



## MEMORANDUM

TO: SLDMWA Water Resources Committee Members and Alternates

FROM: Scott Petersen, Water Policy Director

DATE: February 1, 2021

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) State Water Resources Control Board Action, including the Bay-Delta Water Quality Control Plan update, (3) San Joaquin River Restoration Program, (4) Delta Conveyance, (5) Delta Stewardship Council, and (6) Water Blueprint for the San Joaquin Valley.

### POLICY ITEMS

#### [Reinitiation of Consultation on Long-Term Operations of the Central Valley Project and State Water Project](#)

In August 2016, the Bureau of Reclamation and California Department of Water Resources (DWR) requested reinitiation of consultation with NOAA Fisheries, also known as National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (FWS) due to multiple years of drought, low populations of listed species, and new information developed as a result of ongoing collaborative science efforts over the last 10 years.

On Jan. 31, 2019, Reclamation transmitted its Biological Assessment to the Services. The purpose of this action is to continue the coordinated long-term operation of the CVP and SWP to optimize water supply delivery and power generation consistent with applicable laws, contractual obligations, and agreements; and to increase operational flexibility by focusing on nonoperational measures to avoid significant adverse effects to species.

The biological opinions carefully evaluated the impact of the proposed CVP and SWP water operations on imperiled species such as salmon, steelhead and Delta smelt. FWS and NMFS documented impacts and worked closely with Reclamation to modify its proposed operations to minimize and offset those impacts, with the goals of providing water supply for project users and protecting the environment.

Both FWS and NMFS concluded that Reclamation's proposed operations will not jeopardize threatened or endangered species or adversely modify their critical habitat. These conclusions

were reached for several reasons – most notably because of significant investments by many partners in science, habitat restoration, conservation facilities including hatcheries, as well as protective measures built into Reclamation's and DWR's proposed operations.

On Oct. 21, 2019, FWS and NMFS released their biological opinions on Reclamation's and DWR's new proposed coordinated operations of the CVP and SWP.

On Dec. 19, 2019, Reclamation released the final Environmental Impact Statement analyzing potential effects associated with long-term water operations for the CVP and SWP.

On Feb. 18, 2020, Reclamation approved a Record of Decision that completes its environmental review for the long-term water operations for the CVP and SWP, which incorporates new science to optimize water deliveries and power production while protecting endangered species and their critical habitats.

On January 20, 2021, President Biden signed an Executive Order: “Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis”, with a fact sheet<sup>1</sup> attached that included a non-exclusive list of agency actions that heads of the relevant agencies will review in accordance with the Executive Order. Importantly, the NOAA Fisheries and U.S. Fish and Wildlife Service Biological Opinions on the Long-Term Operation of the Central Valley Project and State Water Project were both included in the list of agency actions for review. It’s unclear what this agency review will analyze, but staff will be engaged.

#### Reclamation Directives and Standards

Documents out for Comment

There are currently no draft documents out for review.

#### State Water Resources Control Board (State Water Board) Activity

Documents out for Comment

There are currently no draft documents out for review.

#### Bay Delta Water Quality Control Plan Update

The State Water Board is currently considering updates to its 2006 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (“Bay Delta Plan”) in two phases (Plan amendments). The first Plan amendment is focused on San Joaquin River flows and southern Delta salinity (“Phase I” or “San Joaquin River Flows and Southern Delta Salinity Plan Amendment”). The second Plan amendment is focused on the Sacramento River and its tributaries, Delta eastside tributaries (including the Calaveras, Cosumnes, and Mokelumne rivers), Delta outflows, and interior Delta flows (“Phase II” or “Sacramento/Delta Plan Amendment”).

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

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>2</sup> The State Water Board did not adopt the proposed VSAs in lieu of the proposed Phase 1 amendments, but as explained below, directed staff to consider the proposals as part of a future Delta-wide proposal.

**Phase 1 Status:** The State Water Board adopted a resolution<sup>3</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 State Water Board’s resolution adopting the Phase 1 amendments, the Water Board directed staff to assist the Natural Resources Agency in completing a Delta watershed-wide agreement, including potential flow and non-flow measures for the Tuolumne River, and associated analyses no later than March 1, 2019. Staff were directed to incorporate the Delta watershed-wide agreement as an alternative for a future, comprehensive Bay-Delta Plan update that addresses the reasonable protection of beneficial uses across the Delta watershed, with the goal that comprehensive amendments may be presented to the State Water Board for consideration as early as possible after December 1, 2019. As the State Water Board further refines this update, there will be opportunity for public comment.

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

On March 1, 2019, the California Department of Water Resources and the Department of Fish and Wildlife submitted documents<sup>4</sup> to the State Water Board that reflect progress since December to flesh-out the previously submitted framework to improve conditions for fish through targeted river flows and a suite of habitat-enhancing projects including floodplain inundation and physical improvement of spawning and rearing areas.

