



MEMORANDUM

TO: SLDMWA Water Resources Committee Members and Alternates

FROM: Scott Petersen, Water Policy Director

DATE: January 6, 2025

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) Central Valley Regional Water Board Action, (4) San Joaquin River Restoration Program; (5) Delta conveyance; (6) Reclamation action; (7) Delta Stewardship Council action; (8) San Joaquin Valley Water Blueprint, and (9) 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

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

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.

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).

On May 16, 2023, Reclamation provided an administrative draft copy of the Proposed Action, titled “State and Federal Cooperating Agency Draft LTO Alternative” to agencies that have executed an MOU with Reclamation on engagement. Authority staff is reviewing the document and provided feedback to Reclamation, in coordination with member agencies and other CVP contractors.

On June 30, 2023, Reclamation released a draft Qualitative Biological Assessment for review by agencies that have executed an MOU with Reclamation on engagement, though Reclamation is not accepting formal comments. Note that this release does not initiate formal ESA consultation and is being provided to assist the fishery agencies in setting up their documents and resources for the formal consultation, which we expect to begin in late September/early October.

On July 21, 2023, Reclamation released an Administrative Draft Terrestrial Biological Assessment for review by agencies that have an MOU with Reclamation on engagement, though Reclamation is not accepting formal comments. Note that this release does not initiate formal ESA consultation and is being

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

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

provided to assist the fishery agencies in setting up their documents and resources for the formal consultation, which we expect to begin in late September/early October.

On September 15, Reclamation released a Draft Environmental Impact Statement for 30-day NEPA Cooperating Agency review. The SLDMWA coordinated review of the document with member agencies and technical consultants and submitted both high-level and technical comments on the document⁴ on October 16.

On October 10, 2023, Reclamation transmitted an Aquatic species Quantitative Biological Assessment, and on October 18, 2023, Reclamation transmitted a Terrestrial Species Quantitative Biological Assessment to the Services and to consulting agencies pursuant to the WIIN Act.

On June 28, 2024, the U.S. Fish and Wildlife Service released their Draft Biological Opinion for WIIN Act agency review and comment, with comments due on July 29, after a two-week extension was granted by the Service. Authority staff coordinated with member agencies to provide comments on the document⁵.

Additionally, on July 18, NOAA Fisheries released an incomplete draft Biological Opinion for WIIN Act agency review and comment, and subsequently released the Effects Analysis sections of the BiOp on July 25, 2024. Comments on the draft Biological Opinion were due on August 12, 2024, and Authority staff coordinated with member agencies to provide comments⁶. Additionally, members of the California Congressional delegation requested⁷ an extension of the public comment period and NOAA Fisheries provided a response to the Congressional request⁸.

Next, on July 26, 2024, Reclamation released the Draft EIS on the LTO for a 45-day public review and comment period. The comment period closed on September 9 and the Water Authority coordinated comments in response with member agencies⁹.

The Fish and Wildlife Service and NOAA Fisheries released their draft Incidental Take Statements for review by WIIN Act coordinating entities on September 26th. The Water Authority and some members provided comments¹⁰ on the draft FWS ITS on September 30 and submitted comments¹¹ on the draft NOAA Fisheries ITS on October 4th.

⁴ Request from Authority staff.

⁵ Request from Authority staff.

⁶ Request from Authority staff.

⁷ Request from Authority staff.

⁸ Request from Authority staff.

⁹ Request from Authority staff.

¹⁰ Request from Authority staff.

¹¹ Request from Authority staff.

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Finally, in December, Reclamation executed the Record of Decision and both the Fish and Wildlife Service and NOAA Fisheries issued their Final Biological Opinions, beginning operations under the new operations regime.

Current Milestones

- Early 2025: Trinity Cooperating Agency Draft EIS/Draft Biological Assessment
- Spring 2025: Trinity Public Draft EIS
- Late 2025: Trinity Biological Opinion, Final NEPA and ROD

Note: There are also Endangered Species Act consultations on the Trinity River and Klamath River that may have overlap/interactions with the consultation for the CVP/SWP.

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").

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.¹² 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 – San Joaquin River and its Tributaries

The State Water Board adopted a resolution¹³ 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)¹⁴ and California Environmental Quality Act (CEQA) Scoping Meeting for the Proposed Regulation to

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

¹³ Available at https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2018/rs2018_0059.pdf.

¹⁴ Available at https://www.waterboards.ca.gov/public_notices/notices/20220715-implementation-nop-and-scoping-dwr-baydelta.pdf

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 included in the draft EIR.

In response to the release of the NOP, the Water Authority and member agencies provided scoping comments¹⁵.

Phase 2 Status – Sacramento River and its Tributaries and Bay-Delta

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.

On March 1, 2019, the California Department of Water Resources and the Department of Fish and Wildlife submitted documents¹⁶ 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.

¹⁵ Request from Authority staff

¹⁶ Available at http://resources.ca.gov/docs/voluntary-agreements/2019/Complete_March_1_VA_Submission_to_SWRCB.pdf

Phase 2 Draft Staff Report

On September 28, the State Water Resources Control Board released a draft Staff Report in support of possible updates to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Plan) that are focused on the Sacramento River watershed, Delta, and Delta eastside tributaries (Sacramento/Delta).

The draft Staff Report includes scientific information and environmental and economic evaluations to support possible Sacramento/Delta updates to the Bay-Delta Plan. The report assesses a range of alternatives for updating the Sacramento/Delta portions of the Bay-Delta Plan, including: an alternative based on a 2018 Framework document identifying a 55% of unimpaired flow level (within an adaptive range from 45-65%) from Sacramento/Delta tributaries and associated Delta outflows; and a proposed voluntary agreements alternative that includes voluntary water contributions and physical habitat restoration on major tributaries to the Delta and in the Delta. In addition, based on input from California Native American tribes, the draft Staff Report identifies the proposed addition of tribal and subsistence fishing beneficial uses to the Bay-Delta Plan.

The draft Staff Report is available for review on the [Board's website](#). The Authority coordinated and submitted comments with member agencies¹⁷.

Program of Implementation

On Oct. 25, the State Water Resources Control Board released a draft of potential updates for the Sacramento/Delta portions of the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed (Bay-Delta Plan). The draft changes include options for incorporating a regulatory pathway, which features tributary inflow and cold water habitat provisions and inflow-based Delta outflows, or a pathway based on the Healthy Rivers and Landscapes Program, formerly referred to as the Voluntary Agreements. Additionally, the draft updates include options for two modular alternatives (Alternatives 5a and 6a) that were described in the State Water Board's 2023 draft staff report.

The State Water Board has not yet selected a pathway for updating the Sacramento/Delta portions of the Bay-Delta Plan. State Water Board staff will develop a revised draft of proposed updates based on comments on this draft.

The State Water Board held multiday workshops, with dates scheduled in November, December, and January, to discuss the draft changes. Written comments on the draft updates are due to the State Water Board by January 10.

Schedule

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

- Winter 2024/Spring 2025
 - Final draft Staff Report for Tuolumne River VA
 - Board workshop and consideration of Tuolumne River VA

¹⁷ Request from Authority staff.

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- 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 2025: Response to comments and development of proposed final changes to the Bay-Delta Plan
- Summer 2025: Board consideration of adoption

Healthy Rivers and Landscapes Program

On March 29, 2022, members of the Newsom Administration joined federal and local water leaders in announcing the signing of a memorandum of understanding¹⁸ that advances integrated efforts to improve ecosystem and fisheries health within the Sacramento-San Joaquin Bay-Delta. State and federal agencies also announced an agreement¹⁹ specifically with the Sacramento River Settlement Contractors on an approach for 2022 water operations on the Sacramento River.

The HRL parties continue to meet to advance various components of the HRL Program for State Board consideration as it considers the updates to the Bay-Delta Water Quality Control Plan.

Central Valley Regional Water Quality Control Board

Opportunity to Comment and Public Workshop for the Nitrate Control Program Priority 2 Preliminary Management Zone Proposals and Early Action Plans

The Central Valley Regional Water Quality Control Board (Central Valley Water Board or Board) will accept comments regarding the Preliminary Management Zone Proposals (PMZPs) (which include Drinking Water Early Action Plans (EAPs)) submitted on behalf of the Priority 2 Groundwater Subbasins by the Management Zones listed in the table below for the Central Valley Water Board Nitrate Control Program.

Management Zone	Priority 2 Groundwater Subbasin(s)
Kern Water Collaborative	Kern (Poso) Kern (Westside South)
Kings Water Alliance	Tulare Lake
Valley Water Collaborative	Delta-Mendota Eastern San Joaquin Madera Merced Yolo

¹⁸ Available at <https://resources.ca.gov/-/media/CNRA-Website/Files/NewsRoom/Voluntary-Agreement-Package-March-29-2022.pdf>

¹⁹ 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/>

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Additionally, on Friday, 31 January 2025, from 9:00 a.m. to 12:00 p.m., Board staff will hold a virtual public workshop to provide information on, receive comments for, and discuss the Priority 2 Management Zone PMZPs and EAPs. Please see below for additional details on this workshop and how to participate.

On 30 December 2024, these three Management Zones submitted PMZPs (including associated EAPs) to the Central Valley Water Board. The PMZPs are preliminary proposed plans that contain the Management Zone participants' roadmap for addressing nitrates in their discharges and in groundwater, as well as providing short- and long-term drinking water solutions. The EAPs included in the PMZPs contain proposals for providing interim replacement drinking water to people drinking water from wells that have been polluted by nitrates. Implementation of the EAPs is scheduled to begin February 26, 2025.

The Priority 2 Preliminary Management Zone Proposals (including associated Early Action Plans) are posted on the Board's website at: (https://www.waterboards.ca.gov/centralvalley/water_issues/salinity/nitrate_mz/)

The Board is inviting the public, stakeholders, and representatives of other agencies to submit written comments on the PMZPs and EAPs from December 30, 2024 through January 27, 2025. Written comments must be submitted to the above email or postal address by January 27, 2025

San Joaquin River Restoration Program

Draft Supplemental EA for Arroyo Canal Fish Screen and Sack Dam Fish Passage Project
The San Joaquin River Restoration Program (SJRRP) Office of the Bureau of Reclamation has released for public review and comment the Draft Supplemental Environmental Assessment (SEA) for the Arroyo Canal Fish Screen and Sack Dam Fish Passage Project (Project). The proposed action, as authorized by Part III of Title X, Subtitle A of Public Law 111-11, would build a fish screen and a fish passage facility at the Arroyo Canal/Sack Dam facility located on the mainstem of the San Joaquin River near the town of Dos Palos.

In 2013, the U.S. Bureau of Reclamation (Reclamation), as the federal lead agency, and Henry Miller Reclamation District #2131 (HMRD), as the state lead agency, prepared the Arroyo Canal Fish Screen and Sack Dam Fish Passage Project (Project) Environmental Assessment/Initial Study (2013 EA/IS) to analyze and disclose the anticipated environmental impacts of the proposed Project. However, as the Project neared 100 percent design, surveys revealed a significantly higher rate of regional land subsidence than anticipated at Sack Dam, and environmental compliance documentation efforts were paused to allow for design efforts to consider this new information. Since 2013, Reclamation has evaluated several design alternatives that have been eliminated from further consideration for a variety of technical reasons. Reclamation now has sufficient information to analyze the effects of a feasible design alternative for the Project and is therefore preparing environmental compliance documentation as needed to supplement the previous analyses.

Reclamation is preparing this SEA to analyze and disclose any potential impacts to the human environment of the design refinements to the Project beyond those that were analyzed and disclosed in the 2013 EA/IS.

The document is available for public review online at: https://www.usbr.gov/mp/nepa/nepa_project_details.php?Project_ID=55520

Written comments are due by close of business on January 27, 2025, to Becky Victorine, Bureau of Reclamation, 2800 Cottage Way, MP-170, Sacramento, CA 95825. Comments may also be faxed to 916-978-5469 or emailed to rvictorine@usbr.gov.

