



## MEMORANDUM

TO: SLDMWA Board of Directors, Alternates

FROM: Scott Petersen, Water Policy Director

DATE: June 6, 2019

RE: Update on Water Policy/Resources Activities

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### BACKGROUND

This memorandum is provided to briefly summarize the current status of various agency processes regarding water policy activities, including but not limited to the (1) Reinitiation of Consultation on Long-Term Operations (“ROC on LTO”), (2) Bay-Delta Water Quality Control Plan update, and (3) California WaterFix.

### POLICY ITEMS

#### Reinitiation of Consultation on Long-Term Operations (ROC on LTO)

Reclamation and state and federal resource agencies continue to work on the reinitiation of consultation on long-term operations (“ROC on LTO”). Per the October 19, 2018 Presidential Memorandum on Promoting the Reliable Supply and Delivery of Water in the West<sup>1</sup>, the adjusted timeline for the ROC on LTO includes final biological assessment(s) by January 31, 2019, and final biological opinions by June 15, 2019. On November 21, 2018, the Secretaries of Interior and Commerce named Paul Souza, Regional Director for the Pacific Southwest Region of the U.S. Fish and Wildlife Service, as the Lead Official in charge of managing the Central Valley Project’s compliance with the Presidential Memorandum’s requirements. On January 31, 2019, Reclamation transmitted a final Biological Assessment<sup>2</sup> to U.S. Fish and Wildlife Service and the National Oceanic and Atmospheric Administration Fisheries, beginning their review of the Biological Assessment and the 135-day requirement to issue Biological Opinions, which would need to be completed by June 17, 2019, in order to comply with the Presidential Memo. Recently, Reclamation indicated that there will be a two-week delay to address internal coordination issues between the NMFS and FWS Biological Opinions.

As previously indicated, after completion of the Biological Opinions by the resource agencies, Reclamation will continue the environmental compliance process under the National Environmental Policy Act, with an estimated issuance of a final Environmental Impact Statement

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<sup>1</sup> Available at <https://www.whitehouse.gov/presidential-actions/presidential-memorandum-promoting-reliable-supply-delivery-water-west/>.

<sup>2</sup> Available at <https://www.usbr.gov/mp/bdo/lto.html>

in November 2019 and the issuance of the final Record of Decision in December 2019. Reclamation has reached out to parties who have standing to become Cooperating Agencies, including the San Luis & Delta-Mendota Water Authority (“Water Authority”), to participate in the NEPA process. Cooperating Agency status will allow the Water Authority to provide support to Reclamation as the agency completes its NEPA environmental review. The Water Authority has provided the signed MOU to Reclamation and will be participating as a Cooperating Agency. Authority staff will be providing comments to Reclamation on various administrative draft documents through its Cooperating Agency status. Upcoming important milestone dates include:

- June 4: Issuance of NMFS Salmon Biological Opinion and FWS Delta Smelt Biological Opinion to Public Water Agencies for WIIN Act review and to peer review panel
- June 12: PWA Comments due to resource agencies for incorporation into final document
- Late June: Issuance of Final Biological Opinions
- June 28 – August 15: Public Draft Environmental Impact Statement Public Comment Period
- July 22 – 26: Public Meetings on EIS Draft
- November 29: Release of Final EIS

## ESA / NEPA SCHEDULE



Additionally, on May 28, 2019, the Authority signed onto a letter (attached) commenting on the Notice of Preparation of the Long-Term Operations for the State Water Project, indicating that coordinated operations between the CVP and SWP indicate that DWR should work closely with Reclamation in the development of the EIR for Long-term operations of the State Water Project.

## Bay Delta Water Quality Control Plan Update

As previously discussed, the State Water Resources Control Board (“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.<sup>3</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>4</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.

**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 no later than March 1, 2019. Staff were directed to incorporate the Delta watershed-wide agreement as an alternative for a future, comprehensive Bay-Delta Plan update that addresses the reasonable protection of beneficial uses across the Delta watershed, with the goal that comprehensive amendments may be presented to the State Water Board for consideration as early as possible after December 1, 2019. As the Water Board further refines this update, there will be opportunity for public comment.

The effort has made significant progress since an initial framework was presented to the State Water Board on December 12, 2018.

On March 1, 2019, the California Department of Water Resources and the Department of Fish and Wildlife submitted documents<sup>5</sup> to the Water Board that reflect progress since December to flesh-out the previously submitted framework to improve conditions for fish through targeted

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<sup>3</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>4</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).

<sup>5</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)

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.

The package submitted March 1 is the product of renewed discussions over the first six weeks since Governor Gavin Newsom took office. It includes a project description identifying resources and actions that could be deployed to support environmental and biological objectives and a planning agreement that outlines an implementation approach and terms for the additional work ahead. All Delta tributaries were included as part of the Voluntary Agreement submittal except the Stanislaus and Merced Rivers.

There is significant ongoing work to more fully develop a package to be submitted to the State Water Resources Control Board in June and the Plenary Group has now formed multiple working groups associated with implementation of potential Voluntary Agreements, including a Governance, Science and Adaptive Management work group, a Legal work group, an Assets to Outcomes work group and an ad-hoc Policy work group.

### [California WaterFix](#)

On May 2, 2019, the California Department of Water Resources announced that it has withdrawn the project approval of WaterFix and rescinded the accompanying NOD filed pursuant to CEQA DWR will begin a renewed environmental review and planning process for a smaller, single tunnel project. In addition, DWR and Reclamation submitted the attached letter to the State Water Board notifying the Board that they were withdrawing both the change petition and the application for Section 401 certification for WaterFix.

What happens next with regard to Delta conveyance remains to be seen, but this development certainly has implications for (1) pending litigation challenging the WaterFix BiOps, DWR's financing of WaterFix, and the "No Harm" or "Hold Harmless" agreement, and (2) financial contributions to the planning of WaterFix.

On May 31, 2019, Reclamation hosted a meeting of CVP contractors to discuss federal participation in what is now known as the "Large Scale Delta Conveyance Project". There are multiple options for federal participation in this revised, single-tunnel project, and Reclamation intends to hold CVP workshops to explore options on how Reclamation will interact with this revised project description. At this point, DWR will be the lead for the California environmental permitting process and CEQA scoping meetings are anticipated to begin in the fall.



May 22, 2019

By Electronic Mail

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Re: Notice of Preparation of an Environmental Impact Report (EIR) for Long-Term Operations of the State Water Project

Dear Mr. Messer:

The Friant Water Authority, Tehama Colusa Canal Authority, San Joaquin River Water Authority, San Luis & Delta-Mendota Water Authority, and Westlands Water District appreciate the opportunity to provide written comments on the Notice of Preparation of the Environmental Impact Report for Long-Term Operations of the State Water Project.

Due to the high level of coordination required between the State Water Project and Central Valley Project, it is essential that the Department of Water Resources (Department) continue to work closely with the United States Bureau of Reclamation (Reclamation) throughout the Department's analysis and preparation of this EIR. Because of this necessary coordination between the two water projects, the EIR should include, as an alternative, the proposed action that Reclamation described in its recent biological assessment for the re-initiation of consultation on the long-term operation of the Central Valley Project and State Water Project.

The undersigned agencies thank you for the opportunity to comment. We ask that you include these agencies in the distribution list for all future notices and direct communications from the Department of Water Resources regarding the proposed project and EIR.

Sincerely,



Jason Phillips  
Chief Executive Officer  
Friant Water Authority



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



Jeff Sutton  
General Manager  
Tehama Colusa Canal Authority



Tom Birmingham  
General Manager  
Westlands Water District



Chris White  
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