



MEMORANDUM

TO: SLDMWA Water Resources Committee Members and Alternates

FROM: Scott Petersen, Water Policy Director

DATE: June 7, 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.

Reclamation Manual

Documents out for Comment

Draft Directives and Standards

- There are currently no Directives 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)

- Reclamation Drilling Standards, RSHS 27 (comments due 6/7/2021)
- Record of Performance Inspection and Test – Crawler, Locomotive, Truck, and Wheel Cranes, RSHS Appendix F (comments due 6/14/2021)

Draft Reclamation Design Standards

- Appurtenant Structures for Dams (Spillways and Outlet Works)(comments due 6/27/2021)

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

State Water Resources Control Board (State Water Board) Activity

Documents out for Comment

2020-2022 California Integrated Report

The State Water Resources Control Board (State Water Board) will accept comments on the draft Statewide Clean Water Act Section 303(d) list of water quality limited segments portion of the 2020-2022 California Integrated Report. The draft statewide list includes new listing and delisting recommendations for waterbodies in the Central Coast, Central Valley, Colorado River Basin, and San Diego regions.

The proposed 303(d) list for the 2020-2022 California Integrated Report and the supporting Draft Staff Report will be posted on the State Water Board's web site on or before June 4, 2021 at:

https://www.waterboards.ca.gov/water_issues/programs/water_quality_assessment/2020_2022_integrated_report.html. You may request a paper copy of the Draft Staff Report by contacting Keara Tuso at keara.tuso@waterboards.ca.gov.

Submission of Comments

The State Water Board will accept written comments on the Draft 2020-2022 California 303(d) List and Draft Staff Report. All written comments must be received no later than 12:00 noon on Friday, July 16, 2021.

Drought Operations and Policy

During the last month, a significant amount of activity has taken place related to Central Valley Project and State Water Project operations and associated regulatory requirements in response to evolving dry conditions throughout California.

Specifically, on March 22, 2021, in response to dry conditions in California, the State Water Resources Control Board released a notice that ongoing dry conditions exist in most California watersheds and that preparations for drought should begin. As dry conditions continued, the State Water Board released curtailment notices² for Term 91 condition water rights on April 29, 2021. Following this action, in response to additional information received from the May water update, on May 17, 2021, the Department of Water Resources (DWR) and the United States Bureau of Reclamation (Reclamation) (collectively referred to as the Petitioners) filed a Temporary Urgency Change Petition (TUCP) with the State Board pursuant to California Water Code section 1435 et seq. in order to address critically dry conditions in the San Francisco Bay/Sacramento-San Joaquin Delta (Bay-Delta). The TUCP requests that the State Water Board temporarily change the Petitioners' permit and license terms for the State Water Project (SWP) and Central Valley Project (CVP) (collectively the SWP and CVP are also referred to as the Projects).

² See Appendix A.

Specifically, the TUCP requests temporary changes to conditions imposed pursuant to State Water Board Revised Decision 1641 (D-1641) that requires the Petitioners to meet specified flow and water quality objectives established in the Bay-Delta Water Quality Control Plan (Bay-Delta Plan). Unless renewed, the changes sought by a TUCP may remain in effect for 180 days. The Petitioners are expected to submit an additional TUCP later this summer that will propose changes during the fall time period.

The May 17 TUCP seeks modifications to D-1641 requirements that apply from June through August 15 that, if approved, will: (1) change the minimum Net Delta Outflow Index (NDOI) in June and July from a monthly average of 4,000 cubic-feet per second (cfs) to an average of 3,000 cfs with a 14-day running average in June and a monthly average in July (7-day running average in July of no less than 2,000 cfs); (2) limit the combined maximum export rate in June and July to no greater than 1,500 cfs when Delta outflow is below 4,000 cfs, and allow the 1,500 cfs limit to be exceeded when the Petitioners are meeting Delta outflow requirements pursuant to D-1641 or for moving transfer water; and (3) change the Western Delta agricultural salinity requirement at Emmaton to a compliance location at Three mile Slough on the Sacramento River from June through August 15.