Delta Conveyance Project

Petition for Change of Point of Diversion and Rediversion for the Delta Conveyance Project
On February 22, 2024, the State Water Resources Control Board (Board) received a Petition for Change from the Department of Water Resources (DWR) to add two new points of diversion (POD) and rediversion (PORD) to the water right permits associated with the State Water Project. Specifically, the petition seeks to change Water Right Permits 16478, 16479, 16481, and 16482 (Applications 5630, 14443, 14445A, and 17512, respectively). The proposed new PODs/PORDs would consist of screened intakes 2.3 miles apart located on the lower Sacramento River between Freeport and Sutter Slough. The proposed new intakes are part of the Delta Conveyance Project, which would allow DWR to divert water from the northern Sacramento-San Joaquin Delta Estuary (Delta) and convey the water through a tunnel to existing water distribution facilities in the southern Delta.

This petition is available on the DWR website at: https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Delta-Conveyance/Public-Information/Revised_DCP_CPOD_Petition_Package_2024.pdf

Protests against the change petition must have been filed by May 13, 2024, with a copy provided to the petitioner. SLDMWA entered into a Settlement Agreement²⁰ with DWR on the project.

The State Water Resources Control Board (State Water Board or Board) Administrative Hearings Office will hold a public hearing about the Delta Conveyance Project beginning on **January 16, 2025**. The hearing will address the water right change petitions filed by the Department of Water Resources to add two new points of diversion and rediversion to the water rights associated with the State Water Project, Permits 16478, 16479, 16481, and 16482 (Applications 5630, 14443, 14445A, and 17512, respectively).

The purpose of the hearing is to gather evidence to determine whether to approve these petitions and, if so, what specific terms and conditions, if any, should be included in the amended permits for the State Water Project. The Administrative Hearings Office held a pre-hearing conference on **August 13, 2024**, after which the AHO's Presiding Officer Nicole Kuenzi vacated the September 5 deadline to submit written comments on hearing issues and the November 4 deadline for all parties to file initial notices of intent to appear at the hearings.

²⁰ Request from Authority staff.

HEARING SCHEDULE AND DEADLINES

Deadlines / Schedule	Date and Time
Deadline to file optional pre-hearing conference statements.	August 9, 2024
Initial Pre-Hearing Conference.	August 13, 2024, at 9:00 a.m.
Deadline to submit written comments on hearing issues.	September 5, 2024
Second Pre-Hearing Conference.	October 17, 2024, at 9:00 a.m.
Deadline for all parties to file initial NOIs, including witness lists, and deadline for any interested person who intends to give a policy statement to file an NOI.	November 4, 2024
Deadline for parties to file case-in-chief exhibits, exhibit identification indices, and proposed permit terms.	December 4, 2024
Third Pre-Hearing Conference	December 16, 2024, at 9:00 a.m.
Hearing begins with policy statements.	January 16, 2025, at 9:00 a.m.
Evidentiary portion of hearing begins.	January 30, 2025, at 9:00 a.m.

Community Benefits Program Implementation Plan and Guidelines Public Review

The Department of Water Resources has released a [Discussion Draft Implementation Plan and Guidelines](#) for the Delta Conveyance Project's Community Benefits Program (CBP). The implementation plan provides more detail about how the CBP could be implemented and is available for review through March 1, 2025.

The Discussion Draft Implementation Plan and Guidelines and an accompanying feedback form can be found online [here](#).

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

- [ENV 08-01 Sustainable Construction, Renovation, Operations, and Leasing of Bureau of Reclamation Building Assets](#) (comments due 11/28/24)
- [CMP 09-04 Planning for Major Rehabilitation and Replacement of Existing Assets](#) (comments due 11/30/24)

Draft Facilities Instructions, Standards, and Techniques (FIST)

- There are currently no 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

The Water Blueprint for the San Joaquin Valley (Blueprint) is a non-profit group of stakeholders, working to better understand our shared goals for water solutions that support environmental stewardship with the needs of communities and industries throughout the San Joaquin Valley.

Blueprint's strategic priorities for 2022-2025: Advocacy, Groundwater Quality and Disadvantaged Communities, Land Use Changes & Environmental Planning, Outreach & Communications, SGMA Implementation, Water Supply Goals, Governance, Operations & Finance.

Mission Statement: *"Unifying the San Joaquin Valley's voice to advance an accessible, reliable solution for a balanced water future for all."*

Committees

Executive/Budget/Personnel

Blueprint contribution requests have been circulated and Board members will be following up with participants.

Education and Communications

The Blueprint was able to provide the Keynote at ACWA on 12/4/24, it highlighted the recent and ongoing efforts, including Fall X2, Bay Delta Water Quality Control Plan and Long-Term Operations of the CVP. The Blueprint is working on a draft letter express support for selecting the Healthy Rivers and Landscapes Program as the pathway to amending the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed.

The Blueprint is continuing to evaluate RFPs from advocacy experts for key elected and appointed education and outreach on the Blueprint's strategic priorities.

Activities

Unified Water Plan for the San Joaquin Valley

The Water Blueprint for the San Joaquin Valley Education Fund and the California Water Institute - Research and Education Division are working together to develop a Unified Water Plan for the San Joaquin Valley. Presentations and outreach are currently focused on Merced County and Madera County after successful presentations in Tulare, Kings and Fresno Counties. This two-year project will culminate in the publication of a report to be submitted to Congress.

CVP and SWP Water Supply Restrictions Strategic Plan²¹

The Hallmark Group developed a strategic plan and an implementation approach for review and approval by the Board. The Hallmark Group Contract for Strategic Advisory Services was approved for work completed from March 1, 2024, through on August 31, 2024. That contract was set at for a monthly retainer for 6 months. Hallmark billed against that retainer through the end of July 31. After the Strategic Plan was approved by the Blueprint Board, Hallmark provided a reduced level of effort while waiting for

²¹ Request from Authority staff

direction on the Implementation Plan. On a going forward basis Hallmark, starting September 1st, will continue on a time and materials for advisory services as needed through the end of the year.

The Board continues to express the importance of outreach to the public and state and federal officials specifically related to the efficacy of proposed regulations, water supply reductions, environmental and socio-economic impacts in the SJV. The objective is protecting the operational flexibility restored by 2019 biological opinions and 2020 record of decision for coordinated operations of the Central Valley Project and State Water Project, which restored approximately 300,000 acre-feet to the average south-of-Delta delivery capability of the projects, and to expand operational flexibility for the CVP and SWP. The plan is organized into four principal topics: (1) objectives; (2) obstacles to achieving objectives; (3) means of overcoming obstacles; and (4) time frame.

Urban Water Agency Partnerships

Consistent with the Groundwater Storage Investigation MOU that was signed in May, Metropolitan Water District, Stantec and the Blueprint have an agreed-upon final draft scope. Stantec is preparing a budget for approval to address the mutual analysis of groundwater storage and conveyance opportunities in the Central Valley. An investigation management committee is being established that will include directors from MET and the Blueprint to provide oversight and direction on the work. Additionally, Valley Water has expressed an interest in joining and coordinating with the Blueprint on this investigation, a copy of the final scope has been shared for discussion.

Farmer to Farmer – Great Valley Farm Water Partnership

The delegates have agreed to focus on sediment remediation (dredging), given the current political dynamics, climate, and efforts already in motion. Their goals are action-oriented; the first one is to remove the excess sedimentation that has negatively impacted the ecosystem, drinking water quality, and water supply operations by obtaining the necessary permits and funding to fully restore the channels in the South Delta and the Clifton Court Forebay.

San Joaquin Valley Water Collaborative Action Program (SJVW CAP)

Background

The CAP Plenary Group adopted work groups to implement the CAP Term Sheet²², adopted on November 22, 2022. During Phase II, Work Groups are continuing to meet and discuss priorities and drafting various documents for their respective areas: Safe Drinking Water; Sustainable Water Supplies; Ecosystem Health; Land Use, Demand Reduction and Land Repurposing; Implementation.

The Plenary group met on November 18-19 to continue discussions around what the next phase of the CAP would entail, discussions are ongoing associated with potential work products.

²² Request from Authority staff

APPENDIX A

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VI.

December 16, 2024

Sent by email: Jazzy.Graham-Davis@waterboards.ca.gov and SF-Bay-Dredging@usace.army.mil

Jazzy Graham-Davis
San Francisco Bay Regional Water Quality Control Board office
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: Draft Environmental Assessment/Environmental Impact Report San Francisco Bay Federal Channels Operation and Maintenance Dredging and Sediment Placement Activities, Dredging Years 2025 - 2034

The State Water Contractors (SWC) and San Luis & Delta-Mendota Water Authority (SLDMWA) submit these comments regarding the Draft Environmental Assessment/Environmental Impact Report (Draft EA/EIS) for the San Francisco Bay Federal Channels Operation and Maintenance Dredging and Sediment Placement Activities, Dredging Years 2025–2034. This report was jointly prepared by the U.S. Army Corps of Engineers (USACE) and the San Francisco Bay Regional Water Quality Control Board (Regional Water Board). As outlined in the Draft EA/EIS, USACE proposes to continue the maintenance dredging of federal navigation channels in San Francisco Bay to ensure their navigability.

SWC represents 27 of the 29 Public Water Agencies (PWAs) that hold contracts with the California Department of Water Resources (DWR) for participation in the State Water Project (SWP). Together, these agencies supply water to approximately 27 million Californians—about two-thirds of the state's population—and irrigate over 750,000 acres of agricultural land. SWC members provide water to consumers throughout the San Francisco Bay Area, the San Joaquin Valley, the Central Coast, and Southern California. The SWP's water supply delivered through the Delta is a critical source for most SWC members.

SLDMWA represents 27 member agencies, most of which hold contracts with the U.S. Bureau of Reclamation for water from the Central Valley Project (CVP), and which depend on CVP water as the principal source of water they provide to users within their service areas. That water supply serves approximately 1.2 million acres of agricultural lands within the San Joaquin, Santa Clara, and San Benito Valleys, a portion of the water supply for nearly 2 million people in the Silicon Valley, and millions of waterfowl that depend upon nearly 200,000 acres of managed wetlands and other critical habitat within the largest contiguous wetland in the western United States.

Given the SWP and CVP's reliance on water from the Sacramento-San Joaquin Delta and its water quality obligations in the Delta, SWC and SLDMWA have a strong interest in issues affecting both the quantity and quality of water supplies in the Bay-Delta. The proposed dredging will cover areas

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Jazzy Graham-Davis

San Francisco Bay Regional Water Quality Control Board office

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from San Francisco Bay to Suisun Bay. The Draft EA/EIS does not sufficiently evaluate potential water quality and water supply impacts of the proposed dredging. Section 3.7.4.1 of the Draft EA/EIS references studies conducted by USACE in 1976, 1977, and 1990, which suggest that salinity impacts from dredging would be localized and short-lived. However, given advances in water quality and hydrodynamic modeling technology, there is potential to better assess the magnitude and duration of these impacts, which have the potential to directly impact water supplies for the SWP, CVP, and other Delta users. These models in conjunction with water supply modeling could help determine the water quality changes from dredging and the short-term and long-term effects on salinity resulting from channel deepening. Since the D1641 Bay-Delta water quality standards require the SWP and CVP to release flows to manage salinity in the Delta, even short-lived salinity shifts to the X2 position could impact SWP and CVP operations. Additionally, the proposal to deepen dredging depths at Richmond Harbor and Napa River may increase salinity intrusion and alter the X2 position, further impacting SWP and CVP operations and water supply. We recommend that readily available and commonly used hydrodynamic modeling be conducted to evaluate potential effects on X2 and suggest appropriate mitigation or avoidance measures.

We appreciate the Draft EA/EIS's protective measures for longfin smelt and delta smelt. Further optimization of these measures could be achieved through hydrodynamic modeling that accounts for flow and water quality conditions. This would help identify the best timing and hydrologic conditions for dredging to minimize harm to these species and SWP and CVP operations.