Since the March 1 submittal, significant work has taken place to develop the package into a form that is able to be analyzed by State Water Board staff for legal and technical adequacy. On

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<sup>2</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>3</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>4</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)

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.

### Delta Conveyance

The purpose of the Delta conveyance project is to make the State Water Project more reliable by enabling it to operate in a more fish-friendly way with the added point of diversion, but also over the long-term, to protect the State Water Project against earthquakes, sea level rise, and the extreme storm events that are anticipated with climate change.

### Planning Efforts

These processes include the preparation of environmental documents per the [California Environmental Quality Act](#) (or [CEQA](#)) and the National Environmental Policy Act (or NEPA); there is also compliance and permitting under the Endangered Species Act and the Clean Water Act; and water rights proceeding for the added point of diversion at the State Water Board.



Current Planning Efforts		
Regulatory	Community Benefits	Public Engagement
<ul style="list-style-type: none"><li>• CEQA</li><li>• NEPA</li><li>• Endangered Species Act</li><li>• Clean Water Act</li><li>• Water rights</li><li>• Delta Plan consistency</li></ul>	<ul style="list-style-type: none"><li>• Community engagement and input</li><li>• Developing program framework for inclusion in Draft EIR</li></ul>	<ul style="list-style-type: none"><li>• Stakeholder Engagement Committee (SEC)</li><li>• Tribal consultation and engagement</li><li>• Environmental Justice and Disadvantaged Community outreach and engagement</li></ul>

Delta Conveyance Project | [www.water.ca.gov/deltaconveyance](http://www.water.ca.gov/deltaconveyance)

The Department has a four-tier planning process underway. They have completed initial outreach and scoping meetings. Currently, they are defining the project and working towards a draft environmental impact statement. They are defining different alternatives and developing various technical reports to articulate what a constructible project could look like based on the scoping information. Draft environmental documents are anticipated in the next year and a half, with completed documents following after that.

### Alternatives Screening Process

Selection of alternatives to evaluate in an Environmental Impact Report (EIR) is an important component of public agency project planning and is typically a required as part of the environmental review decision-making process. The Department of Water Resources (DWR) has initiated this process for the proposed Delta Conveyance Project and is currently preparing a Draft EIR in compliance with the California Environmental Quality Act (CEQA).

With regard to alternatives, CEQA directs that an EIR must analyze a reasonable range of potentially feasible alternatives that meet most of the project's objectives and avoid or reduce potential significant environmental impacts of the proposed project. An EIR is not required to consider alternatives which are infeasible or do not meet most of the project objectives.

For the proposed Delta Conveyance Project, the alternatives screening process involves identifying and studying in greater detail in the EIR alternatives that would restore and protect the reliability of State Water Project (SWP) water deliveries, consistent with the state's Water Resilience Portfolio, in the face of many challenges (such as climate change, sea level rise and earthquake risk), while avoiding or minimizing potential significant impacts of the proposed project. To determine the alternatives to be evaluated in detail in the EIR, DWR uses a multi-step screening selection process to filter alternatives based on whether they 1) meet most of the basic project objectives and 2) avoid or substantially lessen expected significant environmental effects of the proposed Delta Conveyance Project. For an alternative to be carried forward it must meet both screening filters.

DWR started the process by reviewing the alternatives considered for previous Delta conveyance efforts and also assessing and screening alternatives received from the public during CEQA scoping for the proposed Delta Conveyance Project, and then organized alternatives into the following category types, among others:

- **Dual Conveyance:** Includes new points of diversion in the Delta and facilities to move water from those new points of diversion to the existing pumping facilities in the south Delta.
- **Isolated Conveyance:** May include new points of diversion in the Delta but would not use existing pumping facilities in the south Delta.
- **Through-Delta Conveyance:** No new intakes in the Delta but could include new infrastructure in the Delta to ensure continued/improved conveyance capacity through existing Delta waterways.

The Draft EIR will document alternatives considered. The following are samplings of alternatives summary descriptions (additional detail on the description and results of screening will be included in the EIR).

- **Bethany Reservoir Alternative:** Water would be conveyed in the tunnel (consistent with the proposed project's eastern alignment) but continue further south and pumped directly into the existing Bethany Reservoir.
  - *Screening outcome – met both filters so it will be carried forward for additional evaluation in the Draft EIR. Specifically, it could result in fewer surface impacts because construction of a new terminal forebay and additional south Delta conveyance facilities are not needed.*
- **Continued Through-Delta Conveyance with Levee Improvements:** Use of existing conveyance facilities with improvement to Delta levees in several locations.

