

January 10<sup>th</sup>, 2025

The Honorable Joaquin Esquivel  
Chair, State Water Resources Control Board  
1001 I Street  
Sacramento, CA 95814  
[SacDeltaComments@waterboards.ca.gov](mailto:SacDeltaComments@waterboards.ca.gov)

Dear Chair Esquivel and Members of the State Water Resources Control Board,

We are writing to express our 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 (“Bay Delta Plan”). From our perspective, the State Water Resources Control Board (“Board”) is faced with a fundamental policy choice: amend the Bay Delta Plan by adopting unimpaired flow (“UIF”) objectives, as proposed by the Water Board staff; or amend Bay Delta Plan by approving the Voluntary Agreements, also known as Healthy Rivers and Landscapes (HRL), proposed in March 2022 by a diverse group of stakeholders. These stakeholders have specific expertise in managing and operating California’s water systems, which includes numerous state agencies, the Bureau of Reclamation, and numerous public water agencies.

The UIF option would cause untold social and economic disruption in communities throughout the State, while also complicating interbasin negotiations on the Colorado River. Reduced State Water Project supplies as a result of the UIF alternative make it more difficult to achieve a collaborative solution to the Colorado River’s 2026 Operational Guidelines among the seven basin states.

In contrast, the HRL pathway would provide additional protection of the beneficial use of water for native fish species while also providing greater water supply reliability and regulatory certainty for those same communities than the UIF approach. For that reason, we join Governor Gavin Newsom in expressing enthusiastic support for the Voluntary Agreements and urge the Board to adopt them without modification.

### **Lost Groundwater Recharge Opportunities**

According to the Water Board staff’s analysis, adoption of the proposed unimpaired flow objectives would cause devastating water supply reductions in every region of California that relies on water originating in the Sacramento – San Joaquin Delta watershed. The Water Board staff’s analysis indicates that in dry and below normal water years, regions of the San Joaquin Valley and southern California that are reliant on water provided through the Central Valley Project and the State Water Project would suffer water supply reductions of more than 1.3 and 1.1 million acre-feet, respectively. Even in above normal water years, which should be years in which groundwater basins could see recharge opportunities under an alternative approach, these areas of California

will see reduced surface water supplies of nearly 800,000 acre-feet. These water supply reductions are in addition to reductions experienced by these regions under existing restrictions imposed on CVP and SWP operations under the current Bay-Delta Plan, the federal Endangered Species Act, and the California Endangered Species Act. As a result, south-of-Delta SWP contractors are expected to receive additional allocation reductions up to 40%, and south-of-Delta CVP irrigation contractors are expected to receive zero allocations in all critical and dry years, and many below normal years.

### **Increased Fallowing Will Result in Economic Harm to the State**

These water supply reductions are simply unbearable. In the San Joaquin Valley, an additional 260,000 acres will have to be fallowed in dry years. It is important to note that this is in addition to the estimated 700,000 acres of land that is anticipated to be fallowed to comply with the requirements of California's Sustainable Groundwater Management Act (SGMA). The reduction in crop values caused by adopting the unimpaired flow objectives in a dry year will be more than \$1.3 billion dollars in the San Joaquin Valley, and statewide, the Water Board staff estimates the reduction in crop values will be more than \$2.7 billion. For regions like the San Joaquin Valley, which are dependent on irrigated agriculture, the economic impacts of these fallowed acres and reduced crop values will ripple throughout the entire region.

### **Perpetual Drought and Food Insecurity**

A 2014 report by the US Department of Agriculture estimated the 2007-09 drought resulted in the loss of more than 21,000 jobs in the San Joaquin Valley. The same report states it is reasonable to project that similar drought conditions could result in an overall unemployment rate as high as 40% in communities dependent on agricultural production, "leading to a dramatic increase in demand for assistance from social service agencies." USDA Rural Development Strategy. The economy of the San Joaquin Valley has not measurably changed in the last decade, and the consequence of the adoption of unimpaired flow objectives, when combined with implementation of SGMA, will result in perpetual drought for San Joaquin Valley communities and its economy.

That same 2014 USDA report also stated:

Ironically, a number of communities within the [San Joaquin Valley], many of which are dependent on employment in the agricultural sector are also among the most food insecure in California and the US, with 33% to 41% of low-income residents classified as food insecure.

In other words, the economic disruption caused by drought induced unemployment will exacerbate difficult socio-economic conditions in disadvantaged rural communities. This reality is acknowledged by the Water Board staff's own analysis. Draft Staff Report: Sacramento/Delta Update to the Bay-Delta Plan, pg. 8-88.