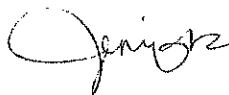
SWC and SLDMWA support the increased beneficial use of dredged material (BUDM) and innovative applications, particularly in the context of anticipated sea-level rise. Although Alternatives 3 and 4 were not selected due to their higher costs related to increased BUDM placement at beneficial sites, the Draft EA/EIS mentions that cost-share partners will be considered to offset these costs in the future. We encourage USACE to seek partnerships with organizations focused on wetland and upland restoration, which could help mitigate these costs.

Finally, the Draft EA/EIS does not address any evaluations or measures to reduce sediment accumulation in San Francisco Bay and the Sacramento-San Joaquin Delta. The USACE State Plan of Flood Control has altered the natural processes of rivers and floodplains that feed into the Delta. We suggest evaluating levee setbacks and floodplain bypass projects as nature-based solutions to reduce the frequency and volume of dredging. These multi-benefit projects could provide flood protection, create floodplain habitat, and attract cost-share partners, much like BUDM placement.

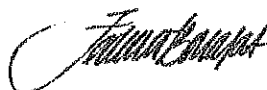
We appreciate the opportunity to review the Draft EA/EIS. We understand the importance of maintaining navigational pathways in the San Francisco Bay and Sacramento-San Joaquin Delta, and as noted, SWC and SLDMWA have a vested interest in these areas. We welcome further discussion on these matters.

If you have any questions or need further coordination, please reach out to Mr. Manny Bahia at mbahia@swc.org or Mr. Scott Petersen at scott.petersen@sldmwa.org.

Sincerely,



Jennifer Pierre
General Manager
State Water Contractors



Federico Barajas
Executive Director
San Luis & Delta-Mendota Water Authority

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Association of California Water Agencies (ACWA)

2024 WRDA Summary

On December 18th the U.S. Senate passed H.R. 4367, the Thomas R. Carper Water Resources Development Act of 2024 by a vote of 97-1. The bill passed the U.S. House of Representatives on December 10th with a vote of 399-18. ACWA has been a strong advocate for WRDA and led a coalition letter focusing on expanding water supply opportunities at Army Corps of Engineer facilities.

WRDA is a critical bill authorizing water infrastructure projects overseen by the U.S. Army Corps of Engineers. H.R. 4367 authorizes billions of dollars in funding for projects including 83 projects in California and contains numerous policy provisions aimed at expanding Army Corps efforts in relation to water supply. Sections of interest to ACWA members include:

Title I - Subtitle B--Grace F. Napolitano Priority for Water Supply, Water Conservation, and Drought Resiliency Act of 2024. Subtitle B was championed by Congresswoman Napolitano and includes the following provisions:

- **Sec. 1161. Declaration of policy.**
Declares that it is the policy of the Corps to prioritize opportunities for water supply, water conservation, and drought resiliency within the operations of Corps projects. This is a modified version of the House passed version of WRDA which would have made water supply one of the core missions of the Army Corps. While the conference language is not as strong as the House passed language it is a improvement over the status quo and will benefit water managers.
- **Sec. 1162. Forecast-informed reservoir operations.**
Directs the Army Corps to incorporate FIRO considerations into updates of water control manuals at projects owned and operated by the Corps. Requires the Army Corps to issue guidelines for implementing FIRO. Directs the Army Corps to include a FIRO assessment of each reservoir located in the South Pacific Division (which includes CA, NV, UT, AZ, NM, and portions of CO).
- **Sec. 1163. Updates to certain water control manuals.**
Amends section 8109 of WRDA 2022 which authorized the Crops to update water control manuals at the request of the governor in a State where a statewide drought disaster was declared. The amendment allows the Corps to include a consideration of FIRO into the water control manual update.

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- Sec. 1164. Emergency drought operations pilot program.
Allows the Army Corps to establish a pilot program for emergency drought operations for projects in California, Nevada and Arizona. Under the pilot program the Army Corps, in coordination with the non-federal project partners, is authorized to operate covered projects with water supply as the primary project purpose during drought a emergency.
- Sec. 1165. Leveraging Federal infrastructure for increased water supply.
Authorizes the Army Corps to accept funds from non-federal partners to formulate, review, or revise operational documents at federal reservoir projects.

Title II – Studies and Reports

- Sec. 1201 Authorizes the Army Corps to conduct new feasibility study reports for 162 projects including 16 projects in California.
- Sec. 1202 Authorizes the Army Corps to conduct feasibility study for 40 project modifications including 4 projects in CA.
- Sec. 1203 / Sec. 1204 Authorizes the expedited completion of 12 projects in CA. (See bill text for specific project information about projects in Sec. 1201-1204)
- Sec. 1235 Directs the Army Corps to conduct a study and submit a report to congress on efforts to eradicate invasive species.
- Sec. 1237 Directs the Army Corps to conduct a study examining methods to reduce the release of microplastics into the environment.
- Sec. 1240 – Levee Safety Guidelines – Directs the Army Corps to report to congress on levee safety guidelines. The report will include an assessment of their effectiveness and recommendations to improve the guidelines.
- Sec. 1242 – Directs the Army Corps to examine and report on the effectiveness of alternative project delivery methods.
- Sec. 1243 – Cooperation Authority – Authorizes the use of cooperation authority by the Army Corps. Provision is aimed at expanding partnerships between federal and non-federal interests.

Title III – Deauthorizations

- Deauthorizes numerous projects including two projects in California.

- Sec. 1304 Environmental Infrastructure – Authorizes funding for environmental infrastructure projects including 47 projects in California. (See bill text for project specifics).
- Sec. 1305 – Environmental Infrastructure Pilot Program – Establishes a pilot program that increases the allowed federal cost share of projects to 90 percent for projects in economically disadvantaged communities. (Pilot program costs are capped at no more than \$10 million annually).
- Sec. 1306 – Conveyances – Authorizes land conveyances under certain conditions. Includes authorization to convey land around two California water infrastructure projects.
- Sec. 1310 and Sec. 1311 authorizes modifications for two projects in California (San Francisco Bay and Santa Ana River Mainstem).
- Sec. 1361 – Expense for Aquatic Plant Growth and Invasive Species – reduces non-federal cost share from 50% to 35%.

Title IV – Water Resources Infrastructure – Authorizes 21 projects across the nation including a project in California. (See bill text for specific project information)

Division B – Other Matters

Title II Subtitle A. Economic Development Reauthorization Act of 2024 (Sec. 2211-2247)

The Economic Development Reauthorization Act of 2024 was not a part of either the House or Senate versions of WRDA. This section is based on S. 3891, a bill introduced by Senate EPW Chairman Carper. The bill and this section authorize appropriations for the Economic Development Administration through 2029.

*Please note this is not an exhaustive summary of WRDA 2024 it is merely a summary focusing on areas of interest to ACWA members. If you would like additional information on WRDA that is not included in this summary, please feel free to contact ACWA's Federal Relations team.

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January 10, 2025

State Water Resources Control Board
Division of Water Rights
Attn: Bay-Delta & Hearings Branch
P.O. Box 100
Sacramento, CA 95812-2000

Email: SacDeltaComments@waterboards.ca.gov

Re: Comment Letter – Proposed Amendments to the Bay-Delta Plan

Dear Chair Esquivel and State Water Board Members:

The San Luis & Delta-Mendota Water Authority (“Water Authority”) and its member agencies Westlands Water District, Del Puerto Water District, San Luis Water District, Santa Clara Valley Water District, and San Joaquin River Exchange Contractors Water Authority (together, “the Water Authority and Member Agencies”)¹ appreciate the opportunity to provide comments to the State Water Resources Control Board (“State Water Board”) in response to its draft updates (“Proposed Amendments”) to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (“Bay-Delta Plan”). The Central Valley Project (“CVP”) is the principal source of surface water supply for the Member Agencies and the communities and ecosystems they serve. The reasonable protection of beneficial uses of water through the provisions of the Bay-Delta Plan, and the associated impacts on CVP operations, is of vital importance and interest to the Water Authority and its Member Agencies.²

The State Water Board has explained the Proposed Amendments are intended for the protection of fish and wildlife beneficial uses. The Proposed Amendments include new water quality objectives. These include the new Sacramento/Delta Tributary Inflow, Cold-Water Habitat,

¹ See Attachment 1 for a description of the Water Authority and Member Agencies.

² On January 19, 2024, the Water Authority and Member Agencies provided comments regarding the related Draft Staff Report regarding potential revisions to the Bay-Delta Plan. We incorporate herein by reference our comments on the Draft Staff Report.

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Comment Letter – Proposed Amendments to the Bay-Delta Plan
San Luis & Delta-Mendota Water Authority and Member Agencies
January 10, 2025

Delta Outflow, and Interior Delta water quality objectives in Table 3. The Proposed Amendments also include revisions to the program of implementation to achieve those new objectives. The Proposed Amendments generally refer to this set of new objectives and related implementation provisions as the “regulatory pathway,” however, it is also commonly referred to as the “unimpaired flow” (“UIF”) approach because it includes proposed changes to require that a significant percentage of unimpaired flow remain instream.

There is broad-based and deep concern across the Bay-Delta watershed, and areas of California that rely on water imported from the watershed, about the impact that the UIF approach would have on other beneficial uses of water. Under the UIF approach, significant existing supplies of water would be declared unavailable for future use, with resulting unavailability for the communities, farms and businesses that have built reliance on those existing supplies. In response, and through great effort, multiple state, federal, and local agencies have cooperatively developed and jointly proposed the Healthy Rivers and Landscapes Program (“HRL Program”) as an alternative to the UIF approach for amending the Bay-Delta Plan. The Water Authority and Member Agencies are among the agencies proposing and supporting the HRL Program, even though it will carry a significant cost for them. That cost will be felt through reductions in CVP exports as well as substantial financial contributions, which will be used for water purchases, habitat improvements, and developing improved scientific understanding of issues impacting fish and wildlife in the Bay-Delta ecosystem.

The HRL Program would enhance protections for fish and wildlife beneficial uses, but would do so in a different manner than the UIF approach. The HRL Program includes a new water quality objective relating to viability of native fish, as well as Implementation Agreements, Enforcement Agreements, a Governance Program, a Science Program, a Strategic Plan, and a Funding Plan. The HRL Program includes specific flow commitments for each tributary, paired with non-flow habitat restoration actions and monitoring and assessment protocols that create a robust adaptive management program. It is proposed as an alternative to the UIF approach, and participants in the HRL Program would not be subject to the UIF approach. Instead, the UIF approach would apply to those diverters who do not participate in the HRL Program or do not follow through on their commitments under the HRL Program.

The HRL Program is the more efficient and effective approach to amending the Bay-Delta Plan, and it is the alternative that uses California’s water resources for the maximum public benefit. While the HRL Program would reduce water availability for existing non-fish and wildlife beneficial uses, this would be better than the severe disruptions to California’s water supplies – and years of legal uncertainty – that would result from the new inflow, outflow, and cold water habitat requirements in the UIF approach. And the HRL Program will result in enhanced protection for fish and wildlife uses much more quickly than the UIF approach, as many of the suite of habitat improvements and flow commitments embodied in the HRL Program can be implemented immediately. Conversely, the UIF approach would be a much slower path, as evidenced by delays in implementing the unimpaired flow objectives for tributaries to the San Joaquin River that were adopted in 2018. There are still major questions that must be addressed before the Tributary Inflow and Cold-Water Habitat objectives can be implemented through the UIF approach, which will lead

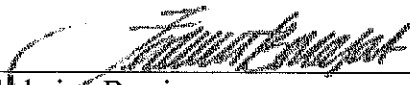
Comment Letter – Proposed Amendments to the Bay-Delta Plan
San Luis & Delta-Mendota Water Authority and Member Agencies
January 10, 2025

to years of uncertainty for water users and delays in providing additional protection to fish and wildlife.