- *Screening outcome - filtered out for failing to meet most of the basic project objectives. Specifically, this alternative would not address the water quality component of climate change and sea level rise for the SWP and continued use of the existing system (even with upgrades) as a long-term plan does not address seismic resiliency and the associated water supply reliability concerns.*
- **“A Water Plan for All of California” (Congressman Garamendi Plan):** Construction of a new north of Delta diversion structure and pump station in West Sacramento into the Sacramento Deep Water Ship Channel (DWSC), intake near the southern end of the DWSC, boat lock to prevent water from flowing into the Delta and a 12-mile pipeline to convey water through the western Delta to the existing pumping plants in the south Delta.
  - *Screening outcome – filtered out for failing to avoid or lessen impacts. Specifically, significant construction, noise, transportation, visual, air quality and other impacts associated with construction activities in West Sacramento and potential habitat disturbances at various proposed construction locations.*
- **Western Intake Concept (Pyke Proposal):** Use of Sherman Island as an intake forebay, construction of a pumping plant and one or more tunnels to convey water to a new reservoir near Clifton Court Forebay with connections to existing south Delta pumping plants, an enlarged Los Vaqueros Reservoir and a boat lock at the Delta Cross Channel.
  - *Screening outcome – filtered out for failing to meet most of the basic project objectives. Specifically, this alternative does not address SWP water supply reliability or operational resiliency. Additionally, water quality regulations could constrain water quantities and use of the Sherman Island reservoir.*

In addition to the “action” alternatives analyzed in the EIR, a “No Project” alternative will also be included. The No Project alternative will describe likely conditions if the project is not implemented, including potential actions that may be taken absent a project, such as conservation, recycling and desalination, and the EIR will present the potential effects of not approving an action alternative. Although these alternative actions that may be implemented if the proposed Delta Conveyance Project or alternative is not implemented, several of which were proposed during scoping, don’t address the fundamental project purpose and were therefore screened out as standalone alternatives, the EIR will identify and analyze the effects of these additional actions that local water agencies may consider taking in the absence of the Delta Conveyance Project.

The alternatives selection process for the proposed Delta Conveyance Project is ongoing and the alternatives formulation process and detailed evaluation and analysis will be documented in the Draft EIR.

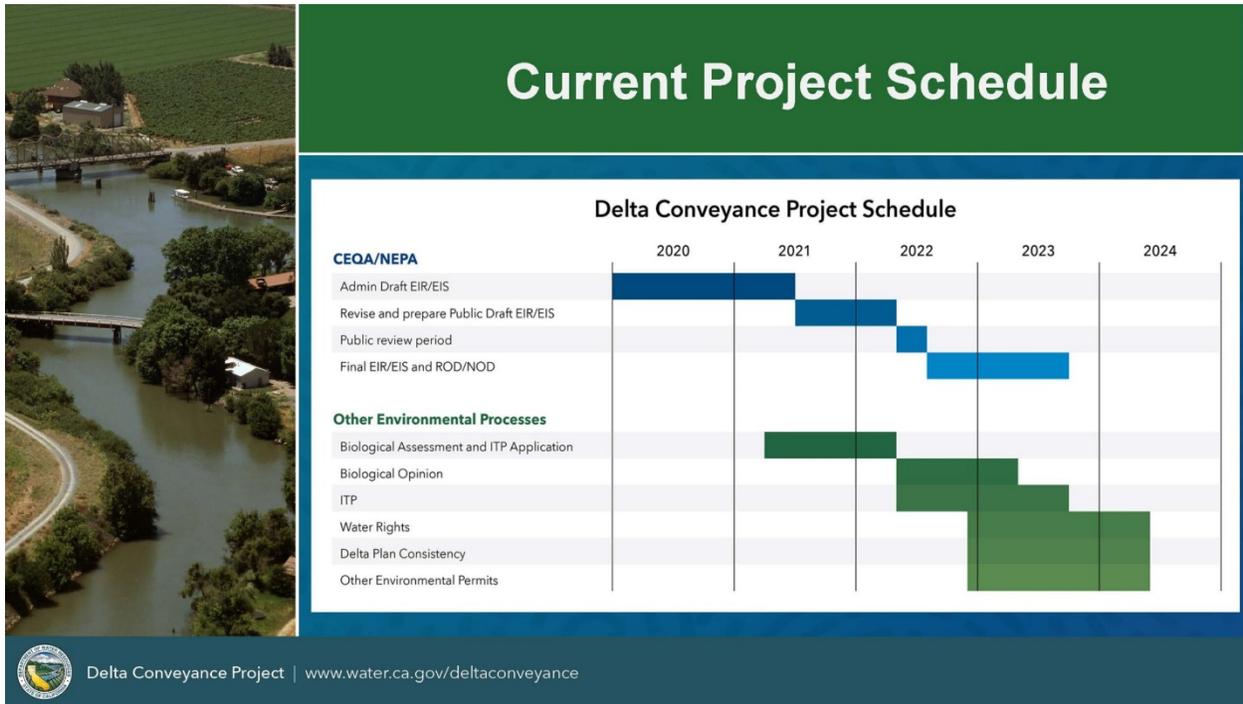
Additional information on the alternatives screening process, including examples of alternatives considered, can be found [here](#)<sup>5</sup>.