We have witnessed this scenario play out too many times in the last two-and-a-half decades. As agricultural and agricultural-related employment declines there are numerous effects. Agricultural workers are forced to migrate to other regions, which in turn leads to fewer residents in the region and lower enrollment in local schools. As land is taken out of irrigated agricultural production, local tax revenue declines, particularly when the title to land is acquired by public water agencies, as was the case in the early part of this century when water districts in Fresno County acquired 100,000 acres to reduce demands for water. At the same time as these reductions in revenue are occurring, demands for social services increase. And none of these impacts take into consideration the loss of healthy, affordable food supplies for the state and nation. All of these impacts are likely to be exacerbated if surface water supplies are further limited by the adoption of unimpaired flow objectives.

### **A Balanced Ecosystem and Water Supply Solution**

Fortunately, there is an alternative approach - the adoption of which is entirely within the Board's discretion. The Voluntary Agreements, or HRL, pair increased instream flow and Delta outflow with non-flow measures, including habitat improvements, which will improve the biological function of aquatic habitat for the benefit of species. More specifically, the Voluntary Agreements include increased flow contributions, including instream flow and Delta outflow, which are paired with non-flow habitat restoration measures to enhance the biological function of habitat that supports native fish species. Additionally, the Agreements include funding sources (estimated to be \$2.6 billion) to implement the program, robust monitoring and collaborative adaptive management, and a watershed-wide shared governance and science process. The Voluntary Agreements are a viable alternative for the reasonable protection of water for fish and wildlife uses that are likely to achieve equivalent, if not better, protection for native fish viability without the water supply reductions that will result from the adoption of unimpaired flow objectives.

It is worth noting that the flow and non-flow habitat restoration program described in the March 2022 Memorandum of Understanding Advancing a Term Sheet for the Voluntary Agreements to Updated and Implement the Bay-Delta Water Quality Control Plan, and Other Related Actions ("VAs MOU") was developed by the Department of Fish and Wildlife, Department of Water Resources, Bureau of Reclamation, the U.S. Fish and Wildlife Service, and numerous public water agencies. In a statement celebrating the execution of the VAs MOU, Governor Gavin Newsom stated:

***"We don't have to choose between healthy ecosystems or a healthy economy, we can choose a path that provides for both. This is a meaningful, hard-earned step in the right direction."***

The Water Board staff proposal for unimpaired flow objectives is premised on the belief that "more water will lead to healthy fish populations." A 2009, Public Policy Institute of California report entitled "California Water Myths" labeled this belief as a "myth." Hanak, E., et al., 2009, California Water Myths. That same report stated "without sufficient physical habitat, more water does little

good and may cause harm. Habitat needs connectivity and complexity, along with the ability to adjust to changing conditions.” The Voluntary Agreements are premised on the unassailable observation that healthy fish populations need more than water to thrive.

**Meeting Water Quality and Water Supply Objectives Together**

The amendment of the Bay Delta Plan is a quasi-legislative act, which involves the balancing of competing uses of water. This is evident from the Legislature’s declaration “that activities and factors which may affect the quality of the waters of the state shall be regulated to attain the highest water quality, which is reasonable, considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible.” Water Code § 13000 (emphasis added).

In this circumstance, what is “reasonable” considering all of the demands being made on the water involved, including environmental, economic, and social values, is undeniable. The Water Board should exercise its discretion to approve the Voluntary Agreements, as described in the VAs MOU, and reject unimpaired flow objectives proposed by the Water Board staff.

Sincerely,



Eddie Ocampo, Chair  
Water Blueprint for the San Joaquin Valley

*Deanna Jackson*

Deanna Jackson, Executive Director  
Tri-County Water Authority

*DDP*

Dave Puglia, President & CEO  
Western Growers Association

*Tricia Stever Blattler*

Tricia Stever Blattler, Executive Director  
Tulare County Farm Bureau

*Cornell Kasbergen*

Cornell Kasbergen, Board Chairman  
Milk Producers Council

*Emily Rooney*

Emily Rooney, President  
Agricultural Council of California

*Lynne McBride*

Lynne McBride, Executive Director  
California Dairy Campaign

*DA*

David Ahlem, President & CEO  
Hilmar Cheese Company

*Rachel Glauser*

Rachel Glauser  
Delta View Water Association

*Charles Wilson*

Charles Wilson, Executive Director  
Southern California Water Coalition

*Mike Wade*

Mike Wade, Executive Director  
California Farm Water Coalition

*William R. Stretch*

William Stretch, General Manager  
Fresno Irrigation District

*Katie Davey*

Katie Davey, Executive Director  
Dairy Institute of California

*Paul Boyer*

Paul Boyer, Council Member  
City of Farmersville California

*Glenn Wallace*

Glenn Wallace, CEO  
Valley Milk LLC



Arshdeep Singh, Director  
Punjabi American Growers Group



Breanne Vandenberg, Executive Director  
Merced County Farm Bureau



Renee Pinel, President/CEO  
Western Plant Health Association



Darrin Monteiro, SVP, Sustainability/Mmbr  
Relations  
California Dairies, Inc.



