



MEMORANDUM

TO: SLDMWA Water Resources Committee Members and Alternates

FROM: Scott Petersen, Water Policy Director

DATE: March 6, 2023

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 of the Central Valley Project and State Water Project, including environmental compliance; (2) State Water Resources Control Board action; (3) San Joaquin River Restoration Program; (4) Delta conveyance; (5) Reclamation action; (6) Delta Stewardship Council action; (7) San Joaquin Valley Water Blueprint and San Joaquin Valley Water Collaborative Action Plan.

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



Importance to the Authority

This bill would establish Reclamation as the lead agency for permit processing for water storage projects on federal lands owned by the Departments of Interior or Agriculture.

Pros:

- The bill, if enacted, would establish a single lead federal agency responsible for coordination and permit processing for water storage projects, which is anticipated to expedite the permitting process for these projects.

Cons:

- None identified.

Committee Options

Option 1

Recommend that the Board authorize the Executive Director and delegated staff to express support to H.R. 186, Water Supply Permitting Coordination Act.

Fiscal Impact: Unknown. Reduce costs associated with environmental permitting compliance for CVP projects advanced under Reclamation law or the WIIN Act.

Business Analysis: Reduce costs associated with environmental permitting compliance for CVP projects advanced under Reclamation law or the WIIN Act.

Option 2

Take no action.

Fiscal Impact: Unknown. SLDMWA may be subject to additional costs associated with environmental permitting compliance for CVP projects advanced under Reclamation law or the WIIN Act.

Business Analysis: SLDMWA and its member agencies could be subject to additional costs associated with environmental permitting compliance for CVP projects advanced under Reclamation law or the WIIN Act.

[A.B. 30 \(Ward\), Atmospheric Rivers: Research, Mitigation, and Climate Forecasting Program.](#)

RECOMMENDATION: SUPPORT

OBJECTIVE: Restore Central Valley Project Water Supply for Member Agencies

Summary

AB 30 would rename the Program the Atmospheric Rivers Research and Forecast Improvement Program: Enabling Climate Adaptation Through Forecast-Informed Reservoir Operations and Hazard Resiliency (AR/FIRO) Program (Program). The bill would require DWR to research, develop, and implement new observations, prediction models, novel forecasting methods, and tailored decision support systems to improve predictions of atmospheric rivers and their impacts on water supply, flooding, post-wildfire debris flows, and environmental conditions.

The bill would require DWR to take all actions within its existing authority to operate reservoirs in a manner that improves flood protection in the State and to reoperate flood control and water storage



Memo to SLDMWA Water Resources Committee and Board Members
February 6, 2023

facilities to capture water generated by atmospheric rivers, thereby increasing water supply, hydropower availability, and the reliability of water resources in the State, and to consider refined climate projections of extreme weather and water events and changes in Sierra snow.

Status

A.B. 30 was introduced on December 5, 2022, and has been referred to the Assembly Committee on Water, Parks, and Wildlife.

Importance to the Authority

This bill would improve atmospheric river research and the improved forecasting enabled by that research has the potential to improve reservoir operations and flood protection.

Pros:

- AB 30 would appropriately update the name and description of this program and delete the reference to funds coming from "special funds." (Special funds do not include the General Fund.)

Cons:

- Potential to divert additional state General Fund dollars to this program.

Committee Options

Option 1

Recommend that the Board authorize the Executive Director and delegated staff to express support to A.B. 30 (Ward), Atmospheric Rivers: Research, Mitigation, and Climate Forecasting Program.

Fiscal Impact: Unknown. Reduce costs associated with flooding mitigation under some water year types or certain atmospheric river conditions.

Business Analysis: Potential to more effectively manage reservoir operations to generate improved water supply reliability in some year types.

Option 2

Take no action.

Fiscal Impact: Unknown. SLDMWA may be subject to additional costs associated with flood mitigation or additional water purchases due to inefficient reservoir operations.

Business Analysis: SLDMWA and its member agencies could be subject to additional costs associated with water supplies or lost water supplies resulting from less efficient reservoir operations or flood impacts.

A.B. 62 (Mathis) – Statewide water storage: expansion.

RECOMMENDATION: FAVOR, IF AMENDED

OBJECTIVE: Improve Water Infrastructure Affecting Authority Member Agencies

Summary

This bill would establish a statewide goal to increase above- and below-ground water storage capacity by a total of 3,700,000 acre-feet by the year 2030 and a total of 4,000,000 acre-feet by the year 2040. The bill would require the state board, in consultation with the Department of Water Resources, to design and implement measures to increase statewide water storage to achieve the statewide goal. The bill would



Memo to SLDMWA Water Resources Committee and Board Members
February 6, 2023

require the state board, beginning July 1, 2027, and on or before July 1 every 2 years thereafter until January 1, 2043, in consultation with the department, to prepare and submit a report to the Legislature on the progress made in designing and implementing measures to achieve the statewide goal, consistent with Governor Newsom's Water Supply Strategy.

Status

A.B. 62 was introduced on December 6, 2022, and has been referred to the Assembly Committee on Water, Parks, and Wildlife.

Importance to the Authority

This bill would establish Reclamation a statewide water storage target by date certain and require agencies to report out on implementation.

Pros:

- The bill, if enacted, would establish a statewide goal to increase water storage capacity by 3.7 million acre-feet by 2030 and 4 million acre-feet by 2040.

Cons:

- The legislation requires the State Water Resources Control Board to "design and implement measures" to "increase statewide water storage" by the amounts detailed in the bill. This has the effect of placing the State Water Resources Control Board in primary position for implementing a document that has been delegated by the Governor to the California Natural Resources Agency.

Suggested Amendment

Recommend that staff work with the author to place the responsibility of meeting the goal on the California Natural Resources Agency (Agency) and require the State Water Resources Control Board to work with the Agency to implement the goal.

Committee Options

Option 1

Recommend that the Board authorize the Executive Director and delegated staff to express a position of favor, if amended to AB 62 (Mathis), Statewide water storage: expansion.

Fiscal Impact: Unknown. Depending on the participation of various member agencies or the Authority in projects that are implicated in the Water Supply Strategy, there could be increased costs for timeline shifts associated with meeting the statutory goal.

Business Analysis: Improved storage has demonstrable benefits to year over year operations and provides increased water supply reliability.

