



## MEMORANDUM

TO: SLDMWA Water Resources Committee Members and Alternates

FROM: Scott Petersen, Water Policy Director

DATE: December 7, 2020

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

#### [Reclamation Directives and Standards](#)

##### [Documents out for Comment](#)

There are currently no draft documents out for review, however, staff is aware that Reclamation is anticipating release of a revised draft Directive and Standard for “Excess Capacity”. Staff will be reviewing and coordinating with member agencies upon release of this document, as it’s anticipated that turnaround time for comments may be truncated.

#### [State Water Resources Control Board \(State Water Board\) Activity](#)

##### [Documents out for Comment](#)

##### [Hexavalent Chromium Maximum Contaminant Level Estimates of Costs](#)

The State Water Resources Control Board (State Water Board) will hold a public workshop to receive information and solicit public input regarding estimates of costs associated with a range of potential hexavalent chromium maximum contaminant levels (MCL) and treatment technologies, in advance of a proposed regulation anticipated to be released in early 2021.

The formal procedure for adopting regulations under the Administrative Procedure Act has not yet begun, and these workshops are not part of that process. However, input provided on the analysis of the costs may be used to inform the development of the regulation. In order for those comments to be considered during the development of the formal regulations package,

written comments, regardless of the method of transmittal, must be received by the Clerk by **12:00 p.m. noon, December 31, 2020.**

#### BACKGROUND

California Health and Safety Code Section 116365(a) requires the State Water Board to establish an MCL at a level as close to the public health goal (PHG) as is technologically and economically feasible. The PHG is the concentration of a contaminant in drinking water that does not pose a significant risk to health. Hexavalent chromium has been detected in numerous drinking water sources in California. In 2011, the Office of Environmental Health Hazard Assessments (OEHHA) established a hexavalent chromium PHG of 0.02 parts per billion (ppb) based on cancer risk. In 2014, the California Department of Public Health established an MCL of 10 ppb (0.010 mg/l) for hexavalent chromium. In 2017, the Superior Court of California, Sacramento County, invalidated that MCL and directed the State Water Board to withdraw the current MCL and establish a new MCL. As part of the development of the MCL, State Water Board staff have developed preliminary estimates of the following that will be presented at the workshop:

1. The number of public water system sources that would be impacted at various potential MCL values. This is based on the current hexavalent chromium occurrence data for drinking water sources of public water systems.
2. Information on the costs of various treatment technologies to lower the levels of hexavalent chromium in the water delivered to the public.
3. Information on the anticipated overall costs for public water systems impacted by various potential MCL values. This includes both the capital and operational costs estimated across various sizes of water systems.

The release of preliminary information on hexavalent chromium occurrence and costs of treatment at potential MCLs in advance of the formal rulemaking process will allow for additional public input prior to the development of the proposed regulation.

#### *DRAFT AMENDED PROPOSITION 1 GROUNDWATER GRANT PROGRAM GUIDELINES*

The State Water Resources Control Board (State Water Board) will accept public comments on the Draft Amended Proposition 1 Groundwater Grant Program (GWGP) Funding Guidelines (Amended Guidelines), dated December 2020. It is anticipated that the State Water Board will consider adopting the Amended Guidelines as early as the Tuesday, February 2, 2021 State Water Board Meeting.

The State Water Board will accept written comments on the December 2020 Draft Amended Guidelines. To submit written comments, please use the subject line: "Comment Letter – Proposition 1 Groundwater Grant Program Guidelines". Written comments should be submitted as early as possible to ensure thorough staff analysis, and must be received by **12:00 noon on Monday, January 4, 2021.**

## BACKGROUND

Proposition 1 authorizes \$720 million to the State Water Board to provide competitive grants for projects that prevent or clean up contamination of groundwater that serves or has served as a source of drinking water (California Water Code § 79771). The Proposition 1 GWGP Funding Guidelines, which were initially adopted by the State Water Board on May 18, 2016, and amended on December 19, 2017, outline the process to solicit applications, criteria to evaluate and select eligible proposals, and requirements that apply to funded projects. Division of Financial Assistance (DFA) staff have proposed amendments to clarify eligibility requirements and funding maximums for drinking water treatment and wastewater projects that benefit disadvantaged communities (DACs), and to broaden the types of wastewater projects that can qualify. These changes are intended to maximize utilization of existing DAC set-aside funds for beneficial projects.

## DOCUMENT AVAILABILITY

The December 2020 Draft Amended Guidelines are available for review online at: [https://www.waterboards.ca.gov/water\\_issues/programs/grants\\_loans/proposition1/groundwater\\_sustainability.html](https://www.waterboards.ca.gov/water_issues/programs/grants_loans/proposition1/groundwater_sustainability.html)

## 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”).

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 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.

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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>.

**Phase 1 Status:** The State 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.

**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>3</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 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.

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<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).

<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)

## Delta Conveyance

### U.S. Army Corps of Engineers Issues Notice of Intent

The U.S. Army Corps of Engineers (USACE) issued a Notice of Intent (NOI) for the development of an Environmental Impact Statement for the Delta Conveyance Project. Publication of the NOI initiates the environmental review process under the National Environmental Policy Act (NEPA). The NOI also signals the start of the federal scoping period, providing an opportunity for public and agency comment on the scope and content of the NEPA review. Information related to the NEPA scoping period, including details on how to comment, can be found on the USACE website.

