's process for preventing and responding to complaints of discrimination, harassment, bullying, or retaliation; (4) developing policies that will lead to a racially equitable and diverse workforce by ensuring the Water Boards' Immediate Hiring Practices Action Plan addresses recruitment, hiring, retention, promotion, succession planning, mentorship, STEM outreach to schools, and leadership development; and (5) partnering with other organizations to expand opportunities for community capacity building.
10. Directs staff to develop strategies for effectively reaching and meaningfully engaging with Black, Indigenous, and people of color communities; involving and partnering with tribes, stakeholders, and other interested parties in our decision-making processes; providing accessible, open and transparent opportunities for people to participate in our public meetings, hearings, and workshops; meeting people in their communities and spaces to seek out their perspectives; supporting communities with building capacity to advance racial equity and environmental justice; improving our communications by providing more plain-language materials; and addressing barriers to public participation, including language, digital, and time-of-day access.

11. Directs the Executive Office to develop and implement a Racial Equity Action Plan that articulates a vision for racial equity and outlines specific actions the State Water Board will take to address Water Boards systems that perpetuate racial inequities while establishing new, resilient systems.
 - a. The plan shall incorporate all State Water Board divisions, offices, and programs, and it shall address all aspects of our work, including, those detailed above in this resolution, as well as water quality control plans, policies, permits, enforcement, compliance assurance, contracting, funding, procurement, site remediation, monitoring, and water rights administration.
 - b. The plan shall include goals, objectives, actions, timelines, and metrics.
 - c. Staff shall advance a framework of transparency, accountability, and continuous improvement for our racial equity work by establishing metrics and using quantitative and qualitative data collection methods to measure and evaluate the Water Boards' progress toward: implementing those metrics; equitizing our systems, practices, and policies; and diversifying the Water Boards' workforce.
 - d. Staff shall seek out and consider input from stakeholders to inform development of the action plan.
 - e. Staff shall include a framework for analyzing the impact of State Water Board decisions and staff recommendations to the board through a racial equity lens; asking impacted Black, Indigenous, and people of color communities how the actions we are considering may affect them; and incorporating this feedback into our decision-making processes.
 - f. Staff shall include a recommendation for incorporating language that addresses racist, xenophobic, or bigoted workplace behaviors into existing Water Boards' policies.
 - g. Staff shall provide updates on developing and implementing the plan at least quarterly, including updates on actions taken by the Regional Water Boards and State Water Board divisions, offices, and programs as appropriate.
 - h. Staff shall present the action plan to the Board no later than one year after adopting this resolution and report on implementation progress annually thereafter.

12. Encourages the nine Regional Water Boards to adopt this resolution, or a similar resolution that condemns racism, xenophobia, bigotry, and racial injustice; affirms a commitment to racial equity, diversity, inclusion, access, and anti-racism; and otherwise prioritizes this important work.

CERTIFICATION

The undersigned Clerk to the State Water Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on November 16, 2021.

AYE: Chair E. Joaquin Esquivel
Vice Chair Dorene D'Adamo
Board Member Sean Maguire
Board Member Laurel Firestone
Board Member Nichole Morgan

NAY: None

ABSENT: None

ABSTAIN: None



Jeanine Townsend
Clerk to the Board

VII.



MEMORANDUM

TO: SLDMWA Water Resources Committee Members and Alternates

FROM: Scott Petersen, Water Policy Director

DATE: December 6, 2021

RE: Update on Water Policy/Resources Activities

BACKGROUND

This memorandum is provided to briefly summarize the current status of various agency processes regarding water policy activities, including but not limited to the (1) Reinitiation of Consultation on Long-Term Operations ("ROC on LTO"), (2) State Water Resources Control Board Action, including the Bay-Delta Water Quality Control Plan update, (3) San Joaquin River Restoration Program, (4) Delta Conveyance, (5) Delta Stewardship Council, and (6) Water Blueprint for the San Joaquin Valley.

POLICY ITEMS

Reinitiation of Consultation on Long-Term Operations of the Central Valley Project and State Water Project

In August 2016, the Bureau of Reclamation and California Department of Water Resources (DWR) requested reinitiation of consultation with NOAA Fisheries, also known as National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (FWS) due to multiple years of drought, low populations of listed species, and new information developed as a result of ongoing collaborative science efforts over the last 10 years.