Casey Creamer, President  
California Citrus Mutual



Francis Pacheco  
VP of Membership and Public Affairs  
Dairy Farmers of America- Western Area



Robert Verloop, Executive Director/CEO  
California Walnut Commission



Priscilla Rodriguez, Assistant Vice President  
Western Agricultural Processors Association  
California Cotton Ginners and Growers  
Association



Zachary Fraser, President & CEO  
American Pistachio Growers



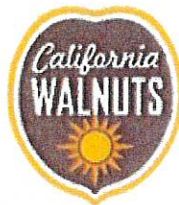
Matt Wohlman  
Vice President, Government Relations  
Land O' Lakes, Inc.



Jason Phillips, Chief Executive Officer  
Friant Water District

# Water Blueprint

for the San Joaquin Valley



Blank



VL.



January 30, 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](mailto:SacDeltaComments@waterboards.ca.gov)

**Re: Comment Letter – Proposed Amendments to the Bay-Delta Plan Alternatives 5a and 6a**

Dear Chair Esquivel and State Water Board Members:

The San Luis & Delta-Mendota Water Authority (“Water Authority”) and its member agencies Westlands Water District, the Del Puerto Water District, San Luis Water District, the Santa Clara Valley Water District, and the San Joaquin River Exchange Contractors Water Authority (together, “the Water Authority and Member Agencies”)<sup>1</sup> appreciate the opportunity to provide comments to the State Water Resources Control Board (“State Water Board”) regarding optional provisions of the draft updates (“Proposed Amendments”) to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (“Bay-Delta Plan”). Specifically, these comments address the topics discussed at the State Water Board January 23, 2025 workshop regarding potential Proposed Amendments provisions to 1) protect base Delta outflows during drought; and 2) protect Healthy Rivers and Landscapes Program participants’ flows base applicable to new water supply projects.<sup>2</sup>

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

<sup>1</sup> See Attachment 1 for a description of the Water Authority and Member Agencies.

<sup>2</sup> On January 19, 2024, the Water Authority and Member Agencies provided comments on 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.

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. The Proposed Amendments include options for incorporating either an unimpaired flow (“UIF”) approach or, as an alternative, the Healthy Rivers and Landscapes Program (“HRL Program”). The Water Authority and Member Agencies are among the agencies proposing and supporting the HRL Program.<sup>3</sup> The Proposed Amendments also include options for two modular alternatives, Alternative 5a and Alternative 6a, as described conceptually in the Draft Staff Report. For the reasons explained below, the Water Authority and Member Agencies encourage the State Water Board to adopt the HRL Program as proposed, without the addition of Alternative 5a or Alternative 6a, or any other potential modular alternative.

## **I. Alternative 5a Should Be Removed From Consideration**

The Proposed Amendments describe the provision to protect base Delta outflows during drought (“Alternative 5a”) as a “possible provision to protect minimum flows during droughts in order to avoid the need for Temporary Urgency Change Petitions and cold water pool impacts.” (Proposed Amendments, at p. 65.) It is presented by the State Water Board as an option to be implemented under both the UIF approach and the HRL Program alternative. (*Id.*) This provision would apply during critical water years and declared droughts, and would purportedly reduce the need for the SWP and CVP (collectively, “Projects”) to release previously stored water to meet the existing base Delta outflow objectives described in Table 3 (not including Table 4) of the Bay-Delta Plan. (*Id.*) As described conceptually in the Draft Staff Report, Alternative 5a would require water diverters, in addition to the Department of Water Resources (“DWR”) and the Bureau of Reclamation (“Reclamation”), to bypass water needed to meet existing water quality objectives during drought circumstances, similar to existing standard water right Term 91. (Draft Staff Report, at p. 7.2-12.) While the Water Authority and Member Agencies appreciate the State Water Board’s attempt to expand the protection of releases of stored water under a Term 91-type approach, Alternative 5a’s underdeveloped state, the lack of quantitative analysis of water supply impacts, and its potential misalignment with the HRL Program framework render it unsuitable for adoption now as an amendment to the Bay-Delta Plan, for the following reasons.

### **A. Water Supply Impacts of Alternative 5a Have Not Been Analyzed**

There is a critical need to protect limited available water supplies in times of drought, including releases of stored water, consistent with water rights. However, the impacts Alternative

---

<sup>3</sup> On January 10, 2025, the Water Authority and Member Agencies provided comments on the Proposed Amendments to the Bay-Delta Plan, including identifying material differences between the HRL Program as proposed by the participating parties and the alternative program for implementation. 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. We incorporate herein by reference our previous comments.

5a would have on water supplies has not yet been analyzed. Alternative 5a is insufficiently developed, and the Proposed Amendments and supporting documents including the Draft Staff Report fail to provide a comprehensive assessment of its potential impacts. These documents also lack clarity regarding how Alternative 5a would be implemented. As described in the Draft Staff Report and the Proposed Amendments, the potential impacts of Alternative 5a, including any unintended consequences, remain unknown and therefore cannot be properly evaluated.

