



**San Luis & Delta-Mendota Water Authority**  
**Monday, April 1, 2024 10:00 a.m.**

**Notice of Water Resources Committee Regular Meeting and Joint Water Resources  
Committee Regular Meeting-Special Board Workshop**

**SLDMWA Boardroom**  
**842 6th Street, Los Banos**

**Public Participation Information**  
**(List of Member/Alternate Telephonic Locations Attached)**

**Join Zoom Meeting**  
**<https://us02web.zoom.us/j/85330463231?pwd=OTJXM2tTTEtLK1hmNDc3TDhjY2d0Zz09>**

**Meeting ID: 853 3046 3231**  
**Passcode: 781057**

**One tap mobile**  
**+16699006833,,85330463231#,,,,\*781057# US (San Jose)**  
**+16694449171,,85330463231#,,,,\*781057# US**

**Dial by your location**  
**• +1 669 900 6833 US (San Jose)**  
**• +1 669 444 9171 US**

**Find your local number: <https://us02web.zoom.us/j/85330463231>**

NOTE: Any member of the public may address the Water Resources Committee/Board concerning any item on the agenda before or during consideration of that item.

Because the notice provides for a regular meeting of the Water Resources Committee ("WRC") and a joint regular WRC Meeting/Special Board workshop, Board Directors/Alternates may discuss items listed on the agenda; however, only WRC Members/Alternates may correct or add to the agenda or vote on action items.

NOTE FURTHER: Meeting materials have been made available to the public on the San Luis & Delta-Mendota Water Authority's website, <https://www.sldmwa.org>, and at the Los Banos Administrative Office, 842 6th Street, Los Banos, CA 93635.

**Agenda**

1. Call to Order/Roll Call
2. Water Resources Committee to Consider Additions and Corrections to the Agenda for the Water Resources Committee Meeting only, as Authorized by Government Code Section 54950 *et seq.*
3. Opportunity for Public Comment – Any member of the public may address the Water Resources Committee/Board concerning any matter not on the agenda, but within the Committee or Board's jurisdiction. Public comment is limited to no more than three minutes per person. For good cause, the Chair of the Water Resources Committee may waive this limitation.

**ACTION ITEMS**

4. **Approval of the March 4, 2024 Meeting Minutes**

5. **Recommendation to Board of Directors to Adopt Staff Recommendation for Positions on Legislation**, Petersen
  - A. S. 3830 (Padilla), Low-Income Household Water Assistance Program Establishment Act
  - B. AB 2302 (Addis), Open Meeting: local agencies: teleconferences.
  - C. AB 2060 (Soria), Lake and Streambed alteration agreements: exemptions.
  - D. SB 1156 (Hurtado), Groundwater Sustainability Agencies: financial disclosures.
  - E. SB 1390 (Caballero), Groundwater recharge: floodflows: diversion.

### **REPORT ITEMS**

6. Executive Director's Report, Barajas
  - A. Update Regarding Planned Amendments to Friant-SLDMWA MOU and Exhibits
  - B. May include reports on activities within the Water Resources Committee's jurisdiction related to 1) CVP/SWP water operations; 2) California storage projects; 3) regulation of the CVP/SWP; 4) existing or possible new State and Federal policies; 5) Water Authority activities
7. Update on Water Policy/Resources Activities, Petersen  
(May include reports on federal, state, and local agency regulatory, legislative, and administrative water policy/resources activities)
8. Update on Water Operations and Forecasts, Boardman
9. Committee Member Reports
10. Closed Session

#### CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Initiation of Litigation Pursuant to paragraph (4) of Subdivision (d) of Government Code Section 54956.9 – 3 potential cases

#### CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant Exposure to Litigation Pursuant to Paragraph (2) or (3) of Subdivision (d) of Government Code Section 54956.9 – 3 potential cases

#### CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Existing Litigation Pursuant to paragraph (1) of Subdivision (d) of Section 54956.9

- A. Natural Resources Defense Council, et al. v. Haaland, et al., U.S. District Court, E.D. Cal., Case No. 1:05-cv-01207; 9th Cir., Case No. 21-15163 (2005 DMC Contract Renewals)
- B. Pacific Coast Federation of Fishermen's Associations, et al. v. Stock, et al., U.S. District Court, E.D. Cal., Case No. 2:11-cv-02980; 9th Cir. Case No. 23-15599 (PCFFA v. Glaser or GBP Citizen Suit)
- C. City of Fresno, et al. v. United States, U.S. Court of Appeals for the Federal Cir., Case No. 22-1994; U.S. Court of Federal Claims, Case No. 1:16-cv-01276 (2014 Friant Div. Operations)
- D. Pacific Coast Federation of Fishermen's Associations, et al. v. Raimondo, et al., U.S. District Court, E.D. Cal., Case No. 1:20-cv-00431 (ROC on LTO BiOps)
- E. California Natural Resources Agency, et al. v. Raimondo, et al., U.S. District Court, E.D. Cal., Case No. 1:20-cv-00426 (ROC on LTO BiOps)
- F. CDWR Water Operation Cases, Sac. Co. Superior Court, Case No. JCCP 5117 (formerly Tehama-Colusa Canal Authority, et al. v. California Department of Water Resources, et al., Fresno Co. Superior Court, Case No. 20CECG01303) (SWP EIR Challenge)
- G. AquAlliance, et al. v. U.S. Bureau of Reclamation, et al., U.S. District Court, E.D. Cal., Case No. 1:20-cv-00878 (Long-Term Water Transfers EIS/EIR)
- H. AquAlliance et al. v. San Luis & Delta-Mendota Water Authority, Merced Co. Superior Court, Case No. 21CV-03487 (Long-Term Water Transfers EIS/EIR Addendum)
- I. California Sportfishing Protection Alliance, et al. v. State Water Resources Control Board, et al., Sac. Co. Superior Court, Case No. 34-2021-80003761 (2021 TUCP Order)
- J. California Sportfishing Protection Alliance, et al. v. State Water Resources Control Board, et al., Sac. Co. Superior Court, Case No. 34-2021-80003763 (2021 Temp. Mgmt. Plan)
- K. Walsh v. Martin, et al., E.D. Cal., Case No. 1:23-CV-01774 (employment action)

11. Return to Open Session
12. Report from Closed Session, if any, Required by Government Code Section 54957.1
13. Reports Pursuant to Government Code Section 54954.2(a)(3)
14. ADJOURNMENT

Persons with a disability may request disability-related modification or accommodation by contacting Cheri Worthy or Sandi Ginda at the San Luis & Delta-Mendota Water Authority Office, 842 6<sup>th</sup> Street, P.O. Box 2157, Los Banos, California, via telephone at (209) 826-9696, or via email at [cheri.worthy@sldmwa.org](mailto:cheri.worthy@sldmwa.org). Requests should be made as far in advance as possible before the meeting date, preferably 3 days in advance of regular meetings or 1 day in advance of special meetings/workshops.