Option 2

Take no action.

Fiscal Impact: Unknown. SLDMWA and/or its member agencies could face increased costs of water storage project development and/or implementation absent the establishment of a statutory statewide storage goal and potential associated policy streamlining.



February 6, 2023

Business Analysis: SLDMWA and its member agencies could be subject to reduced water supply reliability without improved storage in California.

Guidelines for Taking Positions on Legislation

A number of controversial bills are introduced each year in the Congress and in the California Legislature. It is important to understand how the Authority takes positions on legislation.

Policy

By Agenda Item 9, dated December 8, 2022, the Board adopted the Fiscal Year 2024 Objectives.

Water Authority's Positions on Legislation

The Water Authority takes positions on legislation that, if enacted, would impact Water Authority members, consistent with Water Authority Board adopted Goals and Objectives. The Water Authority may take the following positions on legislation: Oppose, Support, Oppose Unless Amended, Support if Amended, Not Favor, Favor, Not Favor Unless Amended, Favor if Amended, and Watch (neutral). The Water Authority's staff and consultants testify and advocate with legislators and staff through meetings and member agency contacts on all positions except Watch, Favor and Not Favor. For Favor and Not Favor positions, written communication of the Water Authority's position is provided to the legislator. Nothing in this section should be read to preclude the Executive Director or his or her designee from taking an informal support or informal oppose position on behalf of the Water Authority that is consistent with adopted legislative or policy objectives, or to preclude the Executive Director from communicating a position on emergency legislation after obtaining the concurrence of the Chair, or the Chair's designee, provided that the Executive Director informs the Board regarding such positions on emergency legislation no later than the next regularly scheduled Board meeting.

Amendment Development Process

If the Water Authority takes an Oppose Unless Amended or Support if Amended position, the Water Authority will typically discuss the concepts for the amendments at the meeting. Then Water Authority staff, in consultation with Committee and/or Board Members as needed, will develop the amendments after the meeting.

Information Sharing

To provide adequate information to the entire Water Authority membership, the Water Authority provides legislative updates, posts positions and other information on our website, and sends out advisories and alerts on key legislation.

The Water Authority's legislative department is available to provide specific information on bills on request and Board Members are encouraged to communicate Water Authority positions on priority legislation in meetings with legislative staff, consistent with Water Authority policy. The Water Authority's Water Policy Director appreciates being informed by Water Authority members of positions taken by Water Authority members on legislation.

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1. Tracked Legislation
a. Federal Legislation

Bill Number(s)	Sponsor(s)	Bill Title	Summary	Position	Status
H.R. 94	Andy Biggs (R-AZ-05)	American Sovereignty and Species Protection Act	H.R. 94 would prohibit the Secretary of the Interior from listing a species as threatened or endangered under the Endangered Species Act if the species is not native to the United States.		Introduced and referred to the House Committee on Natural Resources (1/09/2023)
H.R. 186	McClintock (R-CA-05)	Water Supply Permitting Coordination Act	To authorize the Secretary of the Interior to coordinate Federal and State permitting processes related to the construction of new surface water storage projects on lands under the jurisdiction of the Secretary of the Interior and the Secretary of Agriculture and to designate the Bureau of Reclamation as the lead agency for permit processing.		Introduced and referred to House Committee on Natural Resources (1/09/2023)
H.R. 189	McClintock (R-CA-05)	Action Versus No Action Act	H.R. 189 would mandate that an environmental assessment or environmental impact statement prepared under the National Environmental Policy Act specific to federal actions on forest management can only consider alternative actions of "forest management activity" and "no action."		Introduced and referred to the House Committee on Natural Resources and the Committee on Agriculture (1/09/2023)
H.R. 289	LaMalfa (R-CA-01)	Protect Our Water Rights Act	To update requirements for the operation of the Central Valley Project and Klamath River Basin Reclamation Project by the Bureau of Reclamation.		Introduced and referred to House Committee on Natural Resources (1/11/2023)
H.R. 250	Garamendi (D-CA-8)	Clean Water SRF Parity Act	To amend the Federal Water Pollution Control Act to make certain projects and activities eligible for		Introduced and referred to House Committee on Transportation & Infrastructure (1/10/2023)



financial assistance under a State water pollution control revolving fund.				
H.R. 215	Valadao (R-CA-22)	WATER for California Act	Reauthorizes the successful surface water storage project program and coordinated operations of the CVP and SWP established by the WIIN Act, Provides eligibility for funding for the Shasta Enlargement Project, and promotes water conveyance through the Sacramento-San Joaquin River Delta.	Introduced and referred to House Committee on Natural Resources (1/09/2023)
S. 63	Barrasso (R-WY)	Water Rights Protection Act of 2023	Prohibits the Department of the Interior and Agriculture from mandating water users transfer water rights to the U.S., or purchase water rights in the name of the U.S. as a condition of any permit, lease, or other use agreement. Also recognizes state water law and requires coordination with the states.	Introduced in the Senate (1/25/2023)
H.R. 178	Levin (D-CA-49)	Public Land Renewable Energy Development Act of 2023	Requires the Department of the Interior to establish priority areas on its land for geothermal, solar, and wind energy projects. The bill also establishes the Renewable Energy Resource Conservation Fund to make funds available to federal, state, and tribal agencies for distribution in regions in which renewable energy projects are located on federal land for (1) restoring and protecting natural water bodies and fish and wildlife habitat and corridors, and (2) preserving and improving recreational access to federal land and water in an affected region.	Introduced in the House. Referred to the Committee on Natural Resources and Agriculture (1/9/2023)