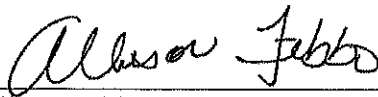
The Water Authority and Member Agencies appreciate the State Water Board's consideration of the HRL Program. In the Proposed Amendments, the State Water Board has sought to include elements of the HRL Program for potential adoption as an alternative to application of the UIF approach, which it calls the "VA Pathway". However, the State Water Board has done so in a way that is not consistent with the HRL Program. The State Water Board has not included the Supported Amendments³ to the Bay-Delta Plan that are a key element of the HRL Program. Instead, State Water Board staff has prepared an alternative program for implementation, one that materially differs from the Supported Amendments. Examples of these material differences include potential omission of a new water quality objective (referred to as the "Narrative Viability Objective") and the final Healthy Rivers and Landscapes Science Plan ("Science Plan"), which are important parts of the HRL Program. Further, staff has proposed modifications to key implementation measures that de-value the HRL Program, such as the inclusion of provisions that allow for premature termination and that create new review and approval requirements. As a result, what is included in the Proposed Amendments is not the HRL Program, as proposed in the March 2022 MOU. If the State Water Board opts to include the HRL Program, the Proposed Amendments should be modified to accurately reflect the HRL Program.

The HRL Program offers a promising path forward for improved protection of fish and wildlife beneficial uses while also reasonably protecting other beneficial uses. Additional, specific comments regarding the Proposed Amendments are included in Attachment 2. These additional, specific comments both expand on the comments in this cover letter, and offer additional reasons why the UIF approach is legally incorrect and requires significant revisions. We thank you for your consideration of these comments.

Sincerely,



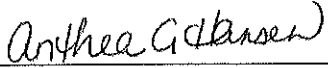
Federico Barajas
Executive Director
San Luis & Delta-Mendota Water Authority



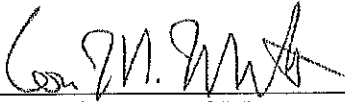
Allison Febbo, General Manager
Westlands Water District

³ See Section 2 of Attachment 2 to this letter for definition and description of "Supported Amendments".

Comment Letter – Proposed Amendments to the Bay-Delta Plan
San Luis & Delta-Mendota Water Authority and Member Agencies
January 10, 2025



Anthea Hansen, General Manager
Del Puerto Water District

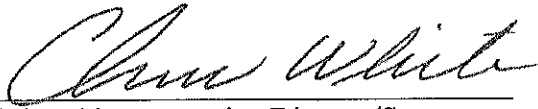


Lon Martin, General Manager
San Luis Water District

DocuSigned by:



0257272DB36A4DC...
Aaron Baker, P.E.
Chief Operating Officer, Water Utility Enterprise
Santa Clara Valley Water District



Chris White, Executive Director/Secretary
San Joaquin River Exchange Contractors
Water Authority

Attachment 1: Description of Water Authority and Member Agencies
Attachment 2: Detailed Comments on the Draft Bay-Delta Plan Update

Attachment 1
(Description of Water Authority and Member Agencies)

The Water Authority is a public agency with its principal office located in Los Banos, California. It was formed in 1992 as a joint powers authority and has twenty-seven member agencies. Twenty-five of the Water Authority's member agencies contract with the United States for the delivery of water from the federal CVP. Most of the Water Authority's member agencies depend upon the CVP as the principal source of water they provide to users within their service areas. That water supply serves approximately 1.2 million acres of agricultural lands within areas of San Joaquin, Stanislaus, Merced, Fresno, Kings, San Benito, and Santa Clara Counties, a portion of the water supply for nearly 2 million people, including in urban areas within Santa Clara County referred to as the "Silicon Valley," and millions of waterfowl that depend upon nearly 200,000 acres of managed wetlands and other critical habitat within the largest contiguous wetland in the western United States. The operations of the CVP are therefore of vital interest and importance to the Water Authority, its member agencies, and the people, farms, businesses, communities, and wildlife refuges they serve. As a result of their functions and responsibilities, the Water Authority and its member agencies have special expertise regarding many of the environmental issues related to the Bay-Delta Plan Update.

Westlands Water District is a California water district formed pursuant to California Water Code sections 34000 et seq. Westlands' principal office is in Fresno, California. Westlands' service area is in western Fresno and Kings counties and encompasses approximately 614,000 acres that include some of the most highly productive agricultural lands in the world. Growers in Westlands produce more than 60 high-quality food and fiber crops, including almonds, pistachios, tomatoes, cotton, grapes, melons, wheat, lettuce, and onions. Farms in Westlands produce an average of more than \$2 billion worth of food and fiber annually, generating more than twice that in farm-related economic activity, and contribute significantly to nine of the State of California's top fifteen exported agricultural commodities. Westlands provides water primarily for irrigation, but also provides water for some municipal and industrial uses, including for use by disadvantaged communities, and to Naval Air Station Lemoore. To provide water in its service area, Westlands has contracted with the United States Bureau of Reclamation ("Reclamation") to receive water from the CVP. Westlands has contractual entitlements to approximately 1,195,000 acre-feet of CVP water per year. The contractual rights to CVP water that is delivered to areas within Westlands are held by Westlands, as well as two distribution districts formed by Westlands. Due to regulatory restrictions, hydrologic conditions, and Reclamation's operation of the CVP, south-of-Delta CVP agricultural water service and repayment contractors like Westlands in the past 25 years have rarely received a 100 percent allocation of their contractual entitlement to CVP water. Over the last 15 years Westlands' allocations have averaged approximately 36% of full entitlement.

The Del Puerto Water District is a California special district formed under the provisions of Division 13 of the Water Code of the State of California. The approximately 45,000 acres of irrigable District lands are located along the west side of Stanislaus, San Joaquin and Merced Counties. The District is under contract with the Bureau of Reclamation for its water supply, which is delivered from the Delta-Mendota Canal, a feature of the Central Valley Project. The District was originally organized on March 24, 1947 to contract for and administer delivery of water

supplies to landowners within the geographical boundaries of the District. On March 1, 1995, the District was reorganized through a formal consolidation with ten other local, similarly contracted water districts. The water service contracts of these other districts were assigned to the District and subsequently renegotiated as a single contract providing for the delivery of up to 140,210 acre-feet of water annually to the small family farmers the District serves. Often, this contractual entitlement is not met due to regulatory restrictions and hydrologic conditions, compromising the \$180 million/year economic output generated for the small, rural area within the District boundaries. District lands have produced more than 30 different commercial crops over the years. Among the principal crops currently grown are almonds, tomatoes, apricots, walnuts, oats, wheat, pistachios, broccoli, sweet corn, melons, peaches, citrus, garlic, cherries, wine grapes and olives. In 2024, over 80% of the District's irrigated lands are in permanent plantings, of which 100% are irrigated by sprinklers or drip irrigation systems. A seven-person Board of Directors elected from among District landowners governs the District. The District's stated mission is as follows: "Dedicated to Providing its Agricultural Customers with an Adequate, Reliable and Affordable Water Supply". Continuing to provide water to the West Side's small family farms, which produce some of the nation's most bountiful supply of fresh fruit, nuts and vegetables, remains the District's sole focus and reason for existence.

San Luis Water District provides agricultural and domestic water services along the westside of the San Joaquin Valley serving over 300 small farms and 2,000 rural residents. The CVP water supply is the only reliable water supply for these farms and rural communities because groundwater in the western foothills is non-existent. The surface water supply from the CVP is vital, and its continued degradation will have a lasting detrimental impact to the viability of San Joaquin Valley residents.

The Santa Clara Valley Water District (Valley Water) manages an integrated water resources system to supply clean, safe water, flood risk reduction, and environmental stewardship on behalf of the nearly two million residents of Santa Clara County. We serve the communities and business in the urban areas of Silicon Valley and San Jose, as well as rural and agricultural lands in the south county. Valley Water operates ten reservoirs and dams, 102 groundwater recharge ponds covering nearly 285 acres, almost 150 miles of pipelines, three water treatment plants, an advanced recycled water purification plant, and is responsible for the maintenance of approximately 275 miles of the over 800 miles of streams and channels in Santa Clara County. Valley Water provides wholesale water and groundwater management services to local municipalities and private water retailers who deliver drinking water directly to homes and businesses in Santa Clara County. Valley Water currently relies on imported water from the State Water Project (SWP) and the Central Valley Project (CVP) for 40% of its total water supplies.

The San Joaquin River Exchange Contractors Water Authority Exchange Contractors is a joint powers authority formed in 1992 by its member agencies Central California Irrigation District, San Luis Canal Company, Firebaugh Canal Water District, and Columbia Canal Company. It is responsible for administering water conservation plans, water transfer programs, and water resource planning, as well as advocating for dependable water supplies for its organizations and the roughly 240,000 acres of agricultural land they represent. The Exchange Contractors water rights date back to the early 1870's when San Joaquin and Kings River Canal Company and Miller and Lux constructed canals to divert water from the San Joaquin River and

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the Kings River to allow for irrigation in the western portion of Fresno, Madera, Merced, and Stanislaus counties. These canals were essential to the creation of the agriculture industry in the Central Valley and were the beginning of what has come to be the most important agricultural region in the United States.

Attachment 2
(Detailed Comments on the Draft Bay-Delta Plan Update)

The San Luis & Delta-Mendota Water Authority (“Water Authority”) and its member agencies Westlands Water District, Del Puerto Water District, San Luis Water District, Santa Clara Valley Water District, and San Joaquin River Exchange Contractors Water Authority (together, “the Water Authority and Member Agencies”) offer the following detailed comments on the changes proposed by State Water Resources Control Board (“State Water Board”) staff (“Proposed Amendments”) to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (“Bay-Delta Plan”).⁴

I. The SWRCB Should Adopt the Healthy Rivers and Landscapes Program

Multiple State, federal and local agencies have cooperatively developed and jointly proposed the Healthy Rivers and Landscapes Program (“HRL Program”). The HRL Program includes proposed new water quality objectives, Implementation Agreements, Enforcement Agreements, a Governance Program, a Science Program, a Strategic Plan, and a Funding Plan. The HRL Program includes flow and habitat provisions that implement the new narrative native fish viability objective and the existing narrative salmon protection objective. (See October 2024 Draft Strategic Plan, section 1.3.) The HRL Program includes flow and non-flow measures that are intended to achieve measurable outcomes, clear procedures to ensure adequate implementation (e.g., Flow Accounting and Non-Flow Habitat Restoration Accounting), and a robust scientific monitoring program to inform the effectiveness of the HRL Program and adjust as needed. (*Id.*, section 1.3.) The HRL Program offers a superior pathway for achieving protection of fish and wildlife that is consistent with the State Water Board’s legal obligations when adopting water quality objectives; the HRL Program will provide for reasonable protection of all beneficial uses, while maintaining consistency with other statewide policy objectives, including the human right to water, the coequal goals of the Delta Reform Act, and the Water Resilience Portfolio (Executive Order N-10-19)⁵ and Water Supply Strategy.⁶

First, the HRL Program offers a much quicker path to achieving benefits for fish and wildlife than the UIF approach. For example, projects to restore habitat have been identified and are ready to implement. Additionally, the HRL Program includes early implementation of dozens

⁴ The Proposed Amendments include new water quality objectives. These include the new Sacramento/Delta Tributary Inflow, Cold-Water Habitat, Delta Outflow, and Interior Delta water quality objectives in Table 3. The Proposed Amendments also include revisions to the program of implementation to achieve those new objectives. The Proposed Amendments generally refer to this set of new objectives and related implementation provisions as the “regulatory pathway,” however, it is also commonly referred to as “unimpaired flow” (“UIF”) approach.

⁵ Water Resilience Portfolio. 2020. Available from: https://resources.ca.gov/-/media/CNRA-Website/Files/Initiatives/Water-Resilience/Final_California-Water-Resilience-Portfolio-2020_ADA3_v2_ay11-opt.pdf.

⁶ California’s Water Supply Strategy. 2022. Available from: <https://resources.ca.gov/-/media/CNRA-Website/Files/Initiatives/Water-Resilience/CA-Water-Supply-Strategy.pdf>.