At the January 23, 2025, State Water Board workshop, staff stated that water supply impacts of Alternative 5a would vary depending on hydrologic conditions and water years, emphasizing the need for further analysis to determine its full scope of effects. Additionally, staff appeared to suggest that the baseline conditions assumed in the Draft Staff Report and subsequent Proposed Amendments presuppose that the existing water quality objectives are being met. However, neither the Draft Staff Report nor the Proposed Amendments include modeling or quantitative analysis of how Alternative 5a would interact with these baseline conditions. (*See* Draft Staff Report, at pp. 7.2-12–7.2-13; Proposed Amendments, at pp. 65-66.) At present, there is no way to determine the impacts that Alternative 5a would have on water supplies or senior water right holders.

State Water Board staff have indicated that supplemental analysis on Alternative 5a will be provided in the next version of the Draft Staff Report. Until such quantitative analysis is available and demonstrates that Alternative 5a would not cause unacceptable water supply impacts, the State Water Board should remove Alternative 5a from consideration.

**B. A Term 91-Type Approach Should Not Be Imposed Through the Water Quality Control Plan Update Process**

Existing Term 91 prevents water right holders from diverting water stored by the Projects and makes those users partially responsible for bypassing natural and abandoned flows needed to meet Delta flow-dependent water quality objectives. (Draft Staff Report, at pp. 7.2-12-7.2-13.) Under Alternative 5a, the State Water Board proposes to expand a Term 91-type approach to apply to more senior water right holders and claimants. (*Id.*)

Term 91, adopted in 1980, was imposed as a standard condition of water right permits. (*In re Water Right Permits in the Sacramento-San Joaquin Delta Watershed* (Nov. 1983) State Water Resources Control Bd. Dec. No. 1594 at p. 8 (Decision 1594).) The fundamental issue related to this program, as described by the State Water Board staff, is that only a small percentage of total diverters in the Delta watershed are required under Term 91 or otherwise to bypass the stored water being released by the Projects to meet water quality standards. (Draft Staff Report, at pp. 7.2-12-7.2-13.) Permittees and licensees with water right priority dates earlier than 1965, riparians, and pre-1914 appropriators are exempt from curtailments. (*See id.*)

While the Water Authority and Member Agencies support efforts to prevent unlawful diversions, we question the effort to do so through the proposed Alternative 5a, when Term 91 was adopted through standard water right permit terms, a very different process. The proposed shift in practice raises procedural concerns and potential legal challenges, as the adoption of water quality

control plan amendments is governed by distinct procedural and substantive requirements. The State Water Board should instead pursue enforcement or curtailment actions or develop conditions through standard water right permitting processes to address these issues without undermining established procedures.

**C. Alternative 5a Is Not Part of the HRL Program**

Alternative 5a is presented as an option under both the UIF approach and the HRL Program. (Proposed Amendments, at p. 65.) However, it was not included as part of the HRL Program proposal developed by participating parties. The HRL Program is a carefully crafted, comprehensive framework developed through collaboration among state, federal, and local agencies. The participating parties have proposed specific Supported Amendments to the Bay-Delta Plan, as described in Section 5 of the Global Agreement and Exhibit A to the Global Agreement.<sup>4</sup>

As previously discussed in our January 10, 2025, comment letter, modifying the HRL Program to include additional provisions such as Alternative 5a, or exclude key elements, potentially undermines the program's integrity and introduces unnecessary uncertainty. Alternative 5a, or any similar provision for protecting minimum flows during droughts, is not part of the HRL Program proposal, and it is neither appropriate nor necessary to include it under the UIF approach or the HRL Program.

The State Water Board possesses other tools to protect releases of Project stored water from unlawful diversion, including enforcement proceedings against unlawful diversions. For example, the State Water Board can issue cease-and-desist orders or curtailment orders to address unauthorized diversions or protect flows needed to meet water quality objectives. These tools are sufficient to achieve the goals of Alternative 5a without adopting such a provision in the Bay-Delta Plan.

For the above reasons, the Water Authority and Member Agencies respectfully request that the State Water Board remove Alternative 5a from consideration in the Proposed Amendments, for both the UIF approach and as a measure added to the HRL Program alternative. Its underdeveloped state, the lack of quantitative analysis on water supply impacts, and its misalignment with the HRL Program framework render it unsuitable for adoption. Further, any expansion of a Term 91-type approach should not be pursued through a water quality control plan amendment.

**II. Potential Provisions to Protect HRL Program Flows and Flow Base Applicable to New Water Supply Projects, Including Alternative 6a (Option 1) and Option 2, Should Be Removed From Consideration**

The State Water Board is also considering potential measures to protect HRL Program base flows from being reduced by new water supply projects (Proposed Amendments, at p. 80).

---

<sup>4</sup> Global Agreement, section 2.31.

Specifically, these measures target new water right applications and water right change petitions that result in increased diversions that could reduce base flows and overall additive flows provided by the HRL Program participants. (*Id.*) State Water Board staff contend that, because the HRL Program flows are intended to be additive to required flows under D-1641 and resulting flows under the Biological Opinions, additional safeguards may be necessary to protect the base upon which the HRL Program flows are intended to be additive from diversion. (Draft Staff Report, at pp. 7.2-15-7.2-16.)