1. Tracked State Legislation

Bill Number(s)	Author	Bill Title	Summary	Position	Status
AB 30	Ward	Atmospheric Rivers: Research, Mitigation, and Climate Forecasting Program	<p>This bill would rename that program the Atmospheric Rivers Research and Forecast Improvement Program: Enabling Climate Adaptation Through Forecast-Informed Reservoir Operations and Hazard Resiliency (AR/FIRO) Program. The bill would require the department to research, develop, and implement new observations, prediction models, novel forecasting methods, and tailored decision support systems to improve predictions of atmospheric rivers and their impacts on water supply, flooding, post-wildfire debris flows, and environmental conditions. The bill would also require the department to take all actions within its existing authority to operate reservoirs in a manner that improves flood protection in the state and to reoperate flood control and water storage facilities to capture water generated by atmospheric rivers</p>	Recommending Support	Referred to Com. on W., P., & W.
AB 62	Mathis	Statewide water storage: expansion	<p>This bill would establish a statewide goal to increase above- and below-ground water storage capacity by a total of 3,700,000 acre-feet by the year 2030 and a total of 4,000,000 acre-feet by the year 2040. The bill would require the state board, in consultation with the Department of Water Resources, to design and implement measures to increase statewide water storage to achieve the statewide goal. The bill would require the state board, beginning July 1, 2027, and on or before July 1 every 2 years thereafter until</p>	Monitor	Referred to Com. on W., P., & W

January 1, 2043, in consultation with the department, to prepare and submit a report to the Legislature on the progress made in designing and implementing measures to achieve the statewide goal

AB 66	Mathis	Natural Resources Agency: water storage projects: permit approval	This bill would require the Natural Resources Agency, and each department, board, conservancy, and commission within the agency, to approve the necessary permits for specified projects within 180 days from receiving a permit application, and would deem those permits approved if approval does not occur within this time period.	Monitor	Referred to Com. on W., P., & W.
AB 249	Holden	San Francisco Bay/Sacramento-San Joaquin Delta Estuary: water quality control plan: water right permits	This bill would require a community water system that serves a schoolsite with a building constructed before January 1, 2010, to test for lead in the potable water system of the schoolsite before January 1, 2027. The bill would require the community water system to report its findings to the applicable school or local educational agency, as specified. The bill would require the local educational agency or school, if the lead level exceeds a specified level at a schoolsite, to notify the parents and guardians of the pupils who attend the schoolsite or preschool.	Monitor	Referred to Coms. on E.S. & T.M. and ED
AB 305	Villapudua	California Flood Protection Bond Act of 2024	This bill would express the intent of the Legislature to enact subsequent legislation for a flood protection general obligation bond act, in an unspecified amount, that would be known as the California Flood Protection Bond Act of 2024, and would be submitted to the voters at the next general election.	Monitor	From printer. May be heard in committee February 26

AB 396	Fong	Dams	Existing law regulates the construction and operation of dams and exempts certain structures for these purposes. Existing law requires the owner of such exempt structures to employ a registered civil engineer to supervise the structure, as prescribed. This bill would make nonsubstantive changes to the above provision	Monitor	Introduced. To print.
AB 406	Connolly	Agriculture: Healthy Soils Program and California Farmland Conservancy	This bill would additionally authorize the Healthy Soils Program to include the funding of organic farming projects that further the goals of the program and require the department to establish the technical advisory committee if it elects to fund those projects, as specified.	Monitor	Introduced. To print.
AB 422	Alanis	Natural Resources Agency: statewide water storage: tracking	This bill would require the Natural Resources Agency, on or before June 1, 2024, to post on its publicly available internet website information tracking the progress to increase statewide water storage, and to keep that information updated.	Monitor	Introduced. To print.
SB 3	Dodd	Discontinuation of residential water service: community water system	This bill would expand the scope of the Water Shutoff Protection Act by requiring that it instead apply to a community water system, defined to have the same meaning as existing law. The bill would require a community water system that supplies water to 200 service connections or fewer to comply with the act's provisions on and after August 1, 2024.	Monitor	Referred to Com. on E., U. & C
SB 23	Caballero	Water supply and flood risk reduction projects: expedited permitting	This bill would express the intent of the Legislature to enact subsequent legislation to expedite the regulatory permitting process for water supply and flood risk reduction projects, as provided.	Monitor	Referred to Com. on RLS.

22

SB 66	Hurtado	Water: Predictive Models and Data Collection	This bill would state the intent of the Legislature to ensure that reliable predictive models and data collection systems are used to properly forecast and allocate surface water.	Monitor	Referred to Com. on RLS.
SB 69	Cortese	California Environmental Quality Act: Judicial and Administrative Proceedings	This bill would make conforming and nonsubstantive changes to other CEQA provisions.	Monitor	Referred to Coms. on E.Q. and JUD.
SB 231	Hurtado	Drought Modeling	This bill would state the intent of the Legislature to enact subsequent legislation to require the Department of Water Resources to modify its predictive models as necessary to account for California's persistent drought.	Monitor	Referred to Com. on RLS.

Water Blueprint

for the San Joaquin Valley

Up to 800,000 acre-feet of stored water could be lost to State-ordered outflow requirements

Now that atmospheric river systems and flooding conditions have given way to more recognizable weather patterns, there is a real danger looming that the federal and state government agencies and water project decision-makers will contribute to making water supply matters worse. Agreeing to release hundreds of thousands of acre feet of water from storage reservoirs to meet agency created outflow requirements, while simultaneously reducing pumping at both the federal and state delta pumping facilities, will likely equate to tremendous mismanagement of water supplies that contribute to another "regulatory created drought".

This comes after mother nature delivered, in the month of January, one of the wettest months ever recorded. However, the "first flush" restrictions stood in the way of maximizing pumping of much needed water supplies into storage. So, just what exactly is about to happen?

As February develops, and hydrologic conditions continue to evolve, it appears now that the State Water Resources Control Board's 1999 regulation, D-1641, which, in part sets Bay-Delta outflow requirements will result in a loss of water stored during January's storms. As a result, Bay-Delta outflow requirements for February are going to be MASSIVE and impactful to the SWP and CVP. The bullet point below is our latest info.

- The D-1641 Delta Outflow requirement will cost approximately 350-500 TAF in additional releases, and some estimates are closer to 800 TAF from upstream storage and cuts to South-of-Delta exports. It is likely to impact the SWP more, but either way will have an impact on both projects.

We're still compiling the rationale for the 1990s SWRCB outflow requirements, but needless to say it is yet another antiquated calendar-based limit that isn't taking into account prior drought and storage conditions, the best science, real-time river conditions, and attempting to balance beneficial uses in real-time. Arguably, the amount of water being lost in just a couple of months is enough to supply Los Angeles for an entire year.