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of projects. The state agencies participating in the HRL Agreements have committed hundreds of millions of dollars to purchasing additional water for environmental purposes. The HRL Program offers functional flows, with attention to how increased flow interacts with an improved landscape to support biological function.

Second, the HRL Program includes measures the State Water Board cannot mandate through exercise of its regulatory authority alone. The agencies participating in the HRL Program are utilizing their authorities and financial resources to improve both habitat and scientific monitoring and study. All stakeholders acknowledge that many species, at the population level, are negatively affected by factors other than flow and that species recovery will also require ecosystem improvements, which are referred to as “non-flow measures”. The non-flow measures that are part of the HRL Program provide a direct means to address the factors other than flow that negatively affect species recovery. As an example, the HRL Program would impose fees on participating water users to fund a variety of measures, including habitat restoration and improved science, in addition to increased flow that will be implemented through the HRL Program. The UIF approach, in contrast, depends primarily upon the State Water Board’s authority to regulate water rights and does not include mandatory non-flow measures.

Third, and especially important, the HRL Program offers more benefits with fewer adverse impacts for all beneficial uses. In February of 2024, the State Water Board released the External Scientific Peer Review of the “Final Draft Scientific Basis Report Supplement in Support of Proposed Voluntary Agreements for the Sacramento River, Delta, and Tributaries Update to the San Francisco Bay/Sacramento-San Joaquin Delta Water Quality Control Plan (September 2023)” (“Scientific Basis Report”) to evaluate scientific conclusions regarding the anticipated benefits of the Measures in the HRL Program. The majority of the expert peer reviewers agreed that the information contained in the Scientific Basis Report supports the conclusion that the combination of flows and non-flow habitat measures identified will provide benefits for native species in tributaries and the Bay-Delta ecosystem and will contribute to achieving the salmon doubling goal. (See February 2024 CalEPA External Scientific Peer Review Program Final Response to Request for Peer Review, Attachment 2, at p. 11.) Additionally, while the HRL Program will result in water supply impacts for water users, those water supply impacts are much less than the impacts that would be caused by implementation of the UIF approach. The HRL Program’s combination of measurable scientific benefits for fish and wildlife and protections for other beneficial users that rely on water from the Sacramento River and Delta makes the HRL Program a superior approach.

For these reasons, the Water Authority and Member Agencies urge the State Water Board to adopt the Supported Amendments of the HRL Program, as an alternative to the UIF approach for participants in the HRL Program.

II. The Proposed Amendments Materially Differ From the Supported Amendments

As part of the HRL Program, the participating parties have proposed the State Water Board adopt specific changes to the Bay-Delta Plan, specific changes are referred to in the Global Agreement as the “Supported Amendments.”⁷ The Supported Amendments are further described

⁷ Global Agreement, section 2.31.

in Section 5 of the Global Agreement, and proposed text to include in the Bay-Delta Plan is included in Exhibit A to the Global Agreement. The Supported Amendments include a new narrative water quality objective to be included in Table 3 of the Bay-Delta Plan and changes to the program of implementation in Chapter 4 of the Bay-Delta Plan. The Global Agreement does not take effect unless the State Water Board has approved the Supported Amendments without making a material modification thereto.⁸

The Proposed Amendments that were prepared by State Water Board staff for consideration include elements of the HRL Program (which are referred to as the “VA Pathway”). However, the VA Pathway identified in the Proposed Amendments differs materially from the Supported Amendments. These material deviations are identified below. If the State Water Board decides to approve the HRL Program, the Proposed Amendments must be modified to accurately reflect the HRL Program as described in the Supported Amendments.

A. Changes to the Water Quality Objectives

Table 3 of the Proposed Amendments includes several new water quality objectives. However, it does not include the new water quality objective (called the Narrative Viability Objective) included in the Supported Amendments. A note to reader at page 23 of the Proposed Amendments explains this objective would be added to Table 3 if the HRL Program “is incorporated into the Bay-Delta Plan.” The note further proposes a revision to add flow “out of” the Delta to the objective “to recognize the VA commitment for additional outflow.” Thus, if it is adopted at all, under the Proposed Amendments only a modified version of the Narrative Viability Objective would be adopted.

The note to reader at page 23 further explains that if the HRL Program is “incorporated into” the Bay-Delta Plan, the new objectives added to Table 3 in the Proposed Amendments “may either be incorporated in Chapter 4, Program of Implementation, or may remain as objectives in Table 3 but would not apply to VA parties during the term of the VAs.” It is unclear from this note how the new objectives would be added to the program of implementation, or how that would be consistent with the Supported Amendments.⁹ Whatever the approach ultimately adopted, the result should be that the parties to the HRL Program would be subject to the new Narrative Viability Objective as proposed in the Supported Amendments, but not the other new objectives in Table 3 of the Proposed Amendments.

B. Changes to the Program of Implementation

Section 4.4.10 of the Proposed Amendments sets out what it describes as a program for implementation of the HRL Program, assuming the HRL Program is approved and incorporated into the Bay-Delta Plan. (Proposed Amendments, at pp. 96-116.) The Supported Amendments are

⁸ *Id.*, section 14.1.

⁹ The new Narrative Viability Objective is based on the best available science and was developed following extensive analysis by state and federal agencies and the HRL Parties. Omitting the Narrative Viability Objective undermines an integral component of the HRL Program that has helped solidify commitment to the HRL Program from parties throughout the state.

set forth in Box 3. (*Id.*, at 70-76.) The Supported Amendments set out procedures for renewal, modification, and extension of the HRL Program, and refer to the Implementation Agreements' procedures for protection of flow that are additional contributions and to address redirected impacts. The Supported Amendments further provide for Government Code section 11415.60 agreements, to help assure enforcement. The Supported Amendments, together with the supporting Implementing Agreements and Enforcement Agreements, provide a well-thought-out and robust program for implementation of the HRL Program.

Unfortunately, this comprehensive approach was not recognized in the Proposed Amendments. Without further elaboration, a note to reader asserts "the VA parties did not submit a complete program of implementation." (*Id.*, at 70.) On this basis, the note to reader explains that "[p]arts of this proposal have been integrated into the staff version of the program of implementation with edits." (*Id.*) The staff version of the program of implementation includes a number of provisions that materially depart from the terms of the Supported Amendments. We identify below some of the more significant differences between implementation as described in the HRL Program as compared to the Proposed Amendments.

1. The Proposed Amendments Allow for Premature Termination of the HRL Program

The parties to the HRL Program propose that it remain in effect for eight years following approval by the State Water Board.¹⁰ The term may be extended depending upon the participating entities' fulfillment of commitments, and performance of the measures taken.¹¹ Section 4.4.10.9 of the staff's program of implementation, however, describes a process for early modification or termination of the HRL Program, even if the participating entities are meeting their commitments.

The Proposed Amendments state: "As part of the periodic review processes, the State Water Board may consider modifying or terminating the VAs, including components of the VAs or the VAs as a whole, before year 8 based on significant evidence that continuing implementation of the VAs will not provide reasonable protection of beneficial uses or will jeopardize the continued survival of native fishes." (Proposed Amendments, at p. 106.) The flow and non-flow measures to be implemented under the HRL Program are science-based measures designed to enhance fish and wildlife beneficial uses. These measures may not show results within the first few years, however. They should be allowed an opportunity to prove out, and robust monitoring will yield important information. Eight years for evaluation of a system as complex and variable as the Bay-Delta that is subject to large swings in environmental conditions is already on the short end of a reasonable period.

The risk that the measures of the HRL Program would provide less than reasonable protection of fish and wildlife beneficial uses, let alone jeopardize the survival of native fishes, seems remote. But, "reasonable protection" and "jeopardize" are not precise terms. This provision in the Proposed Amendments for potential early termination therefore creates damaging uncertainty regarding the term of the HRL Program. The parties to the HRL Program will be

¹⁰ *Id.*, section 14.2.

¹¹ *Id.*, Appendix A, section 2.

making substantial financial and other commitments based in part on receiving regulatory assurances. The threat that the State Water Board could abruptly end the HRL Program within its first few years (Proposed Amendments, at pp. 103-106) would force participating agencies to reconsider the reasonableness of the investments in the flow and non-flow measures required to participate in the HRL Program. The State Water Board should not provide for early termination of the HRL Program. If the parties to the HRL Program fulfill their commitments, then the State Water Board should commit to allowing implementation of the HRL Program for the full eight years to see the results of the various flow and habitat improvement measures.

2. The Proposed Amendments Impose Extensive Review and Approval Conditions

The parties to the HRL Program are ready to begin implementing the various flow and habitat improvement measures shortly upon approval. The speed with which these beneficial measures can be implemented as compared to the UIF approach is among the reasons the State Water Board should adopt the HRL Program.

The staff's program for implementation of the HRL Program, however, adds multiple requirements for consultation with and prior approval by the Executive Director, and would allow the Executive Director to impose additional conditions with no specified limitations on those conditions. (*See e.g.*, Proposed Amendments, at pp. 91-92 [Flow Accounting], 94-98 [Habitat Restoration Accounting], 98-99 [Supplemental Science and Monitoring].) These new requirements will create uncertainty and potential delay for implementation. The effectiveness of the HRL Program should be evaluated with the highest scientific standards, and changing it as it is unfolding could undermine the ability to draw reasonable conclusions about its effectiveness. And depending upon what the Executive Director requires, new conditions could substantially increase the burden of the HRL Program for participating entities.

The State Water Board should allow initial implementation of the HRL Program without imposing the heavy regulatory oversight proposed by the VA Pathway in the Program of Implementation. Requirements for Executive Director review and approval should be minimized to permit rapid deployment of the beneficial measures in the HRL Program, reduce uncertainties associated with implementation and adaptation, and eliminate the potential for new, burdensome conditions. The HRL Program will undergo significant review as the initial eight-year term nears its end. That comprehensive review will provide the best and most efficient opportunity to identify and adopt any necessary improvements to the program.

3. The Proposed Amendments Do Not Address the Science Plan

The staff's program for implementation does not adopt or otherwise address the final Healthy Rivers and Landscapes Science Plan ("Science Plan"). The purpose of the Science Plan is to "provide the framework and specific approach for assessment of the Flow and Non-Flow Measures and for addressing several important and broad-scale ecosystem management questions, described in the" Science Plan. (Science Plan, at p. i.) It includes key provisions for conducting an effective scientific analysis, including hypotheses, metrics, and baselines for evaluating actions under the HRL Program, as well as monitoring, reporting and analysis. The Science Plan is a critical component of implementing the HRL Program.

The staff's program for implementation, however, makes no mention of the Science Plan. It is unclear whether staff has rejected the Science Plan, or just ignored it. The Science Plan is a detailed and thorough approach to implementation and evaluation of the HRL Program and has been the subject of multiple peer reviews.¹² The Science Plan should be included as an essential element of the HRL Program.

III. The Proposed UIF Approach Should Not Be Applied to Regulate CVP Operations Because Flow and CVP Operations are not Lawful Parameters for a Water Quality Objective

Water Code section 13241 authorizes and directs the water boards to establish "water quality objectives" that will "ensure the reasonable protection of beneficial uses and the prevention of nuisance." (Wat. Code, § 13241.) "Water quality objectives" are defined as "the limits or levels of water quality constituents or characteristics which are established for the reasonable protection of beneficial uses of water or the prevention of nuisance within a specific area." (Wat. Code, § 13050(h).) Water Code section 13241 therefore requires the State Water Board to define objectives in terms of desired water *quality* constituents or characteristics such as temperature, clarity, bacteria, or salinity. This was discussed at pages 60 to 62 of the Water Authority and Member Agencies' January 19, 2024 letter commenting on the Draft Staff Report.