To address these concerns, the State Water Board noticed three options for consideration at the January 23 workshop. **Option 1** is a provision based on Alternative 6a described in the Draft Staff Report that would limit diversions by new projects to high flow events (when Delta outflows are above 42,800 cubic feet per second). (*See* Proposed Amendments, at pp. 80-81.) Alternative 6a as proposed is still a preliminary concept. The Draft Staff Report does not adequately assess the potential impacts of Alternative 6a. Therefore, Alternative 6a is not ready for adoption as part of the Bay-Delta Plan amendments.

**Option 2**, a new provision that would subject new water rights or amendments to water rights approved after January 1, 2025 to the tributary inflow, cold water habitat, and inflow-based Delta outflow provisions in the proposed amendments in the same manner as non-VA water rights. (*See* Proposed Amendments, at p. 81.) Put another way, Option 2 would subject new projects to the regulatory pathway (i.e., an unimpaired flow bypass requirement). Option 2 lacks sufficient detail for stakeholders to discern its specific requirements. Without further information, it is not possible to meaningfully evaluate the potential impacts or provide informed comments. That is a matter that could instead be decided at the time of each such approval. The relative merits of applying the new flow requirements to all new or newly amended water rights through the Bay-Delta Plan versus a case and fact specific application in a water rights process are not described anywhere. Nor was Option 2 elaborated on in the January 23 workshop. The State Water Board should refrain from adopting Option 2 until at least additional details are released, its impacts are analyzed, and stakeholders are afforded a meaningful opportunity to comment.

On January 16, 2025, DWR and the California Department of Fish and Wildlife (“CDFW”) provided **Option 3** as an alternative to Alternative 6a on January 16, 2025. (*See* DWR Proposed Alternative to Modular Alternative 6a For New or Expanded Diversion Projects.) They suggest Alternative 6a “be further developed through the adaptive management function contained in the HRL Science Program which is designed to account for new scientific developments” and that “the Bay-Delta Plan incorporate new information and analysis that will be carried out during the 8-year term of the HRL program to develop and establish flow-threshold protection criteria by the conclusion of the 8-year term period. The new flow-threshold criteria would apply to new water supply projects that will become operational after the proposed 8-year term of the HRL, to protect Delta outflow for native species in light of new or expanded diversions.” (*Id.*, at 1.)

As DWR and CDFW propose, Alternative 6a should be further analyzed and developed through the adaptive management function contained in the HRL Science Program, which is designed to account for new scientific developments. Especially given the limited analysis of

Alternative 6a done to date, this Option 3 is the more prudent approach. For the reasons detailed below, the State Water Board should not adopt Alternative 6a.

**A. Water Rights for New Projects Can Be Conditioned as Needed Without Adopting Limits Through the Bay-Delta Plan**

Alternative 6a, or similar provisions, were not included as part of the HRL Program proposal developed by participating parties. The existing regulatory framework provides adequate tools to address potential impacts from new projects without the need to preemptively restrict all future projects through Alternative 6a.

The State Water Board has the authority to condition new or expanded water rights to implement water quality objectives, and protect public trust resources and senior water rights holders. These conditions can be tailored to the specific circumstances of each new water supply project without the need to impose generalized restrictions through amendments to the Bay-Delta Plan. Conditioning water rights on a case-by-case basis allows for greater flexibility and ensures that decisions are informed by the best available data and site-specific considerations.

**B. HRL Program Flow Protection Measures Could Be Further Developed Through the HRL Program's Adaptive Management Framework**

Alternative 6a is based on concepts described in the Draft Staff Report (Proposed Amendments, at p. 80), which reference Delta outflow levels from the State Water Board's 2017 Scientific Basis Report. (Draft Staff Report, at p. 7.2-16.) Reliance on the 2017 Scientific Basis Report's outflow targets is problematic because developments in Delta science have occurred since the report was prepared, and will continue to occur if the HRL Program is adopted.

The Water Authority and Member Agencies agree that the State Water Board should protect the flows that are part of the HRL Program. However, instead of adopting Alternative 6a, the State Water Board should allow scientific advancements to guide the development of any potential future limitations on new or expanded water diversions. Alternative 6a is a preliminary concept and has not been the subject of extensive analysis. HRL Program flow protection measures should be further developed through the adaptive management function contained in the HRL Science Program and under the framework of the Healthy Rivers and Landscapes Science Plan ("Science Plan"), which is designed to account for new scientific developments. (Science Plan, at p. i.) The HRL Science Program includes an adaptive management function specifically designed to incorporate new scientific developments into the regulatory framework. (Science Plan, at p. 3-4.) This approach provides a mechanism for addressing emerging issues, such as the potential impacts of new water supply projects on HRL Program flows, without prematurely adopting prescriptive limits.