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<sup>5</sup> <https://water.ca.gov/News/Blog/2021/January/Delta-Conveyance-Project-Alternatives-Screening-Process>

Project Timeline

A draft environmental impact report is expected in 2022, with the completion of a final environmental document in late 2023. She noted that several permits interact with the environmental documents shown in the green bars at the bottom of the graphic. Those permits whose bars extend beyond the NEPA and CEQA documents require a completed document to move forward; this includes certifying consistency with the Delta Plan and the water rights proceeding from the State Water Board.



Water Blueprint for the San Joaquin Valley

Summary

The Water Blueprint for the San Joaquin Valley (Blueprint) is a broad group of stakeholders, working to better understand shared goals for water solutions that support environmental stewardship with the needs of communities and industries throughout the San Joaquin Valley. The Blueprint has engaged with stakeholders to try and ensure that everyone has safe, reliable and affordable access to water for drinking, supporting their farms and communities and a thriving ecology. The SJV faces significant impacts to its long-term economic, social, and environmental health if nothing is done to address water scarcity, as highlighted in Phase I of Dr. David Sunding’s Economic Impact Assessment (EIA). The Large Group and the following committees listed below are pursuing the goals of the Blueprint, including funding opportunities and working in conjunction with other stakeholders.

Technical Work & Phase II

The SJV Blueprint is engaged with the sub-basins through GSAs and other organizations to discuss the SJV Blueprint: new water sources, new conveyance, expanded beneficial use: groundwater

recharge, wetland & riparian habitats and how to make these projects, costs and governance a reality. A request letter to GSA's was sent for engagement and funding to address their water supply needs and a number of subbasin have indicated funding.

Phase II of Sunding's EIA will analyze solution sets being developed with the Technical Committee and others, those solution sets will ultimately be added to the EIA to illustrate reduced economic impacts. A critical part will be project proponents' (most likely GSAs) evaluation and development of these activities in coordination with the Blueprint. These solution sets will ideally have input and support from the coalition of interest groups formally engaging in the SJV Water Collaborative Action.

#### *SJV Water Collaborative Action Uncommon Dialogue*

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

On December 17, 2020, the Plenary Group of the San Joaquin Valley Water Collaborative Action Program (SJVWCAP) held its second Zoom meeting. The Plenary Group took several key action steps to move the collaborative forward and discussed several important information items. The Plenary Group unanimously approved an interim governance structure that includes a Plenary Group, Steering Group, and Planning Group.

- The Plenary Group is a “Big Tent” consensus-oriented decision-making body currently with 62 members.
- The Steering Group organizes the agenda and meeting materials for Plenary Group meetings, a 10-member Group.
- The Planning Group currently has 20 members divided among four caucuses (safe drinking water, environmental NGOs, growers and the agricultural industry, and water supply agencies). The Planning Group approved a Vision Statement and jumpstarted the Facilitator Selection Process. Work on a draft problem statement continues.

#### *Vision Statement*

Core elements provided: Success means that all interest groups secure a better future. Building trust among the interest groups will be essential to implement the vision. Trust allows the interest groups to collaborate on creative solutions. A broadly supported partnership makes feasible what is otherwise infeasible.

#### *Facilitator Selection Process*

The Plenary Group ratified the process for selecting a professional facilitator (or team of facilitators). An RFP for facilitation services was released, and Zoom interviews were conducted and a facilitator to be chosen in the coming months.

“Lightning Round” presentation by Eric Averett, General Manager of the Rosedale Rio Bravo Water Storage District (RRBWSD), and Christina Babbitt, Senior Manager, Groundwater Program

at the Environmental Defense Fund (EDF). This lightning round focused on an innovative partnership between RRBWSD and EDF to develop an online accounting and trading platform to help the district and its growers effectively implement SGMA.

#### WaterSmart

The Water Blueprint for the San Joaquin Valley is pleased to have been selected by Reclamation to present a proposal under the 2021 WaterSmart Water Management Options Pilot (WMOP) Program. Applications are due February 15<sup>th</sup>, Stantec will be engaged to prepare the application. Projects being contemplated would look at opportunities for recharge, environmental enhancement and drinking water supplies within the Millerton Place of Use. Blueprint will look to obtain support letters from districts, water agencies, municipalities and elected.

#### Water Resiliency Portfolio

A meeting has been set with Nancy Vogel this month to discuss the status of the Governor's Water Resiliency Portfolio and the alignment with Blueprint efforts. This is complementary with the briefings with State and Federal legislators and local elected.