This agenda has been prepared as required by the applicable laws of the State of California, including but not limited to, Government Code Section 54950 et seq. and has not been prepared with a view to informing an investment decision in any of the Authority's bonds, notes or other obligations. Any projections, plans or other forward-looking statements included in the information in this agenda are subject to a variety of uncertainties that could cause any actual plans or results to differ materially from any such statement. The information herein is not intended to be used by investors or potential investors in considering the purchase or sale of the Authority's bonds, notes or other obligations and investors and potential investors should rely only on information filed by the Authority on the Municipal Securities Rulemaking Board's Electronic Municipal Market Access System for municipal securities disclosures, maintained on the World Wide Web at <https://emma.msrb.org/>.

WATER RESOURCES COMMITTEE TELEPHONIC LOCATIONS  
APRIL 1, 2024

1025 Deerhaven Dr.  
Vista, CA 92084

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**SAN LUIS & DELTA-MENDOTA WATER AUTHORITY  
WATER RESOURCES COMMITTEE REGULAR MEETING AND JOINT  
WATER RESOURCES COMMITTEE REGULAR MEETING - SPECIAL  
BOARD WORKSHOP MINUTES**

**MARCH 4, 2023**

The San Luis & Delta-Mendota Water Authority Water Resources Committee Regular Meeting and Joint Water Resources Committee Regular Meeting and Special Board Workshop convened at approximately 10:00 a.m. at 842 6th Street in Los Banos, California, with Chair William Bourdeau presiding.

**Water Resources Committee Members Present**

**Ex-Officio**

William Bourdeau

**Division 1**

Anthea Hansen, Alternate

**Division 2**

Absent

**Division 3**

Chris White, Member

**Division 4**

Vince Gin, Member - Steve Wittry, Alternate

**Division 5**

Kirk Teixeira, Member

**Board of Directors Present**

**Division 1**

Anthea Hansen, Director

Lea Emmons, Alternate (via ZOOM)

**Division 2**

Justin Diener, Alternate

**Division 3**

Chris White, Alternate

Jarrett Martin, Director

**Division 4**

Steve Wittry, Director

Megan Holland, Alternate

**Division 5**

Kirk Teixeira, Alternate

**Authority Representatives Present**

Federico Barajas, Executive Director  
Pablo Arroyave, Chief Operating Officer  
Rebecca Akroyd, General Counsel (via ZOOM)  
Rebecca Harms, Deputy General Counsel  
Scott Petersen, Water Policy Director  
Ray Tarka, Director of Finance  
Stewart Davis, IT Officer

**Others Present**

Dana Jacobson, Valley Water  
Tom Boardman, Westlands Water District (via ZOOM)

**1. Call to Order/Roll Call**

Committee Chair William Bourdeau called the meeting to order and roll was called.

**2. The Water Resources Committee to Consider Additions or Corrections to the Agenda of Items, as authorized by Government Code Section 54950 et seq.**

No additions or corrections.

**3. Opportunity for Public Comment**

No public comment.

**4. Water Resources Committee to Consider Approval of the February 5, 2024 Meeting Minutes.**

Chair William Bourdeau deemed the February 5, 2024 meeting minutes approved as submitted.

**5. Executive Director's Report.**

- a. **SLDMWA/Friant MOU Update** - Executive Director Federico Barajas reported the Authority will bring the proposed Second Amended and Restated MOU to the Finance & Administration Committee and Board of Directors next month.
- b. **O'Neill Pumping Plant (OPP) Outage** – Executive Director Federico Barajas provided a brief update, and then introduced Chief Operating Officer Pablo Arroyave to provide an additional update. Arroyave reported that after discussion with the Reclamation's Front Office and CVO, staff will wait until March 20 before making any final decisions regarding the OPP Outage. Arroyave reported that all three transformers are in "poor" condition and if the outage is rescheduled, it will need to

take place within the year to prevent any further repercussions, which will give the Authority 10-15 years before full replacements will need to be done.

- c. **Reclamation Negotiations** - Executive Director Federico Barajas stated that the Authority is in negotiations with Reclamation regarding the B.F. Sisk Dam Raise and Reservoir Expansion Project, and the Jones Pumping Plant Excitation Project.

**6. Update on Water Policy/Resources Activities.**

Water Policy Director Scott Petersen provided a brief summary of the report included in the packet. Petersen provided updates regarding the Reinitiation of Consultation on Long-Term Operations of the CVP and SWP, Voluntary Agreements, Delta Conveyance Project, BOR Manual updates, the Water Quality Control Plan update, the San Joaquin Valley Blueprint, and the San Joaquin Valley Collaborative Action Program. Petersen reported that Pat O'Toole, long-time president of the Family Farm Alliance, passed away February 25, and they are now succession planning. Petersen answered Committee questions throughout the presentation.

**7. Update on Water Operations and Forecasts.**

Westlands Water District's Tom Boardman reported that Shasta storage is trending close to Reclamation's median forecast which shows Shasta refilling to 4.2 MAF by late May. Recent precipitation was noted along with the snowpack status for the Trinity and Shasta basins. Boardman also discussed the status of Folsom's watershed, storage management operations.

Delta operations were reported, including the status of export pumping and controlling factors. Boardman also mentioned near-term export operations and likely export constraints that will go into effect beginning April 1.

San Luis reservoir storage was noted, including refill projections during March.

Boardman answered Committee questions throughout the presentation.

**8. Committee Member Reports.**

No reports.

**5. Closed Session**

Committee Chair William Bourdeau adjourned the open session to address the items listed

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on the Closed Session Agenda at approximately 10:51 a.m. Upon return to open session at approximately 11:50 a.m., Chair William Bourdeau reported that no reportable actions were taken in closed session.

9. **Agenda Item 13: Reports Pursuant to Government Code Section 54954.2**

No reports.

10. **Agenda Item 14: Adjournment**

The meeting was adjourned at approximately 11:51 a.m.





