



## MEMORANDUM

TO: SLDMWA Board Members and Alternates

FROM: Scott Petersen, Water Policy Director

DATE: October 10, 2019

RE: Board of Directors to Consider Authorizing Expenditure of up to \$30,000 from the Technical Budget to Support the Advancement of Proposed Voluntary Agreements for the Bay-Delta Water Quality Control Plan Update, together with Other CVP Contractors and SWP Contractors

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### BACKGROUND

The State Water Resources Control Board (“Water Board”) is 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”). This update is commonly referred to as the State Board unimpaired flow (“UIF”) proposal.

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.<sup>1</sup> The Water Board did not adopt the proposed VSAs in lieu of the proposed Phase 1 amendments, but as explained below, directed staff to consider the proposals as part of a future Delta-wide proposal.

**Phase 1 Status:** The Water Board adopted a resolution<sup>2</sup> 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.

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<sup>1</sup> Available at <https://water.ca.gov/-/media/DWR-Website/Web-Pages/Blogs/Voluntary-Settlement-Agreement-Meeting-Materials-Dec-12-2018-DWR-CDFW-CNRA.pdf>.

<sup>2</sup> Available at [https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/resolutions/2018/rs2018\\_0059.pdf](https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2018/rs2018_0059.pdf).

**Phase 2 Status:** In the 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. 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.

The effort has made significant progress since an initial framework was presented to the State Water Board on December 12, 2018. On March 1, 2019, the California Department of Water Resources and the Department of Fish and Wildlife submitted documents<sup>3</sup> to the State Water Resources Control 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. 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.

Negotiations continue on the proposed Voluntary Agreement (VA) package, and the next key submittal date is October 15, 2019, when it is anticipated that a determination will be made by the State Team (SWRCB, CA Natural Resources Agency, CA EPA) as to the legal and scientific adequacy of the VA’s and the contribution of the VA’s to the objectives of the system-wide Delta Biological Goals and Objectives.

The VA process is being facilitated by well-regarded experts in their fields. The initial estimates of needed funding for facilitation, governance discussions, analysis and science basis report support were programmed through October of 2019 and the process has extended. As a result, additional funding is necessary to continue facilitation of the various negotiations ongoing as part of the VA development. An estimated \$250,000 will be needed to fund the appropriate consultants and the State Water Contractors have requested a cost sharing agreement with other VA negotiating parties to fund the necessary work. Currently, of the estimated \$250,000 in needed funding, commitments totaling \$150,000 have been secured in \$30,000 increments from the following parties: State Water Contractors, Yuba River Water Agency, Contra Costa Water District, East Bay Municipal Utilities District and Solano County Water Agency. The Sacramento River Settlement Contractors, Feather River parties and San Francisco Public Utilities District have been approached for funding, but have not yet secured contributions.

During the April Authority Board meeting, the Board approved expenditure of up to \$50,000 for partial funding of the VA’s through October, of which \$40,000 has been expended.

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<sup>3</sup> Available at [http://resources.ca.gov/docs/voluntary-agreements/2019/Complete\\_March\\_1\\_VA\\_Submission\\_to\\_SWRCB.pdf](http://resources.ca.gov/docs/voluntary-agreements/2019/Complete_March_1_VA_Submission_to_SWRCB.pdf)

**ISSUE FOR DECISION**

Whether to authorize staff to execute an agreement with State Water Contractors and expenditure of up to \$30,000 from the Technical Budget to contribute to the facilitation expenditures associated with the continued negotiation of Voluntary Agreements.

**RECOMMENDATION**

Staff recommends that the Board authorize execution of an agreement with the State Water Contractors and expenditure of up to \$30,000 from the Technical Budget to jointly fund necessary technical work and facilitation costs associated with advancing the Voluntary Agreements.

**BUDGET IMPLICATIONS**

The Board approved \$1.01 million in this year's Technical Budget, which includes \$105,000 for Coordinated Science (obligated), \$200,000 for Science Studies (\$85,000 unobligated) and \$505,000 for previous technical project commitments. Should the Board approve the staff's recommendation, that will obligate \$30,000 of the remaining \$85,000 available for this fiscal year for the Technical Studies/Science Budget, resulting in \$55,000 of unobligated funds remaining in this fiscal year's budget.