### Preliminary Cost Assessment Prepared

The Delta Conveyance Design and Construction Authority has prepared a preliminary cost assessment for the Delta Conveyance Project. Cost information developed at this early stage provides a starting point to understand the program's probable costs based on industry standard methodologies. While planning and design of the program are in the very early stages, this information is intended to aid the beneficiary public water agencies who are ultimately responsible for funding the planning, environmental review, permitting and, if approved, design and construction of a proposed Delta conveyance facility. This information will be refined over time as planning and environmental review proceed and more precise design and engineering become available. Find the presentation material [here](#) and the meeting video archive will be located [here](#) when available.

This cost assessment is related to the proposed project as it was identified in the Notice of Preparation and is not an indication of any type of project approval by the Department of Water Resources (DWR). DWR has made no decisions as to the selection of a specific alternative as the program planning and design are still in the "Initial Conceptual Design Phase" and alternatives are still being studied. A final decision regarding whether to approve the proposed Delta Conveyance Project or an alternative, including the no project alternative, will not occur until after completion of the environmental review under the California Environmental Quality Act and NEPA, and other environmental permitting processes have been completed.

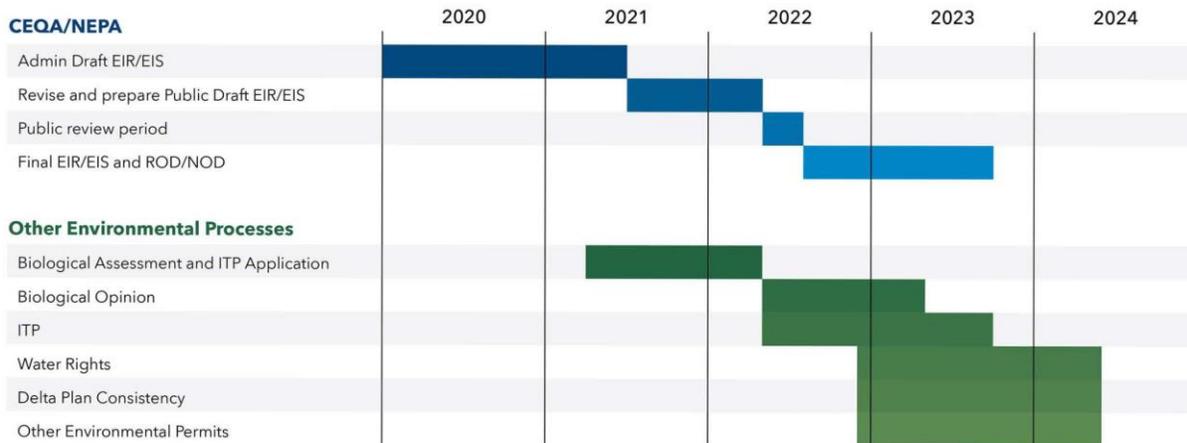
### Updated Schedule Now Available

An updated program schedule is available on the Delta Conveyance Project website<sup>4</sup>. The schedule has been modified to align the state and federal environmental review processes, as well as to accommodate additional time needed for modeling. DWR expects permitting to be complete in mid-2024.

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<sup>4</sup> [https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Delta-Conveyance/DC\\_Schedule\\_August2020\\_508.pdf?la=en&hash=9069D624DB200C0BC9C8B57BAA51DB7FC3CCB19B](https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Delta-Conveyance/DC_Schedule_August2020_508.pdf?la=en&hash=9069D624DB200C0BC9C8B57BAA51DB7FC3CCB19B)

### Delta Conveyance Project Schedule



#### Water Blueprint for the San Joaquin Valley Technical Update

The Blueprint continues to engage with the sub-basins through the GSAs and others to discuss the Blueprint. To this end, Scott Hamilton presented to the Arvin Community Services District on November 11th.

#### San Joaquin Valley Water Collaborative

The SJV Water Collaborative continues to engage a diverse set of interest groups, gaining their participation in SJV water discussions. Members engaged in outreach to Karla Nameth (Director, Department of Water Resources) regarding the SJVWC.

Additionally, several important action items have been agreed to:

1. Planning Group (Planning Group): The plenary/large group (60 participants) created a smaller Planning Group made up of 15 participants. The Planning Group includes representatives from the five interest groups participating in the plenary session: safe drinking water and disadvantaged communities (DACs), agriculture, local government, environmental NGOs, and water agencies. The Planning group will focus on several action items:
  - a. Problem Statement: The problem statement will recognize the legitimacy of other group’s problems and all commit to identifying solutions to these problems that are acceptable to the collaborative.
  - b. Vision Statement/Solution Set: A vision statement is being drafted to identify a solution set that secures broad support.
  - c. Facilitator: The planning group has started the process for selecting a long-term facilitator.
2. Secure Funding: The plenary group is looking to secure funding for the success of the effort.

#### Stakeholder Outreach

A presentation surrounding the Blueprint was provided to Stephanie Reyna-Hiestand, from the City of Tracy. An update was also provided to the Office of Senator Anna Caballero.

#### Communications Update

Tim Quinn has entered a submission for the "Blueprint Blog" post – please stay tuned for an upcoming post. Please take a look at the other blog posts <https://www.waterblueprintca.com/ca-blog>

The group has also created a document with talking points surrounding the Blueprint for participants to use when engaging community members about the Blueprint. If you're interested in receiving a copy of the Blueprint Backgrounder, please contact Lydia at [lydia@vistaconsultinginc.com](mailto:lydia@vistaconsultinginc.com).