## MEMORANDUM

TO: Water Resources Committee and Alternates, Board of Directors and Alternates

FROM: Scott Petersen, Water Policy Director

DATE: April 1, 2024

RE: Water Resources Committee to Consider Recommendations on Legislation /  
Board of Directors to Consider Same

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### Recommendation

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Recommend to the Board of Directors to adopt the following positions on legislation:

#### Support and Amend

- Adopt a position of "Support and Amend" on S. 3830 (Padilla), Low-Income Household Water Assistance Program Establishment Act

#### Favor

- Adopt a position of "Favor" on AB 2302 (Addis), Open Meeting: local agencies: teleconferences.

#### Watch and Amend

- Adopt a position of "Watch and Amend" on AB 2060 (Soria), Lake and streambed alteration agreements: exemptions.
- Adopt a position of "Watch and Amend" on SB 1156 (Hurtado), Groundwater Sustainability Agencies: financial disclosures.
- Adopt a position of "Watch and Amend" on SB 1390 (Caballero), Groundwater recharge: floodflows: diversion.



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## Federal Legislation

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### S. 3830 (Padilla), Low-Income Household Water Assistance Program Establishment Act

**RECOMMENDATION: SUPPORT AND AMEND**

**OBJECTIVE: Improve Water Infrastructure Affecting Authority Member Agencies**

#### Summary

The bill would authorize the establishment the Low-Income Household Water Assistance Program, administered through the Environmental Protection Agency, which would provide funding to states or Indian tribes to assist low-income households in paying arrearages and other rates associated with the provision on drinking water or wastewater services.

The bill would also provide the opportunity to provide funding for non-profit organizations to assist low-income households with access to the program.

#### Status

S. 3830 was introduced on February 28, 2024 and has been referred to the Senate Committee on Health, Education, Labor and Pensions.

#### Importance to the Authority

The COVID-19 pandemic and associated economic challenges caused many low-income households to become in arrears on payments to water utilities, including some Authority member agencies and their customers. This legislation would establish a federal program that is based on the Low Income Household Energy Assistance Program (LIHEAP), providing financial assistance to low-income households to support payment of water and wastewater services.

#### Suggested Amendments

Suggested amendments would address variances in regional definitions of low-income to better address the totality of impacts to Authority member agencies and expanding the ability of water agencies to directly access the program.

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## State Legislation

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### A.B. 2302 (Addis), Open meetings: local agencies: teleconferences.

**RECOMMENDATION: FAVOR**

**OBJECTIVE: Improve Outreach and Education**

#### Summary

This bill would revise existing teleconference meeting participation limits in current law that prohibits virtual participation for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year, instead prohibiting such participation for more than the following number of meetings, as applicable:



1. Two meetings per year, if the legislative body regularly meets once per month or less;
2. Five meetings per year, if the legislative body regularly meets twice per month; or,
3. Seven meetings per year, if the legislative body regularly meets three or more times per month.

For the purposes of counting meetings attended by teleconference, a “meeting” shall be defined as any number of meetings of the legislative body of a local agency that begin on the same calendar day.

#### Status

A.B. 2302 was introduced on February 12, 2024 and has been referred to the Assembly Committee on Local Government.

#### Importance to the Authority

When the COVID-19 pandemic began and stay-at-home orders were implemented, many local agencies transitioned to remote participation options for conducting meetings. Through Executive Order N-29-20, Governor Newsom stated that local agencies could still comply with open meeting laws if notice and accessibility requirements are met, members of the public can observe and address the legislative body at the meeting, and that the legislative body provide a procedure for receiving and quickly resolving requests for reasonable accommodation for individuals with disabilities. Governor Newsom’s executive order was beneficial to local agencies trying to conform with the Brown Act’s public accessibility requirement during the pandemic, and it allowed the public to access and participate in meetings remotely.

Although the order has since expired, AB 361 (Chapter 165, Statutes of 2021) permits local agencies to continue to meet virtually and remotely during a state-declared emergency without being required to have a quorum present and abide by other requirements of teleconference meetings under the Brown Act. Pursuant to AB 361, local legislative bodies were authorized to continue meeting virtually until the end of the state’s COVID-19 State of emergency, which was officially lifted on February 28, 2023, and during any future state of emergency until January 1, 2024, and must take a majority vote every 30 days in order to continue allowing members to participate virtually without being required to abide by existing Brown Act requirements.

AB 2449 (Chapter 285, Statutes of 2022) was introduced to plan for the eventual expiration of AB 361. The bill allows, until January 1, 2026, members of a legislative body of a local agency to use teleconferencing without noticing each teleconference location or making it publicly accessible, provided at least a quorum of the members of the body participates in person at a singular physical location. The bill does not require teleconferencing. Rather, it modernizes existing law to ensure greater public participation in meetings of the legislative bodies of local agencies who choose to utilize teleconferencing. Similarly, in acknowledgement of the critical importance of maintaining transparency and accountability, the bill requires that a quorum of the governing body be physically present at a clearly identified meeting location for all public meetings. It also places reasonable limits on the number of times individual governing body members utilize teleconferencing each year, maintaining regular accessibility by their constituents. Specifically, the bill stipulates that the provisions shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.



AB 2302 essentially leaves untouched the frequency by which a legislative body of a local agency can invoke the teleconferencing terms of AB 2449. This bill is advantageous for local agencies, however, in that it would define several meetings held on the same day as “one meeting” for the purposes of determining how many invocations of AB 2449 remain for the legislative body. This ensures that local agencies that split their closed session meetings off from their regular, open session meetings held on the same day won’t rapidly burn through their annual allowance of teleconferenced meetings.

AB 2302

The City of Pismo Beach (City) has sponsored AB 2302 to remedy complications it has had with AB 2449’s provisions. The City would split their closed session meetings off from their regular, open session meeting held on the same day. Their legal counsel advised that in so doing, when AB 2449’s terms were being used, the City would have to invoke AB 2449 twice that day (once for each of those two meetings), therefore burning through two of their allowances. AB 2302 would remedy this situation, as those two meetings held on the same day would only count as “one meeting” towards their allowance, not two.