In response to the submittal of a draft Temperature Management Plan (TMP), on May 21, State Board Executive Director Eileen Sobek sent a response letter³ to Reclamation related to conditions that would be required for Project operations in order for the State Board staff to approve the TMP. This letter outlines a number of conditions that would affect water supply for Authority members, including most importantly an end of September carryover storage requirement of 1.25 million acre-feet at Shasta Reservoir.

On May 25, State Board staff released a draft report⁴ on a “Water Unavailability Methodology for the Delta Watershed” that outlines the methodology for determining water unavailability in the Sacramento-San Joaquin Delta watershed and would be used for the associated curtailment notices likely to be issued if dry conditions continue into the future. Also on May 25, water unavailability notices⁵ were issued for post-1914 water rights holders in the Russian River watershed and warning letters⁶ were issued for pre-1914 water rights holders in the same area.

On May 26, Reclamation announced a reduction in allocations for north and south of delta agricultural water service contractors from 5% to 0% and a separate reduction in allocation for municipal and industrial contractors from 55% to 25% of historic use. The Authority released a statement in response to this allocation reduction that was picked up in a couple of Valley publications.

³See Appendix B.

⁴https://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/drought_tools_methods/delta_method.html

⁵ See Appendix C.

⁶ See Appendix D.

On May 28, 2021, Reclamation submitted a final Sacramento River Temperature Management Plan⁷ pursuant to Order 90-5, and Reclamation and the Department of Water Resources issued a Drought Contingency Plan⁸ for the SWP and CVP from May 1 through September 30, 2021.

Separately, on June 1, 2021, State Board Executive Director Eileen Sobeck issued an order⁹ that conditionally approves the Temporary Urgency Changes to License and Permit Terms and Conditions related to Delta Water Quality objectives for the operations of the CVP and SWP. Specifically, the following changes were conditionally approved for the period of June 1 through August 15:

1. Change the minimum Delta outflow objective (NDOI) in June and July from 4,000 cubic-feet per second (cfs) to 3,000 cfs. June would be measured as a 14-day running average, and July would be measured as a monthly average. The 7-day running average shall be no less than 1,000 cfs below 3,000 cfs;
2. From June 1 through August 15, 2021, change the Western Delta agricultural salinity objective compliance location on the Sacramento River at Emmaton to Threemile Slough on the Sacramento River;
3. From June 1 through August 15, 2021, the combined maximum exports at SWP Banks Pumping Plant and the CVP Jones Pumping Plant, excluding transfers, shall be limited to pumping no greater than 1,500 cfs, as a 3-day running average. Combined exports may be increased above 1,500 cfs when the Petitioners are in full compliance with D-1641 Delta outflow and Sacramento River at Emmaton salinity requirements, but exports other than transfers shall be limited to natural and abandoned flow.

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").

⁷ See Appendix E

⁸ See Appendix F.

⁹https://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/tucp/docs/2021/20210601_swb_tuco.pdf

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.¹⁰ 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 resolution¹¹ 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 significant progress since an initial framework was presented to the State Water Board on December 12, 2018.

On March 1, 2019, the California Department of Water Resources and the Department of Fish and Wildlife submitted documents¹² 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, significant 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

¹⁰ Available at <https://water.ca.gov/-/media/DWR-Website/Web-Pages/Blogs/Voluntary-Settlement-Agreement-Meeting-Materials-Dec-12-2018-DWR-CDFW-CNRA.pdf>.

¹¹ Available at https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2018/rs2018_0059.pdf.

¹² Available at http://resources.ca.gov/docs/voluntary-agreements/2019/Complete_March_1_VA_Submission_to_SWRCB.pdf

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.

Water Blueprint for the San Joaquin Valley Activity

Background

The Water Blueprint for the San Joaquin Valley¹³ (Blueprint) is a broad 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).

The Large Group and committees are pursuing the goals of Blueprint, including outreach, technical support and working in conjunction with other stakeholders.

2021 Strategy & Focus: The Blueprint is discussing the overall focus for 2021, its organizational structure, role with sub basins, project pursuits, fundraising and work with the San Joaquin Valley Water Collaborative Action Partnership (SJVW CAP).