On Jan. 31, 2019, Reclamation transmitted its Biological Assessment to the Services. The purpose of this action is to continue the coordinated long-term operation of the CVP and SWP to optimize water supply delivery and power generation consistent with applicable laws, contractual obligations, and agreements; and to increase operational flexibility by focusing on nonoperational measures to avoid significant adverse effects to species.

The biological opinions carefully evaluated the impact of the proposed CVP and SWP water operations on imperiled species such as salmon, steelhead and Delta smelt. FWS and NMFS documented impacts and worked closely with Reclamation to modify its proposed operations to

minimize and offset those impacts, with the goals of providing water supply for project users and protecting the environment.

Both FWS and NMFS concluded that Reclamation's proposed operations will not jeopardize threatened or endangered species or adversely modify their critical habitat. These conclusions were reached for several reasons – most notably because of significant investments by many partners in science, habitat restoration, conservation facilities including hatcheries, as well as protective measures built into Reclamation's and DWR's proposed operations.

On Oct. 21, 2019, FWS and NMFS released their biological opinions on Reclamation's and DWR's new proposed coordinated operations of the CVP and SWP.

On Dec. 19, 2019, Reclamation released the final Environmental Impact Statement analyzing potential effects associated with long-term water operations for the CVP and SWP.

On Feb. 18, 2020, Reclamation approved a Record of Decision that completes its environmental review for the long-term water operations for the CVP and SWP, which incorporates new science to optimize water deliveries and power production while protecting endangered species and their critical habitats.

On January 20, 2021, President Biden signed an Executive Order: “Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis”, with a fact sheet¹ attached that included a non-exclusive list of agency actions that heads of the relevant agencies will review in accordance with the Executive Order. Importantly, the NOAA Fisheries and U.S. Fish and Wildlife Service Biological Opinions on the Long-Term Operation of the Central Valley Project and State Water Project were both included in the list of agency actions for review. It’s unclear what this agency review will analyze, but staff will be engaged.

On September 30, 2021, Reclamation Regional Director Ernest Conant sent a letter to U.S. FWS Regional Director Paul Souza and NMFS Regional Administrator Barry Thom requesting reinitiation of consultation on the Long-Term Operation of the CVP and SWP. Pursuant to 50 CFR § 402.16, Reclamation indicated that reinitiation is warranted based on anticipated modifications to the Proposed Action that may cause effects to listed species or designated critical habitats not analyzed in the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) Biological Opinions, dated October 21, 2019. To address the review of agency actions required by Executive Order 13990 and to voluntarily reconcile CVP operating criteria with operational requirements of the SWP under the California Endangered Species Act, Reclamation and DWR indicated that they anticipate a modified Proposed Action and associated biological effects analysis that would result in new Biological Opinions for the CVP and SWP.

¹ <https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/20/fact-sheet-list-of-agency-actions-for-review/>

Following this action, on October 20, 2021, the SLDMWA sent a letter to Reclamation Regional Director Ernest Conant requesting participation in the reinitiation of consultation pursuant to Section 4004 of the WIIN Act and in the NEPA process as either a Cooperating Agency or Participating Agency.

Reclamation Manual

Documents out for Comment

Draft Policy

- There are currently no Policies out for review.

Draft Directives and Standards

- PEC 10-05 Reclamation Standard Water-Related Contract Articles, Standard Article 5: Operation and Maintenance of Transferred Works (Federal Construction) (comments by 12/9/2021)
- PEC 10-06 Reclamation Standard Water-Related Contract Articles, Standard Article 6: Operation and Maintenance of Project Works (Federally Assisted Construction) (comments by 12/9/2021)
- PEC 05-03 Extended Repayment of Extraordinary Maintenance Costs (comments by 12/9/2021)
- CMP 11-01 Title Transfer for Reclamation Project Facilities (comments by 12/9/2021)

Draft Facilities Instructions, Standards, and Techniques (FIST)

- There are currently no Facilities Instructions, Standards, and Techniques out for review.

Draft Reclamation Safety and Health Standards (RSHS)

- RSHS 23 Tunnel and Shaft Construction (comments by 12/10/2021)
- RSHS 45 Heat and Cold Stress (comments by 12/19/2021)

Draft Reclamation Design Standards

- There are currently no Design Standards out for review.