[A.B. 2060 \(Soria\), Lake and streambed alteration agreements: exemptions.](#)

**RECOMMENDATION: WATCH AND AMEND**

**OBJECTIVE: Core Objective**

Summary

Existing law prohibits a person, a state or local governmental agency, or a public utility from substantially diverting or obstructing the natural flow of, or substantially changing or using any material from the bed, channel, or bank of, any river, stream, or lake, or depositing or disposing of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, unless prescribed requirements are met, including written notification to the Department of Fish and Wildlife regarding the activity. Existing law requires the department to determine whether the activity may substantially adversely affect an existing fish and wildlife resource and, if so, to provide a draft lake or streambed alteration agreement to the person, agency, or utility. Existing law prescribes various requirements for lake and streambed alteration agreements. Existing law also establishes various exemptions from these provisions, including, until January 1, 2029, the diversion of floodflows for groundwater recharge, as provided.

This bill would indefinitely exempt from these provisions the temporary operation of existing infrastructure or temporary pumps being used to divert flood stage flows, as identified by the California Nevada River Forecast Center or the State Water Resources Control Board, or near-flood stage flows, as defined, to groundwater recharge as long as certain conditions are met.

The bill would also make conforming changes.

Status

A.B. 2060 was introduced on February 1, 2024 and has been scheduled for a hearing in the Assembly Water, Parks and Wildlife Committee on April 9.

Importance to the Authority

The legislation would remove the requirement to apply for a lake or streambed alteration agreement for a person, agency or utility, as long as diversions are near or at flood stage, as defined by the California



Nevada River Forecast Center or the State Water Resources Control Board. The provisions of the bill would expedite the ability of low-impact diversions to occur in or around streams at or near flood stage, but does not provide any language to address potential diversions that could impact CVP operations.

#### Suggested Amendments

Staff intends to pursue amendments that would protect CVP operations, including the Delta being in excess conditions, no releases from upstream storage to meet water quality standards, and all outflow conditions being met.

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### S.B. 1156 (Hurtado) – Groundwater Sustainability Agencies: financial disclosures.

#### RECOMMENDATION: WATCH AND AMEND

#### OBJECTIVE: Improve Outreach and Education

##### Existing Law

Existing law, the Sustainable Groundwater Management Act (SGMA), requires all groundwater basins designated as high- or medium-priority basins by the Department of Water Resources (DWR) to be managed under a groundwater sustainability plan (GSP) or coordinated GSPs, except as specified. Existing law requires a GSP to be developed and implemented for each medium- or high-priority basin by a groundwater sustainability agency (GSA). Existing law authorizes any local agency or combination of local agencies overlying a groundwater basin to decide to become a GSA for that basin, as provided.

Existing provisions of the Political Reform Act of 1974 prohibit a public official from making, participating in making, or attempting to use their official position to influence a governmental decision in which they know or have reason to know that they have a financial interest, as defined. However, existing law permits a public official to make or participate in the making of a governmental decision, even if the public official knows or has reason to know that the official has a financial interest, if the official's participation is legally required for the action or decision to be made. Existing law makes a knowing or willful violation of the Political Reform Act a misdemeanor and subjects offenders to criminal penalties.

##### Summary

This bill would require members of the executive team, board of directors, and other groundwater management decision makers of GSAs to annually disclose any economic or financial interests pursuant to the Political Reform Act of 1974 that may reasonably be considered to affect their decision-making related to groundwater management. The disclosures shall include, but not be limited to, information on all of the following:

1. Investments, ownership, or financial interests in entities engaged in groundwater related activities or that may be impacted by groundwater related activities;
2. Receipts of gifts, loans, or other economic benefits due to the person's role in groundwater management; and,
3. Other economic or financial interests that may reasonably influence decision making pursuant to the Political Reform Act of 1974.

The bill would require the Fair Political Practices Commission (FPPC) to establish guidelines and procedures for the submission and review of those disclosures. The bill would authorize the FPPC to investigate and take appropriate enforcement actions for violations of the disclosure requirements.



### Status

S.B. 1156 was introduced on February 14, 2023, and has been referred to the Senate Committee on Natural Resources and Water.

### Importance to the Authority

The requirements of SB 1156 are intended to ensure greater accountability by those in leadership positions of GSAs. Many GSAs already adopt a conflict-of-interest policy, and individuals in positions of leadership must comply with the requirements of the California Political Reform Act and the regulations of the FPPC. The reporting requirements established by SB 1156 would be duplicative for individuals who hold positions on the Board of Directors of a GSA, as they are already required to file Form 700s. Additionally, staff are concerned with the term “groundwater management decision maker,” as it is overly broad and may require a large swath of individuals to file with the FPPC. Staff recommend amending the bill to clarify which roles and positions would fall under the definition of “groundwater management decision maker” and insert provisions that would ensure GSA leadership who already files with the FPPC isn’t burdened with duplicative reporting requirements.

### SB 1156

According to the author’s fact sheet, current law lacks appropriate transparency measures related to GSAs, which can exacerbate the risk of economic interests influencing decision-making processes. To address these deficiencies, SB 1156 creates policies and procedures promoting transparency, preventing conflicts of interest, and ensuring accountability within GSAs. As introduced, the bill would require members of the executive team, board of directors, and other groundwater management decision makers of GSAs to annually disclose any economic or financial interests as required by the Political Reform Act, that may reasonable be considered to affect their decision-making related to groundwater management.

### Duplicative reporting?

Every elected official and public employee who makes or influences governmental decisions, including the Board of Directors of a GSA, is required to submit a Statement of Economic Interest (Form 700). In theory, the “executive committee” is part of the Board and already files as well. Establishing new financial disclosure reporting requirements for groundwater management decision makers of GSAs will require some individuals to submit another statement of economic interests in addition to the statements they are already required to disclose for the agency(s) they’re employed by.

According to the FPPC, in the event someone holds two additional board positions in addition to a position with the county, for example, three statements of economic interests must be filed. However, an expanded statement may be completed, which shall disclose all reportable economic interests in all three jurisdictions on the expanded statement. The expanded statement shall be filed with all three agencies, as required by Regulation 18723.1(c). It appears that the requirement to submit an additional statement of economic interests wouldn’t be an onerous effort.

### Other Groundwater Management Decision Makers

The term “other groundwater management decision makers” in SB 1156 is very broad and could expand the list of individuals that would be required to file Form 700s. This definition could encompass a large variety of individuals that work for or consult with GSAs, including individuals appointed to standing committees, subcommittees, or ad hoc committees. The term “other groundwater management decision



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makers” should be more clearly defined to ensure GSAs are well informed on which individuals are required to disclose any economic or financial interests.

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## S.B. 1390 (Caballero) – Open meetings: local agencies: teleconferences.