The Water Authority and Member Agencies are not aware of any new significant water supply projects with the potential to change Delta outflow that will become operational during the proposed eight-year term of the HRL Program. There is time for the HRL Science Program to explore alternative, science-based options for protecting the HRL Program flow base. Rather than

establishing flow-specific thresholds for protection of HRL Program flows in the Bay-Delta Plan now for projects that involve new or expanded water diversions in the future, the State Water Board should incorporate new information and analysis that will be carried out during the eight-year term of the HRL Program to develop and establish flow-threshold protection criteria by the conclusion of the eight-year term period.

**C. Alternative 6a Applies Impactful Prescriptive Measures Without Strong Scientific Basis**


As outlined in our January 19, 2024 comment letter on the Draft Staff Report, the Proposed Amendments should avoid incorporating provisions with requirements likely to evolve in response to advancements in science. For example, measures such as the Fall X2 action and the San Joaquin River I:E ratio under Biological Opinions (“BiOps”) or Incidental Take Permits (“ITPs”) have changed over time based on evolving science, demonstrating the challenges of embedding such provisions into the Bay-Delta Plan. The Bay-Delta Plan is not easily or swiftly amended to address future changes.

Alternative 6a remains underdeveloped and lacks comprehensive modeling. Its adoption at this stage would preempt the thorough evaluation necessary to ensure its efficacy. Adopting modular alternatives like Alternative 6a risks cementing sweeping restrictions that could later prove incomplete, inaccurate, or even counterproductive. Establishing prescriptive limits now, without sufficient study, could result in rigid policies that fail to accommodate future advancements in Delta science and water management practices. The HRL Program’s eight-year term provides a valuable opportunity for continued study, stakeholder collaboration, and adaptive refinement of flow protection measures. Premature adoption of Alternative 6a could introduce unintended consequences, especially given the dynamic and evolving nature of Delta science, water resource management, and future water supply projects.

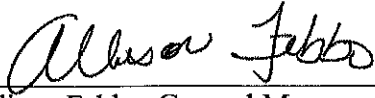
By deferring prescriptive measures and utilizing the adaptive management framework of the HRL Science Program, the State Water Board can remain flexible and responsive to emerging insights while avoiding unnecessary regulatory constraints. For these reasons, the Water Authority and Member Agencies strongly urge the State Water Board to exclude Alternative 6a from consideration as an add-on to the HRL Program.

We thank you for your consideration of these comments.

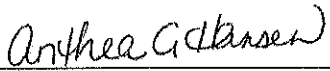
Sincerely,

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

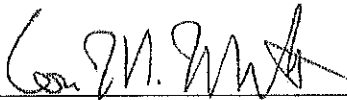
Comment Letter – Proposed Amendments to the Bay-Delta Plan (Alternatives 5a and 6a)  
San Luis & Delta-Mendota Water Authority and Member Agencies  
January 30, 2025



Allison Febbo, General Manager  
Westlands Water District



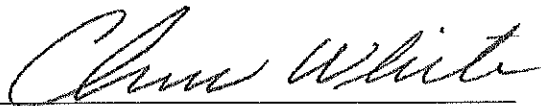
Anthea Hansen, General Manager  
Del Puerto Water District



Lon Martin, General Manager  
San Luis Water District



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 the Water Authority and Member Agencies



**Attachment 1**  
**(Description of the 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 Proposed Amendments to the Bay-Delta Plan.

Westlands Water District ("Westlands") 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 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 ("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 Reclamation for its water supply, which is delivered from the Delta-Mendota Canal, a feature of the CVP. 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 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 the Kings River to allow for irrigation in the western portion of Fresno, Madera, Merced, and

40

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.