State Water Resources Control Board (State Water Board) Activity

Documents out for Comment

Notice of Preparation of a draft Program Environmental Impact Report related to the adoption of a Regulation for the Hexavalent Chromium Maximum Contaminant Level

PROJECT LOCATION: The Project is a statewide regulation that would apply to all public drinking water systems in the State of California. Water systems with hexavalent chromium exceeding the proposed MCL are located throughout the state and specific locations are not currently known.

PROJECT DESCRIPTION: The proposed Project consists of the State Water Board adopting and implementing a regulation that establishes the Maximum Contaminant Level (MCL) for hexavalent chromium (aka chromium-6) in drinking water provided by public water systems (PWS) in California. The State Water Board is the lead agency under the California Environmental Quality Act (CEQA) and is preparing a Programmatic Environmental Impact Report for the adoption of the regulation. The State Water Board is considering 17 possible MCLs (1 to 15, 20, and 25 µg/L).

The project scope includes not only setting the MCL for hexavalent chromium, but also the reasonably foreseeable methods of compliance. For hexavalent chromium, three treatment technologies are being identified as the Best Available Technology: Ion Exchange, Reduction-Coagulation/Filtration, and Reverse Osmosis. Public Water Systems, however, are not limited to treatment, and can consider other alternatives, if available. Such options could include the removal of contaminated source wells from use, blending of a contaminated source with an uncontaminated source to meet the MCL prior to distribution, drilling and constructing a new well in an uncontaminated aquifer, switching from contaminated groundwater to surface water, or consolidation with another water system that meets the MCL.

COMMENT PERIOD: November 5, 2021 to December 6, 2021

The Notice of Preparation (NOP) is available for review and comment for 31 days. The comment period for this NOP begins November 5, 2021 and ends on December 6, 2021. Responses should be sent at the earliest possible date, but no later than 5:00 PM on December 6, 2021.

Emergency Regulation: Sacramento-San Joaquin Delta Watershed

Background

On May 10, 2021, Governor Newsom issued a Proclamation of a State of Emergency due to drought in 41 counties, including those in the Delta watershed. On July 8, 2021, the Governor issued an expanded Proclamation of a State of Emergency for 9 additional counties and called upon Californians to voluntarily reduce their water use by 15 percent compared to the same period in 2020.

To ensure protection of water needed for health, safety, and the environment, the May 10, 2021 Proclamation directs the State Water Board to consider adoption of an emergency regulation to curtail water diversions in the Delta watershed when water is not available at water right holders' priority of right and to protect releases of previously stored water.

On June 15, 2021, the State Water Board sent Notices of Water Unavailability to all water right holders in the Delta watershed, alerting all post-1914 appropriative water right holders that the Board had determined, based on the best information available to the Board, that water was not available to serve their priorities. The June 15 notice also warned all pre-1914 appropriative and riparian water right claimants in the Delta watershed of impending water unavailability based on worsening drought conditions and the resulting likelihood of consideration of an emergency regulation to curtail water use throughout the Delta watershed.

On July 8, 2021, the San Luis & Delta-Mendota Water Authority, Friant Water Authority, Tehama Colusa Canal Authority, and the State Water Contractors sent a letter to State Water Board Chairman Joaquin Esquivel expressing a need for action to protect stored water and to reduce unauthorized diversions of water in the Delta, in order to protect authorized beneficial uses of water.

On July 29, 2021, the San Luis & Delta-Mendota Water Authority sent a letter to State Water Board Chairman Joaquin Esquivel expressing support for protecting stored water, the need to ensure due process in the protection of appropriately exercised water rights, and the need to consider a number of comments expressed by water users related to the Water Unavailability Methodology.

The draft emergency regulation was considered by the State Water Board at its August 3, 2021 meeting and adopted, then submitted to the Office of Administrative Law.

On August 20, 2021, the State Water Resources Control Board (State Water Board) mailed initial orders imposing water right curtailment and reporting requirements on all water right holders and claimants in the Delta watershed (linked below).

The August 20 order (Order) identifies the priorities of water rights and claims of right that are curtailed for the remainder of August and for the month of September. The Delta Watershed Curtailment Status List (Curtailment Status List) on the [Delta Watershed Drought webpage](#) reflects the water rights and claims that are currently curtailed, including those that are currently required to curtail for the month of September even if not required to curtail for the month of August. This list will be updated on a weekly basis or more frequently if there are precipitation events that warrant suspension of curtailments.