### RECOMMENDATION: WATCH AND AMEND

#### OBJECTIVE: Core Objective

##### Summary

Existing law declares that all water within the state is the property of the people of the state, but the right to the use of the water may be acquired by appropriation in the manner provided by law. Existing law requires the appropriation to be for some useful or beneficial purpose. Existing law provides, however, that the diversion of floodflows for groundwater recharge does not require an appropriative water right if certain conditions are met, including that a local or regional agency has adopted a local plan of flood control or has considered flood risks part of its most recently adopted general plan. Existing law also requires the person or entity making the diversion to file with the State Water Resources Control Board a final report after the diversions cease, as provided. These requirements apply to diversions commenced before January 1, 2029.

This bill would extend the operation of these requirements to diversions commenced before January 1, 2034. The bill would revise, recast, and expand the conditions that are required to be met to include a requirement that a local or regional agency make a declaration that its proposed diversion is in accordance with one of certain enumerated plans relating to flood control or flood risk, as specified, or a county emergency operations plan. The bill would also require the final report to contain information, if applicable, describing the forecasting models used to determine a likely imminent escape of surface water and a description of the methodology used to determine the abatement of flood conditions.

##### Status

S.B. 1390 was introduced on February 16, 2024, and has been referred to the Senate Committee on Natural Resources and Water.

##### Importance to the Authority

The legislation would amend the requirement for a permit for diversion of flood flows from the State Water Resources Control Board for a person, agency or utility, as long as diversions are near or at flood stage, as defined by the California Nevada River Forecast Center or the State Water Resources Control Board. The provisions of the bill would expedite the ability of diversions to groundwater recharge to occur in or around streams at or near flood stage, but does not provide any language to address potential diversions that could impact CVP operations.

##### Suggested Amendments

Staff intends to pursue amendments that would protect CVP operations, including the Delta being in excess conditions without conditions, and clarifying amendments associated with protection of the existing water rights holders.

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## Guidelines for Taking Positions on Legislation

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A number of controversial bills are introduced each year in the Congress and in the California Legislature. It is important to understand how the Authority takes positions on legislation.

### Policy

By Agenda Item 7, dated December 7, 2023, the Board adopted the Fiscal Year 2025 Objectives.

### Water Authority's Positions on Legislation

The Water Authority takes positions on legislation that, if enacted, would impact Water Authority members, consistent with Water Authority Board adopted Goals and Objectives. The Water Authority may take the following positions on legislation: Oppose, Support, Oppose Unless Amended, Support if Amended, Not Favor, Favor, Not Favor Unless Amended, Favor if Amended, and Watch (neutral). The Water Authority's staff and consultants testify and advocate with legislators and staff through meetings and member agency contacts on all positions except Watch, Favor and Not Favor. For Favor and Not Favor positions, written communication of the Water Authority's position is provided to the legislator. Nothing in this section should be read to preclude the Executive Director or his or her delegee from taking an informal support or informal oppose position on behalf of the Water Authority that is consistent with adopted legislative or policy objectives, or to preclude the Executive Director from communicating a position on emergency legislation after obtaining the concurrence of the Chair, or the Chair's designee, provided that the Executive Director informs the Board regarding such positions on emergency legislation no later than the next regularly scheduled Board meeting.

### Amendment Development Process

If the Water Authority takes an Oppose Unless Amended or Support if Amended position, the Water Authority will typically discuss the concepts for the amendments at the meeting. Then Water Authority staff, in consultation with Committee and/or Board Members as needed, will develop the amendments after the meeting.

### Information Sharing

To provide adequate information to the entire Water Authority membership, the Water Authority provides legislative updates, posts positions and other information on our website, and sends out advisories and alerts on key legislation.

The Water Authority's legislative department is available to provide specific information on bills on request and Board Members are encouraged to communicate Water Authority positions on priority legislation in meetings with legislative staff, consistent with Water Authority policy. The Water Authority's Water Policy Director appreciates being informed by Water Authority members of positions taken by Water Authority members on legislation.



# **BILL TEXT**

118TH CONGRESS  
2D SESSION

# S. 3830

To authorize the Low-Income Household Water Assistance Program, and  
for other purposes.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2024

Mr. PADILLA introduced the following bill; which was read twice and referred  
to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To authorize the Low-Income Household Water Assistance  
Program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Low-Income House-  
5 hold Water Assistance Program Establishment Act”.

6 **SEC. 2. LOW-INCOME HOUSEHOLD WATER ASSISTANCE**  
7 **PROGRAM.**

8 (a) DEFINITIONS.—In this section:

1           (1) ADMINISTRATOR.—The term “Adminis-  
2           trator” means the Administrator of the Environ-  
3           mental Protection Agency.

4           (2) HOUSEHOLD.—The term “household”  
5           means any individual or group of individuals who  
6           are living together as 1 economic unit.

7           (3) LOW-INCOME HOUSEHOLD.—The term  
8           “low-income household” means a household—

9                   (A) in which 1 or more individuals are re-  
10                  ceiving—

11                           (i) assistance under the State pro-  
12                           gram funded under part A of title IV of  
13                           the Social Security Act (42 U.S.C. 601 et  
14                           seq.);

15                           (ii) supplemental security income pay-  
16                           ments under title XVI of the Social Secu-  
17                           rity Act (42 U.S.C. 1381 et seq.);

18                           (iii) supplemental nutrition assistance  
19                           program benefits under the Food and Nu-  
20                           trition Act of 2008 (7 U.S.C. 2011 et  
21                           seq.);

22                           (iv) payments under—

23                                   (I) section 1315, 1521, 1541, or  
24                                   1542 of title 38, United States Code;

25                                   or

1 (II) section 306 of the Veterans'  
2 and Survivors' Pension Improvement  
3 Act of 1978 (38 U.S.C. 1521 note;  
4 Public Law 95-588); or

5 (v) assistance under the Low-Income  
6 Home Energy Assistance Act of 1981; or

7 (B) that has a household income that, as  
8 determined by the State or Indian tribe, does  
9 not exceed the greater of—

10 (i) an amount equal to 150 percent of  
11 the poverty level;

12 (ii) an amount equal to 60 percent of  
13 the State median income for that State or  
14 the State in which the Indian tribe is pri-  
15 marily located; or

16 (iii) an amount equal to 60 percent of  
17 the area median income for the area in  
18 which the household is located.

19 (4) POVERTY LEVEL.—The term “poverty  
20 level” means the poverty line determined pursuant  
21 to section 673 of the Community Services Block  
22 Grant Act (42 U.S.C. 9902).