Blank

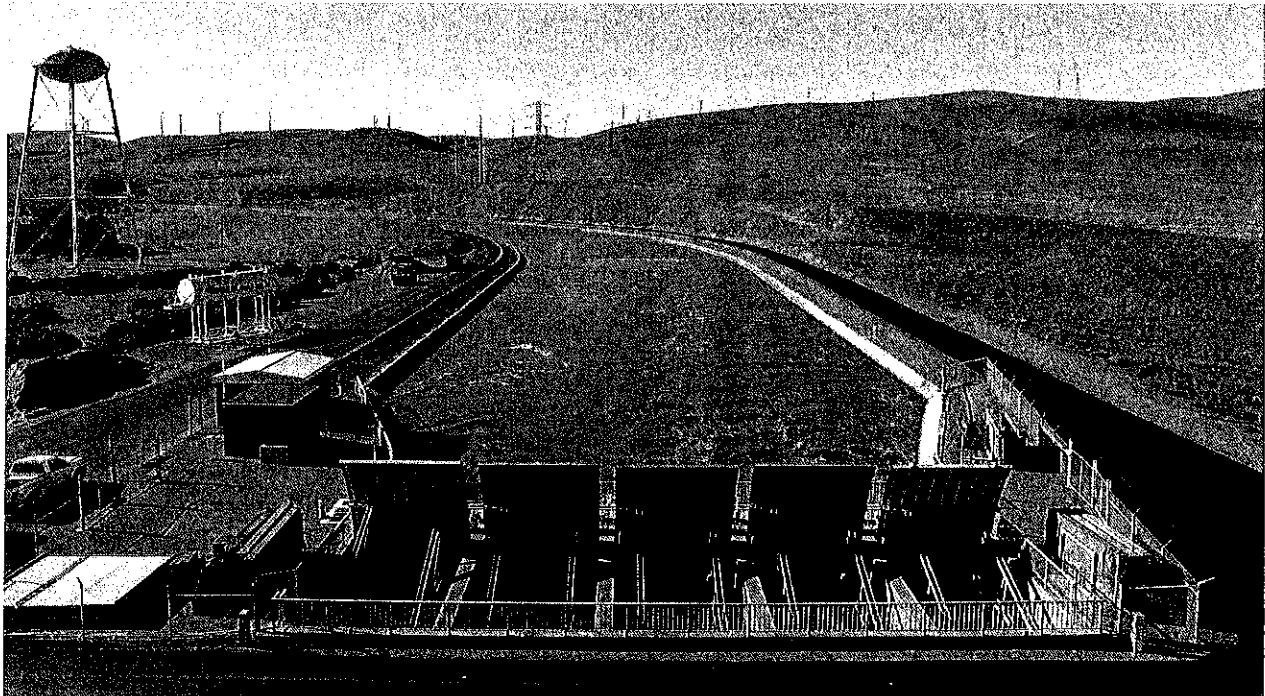
VI.

# DWR: Delta Conveyance Project receives Incidental Take Permit: Updated with statements from the Governor, Restore the Delta, and State Water Contractors

[mavensnotebook.com/2025/02/14/dwr-delta-conveyance-project-checks-off-another-important-milestone/](https://mavensnotebook.com/2025/02/14/dwr-delta-conveyance-project-checks-off-another-important-milestone/)

Department of Water Resources (DWR) Agency News February 14, 2025 541

February 14, 2025



*From Department of Water Resources:*



The California Department of Fish and Wildlife (CDFW) has issued an Incidental Take Permit (ITP) under Section 2081 of the California Endangered Species Act (CESA) for the Delta Conveyance Project. Completion of this permit is an important milestone in the planning process, advancing this critical project closer to implementation.

48

Under CESA, DWR is required to obtain an ITP to minimize, avoid, and fully mitigate impacts to threatened or endangered species as a result of the construction, operation, and maintenance of the Delta Conveyance Project.

The Delta Conveyance Project is one of California's most important climate adaptation strategies. By modernizing the infrastructure of the State Water Project, it will protect water supply reliability for 27 million people and 750,000 acres of farmland.

By developing infrastructure – including intake and tunneling facilities – on the Sacramento River in the Delta region, the Delta Conveyance Project would better equip the State Water Project to take advantage of the types of atmospheric rivers that are becoming more common. This would expand the state's ability to improve water supply reliability, while maintaining fishery and water quality protections.

### **ITP Background**

Incidental Take Permits are most commonly issued for construction, utility, transportation, and other infrastructure-related projects. Permittees must implement species-specific minimization and avoidance measures and fully mitigate the impacts of the project.

Avoidance and minimization measures are actions that are incorporated into the engineering or design of the Delta Conveyance Project and are intended to avoid, reduce, or minimize adverse effects that apply to one or more species. These measures are collaboratively developed by DWR and CDFW. Examples of general measures used in the past include:

- Erecting protective fencing around sensitive habitat within construction sites
- Limited operating periods to avoid species breeding, migration, etc.
- Pre-construction surveys to identify and mark sensitive or suitable habitat features
- Onsite construction personnel education programs covering species identification, protected status, and measures to take if one is found.

More information about the Delta Conveyance Project ITP and associated documentation can be found on the project's permit portal website [here](#).

Related, the Department of Water Resources (DWR) has evaluated the operational changes proposed through CESA consultation and found there are no changes to the impact assessment presented in the Final EIR. More information [here](#).

## Statement from Governor Gavin Newsom:

---



Governor Newsom announced today another important step in the state's work to modernize its water infrastructure through the Delta Conveyance Project. Passing yet another critical milestone, the project received a required Incidental Take Permit. The permit includes measures to minimize, avoid, and fully mitigate impacts on threatened or endangered species as a result of the construction, operation, and maintenance of the Delta Conveyance Project.

"California doesn't have to choose between safeguarding endangered species and protecting our water supply — this permit demonstrates we can do both," said Governor Gavin Newsom.

The Delta Conveyance Project will upgrade the State Water Project, enabling California's water managers to capture and move more water during high-flow atmospheric rivers to better endure dry seasons. The tunnel, a modernization of the infrastructure system that delivers water to millions of people, would improve California's ability to take advantage of intense periods of rain and excess flows in the Sacramento River.