Technical Work & Phase II: SJV Blueprint is engaged with the sub-basins through GSAs and other organizations to discuss the SJV Blueprint: new water sources, new conveyance, expanded beneficial use: groundwater recharge, wetland & riparian habitats and how to make these projects, costs and governance a reality. A scope of work and cost estimate from ESA are being reviewed to develop a path forward for the Blueprint. This would be a detailed plan listing of all permits needed, the approvals, the reports and documents essential to prepare and obtain from the Federal and/or State Agencies for the solutions provided.

The Blueprint has many components, stretching from the Delta to Eastern Tulare County with plans to divert 6-million-acre feet or more to groundwater storage in wet years (double the capacity of Shasta). Consensus is to commence with a related programmatic EIR. Blueprint will keep the Water Commission informed of its progress and has submitted a comment letter that highlighted State grants to construct infrastructure, balanced approach to water resources, low

¹³ <https://www.waterblueprintca.com>

interest loans for farmers unable to farm and focus on inter-regional conveyance and habitat restoration.

The technical committee is working on solution sets to be added to the EIA to illustrate reduced economic impacts. A critical part will be project proponents' evaluation and development of these activities in coordination with the Blueprint. These solution sets will ideally have input and support from the coalition of interest groups formally engaging in the SJV Collaborative Action Program.

SJV Water Collaborative Action Program: Stanford University working in coordination with the Blueprint, Central Valley Community Foundation, Fresno State, NGOs and others are convening to create a collaborative solution to the water issues we face in the SJV.

Facilitator Jim Waldo and team have begun meeting with participants to start framing an inter-caucus Problem Statement; CAP is contemplating near term drought actions and pilot projects in addition to its original mission. Including multi-benefit replenishment projects, strategic land repurposing, infrastructure improvements, ecosystem restoration, data development, well modifications, interconnections/consolidation.

Funding: A \$380,000 budget was approved and a financial prospectus is being circulated, DWR has committed \$49,500, \$30,000 committed from the Heron Foundation, CVCF has committed \$50,000. The Blueprint has committed \$50,000 and the Collaborative will be looking to other stakeholders for the remaining funding needs including possible funds from Reclamation.

The Plenary Group of the San Joaquin Valley Water Collaborative Action Program (SJVWCAP) has held three meetings. The Plenary Group unanimously approved an interim governance structure that includes a Plenary Group, Steering Group, and Planning Group.

- The Plenary Group is a "Big Tent" consensus-oriented decision-making body currently with 70 members.
- The Steering Group organizes the agenda and meeting materials for Plenary Group meetings, a 10-member Group.
- The Planning Group currently has 20 members divided among five caucuses (safe drinking water, environmental NGOs, the agricultural industry, water agencies and local government). The Planning Group approved a Vision Statement and is reviewing draft problem statements by each caucus.

Vision Statement: Success means that all interest groups secure a better future. Building trust among the interest groups will be essential; Trust allows the interest groups to collaborate on creative solutions.

DAC Drinking Water Feasibility Study – FKC : A funding application was submitted by FWA, Fresno State University, Self Help, Sustainable Conservation and Leadership Council to study a five county area within the Millerton Place of Use boundary related to surface water supply,

recharge and drinking water supplies. State Board and DWR staff has been meeting with us regarding the processing of an application.

WaterSmart: The Water Blueprint was selected by Reclamation to present a proposal under the 2021 WaterSmart Water Management Options Pilot (WMOP) Program. An application was submitted on February 17th and focused on increased conjunctive management and groundwater recharge. The Pilot Area is the entire Blueprint Area; however, the focus will be on the areas served by the Friant-Kern Canal and south of Delta facilities. Stantec was engaged to prepare the application. Blueprint has obtained support letters from districts, water agencies, municipalities and elected. Additional results may be available in May.

Water Resiliency Portfolio: A meeting was held with Nancy Vogel to discuss the status of the Governor's Water Resiliency Portfolio and the alignment with Blueprint efforts. This is complementary with the briefings with State and Federal legislators and local elected.

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