23 (5) PUBLIC WATER SYSTEM.—The term “public  
24 water system” has the meaning given the term in

1 section 1401 of the Safe Drinking Water Act (42  
2 U.S.C. 300f).

3 (6) QUALIFIED NONPROFIT ORGANIZATION.—  
4 The term “qualified nonprofit organization” includes  
5 a nonprofit organization described in section  
6 680(a)(3)(B) of the Community Services Block  
7 Grant Act (42 U.S.C. 9921(a)(3)(B)).

8 (7) SECRETARY.—The term “Secretary” means  
9 the Secretary of Health and Human Services.

10 (8) STATE.—The term “State” means any of  
11 the 50 States, the District of Columbia, the Com-  
12 monwealth of Puerto Rico, Guam, the United States  
13 Virgin Islands, American Samoa, and the Common-  
14 wealth of the Northern Mariana Islands.

15 (9) TREATMENT WORKS.—The term “treatment  
16 works” has the meaning given the term in section  
17 212 of the Federal Water Pollution Control Act (33  
18 U.S.C. 1292).

19 (b) ESTABLISHMENT.—

20 (1) IN GENERAL.—The Secretary, in consulta-  
21 tion with the Administrator, shall establish the Low-  
22 Income Household Water Assistance Program to  
23 award grants, in accordance with paragraph (3), to  
24 eligible entities described in paragraph (2) to provide  
25 funds to owners and operators of public water sys-

1       tems or treatment works to assist low-income house-  
2       holds in paying arrearages and other rates charged  
3       to such households for drinking water or wastewater  
4       services.

5           (2) ELIGIBLE ENTITIES.—An eligible entity de-  
6       scribed in this paragraph is a State, or Indian tribe,  
7       that is eligible to receive or previously received a  
8       grant under the Low-Income Home Energy Assist-  
9       ance Act of 1981 (42 U.S.C. 8621 et seq.).

10          (3) FORMULA.—In awarding grants under this  
11       subsection to eligible entities, the Secretary shall—

12           (A) allot amounts made available for  
13       grants under this subsection to an eligible enti-  
14       ty that is a State or Indian tribe based on—

15           (i) the percentage of households in the  
16       State, or under the jurisdiction of the In-  
17       dian tribe, with income equal to or less  
18       than 150 percent of the poverty level; or

19           (ii) the percentage of households in  
20       the State, or under the jurisdiction of the  
21       Indian tribe, that spend more than 30 per-  
22       cent of monthly income on housing; and

23           (B) reserve up to 3 percent of amounts  
24       made available for grants under this subsection  
25       to eligible entities that are Indian tribes.

1           (c) RURAL, UNDERSERVED, AND INDIAN TRIBE AC-  
2 CESS GRANTS.—The Secretary shall provide grants to  
3 qualified nonprofit organizations to assist owners or oper-  
4 ators of public water systems or treatment works, in rural  
5 or underserved areas or in the jurisdiction of an Indian  
6 tribe, in accessing funds through the Low-Income House-  
7 hold Water Assistance Program.

8           (d) APPLICATIONS.—Each eligible entity seeking a  
9 grant under subsection (b) shall submit an application to  
10 the Secretary at such time, in such manner, and con-  
11 taining such information as the Secretary shall require.

12           (e) LIMITATIONS.—A recipient of a grant under sub-  
13 section (b) or (c)—

14               (1) shall not use the funds from the grant to  
15 supplant any other funds for any program that as-  
16 sists low-income households in maintaining access to  
17 affordable drinking water or wastewater services;  
18 and

19               (2) may use the funds from the grant to supple-  
20 ment or otherwise enhance any such program that  
21 satisfies the requirements under this section.

22           (f) TECHNICAL ASSISTANCE FOR ELIGIBILITY RE-  
23 QUIREMENTS.—The Secretary shall provide technical as-  
24 sistance to eligible entities receiving a grant under sub-  
25 section (b) for such eligible entities to establish data shar-

1 ing agreements to streamline categorical eligibility re-  
2 quirements for low-income households.

3 (g) TRANSFER TO THE ENVIRONMENTAL PROTEC-  
4 TION AGENCY.—

5 (1) IN GENERAL.—On the date on which the  
6 final report described in section 50109(d) of the In-  
7 frastructure Investment and Jobs Act (42 U.S.C.  
8 300j–19a note; Public Law 117–58; 135 Stat. 1148)  
9 is submitted to Congress under such section, the  
10 Secretary, in coordination with the Administrator,  
11 shall transfer the Low-Income Household Water As-  
12 sistance Program established under this section to  
13 the Environmental Protection Agency for adminis-  
14 tration of such program by the Administrator in ac-  
15 cordance with this section.

16 (2) ADMINISTRATION.—

17 (A) IN GENERAL.—Beginning on the date  
18 described in paragraph (1)—

19 (i) the Administrator shall carry out  
20 all functions of the Secretary under this  
21 section; and

22 (ii) for purposes of administering the  
23 program established under this section,  
24 each reference in subsections (b)(3), (c),



1 (d), and (f) to the Secretary shall be  
2 deemed a reference to the Administrator.

3 (B) GRANTS PREVIOUSLY AWARDED.—

4 Notwithstanding paragraph (1) and subpara-  
5 graph (A), the Secretary shall continue, after  
6 the transfer under paragraph (1), administering  
7 each grant awarded under this section prior to  
8 such transfer until the expiration of the term of  
9 such grant.

10 (3) UNOBLIGATED BALANCES.—On the date de-  
11 scribed in paragraph (1) and subject to section 1531  
12 of title 31, United States Code, the Secretary shall  
13 initiate transfer of all unobligated balances of appro-  
14 priations, authorizations, allocations, or other funds  
15 available to the Low-Income Household Water As-  
16 sistance Program established under this section (ex-  
17 cept for any such balances related to grants awarded  
18 prior to the transfer under paragraph (1)) to the  
19 Administrator. The amounts of any such unobligated  
20 balances so transferred shall be used only for the  
21 purposes for which the amounts were originally au-  
22 thorized and appropriated.

1       (h) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated such sums as may be  
3 necessary to carry out this section.