The Bay Institute

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February 10, 2023

E. Joaquin Esquivel, Chair
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

RE: Request for State Board Action to Ensure Compliance with the Bay-Delta Water Quality Control Plan and Decision 1641 in February (Delta Outflow Objective: Port Chicago X2)

Dear Chairman Esquivel and Members of the Board:

On behalf of the Bay Institute, San Francisco Baykeeper, and the Natural Resources Defense Council, we are writing to alert the Board that the U.S. Bureau of Reclamation and the California Department of Water Resources appear likely to violate the minimum Delta outflow requirements of Water Rights Decision 1641 (“D-1641”) and the Bay-Delta Water Quality Control Plan (“Bay-Delta Plan”) for the month of February. We request that the Board take immediate action to ensure that Reclamation and DWR increase Delta outflow to comply with D-1641 and the Water Quality Control Plan.

Given hydrological conditions in January of this year, D-1641 and the Bay-Delta Plan require 27 days of X2 at Port Chicago in the month of February, and they allow the CVP and SWP to meet this objective through either: (1) minimum daily outflow (29,200 cfs); (2) daily salinity at Port Chicago less than 2.64 mmhos/cm; or (3) 14-day running average of salinity at Port Chicago less than 2.64 mmhos/cm. *See* Bay-Delta Plan at Table 4.¹ However, Delta outflow is currently less than 29,200 cfs, and according to the Bureau of Reclamation’s February 7, 2023 operations outlook, the Delta outflow index is anticipated to range from 15,000 to 22,000 cfs for the coming week. In addition, DWR’s February 10, 2023 water quality report shows that the 14-day average EC at Port Chicago is nearly at the 2.64 mmhos/cm limit and will likely be exceeded in the coming days, and that daily salinity at Port Chicago will likely exceed the 2.64 mmhos/cm limit if Delta outflow continues to decline as projected. Absent increased outflow, it appears that the CVP and SWP will be in violation of the Bay-Delta Plan and D-1641 in the next few days.

The Delta outflow objectives in the Bay-Delta Plan, including Port Chicago X2 requirements, are critical components to protect estuarine habitat. The Port Chicago X2 objective is triggered by high outflow events, with the aim of re-establishing a more natural outflow pattern of a gradual

¹ The Bay-Delta Water Quality Control Plan does not allow for carrying over days from January because there was no X2 requirement that month. *See id.* (“If salinity/flow objectives are met for a greater number of days **than the requirements for any month**, the excess days shall be applied to meeting the requirements for the following month.” (emphasis added))

decline from a peak flow. Many management actions in the Bay-Delta are intended to prevent fish populations and other biological resources from declining or going extinct when hydrological conditions are poor. The Port Chicago requirement is intended to ensure that population viability of flow-dependent estuarine aquatic resources is supported when good hydrological conditions permit. Boosting productivity of estuarine fish and wildlife when these conditions occur is a fundamental element for helping support population viability and recovery to levels that allow populations to persist during subsequent poor years. It is also critical to support imperiled fish populations this year after the devastating impacts of the last three years of drought and repeated weakening of minimum water quality standards during the drought emergency.

The magnitude, frequency, and duration of high outflow events is severely constrained by the capture and retention of Central Valley runoff by dams and diversions throughout the watershed. Most recently, analysis by the Bay Institute found that more than 50% of the unimpaired runoff was captured, stored and/or diverted from January 1 to January 17 of this year, reducing Delta outflow and increasing reservoir storage by millions of acre feet. The Board has repeatedly acknowledged that reduction in Delta inflows and outflows over the past several decades has had drastic adverse impacts on a broad range of fish and wildlife beneficial uses, including fish migration, estuarine habitat, commercial and recreational fishing, and associated benefits such as food web productivity. The adoption of the Port Chicago objective in 1995 was intended to allow fish and the estuarine habitat some measure of improvement when runoff is high.

In addition to protecting estuarine habitat, the best available science demonstrates that allowing Delta outflows to fall below the minimum requirements of D-1641 in February is likely to reduce the survival of endangered winter-run Chinook salmon migrating through the Delta as a result of reduced Delta inflows (*see, e.g.*, Perry et al. 2018), reduce post-larval survival of endangered Delta Smelt (*see* Polansky et al. 2021, MAST 2015), and reduce the abundance and survival of threatened Longfin Smelt (*see, e.g.*, Nobriga and Rosenfield 2016, Kimmerer et al 2009). Reducing survival of migrating winter-run Chinook salmon is particularly inexplicable this year, given that federal agencies have documented the lowest egg-to-fry survival and lowest number of juvenile winter-run Chinook salmon passing Red Bluff Diversion Dam since at least 2002.

DWR and the Bureau of Reclamation have committed to full compliance with D-1641 as part of their permits under the state and federal Endangered Species Acts. For instance, DWR's final EIS states that,

DWR and Reclamation will continue to operate the SWP and CVP in compliance with the provisions of D-1641, including maintaining salinity levels corresponding to the location of X2, as required. DWR, in coordination with Reclamation, is required to meet these standards even if other projects result in changes to salinity so that the cumulative water quality conditions are consistent with the salinity standards of D-1641 and protect the beneficial uses.

Final EIR at 4-315; *see id.* at 5-80 (“The Refined Alternative 2b would be operated to meet all D-1641 compliance standards.”).

The Board has repeatedly determined that the existing Delta outflow requirements in the Bay-Delta Plan fail to adequately protect the Public Trust and prevent extinction of native fish and wildlife in the Delta, including making explicit findings in 2010 and 2017. Fish and wildlife resources in the Bay-Delta estuary have been devastated by the combination of existing regulatory protections that the Board has admitted are inadequate, numerous waivers of those inadequate protections during every critically dry year since 2012, and repeated failure to enforce even the reduced standards. Waiving or violating the Bay-Delta Plan's outflow standards in 2023, a non-critically dry year, would unreasonably expand the Board's pattern and practice of allowing violations of the minimum water quality objectives in the Bay-Delta Plan.

Finally, the failure to comply with D-1641 in February would further demonstrate that the California Natural Resources Agency's proposed Voluntary Agreement is nothing more than an empty promise, since the proponents of the Voluntary Agreement have failed to meet the minimum existing water quality objectives in 2014, 2015, 2016, 2021, and 2022, and appear to be on track to violate the Bay-Delta Plan once again in 2023. The Voluntary Agreement would continue this failed approach and provides no assurance that proponents would meet the existing minimum water quality objectives, let alone provide additional flows beyond those objectives.