Over the last week, the SWRCB notified water right permit and license holders within the Sacramento San Joaquin Delta watershed and Standard Water Right Term 91 (Term 91) and other interested parties that curtailments are no longer in effect due to a lack of supplemental project water (SPW) releases by the Department of Water Resources and U.S. Bureau of Reclamation (Projects) at this time. If the Projects are required to resume consistent SPW releases and the Sacramento-San Joaquin River Delta (Delta) remains in balanced conditions, the State Water Resources Control Board (State Water Board) will resume Term 91 curtailments.

Please monitor your email and the State Water Board's drought website for further updates on Term 91 or other curtailments. Term 91 and other curtailments may be re-imposed in the near future if hydrologic conditions degrade.

On December 7, the State Water Resources Control Board will receive informational updates on drought and current hydrology and an update from DWR and Reclamation related to the December 2021 Temporary Urgency Change Petition to Modify Delta Flow and Water Quality Requirements in 2022.

Bay Delta Water Quality Control Plan Update

The State Water Board is currently considering updates to its 2006 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (“Bay Delta Plan”) in two phases (Plan amendments). The first Plan amendment is focused on San Joaquin River flows and southern Delta salinity (“Phase I” or “San Joaquin River Flows and Southern Delta Salinity Plan Amendment”). The second Plan amendment is focused on the Sacramento River and its tributaries, Delta eastside tributaries (including the Calaveras, Cosumnes, and Mokelumne rivers), Delta outflows, and interior Delta flows (“Phase II” or “Sacramento/Delta Plan Amendment”).

During the December 12, 2018 Water Board Meeting, the Department of Water Resources (“DWR”) and Department of Fish and Wildlife presented proposed “Voluntary Settlement Agreements” (“VSAs”) on behalf of Reclamation, DWR, and the public water agencies they serve to resolve conflicts over proposed amendments to the Bay-Delta Plan update.² The State Water Board did not adopt the proposed VSAs in lieu of the proposed Phase 1 amendments, but as explained below, directed staff to consider the proposals as part of a future Delta-wide proposal.

Phase 1 Status: The State Water Board adopted a resolution³ to adopt amendments to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary and adopt the Final Substitute Environmental Document during its December 12, 2018 public meeting.

Phase 2 Status: In the State Water Board’s resolution adopting the Phase 1 amendments, the Water Board directed staff to assist the Natural Resources Agency in completing a Delta watershed-wide agreement, including potential flow and non-flow measures for the Tuolumne River, and associated analyses no later than March 1, 2019. Staff were directed to incorporate the Delta watershed-wide agreement as an alternative for a future, comprehensive Bay-Delta Plan update that addresses the reasonable protection of beneficial uses across the Delta watershed, with the goal that comprehensive amendments may be presented to the State Water Board for consideration as early as possible after December 1, 2019. As the State Water Board further refines this update, there will be opportunity for public comment.

The effort has made progress since an initial framework was presented to the State Water Board on December 12, 2018.

² Available at <https://water.ca.gov/-/media/DWR-Website/Web-Pages/Blogs/Voluntary-Settlement-Agreement-Meeting-Materials-Dec-12-2018-DWR-CDFW-CNRA.pdf>.

³ Available at https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2018/rs2018_0059.pdf.

On March 1, 2019, the California Department of Water Resources and the Department of Fish and Wildlife submitted documents⁴ to the State Water Board that reflect progress since December to flesh-out the previously submitted framework to improve conditions for fish through targeted river flows and a suite of habitat-enhancing projects including floodplain inundation and physical improvement of spawning and rearing areas.

Since the March 1 submittal, work has taken place to develop the package into a form that is able to be analyzed by State Water Board staff for legal and technical adequacy. On June 30, 2019, a status update with additional details was submitted to the Board for review. Additionally, on February 4, 2020, the State team released a framework for the Voluntary Agreements to reach “adequacy”, as defined by the State team.

Further work and analysis is needed to determine whether the agreements can meet environmental objectives required by law and identified in the State Water Board’s update to the Bay-Delta Water Quality Control Plan.

On December 8, the State Water Resources Control Board will hear an information item on upcoming actions to update and implement the Water Quality Control Plan for the San Francisco Bay Sacramento San Joaquin Delta.

Water Blueprint for the San Joaquin Valley Activity

Background

The Water Blueprint for the San Joaquin Valley (Blueprint) is a broad and evolving group of stakeholders, working to better understand shared goals for water solutions that support environmental stewardship with the needs of communities and industries throughout the San Joaquin Valley. The Blueprint has engaged with stakeholders to try and ensure that everyone has safe, reliable, and affordable access to water for drinking, supporting their farms and communities and a thriving ecology.