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**ASSEMBLY BILL**

**No. 2302**

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**Introduced by Assembly Member Addis**  
(Coauthor: Senator Laird)

February 12, 2024

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An act to amend Section 54953 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2302, as introduced, Addis. Open meetings: local agencies: teleconferences.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body, as defined, of a local agency be open and public and that all persons be permitted to attend and participate. The act generally requires for teleconferencing that the legislative body of a local agency that elects to use teleconferencing post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and have each teleconference location be accessible to the public. Existing law also requires that, during the teleconference, at least a quorum of the members of the legislative body participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, until January 1, 2026, authorizes the legislative body of a local agency to use alternative teleconferencing in specified circumstances if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda that is open

to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction, and the legislative body complies with prescribed requirements. Existing law imposes prescribed restrictions on remote participation by a member under these alternative teleconferencing provisions, including establishing limits on the number of meetings a member may participate in solely by teleconference from a remote location, prohibiting such participation for a period of more than 3 consecutive months or 20% of the regular meetings for the local agency within a calendar year, or more than 2 meetings if the legislative body regularly meets fewer than 10 times per calendar year.

This bill would revise those limits, instead prohibiting such participation for more than a specified number of meetings per year, based on how frequently the legislative body regularly meets. The bill, for the purpose of counting meetings attended by teleconference, would define a “meeting” as any number of meetings of the legislative body of a local agency that begin on the same calendar day.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 54953 of the Government Code, as
- 2 amended by Section 1 of Chapter 534 of the Statutes of 2023, is
- 3 amended to read:
- 4 54953. (a) All meetings of the legislative body of a local
- 5 agency shall be open and public, and all persons shall be permitted
- 6 to attend any meeting of the legislative body of a local agency,
- 7 except as otherwise provided in this chapter.
- 8 (b) (1) Notwithstanding any other provision of law, the
- 9 legislative body of a local agency may use teleconferencing for
- 10 the benefit of the public and the legislative body of a local agency
- 11 in connection with any meeting or proceeding authorized by law.
- 12 The teleconferenced meeting or proceeding shall comply with all

1 otherwise applicable requirements of this chapter and all otherwise  
2 applicable provisions of law relating to a specific type of meeting  
3 or proceeding.

4 (2) Teleconferencing, as authorized by this section, may be used  
5 for all purposes in connection with any meeting within the subject  
6 matter jurisdiction of the legislative body. If the legislative body  
7 of a local agency elects to use teleconferencing, the legislative  
8 body of a local agency shall comply with all of the following:

9 (A) All votes taken during a teleconferenced meeting shall be  
10 by rollcall.

11 (B) The teleconferenced meetings shall be conducted in a  
12 manner that protects the statutory and constitutional rights of the  
13 parties or the public appearing before the legislative body of a  
14 local agency.

15 (C) The legislative body shall give notice of the meeting and  
16 post agendas as otherwise required by this chapter.

17 (D) The legislative body shall allow members of the public to  
18 access the meeting and the agenda shall provide an opportunity  
19 for members of the public to address the legislative body directly  
20 pursuant to Section 54954.3.

21 (3) If the legislative body of a local agency elects to use  
22 teleconferencing, it shall post agendas at all teleconference  
23 locations. Each teleconference location shall be identified in the  
24 notice and agenda of the meeting or proceeding, and each  
25 teleconference location shall be accessible to the public. During  
26 the teleconference, at least a quorum of the members of the  
27 legislative body shall participate from locations within the  
28 boundaries of the territory over which the local agency exercises  
29 jurisdiction, except as provided in subdivisions (d) and (e).

30 (c) (1) No legislative body shall take action by secret ballot,  
31 whether preliminary or final.

32 (2) The legislative body of a local agency shall publicly report  
33 any action taken and the vote or abstention on that action of each  
34 member present for the action.

35 (3) Prior to taking final action, the legislative body shall orally  
36 report a summary of a recommendation for a final action on the  
37 salaries, salary schedules, or compensation paid in the form of  
38 fringe benefits of a local agency executive, as defined in  
39 subdivision (d) of Section 3511.1, during the open meeting in  
40 which the final action is to be taken. This paragraph shall not affect

1 the public’s right under the California Public Records Act (Division  
2 10 (commencing with Section 7920.000) of Title 1) to inspect or  
3 copy records created or received in the process of developing the  
4 recommendation.

5 (d) (1) Notwithstanding the provisions relating to a quorum in  
6 paragraph (3) of subdivision (b), if a health authority conducts a  
7 teleconference meeting, members who are outside the jurisdiction  
8 of the authority may be counted toward the establishment of a  
9 quorum when participating in the teleconference if at least 50  
10 percent of the number of members that would establish a quorum  
11 are present within the boundaries of the territory over which the  
12 authority exercises jurisdiction, and the health authority provides  
13 a teleconference number, and associated access codes, if any, that  
14 allows any person to call in to participate in the meeting and the  
15 number and access codes are identified in the notice and agenda  
16 of the meeting.

17 (2) Nothing in this subdivision shall be construed as  
18 discouraging health authority members from regularly meeting at  
19 a common physical site within the jurisdiction of the authority or  
20 from using teleconference locations within or near the jurisdiction  
21 of the authority. A teleconference meeting for which a quorum is  
22 established pursuant to this subdivision shall be subject to all other  
23 requirements of this section.

24 (3) For purposes of this subdivision, a health authority means  
25 any entity created pursuant to Sections 14018.7, 14087.31,  
26 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare  
27 and Institutions Code, any joint powers authority created pursuant  
28 to Article 1 (commencing with Section 6500) of Chapter 5 of  
29 Division 7 for the purpose of contracting pursuant to Section  
30 14087.3 of the Welfare and Institutions Code, and any advisory  
31 committee to a county-sponsored health plan licensed pursuant to  
32 Chapter 2.2 (commencing with Section 1340) of Division 2 of the  
33 Health and Safety Code if the advisory committee has 12 or more  
34 members.

35 (e) (1) The legislative body of a local agency may use  
36 teleconferencing without complying with the requirements of  
37 paragraph (3) of subdivision (b) if the legislative body complies  
38 with the requirements of paragraph (2) of this subdivision in either  
39 of the following circumstances:

1 (A) The legislative body holds a meeting during a proclaimed  
2 state of emergency for the purpose of determining, by majority  
3 vote, whether as a result of the emergency, meeting in person  
4 would present imminent risks to the health or safety of attendees.

5 (B) The legislative body holds a meeting during a proclaimed  
6 state of emergency and has determined, by majority vote, pursuant  
7 to subparagraph (A), that, as a result of the emergency, meeting  
8 in person would present imminent risks to the health or safety of  
9 attendees.