It would be irresponsible – and tragic – if the Board squanders this rare opportunity to stem the ecological collapse of the Bay-Delta ecosystem and the ongoing slide to extinction of its native fish species by allowing, once again, the CVP and SWP to violate their water rights obligations and minimum water quality objectives. We urge the Board to take action to ensure compliance with the Port Chicago objective in February 2023 and beyond as required.

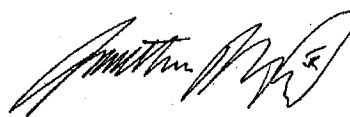
Sincerely,



Gary Bobker
The Bay Institute



Doug Obegi
Natural Resources Defense Council



Jon D. Rosenfield, Ph.D.
San Francisco Baykeeper

cc: Bay-Delta@waterboards.ca.gov
Dorene D'Adamo, State Water Resources Control Board
Sean Maguire, State Water Resources Control Board
Laurel Firestone, State Water Resources Control Board
Nichole Morgan, State Water Resources Control Board
Eileen Sobeck, State Water Resources Control Board
Karla Nemeth, California Department of Water Resources
Ernest Conant, U.S. Bureau of Reclamation

Chuck Bonham, California Department of Fish and Wildlife
Cathy Marcinkevage, National Marine Fisheries Service
Kaylee Allen, U.S. Fish and Wildlife Service
Michael Lauffer, State Water Resources Control Board
Diane Riddle, State Water Resources Control Board
Amy Aufdemberge, U.S. Department of the Interior
Thomas Gibson, California Department of Water Resources

DWR, Reclamation Submit Request to Adjust Water Right Permit Conditions to Conserve Storage

Published: February 13, 2023

Following the driest three-year period on record, California experienced one of the wettest three weeks in January. But now those extreme wet conditions have activated a water quality standard in the Delta that, coupled with the extended dry period since then, could result in a sharp reduction in the amount of water that can be retained or moved into storage for both the State Water Project (SWP) and federal Central Valley Project (CVP).

The Department of Water Resources (DWR) and the U.S. Bureau of Reclamation (Reclamation) are working in real time to operate the state's water system to maximize water supply while protecting species and the environment. However, California continues to experience unprecedented swings in weather impacting water management operations.

Because of these extreme weather swings, DWR and Reclamation are taking proactive measures to manage the state's water supply to store and capture more water in preparation for a return to hot, dry weather in the next two months.

Both agencies submitted a Temporary Urgency Change Petition (TUCP) to the State Water Resources Control Board requesting approval to modify compliance with Delta water quality conditions specified in their water right permits, while proposing measures to avoid impacts on Delta smelt.

DWR and Reclamation typically would seek this kind of change during extremely dry conditions. But the swing to extremely wet conditions after extremely dry conditions has created challenges, and the projects are acting to enable additional opportunities for water storage north and south of the Delta while maintaining protections for species.

The request for the TUCP follows protective actions taken by DWR and Reclamation under state and federal endangered species permits in late December and early January, including the "first flush" action to reduce pumping and allow storm runoff to flow through the system for the benefit of native fish species. Recent monitoring information shows the actions worked as intended, with key fish species moving downstream of the Delta and away from the direct influence of the SWP and CVP pumps.

The water quality and water right permits that dictate SWP and CVP operations require certain water quality conditions to be met at specific compliance points in the Delta to provide for favorable conditions for endangered fish species. In consultation with the Department of Fish and Wildlife, DWR and Reclamation are requesting that the State Water Resources Control Board temporarily move the compliance point in the projects' water rights permits from Port Chicago six miles east to Chipps Island. The alternative compliance point is anticipated to ensure water quality sufficient to protect beneficial uses.

If approved by the State Water Board, these actions would allow DWR and Reclamation to move and retain more stormwater and runoff in the state's reservoirs in preparation for continued dry periods. A total of approximately 300,000 acre-feet would be saved for later use by the State Water Project alone.

While the January storms provided much-needed rain and snowfall, they did not end drought conditions for much of the state and California remains in a drought emergency. Regions that rely on the Colorado River system face increasingly severe water shortage conditions, and groundwater basins that serve communities in the Central Valley will not recover quickly from back-to-back years of drought and chronic overdraft.

DWR will continue to work with federal and state partners to be proactive and respond in real time to balance multiple water supply needs.

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GAVIN NEWSOM
GOVERNOR



JARED BLUMENFELD
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

NOTICE OF TEMPORARY URGENCY CHANGE PETITION FILED BY THE CALIFORNIA DEPARTMENT OF WATER RESOURCES AND THE UNITED STATES BUREAU OF RECLAMATION REGARDING PERMITS AND A LICENSE¹ OF THE STATE WATER PROJECT AND THE CENTRAL VALLEY PROJECT

On February 13, 2023, the Department of Water Resources (DWR) and the United States Bureau of Reclamation (Reclamation) (collectively Petitioners) jointly filed a Temporary Urgency Change Petition (TUCP) with the State Water Resources Control Board (State Water Board) pursuant to California Water Code section 1435 et seq. The TUCP requests that the State Water Board temporarily modify conditions included in the water right permits and license for the State Water Project (SWP) and Central Valley Project (CVP) (collectively Projects) that were imposed pursuant to Revised Water Right Decision 1641 (D-1641) and that require the Projects to meet flow and water quality objectives established in the Water Quality Control Plan for the San Francisco Bay-Sacramento/San Joaquin Delta Watershed (Bay-Delta Plan). Specifically, during February and March, 2023, DWR and Reclamation request to waive the Delta outflow requirements listed for Port Chicago in Table 4 of D-1641, which require achieving a specified number of days of compliance with a maximum daily average or 14-day running average electrical conductivity of 2.64 mmhos/cm at Port Chicago (Station C14), or a 3-day running average Net Delta Outflow Index of 29,200 cubic-feet per second. The required number of days of compliance is determined by the prior month's Eight River Index. All other electrical conductivity requirements in Table 4, including Chipps Island days, would continue to apply. The TUCP is posted at: <https://www.waterboards.ca.gov/drought/tucp/>.