Here are some facts about the DCP

By developing infrastructure – including intake and tunneling facilities – on the Sacramento River in the Delta region, the Delta Conveyance Project would better equip the State Water Project to take advantage of the types of atmospheric rivers that are becoming more common. This would expand the state's ability to improve water supply reliability, while maintaining fishery and water quality protections. During atmospheric rivers last year, the Delta Conveyance Project could have captured enough water for 9.8 million people's yearly usage.

California is expected to lose 10% of its water supply due to hotter and drier conditions, threatening the water supply for millions of Californians. Extreme weather whiplash will result in more intense swings between droughts and floods – California's 60-year-old water infrastructure is not built for these climate impacts.

“We are proceeding with confidence towards implementing this critical project to protect our state’s primary supply of clean, affordable water,” said Karla Nemeth, Director of California’s Department of Water Resources.

#### Safeguarding protected species

The Incidental Take Permit was issued to the Department of Water Resources by the California Department of Fish and Wildlife. Incidental take permits are most commonly issued for construction, utility, transportation, and other infrastructure-related projects. Permittees must implement species-specific minimization and avoidance measures and fully mitigate the impacts of the project including:

- Erecting protective fencing around sensitive habitat within construction sites.
- Limited operating periods to avoid species breeding, migration, etc.
- Pre-construction surveys to identify and mark sensitive or suitable habitat features.
- Onsite construction personnel education programs covering species identification, protected status, and measures to take if one is found.

The Delta Conveyance Project is critical to the Governor’s build more, faster agenda to modernize our water infrastructure and increase resilience to protect communities in the face of extreme droughts and floods. Learn more at [build.ca.gov](http://build.ca.gov).

#### **Statement from Restore the Delta:**

---

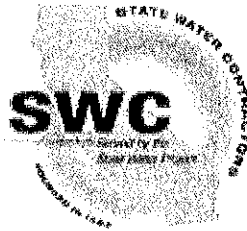
Today, Governor Gavin Newsom announced that the Delta Conveyance Project (DCP) has received a required Incidental Take Permit to advance the boondoggle project. Built on flawed voluntary agreements, the DCP seeks to divert vital river water into a costly tunnel that fails to address real climate-resilient water solutions or deliver affordable outcomes for Californians.

Statement by Barbara Barrigan-Parrilla, Executive Director of Restore the Delta: Governor Newsom is pushing forward with the DCP at the expense of the Delta’s communities, all while cutting a deal with President Trump to pump the Delta dry. The Bay Delta’s economy and environment will be completely destroyed by this apparent Newsom-Trump alliance. Why is Newsom hastening the destruction of the Bay Delta estuary while Trump is federalizing California water management? Restore the Delta remains committed to fighting to protect the Delta and the people that depend on it.



## **Statement from the State Water Contractors:**

---



According to DWR's most recent Delivery Capability Report, a changing climate could reduce the reliability of the SWP by as much as 23 percent over the next two decades. California has been taking aggressive action to prepare for extremes by securing reliable water supplies. The Delta Conveyance Project represents a critical step in modernizing our water infrastructure to adapt to rising sea levels, safeguard against earthquakes, and ensure the continued delivery of reliable water supplies to over 27 million Californians, 750,000 acres of farmland, and countless businesses.

### **Statement from Jennifer Pierre, General Manager of the State Water Contractors:**

"The State Water Contractors welcome the forward momentum by the Department of Fish and Wildlife and Department of Water Resources in completing this ITP, a foundational step towards realizing the Delta Conveyance Project and ensuring California is prepared for a future shaped by climate change. As the Department of Water Resources continues to pursue the few remaining permits, the State Water Contractors look forward to working on behalf of our participating member agencies to advance the maximum benefits of this project. Every day of delay increases the project costs by \$1 million and perpetuates the risk of a major disruption to water supplies. The urgency with which the State is moving forward on this project is both critical and appreciated."

### **Statement from Chandra Chilmakuri, Assistant General Manager of the State Water Contractors:**

"We look forward to working with DWR to ensure the full benefits of the Delta Conveyance Project are realized and to explore ways to expand the benefits of the SWP before and after the project is operational, guided by the best available science.

"Recent votes to continue progress on the Delta Conveyance Project underscore its importance and necessity. Thirteen agencies, including the Metropolitan Water District of Southern California, which serves more than 19 million people across six counties, have approved funding for ongoing planning and preconstruction activities. A comprehensive

cost-benefit analysis by the Department of Water Resources has demonstrated that the project will generate \$2.20 in benefits for every dollar spent, amounting to nearly \$38 billion in total benefits.

“Together, these milestones reaffirm the Delta Conveyance Project’s vital role in securing California’s water future amidst unprecedented climate-driven challenges.”

**SIGN UP**  
for daily email service



**The latest water news by around 9am**  
Breaking news alerts too!

© 2013-2024 Maven's Notebook, et al. All Rights Reserved.

5-3