The Proposed Amendments include Table 3, Water Quality Objectives for Fish and Wildlife Beneficial Uses, that identifies several new water quality objectives for which the specified parameter is "flow rate." (Proposed Amendments, at pp. 17-22.) Flow rate is used as a parameter for the proposed Sacramento River/Tributary Flows, Delta Outflow, and Interior Delta Flows sets of objectives. (*Id.*) As we explained in our January 19, 2024 letter commenting on the Draft Staff Report, flow is not a lawful parameter for a water quality objective because it is not a constituent or characteristic of water *quality*. Flow is a measure of water *quantity*. Flow is a rate that defines the total volume of water moving through a given cross-section of a channel per unit time. Flow therefore cannot lawfully be used as a parameter for a water quality objective. The level of flow helpful or necessary to achieve desired water quality is a matter properly addressed through implementation to achieve objectives, not as an imperfect surrogate measure of water quality.

Nor may the State Water Board lawfully adopt the proposed new water quality objectives defined in terms of CVP or SWP operations or facilities. For example, the Interior Delta Flows set of objectives use "water project operations" as a parameter. (Proposed Amendments, at p. 19.) In this context, "water project operations" refers to operations of the CVP or the SWP, or both. The Proposed Amendments also include adding October as a month the Delta Cross Channel Gates must be closed. (*Id.*, at 20.) Water project operations, and operation of structures such as the gates, do not fit within the "water quality constituents or characteristics" definition of a water quality

¹² Final Draft Scientific Basis Report Supplement in Support of Proposed Voluntary Agreements for the Sacramento River, Delta, and Tributaries Update to the San Francisco Bay/Sacramento-San Joaquin Delta Water Quality Control Plan (September 2023). Available from: https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/docs/2023/staff-report/app-g2.pdf.

objective. (Wat. Code, § 13050(h).) Hence the proposed new project operations-based objectives cannot be lawfully adopted either.¹³

The Proposed Amendments assert that “[f]low and water project operations are controllable water quality factors within the scope of objectives that can be adopted in a water quality control plan under the Porter-Cologne Water Quality Control Act.” (Proposed Amendments, at p. 12.) In support of this assertion, the Proposed Amendments cite only the definitions of “water quality control” in subdivision (i) and “quality of the water” in subdivision (g) of Water Code section 13050. (*Id.*) Reference to these inapposite definitions, while ignoring the express definition of “water quality objective,” is at best unhelpful. The State Water Board must apply the definition of “water quality objectives” found in subdivision (h) of Water Code section 13050. Under that definition, flow and project operations are not lawful parameters for a water quality objective. The State Water Board should not adopt objectives based on flow or water project operations because under Water Code section 13241 it has no legal authority to do so.

IV. There Should Be No Initial Exemption from the Proposed Inflow-Based Delta Outflow Criteria for In-Delta Diversions

Section 4.4.3.2 of the Proposed Amendments outlines a Delta outflow objective that mandates that the required increased inflows from the Sacramento/Delta tributaries and the Lower San Joaquin River, adjusted for natural downstream losses, pass through the Delta as Delta outflows. (Proposed Amendments, at p. 62.) Implementation of this inflow-based Delta outflow objective is proposed to begin within two years following the State Water Board’s approval. (*Id.*)

The Proposed Amendments also explain, however, that “the State Water Board is considering possible exemptions to the inflow-based Delta outflow for water rights in which the diversion and use of water is limited to irrigation of lands below sea level in the Legal Delta.” (*Id.*, at 62-63.) All such water rights would initially be exempt, but further analysis and public input may lead to subsequent adjustments, potentially including additional water right holders. (*Id.*, at 63.) The purported justification for this initial exemption is information gained since the 2021-2022 drought. (*Id.*, at 62.) According to the Proposed Amendments, recent information indicates that the net consumptive use of irrigated agriculture on subsided islands below sea level in the Delta *may* be equivalent to the water use by vegetation that would grow without irrigation and land management. (*Id.*) The Proposed Amendments acknowledge that further analyses are necessary to fully understand the impacts of water use on irrigated lands below sea level in the Delta. (*Id.*, at 63.) Accordingly, the proffered justification for the initial exemption is based on preliminary data and assumptions, which have not been fully substantiated or thoroughly analyzed. Further, despite a thorough review of the staff workshop materials, technical documents, and submitted public

¹³ The existing water quality objectives also include an objective for which the parameter is the combined export rate at the CVP and SWP pumps. This additional project operations-based objective is likewise unlawful.

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comments concerning potential changes to the water availability methodology, we have not identified any data or analyses that would substantiate or warrant such an exemption.¹⁴

The issue of crop variability alone undermines the assumption that the net consumptive use of irrigated agriculture on subsided islands below sea level may be equivalent to the water use by vegetation that would grow absent irrigation and land management. The distribution of crops on these lands changes significantly from year to year due to factors such as crop rotation, market demands, and environmental conditions. (See California Department of Water Resources Report on Estimating Net Delta Outflow (NDO) (March 2016).) This inherent variability makes it unlikely that water use for irrigation of crops could consistently match the water requirements of naturally occurring vegetation, which would depend on the specific type of vegetation, climate conditions, and seasonal rainfall. In practice, crop choices are influenced by market conditions and economic incentives, leading to fluctuations in water consumption. (*Id.*, at 24.) For example, a shift to water-intensive crops from less water-demanding varieties in a given year could cause the actual water use to deviate significantly from the projected “equivalent” consumption of natural vegetation. Moreover, the impact of drought years, as seen in 2015 and 2021-2022, further complicates these estimations. Thus, relying on the assumption of equivalency between consumptive use and natural vegetation is not supported by the variability of crop patterns or the unpredictable nature of water demands driven by external factors.

In sum, it is at best premature to adopt an exemption for irrigation of lands below sea level in the Legal Delta from the proposed inflow-based Delta outflow requirements in the Bay-Delta Plan. Given the complexities of measuring water diversions, the uncertainties surrounding agricultural water demands, and the lack of comprehensive data on how these factors affect water use on subsided islands, a more thorough scientific evaluation is required to determine net consumptive use from irrigation of these lands. Until more comprehensive and stable data on consumptive use of irrigated agriculture is available, it is unreasonable to base an exemption on this premise. We strongly urge that the State Water Board defer adoption of such an exemption until detailed scientific analysis is available, and that it allow for public review and comment regarding such analysis before adopting any exemption.

V. Identification of Biological Goals for the UIF Approach Should Not Be Deferred

The State Water Board is deferring development of biological goals for the UIF approach until after the Proposed Amendments have been adopted. It should not do so. Without developing and deciding upon its biological goals, the State Water Board will not have a basis for concluding that adoption of the UIF approach will provide “reasonable protection” for all affected beneficial uses, as required by the Porter-Cologne Act.

The development of biological goals for the UIF approach will be deferred for a period of up to two years after the Proposed Amendments are adopted. (Proposed Amendments, at pp. 121-122.) Because the UIF approach has been presented for adoption without deciding on the desired

¹⁴ We respectfully request that the State Water Board provide a copy of the documents containing the “recent information” referenced in the Proposed Amendments that is the basis for the potential exemption. (*Id.*, at 62.)

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and anticipated benefits for fish and wildlife, the State Water Board has not defined reasonable protection. Additionally, without an estimate of the positive impacts that the UIF approach is projected to have for fish and wildlife uses, the State Water Board cannot balance those expected benefits against the adverse impacts to other beneficial uses. That is, it cannot strike the balance required to adopt objectives that will provide the “reasonable protection” required by law.

In contrast to the UIF approach that is lacking biological goals, the HRL Program expressly and specifically addresses expected benefits. It includes a Science Plan that identifies numerous hypotheses regarding the anticipated outcomes of both flow and non-flow related actions. These hypotheses include “Local Tier hypotheses,” “Full Tributary and Delta Tier hypotheses,” and “Population-level Tier Hypotheses.” (Science Plan, at pp. 15-41.) These hypotheses identify specific measures of species viability and provide a framework for evaluating how the specific flow and non-flow measures in the HRL Program will improve upon those measures of species viability, as compared to the status quo. This suite of hypotheses outlined in the Science Plan provides the State Water Board with estimates for how the HRL Program will provide for the reasonable protection of fish and wildlife and clear metrics for assessing whether those estimates were accurate. As a result, the draft hypotheses in the Science Plan differentiate the HRL Program from the UIF approach because they provide sufficient information about the anticipated protections for fish and wildlife to satisfy the State Water Board’s obligations under the Porter Cologne Act.

VI. Deferring Identification of Biological Goals for Two Years Will Cause Implementation of the UIF Approach to Suffer From Delays and Uncertainty

The decision to defer development of biological goals for up to two years after adoption of the UIF approach is problematic for the additional reason that other major components of the UIF approach must also be developed within that two-year period. These components include: the Tributary and Delta Inflow objective, inflow-based Delta Outflow objective, and curtailment procedures. (Proposed Amendments, at pp. 52, 62, 65.) The Cold-Water habitat objective must be approved within one year of implementation of the delta inflow objective. (*Id.*, at 58.) By developing new objectives at the same time as the biological goals that will measure the success of those new objectives, State Water Board staff will lack guiding principles to answer important policy questions associated with those new objectives (*e.g.*, trade-offs between satisfying both instream flow requirements and senior water rights supporting other beneficial uses in critically dry years). The State Water Board should have a clear understanding of the biological goals that it hopes to achieve before it goes through a multi-year process to identify the specific steps to achieve them.

In contrast, if the HRL Program is adopted, then the parties will be required to submit “VA hypothesis, metrics, targets, and monitoring” that address the following topics within 60 days:

- i. Actual and, as feasible, forecasted future changes in the abundance and condition of adult and juvenile Chinook Salmon and Steelhead in each tributary and the Delta, relative to the pre-VA conditions;
- ii. Changes in the quantity of suitable Chinook Salmon and Steelhead spawning and rearing habitat, with suitability defined by the non-flow habitat

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accounting design criteria as well as the water quality conditions conducive for reproduction, survival, and growth, including temperatures;

iii. Changes in the quantity of suitable estuarine habitat for native estuarine fishes;

iv. Utilization of restored VA habitat by Chinook Salmon, Steelhead, and other native and non-native tributary fishes, native and non-native estuarine fishes, and invertebrates, relative to the pre-VA conditions and reference sites;

v. Actual and, as feasible, forecasted future effects of restored VA habitat and VA flows on the abundance and condition of Chinook Salmon, Steelhead, Green and White Sturgeon, and native estuarine fishes; Actual and, as feasible, forecasted future effects of the VAs on the food web;

vi. Effects of the VAs on pesticide concentrations in water, zooplankton and benthic invertebrate prey sources, and native fish species across the geographic area affected by the VA food production project and in bypass floodplain habitats that are included in the VA non-flow commitments; and

vii. Other relevant topics as identified by the Executive Director.

(Proposed Amendments, at p. 99 [draft hypotheses have already been included in the HRL Program Science Plan].) During implementation of the HRL Program, the parties will submit annual and triennial reports that “provide an analysis of VA progress to date on contributing toward the narrative native fish viability and salmon protection objectives, including progress related to VA hypotheses, metrics, and targets informed by required monitoring.” (*Id.*, at 101.) The decision whether to continue the HRL Program after its initial term will depend on “outcomes from the VA hypothesis testing to inform the expected ecological outcomes from continuing the VAs, including quantifying how the continuation of the VAs would be expected to affect species abundance, ecosystem conditions, and contribute to meeting the narrative native fish viability objective and salmon protection objective by 2050.” (*Id.*, at 102.)

In sum, the UIF approach should be revised to provide a method for developing and evaluating biological goals that is more consistent with the method that is used by the HRL Program, or the process of implementing the UIF approach may suffer from significant delays and uncertainty.

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President Trump
Press Release/Other

From the Trump White House:

MEMORANDUM FOR THE SECRETARY OF COMMERCE THE SECRETARY OF THE INTERIOR

SUBJECT: Putting People over Fish: Stopping Radical Environmentalism to Provide Water to Southern California



I hereby direct the Secretary of Commerce and Secretary of the Interior, in consultation with the heads of other departments and agencies of the United States as necessary, to immediately restart the work from my first Administration by the National Marine Fisheries Service, U.S. Fish and Wildlife Service, Bureau of Reclamation, and other agencies to route more water from the Sacramento-San Joaquin Delta to other parts of the state for use by the people there who desperately need a reliable water supply.