Pursuant to California Water Code section 1438, subdivision (d), any interested person or entity may file an objection to a TUCP. Water Code section 1438 describes the procedures for addressing an objection. **Any objections filed in response to this notice should be submitted to the State Water Board with copy provided to the Petitioners no later than 12 noon on February 23, 2023.** The State Water Board may act on the TUCP prior to receipt of any objections. The Board will give prompt consideration to any objections received and may modify any order approving 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 (Application 23) and Permits 11315, 11316, 11885, 11886, 11887, 11967, 11968, 11969, 11970, 11971, 11972, 11973, 12364, 12721, 12722, 12723, 12725, 12726, 12727, 12860, 15735, 16597, 16600, and 20245 (Applications 13370, 13371, 234, 1465, 5638, 5628, 15374, 15375, 15376, 16767, 16768, 17374, 17376, 5626, 9363, 9364, 9366, 9367, 9368, 15764, 22316, 14858A, 19304, and 14858B, respectively) of the United States Bureau of Reclamation's Central Valley Project.

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

as appropriate. Objections should be filed using the petition protest form, which can be downloaded at:

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

Please send objections and correspondence via email to the State Water Board at Bay-Delta@waterboards.ca.gov, with copies to James Mizell with the Department of Water Resources at James.Mizell@water.ca.gov; and Amy Aufdemberge with the U.S. Bureau of Reclamation Regional Solicitor's Office at Amy.Aufdemberge@sol.doi.gov.

Information related to this TUCP may be viewed at:

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

Questions concerning this notice may be directed to Bay-Delta@waterboards.ca.gov or Craig Williams at Craig.Williams@waterboards.ca.gov.

To receive additional information related to this and future TUCPs, interested persons or entities should subscribe to the State Water Board's Drought Updates and Bay-Delta email subscription lists (appears in the "Water Rights" section) at:

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

DATE OF NOTICE: FEBRUARY 13, 2023

37



DEPARTMENT OF WATER RESOURCES

Division of Operations and Maintenance
3310 El Camino Avenue, Suite 300
Sacramento, California 95821



— BUREAU OF —
RECLAMATION

BUREAU OF RECLAMATION

Central Valley Operations Office
3310 El Camino Avenue, Suite 300
Sacramento, California 95821

Ms. Eileen Sobeck
Executive Director
California State Water Resources Control Board
1001 I Street
Sacramento, California 95814

The California Department of Water Resources (DWR) and the United States Bureau of Reclamation (Reclamation) are submitting the attached Temporary Urgency Change Petition (TUCP) to seek an urgent, temporary change in the State Water Project and Central Valley Project's (SWP and CVP) water rights compliance location for X2 during the months of February and March.

DWR and Reclamation are working to actively manage the SWP and CVP to ensure the availability of an adequate water supply while also ensuring protection of critical species and the environment. Following the driest three-year period on record, California experienced an extremely wet January that provided much-needed rain and snowfall but did not end drought conditions for much of the state. Regions that rely on the water from the Sacramento–San Joaquin Delta (Delta) and Central Valley as well as the Colorado River system face increasingly severe water shortage conditions. Additionally, groundwater basins that serve communities in the Central Valley have not recovered from back-to-back years of drought and chronic overdraft.

The rapid shift from extreme dry conditions to extreme wet conditions, and potentially back to extreme dry conditions, is a new reality that challenges our ability to balance water project operations while storing as much water as possible, given the uncertain outlook for the remaining two months of the traditional rainy season.

Extremely wet conditions in January triggered a water quality standard in the Delta that, coupled with the extended dry period since then, pursuant to Water Right Decision 1641 (D-1641), would require a sharp decrease in Delta water supply exports and a sharp increase in releases from upstream storage reservoirs such as Lake Oroville and Folsom Lake. Historically, wet conditions in January would be expected to be followed by extended runoff through February and March, thus muting the water supply impacts from a decrease in exports and an increase in releases from upstream reservoirs. However, as 2022 climate extremes showed, a wet winter can be followed by an extremely dry period. A return to dry conditions the rest of winter and spring of 2023, coupled with the current D-1641 requirements, would mean that the water storage available for release later in the spring and summer would be hundreds of thousands of acre-feet less than needed.

Deteriorating hydrology requires the SWP and CVP to modify operations to comply with the X2 water quality requirements prescribed by D-1641. DWR and Reclamation have prepared this TUCP to file with the State Water Resources Control Board (State Water Board) to seek the State Water Board's approval of an urgent, temporary change in the projects' water rights compliance location for X2 during the months of February and March. Our modeling shows that January's wet hydrology, along with operational actions from the SWP and CVP, created conditions that will be protective of species throughout February and March. Temporarily moving our permit compliance point to the east will allow the projects to operate in a way that does not result in significant impacts to delta smelt and longfin smelt, given favorable conditions provided through the January storms and reduced project exports, while enabling additional water storage to stabilize water supply in the spring and summer. The proposed change will provide clear storage benefits south of the Delta and will also have the potential to provide storage benefits north of the Delta. Maintaining water storage is critical should dry conditions return. The expectation is that as snowmelt occurs later this winter and spring, inflows into the Delta will return in significant volumes that naturally extend wetter conditions.

We must consider this new weather reality of extremes and continue our efforts to provide adequate water to simultaneously protect California's species and the environment and meet the water supply needs of the people of California.

Sincerely,

Karla Nemeth

Karla Nemeth, Director
California Department of Water Resources

Ernest Conant

Ernest A. Conant, Regional Director
United States Bureau of Reclamation

Army Corps plan Stockton meeting on Delta Tunnel

Harder

DENNIS WYATT

The Bulletin

Published: Feb 10, 2023, 1:25 AM

Congressman Josh Harder on Thursday stepped up his efforts to derail the Delta Tunnel by reintroducing legislation directing the Army Corps not to issue a federal permit required for the endeavor to move forward.

Harder's legislation is co-authored with three other members of Congress from the Central Valley.

"The Delta Tunnel is a zombie project," Harder said referencing fights dating back to the statewide 1982 ballot vote that blocked the earlier version of a Delta conveyance that was dubbed the Peripheral Canal.

"Every time we kill it, the Governor brings it back. My bill will put an end to this \$16 billion boondoggle once and for all and make sure every drop of Valley water stays right here where it belongs. This is a choice between watering a family farm right here in San Joaquin County, and watering someone's manicured green lawn down south. I'll do what's right for our community every single time."