The SJV faces significant impacts to its long-term economic, social, and environmental health if nothing is done to address water scarcity, as highlighted in Phase I of Dr. David Sunding’s Economic Impact Assessment (EIA) <https://www.waterblueprintca.com>.

The Large Group and committees continue to meet and pursue the mission of Blueprint, including outreach, technical support and working in collaboration with other stakeholders.

Governance: A nominating committee was formed and presented a slate of Directors to the Executive Committee and Plenary Group to expand the 501c(3) Board to 23 members, with representatives from the following groups: Agriculture Organizations, Water Agencies, White

⁴ Available at http://resources.ca.gov/docs/voluntary-agreements/2019/Complete_March_1_VA_Submission_to_SWRCB.pdf

Lands, Local Government, and At Large. A total of 23 Directors were recommended, with 2 slots remaining open for a representative from the northern portion of the San Joaquin Valley and a representative from refuge/environmental interests. Board members have been approved and the new Board will be seated in January.

Agriculture: Casey Creamer, CA Citrus Mutual
Ian Lemay, CA Fresh Fruit Association
Geoff Vanden Heuvel, Dairy

Water Agencies: Scott Petersen, San Luis & Delta-Mendota Water Authority
Jason Phillips, Friant Water
Steve Chedester, SJ River Exchange Contractors Water Authority (*pending ratification by SJRECWA Board*)
Vacant (State Water Contractor)

White Lands: Johnny Gailey, Delta View Water Association
Jack Rice, Western Resource Strategies
Deanna Jackson, Tri-County Water Authority

Govt: Augustine Ramirez, Fresno County
Stephanie Anagnoson, Madera County
Paul Boyer, Farmersville

At-Large: Sarah Woolf, Water Wise
Eddie Ocampo, Self-Help Enterprises
Austin Ewell, Ewell Group
Christina Beckstead, Madera County Farm Bureau
Vince Lucchesi, Patterson Irrigation District
Kassy Chauhan, Fresno Irrigation District
Vacant (north Valley or westside)
Vacant (refuge)

Committee Chairs: Scott Hamilton, Ag Economist (Technical Committee)
Mike Wade, CA Farm Water Coalition (Communications Committee)

Outreach & Engagement: The Blueprint Community Advisory Committee will be having its first meeting on October 27th. The tentative agenda is an introduction of participants, overview of the Water Blueprint for the San Joaquin Valley and drought Planning for 2022. The Blueprint's first community newsletter is being circulated and the website is being updated. Continue working with CSBA (School Boards Association) and Tribal interests. Creating a contact list of local elected officials, including special districts and county supervisors. This contact list is the basis for a newsletter sent to community leaders throughout our region.

Technical Committee: ESA is developing a regulatory and permitting path forward for the Blueprint. This detailed plan will list all permits needed, the approvals, the reports, and documents essential to prepare and obtain from the Federal and/or State Agencies for the solution sets provided. Blueprint continues to engage with Central Valley stakeholders regarding opportunities to construct infrastructure, balanced approach to water resources, low interest loans for farmers unable to farm and focus on inter-regional conveyance and habitat restoration. A dinner has been set up with Board Members from Madera I.D. and Chowchilla W.D., participants of the Blueprint and White Area representatives to review the status of the technical work and next steps if any.

SJV Water Collaborative Action Program (SJWCAP): Stanford University, working in coordination with the Blueprint, Central Valley Community Foundation, Fresno State, NGOs and 60+ stakeholders from water agencies, agricultural interests, local government, drinking water advocates and environmental interests have drafted an inter-caucus Problem Statement and Solution Sets for the Plenary Group to review and adopt. A fundamental part of the solution set is a focus on a two phased approach to identify an amount of water and its sources to aid in recharging the Valley as well as a total amount of acres for potential following as well as a timeframe for identifying agreeable ways of doing so.

DAC Drinking Water Feasibility Study – FKC: Participants include FWA, FSU, Self Help, Sustainable Conservation and Leadership Council are looking to study Tulare County related to surface water supply, recharge and drinking water supplies. DWR is making available approx. \$49,500 for this study. Fresno State in coordination with the other participants will be creating a more specific scope tailored to Tulare to provide to DWR to review and fund.

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