During my first term, the State of California, at the direction of its Governor, filed a lawsuit to stop my Administration from implementing improvements to California's water infrastructure. My Administration's plan would have allowed enormous amounts of water to flow from the snow melt and rainwater in rivers in Northern California to beneficial use in the Central Valley and Southern California. This catastrophic halt was allegedly in protection of the Delta smelt and other species of fish. Today, this enormous water supply flows wastefully into the Pacific Ocean.

The recent deadly and historically destructive wildfires in Southern California underscore why the State of California needs a reliable water supply and sound vegetation management practices in order to provide water desperately needed there, and why this plan must immediately be reimplemented.

Within 90 days of the date of this memorandum, the Secretary of Commerce and Secretary of the Interior shall report to me regarding the progress made in implementing the policies in this memorandum and provide any recommendations regarding future implementation.

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California WaterBlog

A biologist, economist, engineer and geologist walk onto a bar...

California Water under a Trump Administration, Part 1 of 2

Posted on January 12, 2025 by Christine Parisek

By Karrigan Börk

Editor's note: Interim Director Karrigan Börk appeared on the NPR show AirTalk a few weeks ago to address California water policy under a Trump administration; the [segment](#) starts at 18:00. This blogpost is the first of a 2 part series exploring the topic from a nonpartisan perspective with a goal of predicting likely outcomes in support of those working on California water issues.

Incoming President Trump made [California water policy](#) a central [talking point](#) in his 2024 presidential campaign, with promises to increase water for farms and cities and decrease water flowing to the Pacific Ocean. It is clear that the incoming administration—much like the first Trump administration—is focused on California Water. In this and a following blog, I examine what this is likely to mean for California water management. A key takeaway is that California will likely be able to continue many of its current water policies, with marginal changes, although there will likely be increased litigation between the state and federal government. The bad news is that even [California's current policies are inadequate](#) to maintain healthy aquatic ecosystems across the state, and California is likely to find it even harder to move forward on these fronts while locked in ongoing struggles with the federal government.

In considering how the next several years will play out, there are a couple of things to keep in mind. First, under the Supremacy Clause of the U.S. Constitution (Art. VI, C. 2), federal law is the “supreme Law of the Land”, preempting and state laws that conflict with federal law. Some areas of law, however, are traditionally reserved to the state, and courts will try to read federal laws in such a way as to avoid preemption if possible. Moreover, the federal government is one of limited powers, and those powers not expressly granted to the federal government by the Constitution remain under the control of the states. Non-interstate water rights and water resource management are a prime example where the federal government generally plays second fiddle to state law.

Second, the first Trump administration had a hard time writing regulations that would survive court challenges; the administration lost in court [83% of the time](#) in its efforts to change environmental regulations, often for failure to follow appropriate procedure. Changing these regulations is also a time-consuming process,



A drone photo shows a recharge project in Sacramento County. Diverted water is infiltrated to groundwater storage in the underlying, critically overdrafted South American and Cosumnes Groundwater Subbasins. Photo taken February 8, 2024. Sara Nevis / [California Department of Water Resources](#)

[Resources](#)

especially if the changes are to survive the inevitable court challenges. Even the successful efforts to change environmental regulations during the last Trump administration took many years.

Current law makes it difficult for a new presidential administration to change how water and the environment is managed at the state level. And although it is too early to say whether the second Trump administration will have more success in writing enduring regulations, it is unlikely to be quick and easy.

The Major Issues

This first blog examines three major issues that may be impacted by the new administration's policies: groundwater management, water quality in the Sacramento-San Joaquin Delta, and large water supply infrastructure projects. A following blog will examine three more issues: operation of the state and federal water projects, potential changes in bedrock principles governing water management, and several indirect impacts of the new administration.

1. Groundwater – Implementation of the Sustainable Groundwater Management Act (SGMA)



A drone view shows waterfowl habitat, fire burn scar and agriculture near a groundwater monitoring well run in Colusa County. Photo taken August 23, 2024. Xavier Mascareñas / [California Department of Water Resources](#).

Water rights, the allocation of water to water users, is traditionally a state property law issue, and that's especially true of groundwater. California embraced modern groundwater management in 2014 with the passage of SGMA, and the state has been proceeding with implementation of the Act over the last decade. For an update on SGMA implementation, check out the video of this recent conference at the UC Davis School of Law: **10 Years In: A SGMA Report Card**. There have been speedbumps in the implementation process—inadequate Groundwater Sustainability Plans and a few lawsuits are brewing—but none of that is surprising in a new regulatory structure.

Because groundwater is such a foundational state issue, and due to the long legal and customary history of leaving groundwater regulation to the state, it seems unlikely that the second Trump administration will be able to intervene in SGMA implementation. No state wants the federal government intervening in its regulation of groundwater, and an effort to do so would likely bring a backlash from many states, not just California. Moreover, SGMA implementation began under the first Trump administration, and there was no real federal pushback then. Of course, groundwater pumping restrictions under SGMA will put more pressure on delivery of surface waters, an area with a strong federal presence, but interference with SGMA is a stretch. To be clear, as the PPIC has shown, SGMA is going to be the biggest change in terms of water availability over the next decade, but the direct federal role is likely to be minimal.

2. Bay-Delta Water Quality Plans

California's state and regional Water Boards implement the federal Clean Water Act through the state's own independent state law, the Porter-Cologne Water Quality Control Act, which has significant effects on water

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availability. One of the biggest things happening in California water right now is the update of the Bay-Delta Water Quality Control Plan. The Bay-Delta Plan establishes the protected uses of the Bay Delta (things like water based recreation, support for native species, drinking water supply, and so on), and then establishes standards (called water quality objectives) that will protect those uses. These water quality objectives can be characteristics of the water, like salinity or sediment or temperature, but they can also include protection for a minimum volume of water. Meeting these objectives can reduce the amount of water available to divert for farms and cities, which makes these updated plans controversial.

In December 2018, the State Water Board updated the Bay-Delta Plan to require increased flow (an average of 40% of unimpaired flow) in the Lower San Joaquin River and its three major tributaries. The next step was to be implementation through regulations to reallocate water, but the Newsom administration's push to incorporate voluntary agreements has slowed implementation to a crawl. The idea behind voluntary agreements is that some water users could do habitat improvement or other actions to help protect uses identified in the Bay-Delta Plan, and in exchange they would lose less of their water right. In late October, the Water Board released a revised Bay-Delta Plan incorporating some consideration of voluntary agreements; it is as yet unclear how this is going to play out, although it will certainly involve litigation and more delay. The State Water Board is still working on a revised plan for the Sacramento and its tributaries, which is also likely to invite significant controversy.



Suisun Marsh, located in Solano County in Northern California, encompasses 116,000 acres and a critical part of the San Francisco Bay-Delta estuary ecosystem. Its home to a wide variety of plants, fish and wildlife that depend on the careful balance of fresh and saline waters. Photo taken April 6, 1992 / California Department of Water

Resources.



Water is being diverted for the first time onto land that was converted to a groundwater recharge basin at Nebraska and Walnut near Caruthers in Fresno County, California. Photo taken May 13, 2024. Xavier Mascareñas / California Department of Water Resources

As with groundwater, water quality is an area of strong deference to state law, and the Trump administration is unlikely to have a strong voice in this process. The Newsom administration has not made significant progress on these efforts during the Biden administration, and being forced back into an oppositional role to the new Trump administration might even reinvigorate the Water Board's work on Bay-Delta water quality. There are, however, a couple of caveats to this issue.

First, when the State Water Board was first preparing to release the revised Bay-Delta Plan, in July 2018, the then-U.S. Bureau of Reclamation (BoR) Commissioner Brenda Burman threatened to sue the Water Board to fight against potential reductions in Reclamation's water rights. The first Trump administration did, in fact, file suit in March 2019, arguing the state violated the

California Environmental Quality Act by (ironically) being too environmentally protective. Under the Biden administration, the lawsuit has not been pursued, but it is likely to be reinvigorated under the Trump

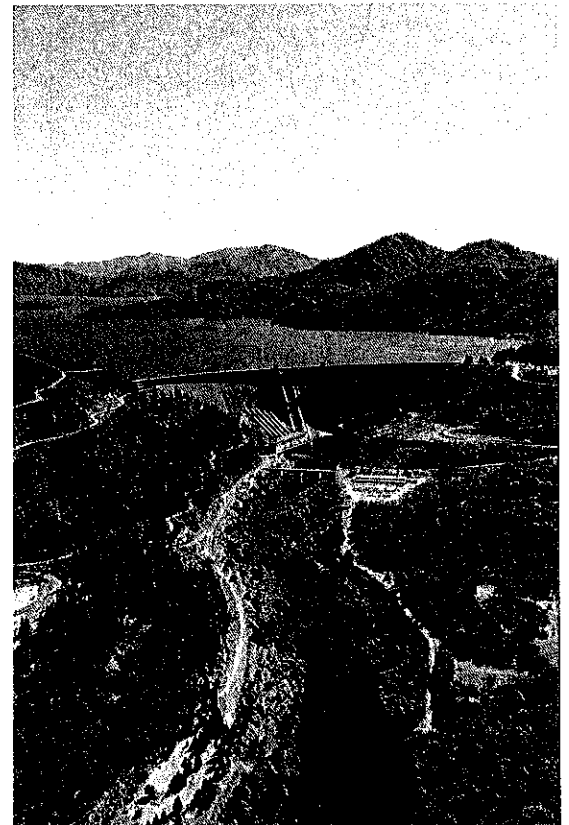
administration. The federal lawsuit is based on an unusual legal claim, and it doesn't seem likely to carry the day. Moreover, if BoR is signs on to the voluntary agreement proposal, a lawsuit challenging the Water Board's authority seems unlikely. Taken together, this suggests that a federal lawsuit is unlikely to derail the Bay-Delta Plans.

Second, there is pending federal legislation, sponsored by San Joaquin Valley Rep. David Valadao, that would curtail the Water Board's ability to implement a Bay-Delta Plan. With Republican control of the House and the Senate, this bill could become law, but it seems unlikely given the closely divided federal legislature and the broadly-shared view that this is state issue.

3. Infrastructure Projects

This issue is more complicated. The Newsom administration is pushing for several big infrastructure projects that may be appealing to the Trump administration. For example, there is both state and federal financial and political support for the expansion of San Luis Reservoir through the \$1 billion dam raising and for construction of the proposed \$4.4 billion Sites Reservoir. Although recent financial support has come through the Biden administration, some of the Sites funding comes from legislation signed during the first Trump administration, which suggests that such support will continue.

There are some areas of disagreement on infrastructure investment. For example, the first Trump administration declined to provide financial support for the Delta Conveyance Project (the tunnels), which are now priced at \$20 billion, although it did grant the required environmental permits. And when the Trump administration secured funding and federal support for raising Shasta Dam, the Newsom administration responded with a lawsuit to stop state agencies from participating in the project. It seems likely that the new administration will revive effort to raise Shasta Dam, which may spark another legal response from the state to protect tribal and environmental interests. In all, infrastructure is likely to be a mixed bag, with rapid movement on some projects and continued fighting on others.