The Army Corps in a bid to provide additional opportunity for public input, has extended the comment period to March 16. Originally, it was scheduled to end next Tuesday.

The agency is also now planning an in-person public workshop sometime in early March in Stockton. The date and location has yet to be confirmed.

People are also able at any time to go to the Army Corps' Regulatory Division website and make a public comment at: [Delta Conveyance \(army.mil\)](https://www.army.mil/delta-conveyance)

The Army Corps has conducted three virtual meetings with more than 170 people in attendance on the tunnel's environmental documents.

The virtual meetings were arranged when COVID-19 regulations were still in effect.

Harder last month conducted an in-person workshop on the tunnel and other water issues that was held in French Camp. More than 150 people were in attendance.

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MEMORANDUM

TO: SLDMWA Water Resources Committee Members and Alternates

FROM: Scott Petersen, Water Policy Director

DATE: February 6, 2023

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 of the Central Valley Project and State Water Project, including environmental compliance; (2) State Water Resources Control Board action; (3) San Joaquin River Restoration Program; (4) Delta conveyance; (5) Reclamation action; (6) Delta Stewardship Council action; (7) San Joaquin Valley Water Blueprint and San Joaquin Valley Water Collaborative Action Plan.

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.

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.

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.

On February 26, 2022, the Department of the Interior released a Notice of Intent To Prepare an Environmental Impact Statement (EIS) and Hold Public Scoping Meetings on the 2021 Endangered Species Act Reinitiation of Section 7 Consultation on the Long-Term Operation of the Central Valley Project and State Water Project². In response to this, on March 30, 2022, the SLDMWA submitted a comment letter highlighting actions for Reclamation to consider during preparation of the EIS.

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

² <https://www.govinfo.gov/content/pkg/FR-2022-02-28/pdf/2022-04160.pdf>

During May 2022, Reclamation issued draft copies of the Knowledge Base Papers for the following management topics and requested supplementary material review and comments, to which the Authority submitted comment letters in June:

1. Spring-run Juvenile Production Estimate- Spring-run Survival Knowledge Base Document, May 2022
2. Steelhead Juvenile Production Estimate-Steelhead Survival Knowledge Base Document, April 2022
3. Old and Middle River Reverse Flow Management – Smelt, Chinook Salmon, and Steelhead Migration and Survival Knowledge Base Document, May 2022
4. Central Valley Tributary Habitat Restoration Effects on Salmonid Growth and Survival Knowledge Based Paper, March 2022
5. Delta Spring Outflow Management Smelt Growth and Survival Knowledge Base Document, May 2022
6. Pulse Flow Effects on Salmonid Survival Knowledge Base Document, May 2022
7. Summer and Fall Habitat Management Actions – Smelt Growth and Survival Knowledge Base Document, May 2022
8. Shasta Cold Water Pool Management – End of September Storage Knowledge Base Document, May 2022

Subsequent to the Knowledge Base Paper review, a Scoping Meeting was held, to which Water Authority staff provided comments, resulting in the release of a Scoping Report³ by Reclamation in June 2022.

On October 14, 2022, Reclamation released an Initial Alternatives Report (IAR), which Authority staff is reviewing and coordinating with member agencies for potential engagement with Reclamation regarding the alternatives presented in the report. Currently, Reclamation is not anticipating accepting formal comments on the IAR, but instead will be accepting comments on the draft Environmental Impact Statement, which is anticipated to be released in January.

Current Milestones

- December 2022 – Proposed Action and Alternatives
- Early 2023 – Public Draft EIS/Biological Assessment
- February 2024 – Record of Decision

Exploratory Modeling

Concurrent with the development of the EIS and BA, Reclamation is conducting Exploratory Modeling to assist in the development of the Biological Assessment. The status of current modeling includes:

Modeled Variable Components

- Shasta Reservoir Coldwater Pool Management
- Folsom Flow and Temperature Management
- Old and Middle River Flow Management
- Head of Old River Barrier
- Summer and Fall Delta Outflow and Habitat

³ <https://www.usbr.gov/mp/bdo/docs/lto-scoping-report-2022.pdf>

Modeling in Progress

- Spring Pulses and Delta Outflow
- New Melones Stepped Release Plan

Not Modeled

- Tributary Habitat Restoration
- Delta Habitat Restoration
- Georgiana Slough Non-Physical Barrier

Upcoming Coordination

- Reclamation will distribute/post the Initial Alternatives Report (IAR) for Interested Party consideration
- Reclamation does not intend to seek comments nor revise the IAR
- Agencies and Interested Parties may use the IAR to inform formulation of alternatives
- The public draft EIS will be the avenue for comments to Reclamation
- Cooperating agencies will receive an administrative draft of the EIS

Longfin Smelt Proposed Rule

On Thursday, October 6, the U.S. Fish and Wildlife Service announced a proposed rulemaking to list the San Francisco Bay-Delta distinct population segment of longfin smelt as an endangered species under the Endangered Species Act (ESA).

Longfin smelt are currently listed as a threatened species under California's Endangered Species Act, which prohibits unpermitted possession, purchase, sale or take of listed species. However, the state's definition of take does not include harm, which under the federal ESA can include destruction of habitat.

The Authority joined a letter⁴ with the State Water Contractors pointing out deficiencies in the science used to support the proposed listing of the longfin smelt distinct population segment as endangered and requested a public hearing on the listing status. We are pending a response to that public hearing request.

State Water Resources Control Board (State Water Board) Activity

Bay Delta Water Quality Control Plan Update

Background

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").

⁴ Request from Authority staff

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.⁵ 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 resolution⁶ 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.

Most recently, on July 18, 2022, the State Water Resources Control Board issued a Notice of Preparation (NOP)⁷ and California Environmental Quality Act (CEQA) Scoping Meeting for the Proposed Regulation to Implement Lower San Joaquin River Flows (LSJR) and Southern Delta Salinity Objectives in the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta (Bay-Delta Plan).

The purpose of the NOP is: (1) to advise responsible and trustee agencies, Tribes, and interested organizations and persons, that the State Water Board or Board will be the lead agency and will prepare a draft EIR for a proposed regulation implementing the LSJR flow and southern Delta salinity components of the 2018 Bay-Delta Plan, and (2) to seek input on significant environmental issues, reasonable alternatives, and mitigation measures that should be addressed in the EIR. For responsible and trustee agencies, the State Water Board requests the views of your agency as to the scope and content of the environmental information related to your agency's area of statutory responsibility that must be include in the draft EIR.

In response to the release of the NOP, the Water Authority and member agencies provided scoping comments⁸.

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

⁵ Available at <https://water.ca.gov/-/media/DWR-Website/Web-Pages/Blogs/Voluntary-Settlement-Agreement-Meeting-Materials-Dec-12-2018-DWR-CDFW-CNRA.pdf>.

⁶ Available at https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2018/rs2018_0059.pdf.

⁷ Available at https://www.waterboards.ca.gov/public_notices/notices/20220715-implementation-nop-and-scoping-dwr-baydelta.pdf

⁸ Request from Authority staff

amendments may be presented to the State Water Board for consideration as early as possible after December 1, 2019.

On March 1, 2019, the California Department of Water Resources and the Department of Fish and Wildlife submitted documents⁹ 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.

Schedule

LSJR Flow/SD Salinity Implementation Next Steps Assuming Regulation Path (Phase 1)

- Summer 2023: Executive Director act on draft COP, compliance methods, and procedures for adaptive implementation
- Fall 2023
 - Scientific Basis Report for Tuolumne River VAs submitted for peer review
 - Draft Staff Report for Bay-Delta Plan amendment for Tuolumne River VA
 - Draft Regulation and Draft EIR in support of a regulation implementing Lower SJR flows and South Delta Salinity
- Winter/Spring 2024
 - Final draft Staff Report for Tuolumne River VA
 - Board workshop and consideration of Tuolumne River VA
 - Final draft EIR and regulation implementing Lower SJR flows and South Delta Salinity
 - Board consideration of regulation implementing Lower SJR flows and South Delta Salinity

Sac/Delta Update: Key Milestones

- Spring 2023: Scientific Basis Report Supplement for Sacramento River/Delta Voluntary Agreements submitted for peer review after addressing public comments
- Spring 2023: Draft Sacramento River/Delta Update Staff Report public review and comment
- Spring/Summer 2023: Public workshop on Draft Staff Report
- Spring/Summer 2024: Response to comments and development of proposed final changes to the Bay-Delta Plan

⁹ Available at http://resources.ca.gov/docs/voluntary-agreements/2019/Complete_March_1_VA_Submission_to_SWRCB.pdf

- Summer/Fall 2024: Board consideration of adoption

Voluntary Agreements

On March 29, 2022, members of the Newsom Administration joined federal and local water leaders in announcing the signing of a memorandum of understanding¹⁰ that advances integrated efforts to improve ecosystem and fisheries health within the Sacramento-San Joaquin Bay-Delta. State and federal agencies also announced an agreement¹¹ specifically with the Sacramento River Settlement Contractors on an approach for 2022 water operations on the Sacramento River.

Both announcements represent a potential revival of progress toward what has been known as “Voluntary Agreements,” an approach the Authority believes is superior to a regulatory approach to update the Bay-Delta Water Quality Control Plan.

The broader MOU outlines terms for an eight-year program that would provide substantial new flows for the environment to help recover salmon and other native fish. The terms also support the creation of new and restored habitat for fish and wildlife, and provide significant funding for environmental improvements and water purchases, according to a joint news release from the California Natural Resources Agency and the California Environmental Protection Agency (CalEPA). Local water agency managers signing the MOU have committed to bringing the terms of the MOU to their boards of directors for their endorsement and to work to settle litigation over engaged species protections in the Delta.

On June 16, the SLDMWA, Friant Water Authority and Tehama Colusa Canal Authority signed onto the VA MOU. Additionally, since that time, in September and November, four more agencies – Contra Costa Water District, San Francisco Public Utilities Commission (SFPUC), Turlock Irrigation District (TID) and Modesto Irrigation District (MID) – have signed onto the VA MOU.

Work continues to develop the working documents associated with execution and implementation of the VA’s and workgroups for participating agencies have been formed, with the recent formation of a VA Science Workgroup to develop the framework of the VA’s proposed Science program.

Delta Conveyance

The Department of Water Resources (DWR) has committed to advancing further environmental planning and permitting activities, as well as public outreach and engagement, in 2023.

To help navigate the various permitting and regulatory compliance processes the project must complete prior to approval and/or implementation, DWR prepared a roadmap¹² that outlines the major processes required for the Delta Conveyance Project.

¹⁰ Available at <https://resources.ca.gov/-/media/CNRA-Website/Files/NewsRoom/Voluntary-Agreement-Package-March-29-2022.pdf>

¹¹ Available at <https://calepa.ca.gov/2022/03/29/informational-statement-state-federal-agencies-and-sacramento-river-settlement-contractors-agree-on-approach-for-2022-water-operations-on-the-sacramento-river/>

¹² Available at https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Delta-Conveyance/Public-Information/DCP_PlanningProcess_Roadmap_Jan2023_Final.pdf

U.S. Bureau of Reclamation

Reclamation Manual

Documents out for Comment

Draft Policy

- There are currently no Draft Policies out for review.

Draft Directives and Standards

- There are currently no Directive and Standards out for review.

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)

- There are currently no Safety and Health Standards out for review.

Draft Reclamation Design Standards

- There are currently no Design Standards out for review.

San Joaquin Valley Water Blueprint

SJV SGMA Coordination Workshop

The Blueprint is helping coordinate and compile a list of attendees for a workshop discussion. There will be a working lunch and discussion most of the afternoon. Agenda and pre-workshop discussion to be provided in coordination with DWR and impending responses on GSPs.

San Joaquin Valley Water Collaborative Action Program (SJWV CAP)

The CAP Plenary Group met on November 22 and approved a revised Term Sheet¹³, which will allow for the CAP to advance to Phase II. Additionally, the Packard Foundation approved a \$750,000 grant to the CAP to advance the Phase 2 project and product development. The Plenary Group approved the development of working groups to advance the Phase 2 Priorities and the CAP Steering Committee is meeting to discuss next steps on how to advance the program, including potential budgets and work product.

¹³ Request from Authority staff