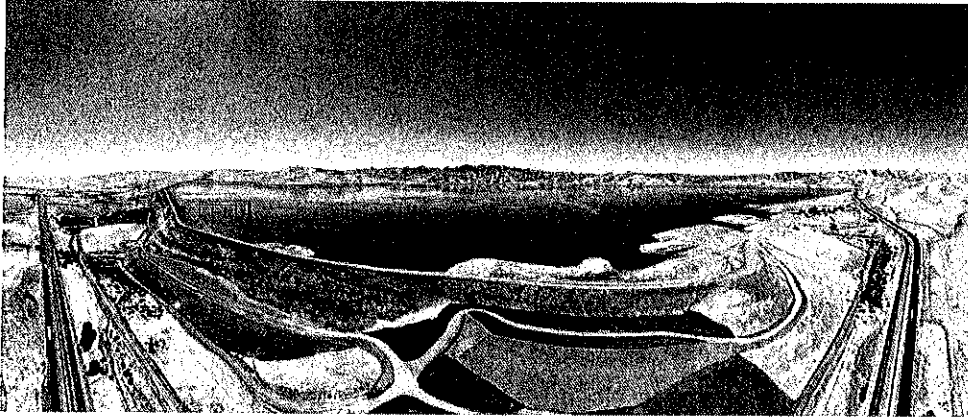
An aerial view of Lake Shasta and the dam in Shasta County, California. Photo taken May 9, 2024. Sara Nevis / [California Department of Water Resources](#)

Check back next week for analysis of operation of the state and federal water projects, potential changes in bedrock principles governing water management, and indirect impacts of the new administration.

*UC Davis Professor of Law **Karrigan Börk**'s publications run the gamut from California minimum streamflow requirements to a hatchery and genetic management plan for the reintroduction of spring-run Chinook salmon in the San Joaquin River. Prof. Börk graduated with Distinction and Pro Bono Distinction from Stanford Law School in*

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2009 and completed his Ph.D. dissertation in Ecology at UC Davis in September 2011. His current work focuses on western water law.



Sisk Dam, located in Merced County, impounds San Luis Reservoir, the nation's largest off-stream reservoir that provides a water supply for the State Water Project and the federal Central Valley Project. Photo September 13, 2024. Sara Nevis / [California Department of Water Resources](#)



About Christine Parisek

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1 Response to *California Water under a Trump Administration, Part 1 of 2*

Thomas K says:

January 13, 2025 at 8:40 am

Good summary and looking forward to part 2. It's obvious that the comments from the GOP regarding water supply and regulation in California are nonsense, whether they are aware that they have little power over state regulations or they are simply stupid remains to be seen. One thing to consider is that saying that the delta smelt is the sole factor in the water needs of the delta is disingenuous, protecting water quality in the delta is also about the senior right holders in the delta that use that water for irrigation as well as Metropolitan which is the water delivery for Los Angeles municipal water. Salinity moving upstream out of the delta effects a LOT of right holders who would likely have standing if any administration decided that their water rights didn't matter anymore.

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California WaterBlog

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California Water under a Trump Administration, Part 2 of 2

Posted on January 19, 2025 by Christine Parisek

By Karrigan Börk

Editor's note: This is the second in a two-part series of blogs that examines how the incoming Trump Administration may—or may not—be able to change how water is managed in California. [The first blog covered three issues](#): the Sustainable Groundwater Management Act (SGMA), updates of the Bay-Delta Water Quality Plans, and major infrastructure projects. The short (and somewhat surprising) conclusion is that California will likely be able to continue many of its current water policies in these three areas, with marginal changes. This blog examines how the new administration may impact three additional areas: operation of the two large water projects in the state, potential changes in bedrock principles governing water management, and indirect impacts of the new administration.

1. Central Valley Project (CVP) & State Water Project (SWP) Operations

The CVP (run by the BoR) and the SWP (run by the California Department of Water Resources (DWR)) are the two largest water projects in California. The two projects rely on a Coordinated Operations Agreement (COA) to be more efficient, protect water quality, and to reduce environmental impacts. The operation of the two projects imperils protected species, including the winter run Chinook and the Delta smelt. Because the CVP is a federal project, approval of the COA requires compliance with a host of federal laws, like the National Environmental Policy Act (requiring analysis of the environmental impacts of federal actions) and the Endangered Species Act (requiring that federal actions not jeopardize the continued existence of a protected species). DWR must also comply with the California Endangered Species Act (CESA). The state believes that BoR also comply with CESA, although that question is in litigation at the moment.



An egret stands near the water as swans fly overhead at the Prospect Island Tidal Habitat Restoration Project.

Photo taken November 13, 2024. Sara Nevis / [California](#)

[Department of Water Resources](#)

The COA has been a political football and in a constant state of litigation for the last two decades, with much of the attention focused on [federal Biological Opinions \(BiOps\)](#): the documents that determine whether the projects are complying the ESA. After a challenge to the 2004 BiOps, the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) released new BiOps in 2008/2009. In response to a 2016 request for change to the COA, FWS and NMFS developed new BiOps in 2019, which allowed BoR to start operating under a revised COA in 2020. The state and many other groups filed suit, and the projects have been operating on an interim agreement approved by the court for the last three years while the Biden

administration developed revisions to the COA and wrote new BiOps; USFWS and NMFS have recently released their new BiOps, but they are unlikely to resolve the existing lawsuits.

CVP/SWP operations have been a political target for President-elect Trump, who has expressed animosity for the Delta smelt and promised increased water deliveries from the CVP, and had recently tried to tie the Delta smelt to the fires in Los Angeles, although there is no link between the issues. His campaign promises this cycle mirrored his promises from his 2016 campaign, and he delivered on those 2016 promises with the changes to CVP operations in 2020. It is very likely that the second Trump administration will once again reopen the COA and write new BiOps, although that process will take several years and will almost certainly encounter more litigation. This is going to be one of the more contentious water issues for the next four years.

However, in spite of the concern expressed for the CVP/SWP operations, the changes will likely be fairly marginal. In 2020, the new COA supported by the first Trump administration resulted in increases in deliveries to San Joaquin fruit growers of only 5%. The operational plans currently under review by the Biden administration would also only make small changes in the amount of water entering and leaving the Delta, largely following historical patterns of water use. In fact, government review shows that the new plans are worse for species in some years than those implemented by the Trump administration in 2020. Regardless of who has been in charge, the fundamentals of the projects have largely stayed the same, in part because hydrology and outflow to ensure freshwater for human use in the Delta have much more of an influence on the projects ability to deliver water than the current ESA protections.



A drone panoramic view of the Prospect Island Tidal Habitat Restoration Project. Photo taken November 7,

2024. Nick Shockey / California Department of Water Resources

As we and others have noted, much of the outflow often labeled as “environmental flow” is actually required for salinity control in the Delta, to keep the water there usable for drinking and irrigation. This might be more accurately termed “system water,” in that it allows the Delta system to stay fresh for human use. As the PPIC has shown, the amount of system water required for salinity control dwarfs that required to meet environmental regulations. Even with no protection for the Delta ecosystem, only an average of about 12% of inflows would be freed up for other uses, and much less in drought years. As reported in Politico, advocates for more agricultural water use recognize these underlying truths and have sought to temper expectations of the coming administration.

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The CVP/SWP will remain a contentious topic during the next Trump administration, sucking up more much attention, time and energy. But ultimately, given the constraints on the system, fundamental changes in operations are unlikely.

2. Some Important Unknowns: Disaster Funds and Changes to Bedrock Principles.

Most of this analysis assumes that, as in the first Trump administration, most foundational principles of environmental law will remain in place. Even with a unified Republican government from 2017-2019, the major environmental laws, like NEPA, the ESA, and the CWA and Clean Air Act remained unchanged. Nevertheless, it is possible we could see fundamental changes in these laws, with major impacts across the country. The first Trump administration did rewrite *regulations* for nearly all of those laws, but, as noted, many of those efforts failed in court. It's likely this second Trump administration will once again write new implementing regulations for many of those laws, and how successful those efforts are in court will determine the significance of those efforts.



The flood of January 1997 devastated Northern and Central California with 300 square miles of flooding, forcing 48 counties to be declared disaster areas with more than \$2 billion of economic loss and eight deaths. The floodwaters impacted over 23,000 homes and 2,000 businesses including this farm near the San Joaquin River. Photo taken on January 5, 1997 / [California Department of Water Resources](#)

It is worth considering two other ways that the second Trump administration might fundamentally rearrange aspects of California water.

As widely reported, in September, President Trump threatened to withhold federal disaster funds that California relies on for fighting fires if the state does not cooperate with his water policies. This threat presumably extends to all federal disaster aid, including recovery from floods and earthquakes, and some politicians have again floated this idea in the context of the current fire disaster in Los Angeles. Presidents and their administrations do have the power to stop or delay disaster funds, although they rarely do (the first Trump administration did delay \$20 billion in disaster aid to Puerto Rico after Hurricane Maria in 2017). If President Trump were to follow through on this threat, it could be very difficult for the state to stay the course on its water policy, although such a gambit would likely be opposed by Trump-aligned California Representatives in Congress. It

remains unclear how this will play out.

Second, targeted legislation could change the bedrock principles that have long governed water policy. There have been legislative efforts to strip power from the State Water Board and to force operation of the CVP and SWP in particular ways. If that legislation were to pass, it would affect CVP/SWP operations and perhaps the Bay-Delta Water Quality Plan. It is worth emphasizing that this would be a fundamental change in authority over water rights, from the state to the federal government, which might engender opposition from many western states. Both the Reclamation Act of 1902, the Central Valley Project Improvement Act, and the Clean Water Act, for example, had to include protections for state authority over water rights to appease concerned Senators from the western states. A targeted law aimed at California might escape such concerns, but the politics are very difficult to parse. There have also been some calls for the federal

government to privatize or otherwise divest itself of the Central Valley Project, but that seems a remote possibility.

3. Indirect Impacts of the New Administration.

Beyond what might be considered “pure” water issues, the second Trump administration will have many indirect impacts on California water issues, through changes to climate policy and by tying up state and other resources in conflicts with the federal government on water policy and other issues. Consider, for example, the time and energy dedicated to refuting the President-elect’s false statements about Delta smelt and the Los Angeles fires.

The Trump administration will roll back many of the Biden administration’s efforts to address the climate crisis, and it will try to make California efforts to address climate as difficult as possible. Climate change is transforming California’s water landscape, and continued delays will make those impacts much, much worse.

California’s Indigenous Peoples have become a force in California water policy over the last decade. From the historic dam removals on the Klamath to the reintroduction of winter run Chinook above Shasta Dam to the many successful land back efforts, the California’s Indigenous Peoples are changing the state’s approach to water. The state, with the federal Environmental Protection Agency (EPA) support, is also beginning to incorporate Indigenous concerns in its water quality efforts by including tribal beneficial uses among those protected by water quality standards, which has the potential to force significant reallocation of water. This progress comes from a combination of social, political, and legal pressure on the state. Some of these efforts by Indigenous Communities will be harder to pursue under a Trump administration, particularly with state attention turned to conflict with the federal.



An aerial view shows township of Paradise in Butte County, California. Photo taken December 14, 2023. On November 8 2018 the Camp Fire destroyed about 95 percent of the structures in the township of Paradise. Ken James / California Department of Water Resources

Finally, we are in the midst of a Salmon Crisis. The commercial and recreational seasons have been closed for the last two years, and a third year of closure seems likely based on current returns. For California, resisting President Trump’s environmental policies will not be enough to prevent extinctions and protect the state’s waterways. Moreover, conflict between the state and the federal government will take time and resources, which will make it more difficult for the state to focus on addressing the Salmon Crisis.

Conclusion

This analysis suggests California water policy is unlikely to go through seismic shifts over the next four years, under the incoming Trump Administration, but big changes cannot be ruled out. That prediction relies on some assumptions and a willingness of the state to take on Trump administration policies, the way it did during the last Trump administration. But even in that case, we will likely see significant indirect impacts on

California water issues, as conflict with the federal government diverts time and resources from climate change, indigenous issues, and other environmental challenges.

*UC Davis Acting Professor of Law **Karrigan Börk**'s publications run the gamut from the definitive text on the history and application of California minimum streamflow requirements to a hatchery and genetic management plan for the reintroduction of spring-run Chinook salmon in the San Joaquin River. Professor Börk graduated with Distinction and Pro Bono Distinction from Stanford Law School in 2009 and completed his Ph.D. dissertation in Ecology at UC Davis in September 2011. His current work focuses on Western water law.*



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