10 (2) A legislative body that holds a meeting pursuant to this  
11 subdivision shall do all of the following:

12 (A) In each instance in which notice of the time of the  
13 teleconferenced meeting is otherwise given or the agenda for the  
14 meeting is otherwise posted, the legislative body shall also give  
15 notice of the means by which members of the public may access  
16 the meeting and offer public comment. The agenda shall identify  
17 and include an opportunity for all persons to attend via a call-in  
18 option or an internet-based service option.

19 (B) In the event of a disruption that prevents the legislative body  
20 from broadcasting the meeting to members of the public using the  
21 call-in option or internet-based service option, or in the event of  
22 a disruption within the local agency's control that prevents  
23 members of the public from offering public comments using the  
24 call-in option or internet-based service option, the legislative body  
25 shall take no further action on items appearing on the meeting  
26 agenda until public access to the meeting via the call-in option or  
27 internet-based service option is restored. Actions taken on agenda  
28 items during a disruption that prevents the legislative body from  
29 broadcasting the meeting may be challenged pursuant to Section  
30 54960.1.

31 (C) The legislative body shall not require public comments to  
32 be submitted in advance of the meeting and must provide an  
33 opportunity for the public to address the legislative body and offer  
34 comment in real time.

35 (D) Notwithstanding Section 54953.3, an individual desiring to  
36 provide public comment through the use of an internet website, or  
37 other online platform, not under the control of the local legislative  
38 body, that requires registration to log in to a teleconference may  
39 be required to register as required by the third-party internet  
40 website or online platform to participate.

1 (E) (i) A legislative body that provides a timed public comment  
2 period for each agenda item shall not close the public comment  
3 period for the agenda item, or the opportunity to register, pursuant  
4 to subparagraph (D), to provide public comment until that timed  
5 public comment period has elapsed.

6 (ii) A legislative body that does not provide a timed public  
7 comment period, but takes public comment separately on each  
8 agenda item, shall allow a reasonable amount of time per agenda  
9 item to allow public members the opportunity to provide public  
10 comment, including time for members of the public to register  
11 pursuant to subparagraph (D), or otherwise be recognized for the  
12 purpose of providing public comment.

13 (iii) A legislative body that provides a timed general public  
14 comment period that does not correspond to a specific agenda item  
15 shall not close the public comment period or the opportunity to  
16 register, pursuant to subparagraph (D), until the timed general  
17 public comment period has elapsed.

18 (3) If a state of emergency remains active, in order to continue  
19 to teleconference without compliance with paragraph (3) of  
20 subdivision (b), the legislative body shall, not later than 45 days  
21 after teleconferencing for the first time pursuant to subparagraph  
22 (A) or (B) of paragraph (1), and every 45 days thereafter, make  
23 the following findings by majority vote:

24 (A) The legislative body has reconsidered the circumstances of  
25 the state of emergency.

26 (B) The state of emergency continues to directly impact the  
27 ability of the members to meet safely in person.

28 (4) This subdivision shall not be construed to require the  
29 legislative body to provide a physical location from which the  
30 public may attend or comment.

31 (f) (1) The legislative body of a local agency may use  
32 teleconferencing without complying with paragraph (3) of  
33 subdivision (b) if, during the teleconference meeting, at least a  
34 quorum of the members of the legislative body participates in  
35 person from a singular physical location clearly identified on the  
36 agenda, which location shall be open to the public and situated  
37 within the boundaries of the territory over which the local agency  
38 exercises jurisdiction and the legislative body complies with all  
39 of the following:



1 (A) The legislative body shall provide at least one of the  
2 following as a means by which the public may remotely hear and  
3 visually observe the meeting, and remotely address the legislative  
4 body:

5 (i) A two-way audiovisual platform.

6 (ii) A two-way telephonic service and a live webcasting of the  
7 meeting.

8 (B) In each instance in which notice of the time of the  
9 teleconferenced meeting is otherwise given or the agenda for the  
10 meeting is otherwise posted, the legislative body shall also give  
11 notice of the means by which members of the public may access  
12 the meeting and offer public comment.

13 (C) The agenda shall identify and include an opportunity for all  
14 persons to attend and address the legislative body directly pursuant  
15 to Section 54954.3 via a call-in option, via an internet-based service  
16 option, and at the in-person location of the meeting.

17 (D) In the event of a disruption that prevents the legislative body  
18 from broadcasting the meeting to members of the public using the  
19 call-in option or internet-based service option, or in the event of  
20 a disruption within the local agency's control that prevents  
21 members of the public from offering public comments using the  
22 call-in option or internet-based service option, the legislative body  
23 shall take no further action on items appearing on the meeting  
24 agenda until public access to the meeting via the call-in option or  
25 internet-based service option is restored. Actions taken on agenda  
26 items during a disruption that prevents the legislative body from  
27 broadcasting the meeting may be challenged pursuant to Section  
28 54960.1.

29 (E) The legislative body shall not require public comments to  
30 be submitted in advance of the meeting and must provide an  
31 opportunity for the public to address the legislative body and offer  
32 comment in real time.

33 (F) Notwithstanding Section 54953.3, an individual desiring to  
34 provide public comment through the use of an internet website, or  
35 other online platform, not under the control of the local legislative  
36 body, that requires registration to log in to a teleconference may  
37 be required to register as required by the third-party internet  
38 website or online platform to participate.

1 (2) A member of the legislative body shall only participate in  
2 the meeting remotely pursuant to this subdivision, if all of the  
3 following requirements are met:

4 (A) One of the following circumstances applies:

5 (i) The member notifies the legislative body at the earliest  
6 opportunity possible, including at the start of a regular meeting,  
7 of their need to participate remotely for just cause, including a  
8 general description of the circumstances relating to their need to  
9 appear remotely at the given meeting. The provisions of this clause  
10 shall not be used by any member of the legislative body for more  
11 than two meetings per calendar year.

12 (ii) The member requests the legislative body to allow them to  
13 participate in the meeting remotely due to emergency circumstances  
14 and the legislative body takes action to approve the request. The  
15 legislative body shall request a general description of the  
16 circumstances relating to their need to appear remotely at the given  
17 meeting. A general description of an item generally need not exceed  
18 20 words and shall not require the member to disclose any medical  
19 diagnosis or disability, or any personal medical information that  
20 is already exempt under existing law, such as the Confidentiality  
21 of Medical Information Act (Chapter 1 (commencing with Section  
22 56) of Part 2.6 of Division 1 of the Civil Code). For the purposes  
23 of this clause, the following requirements apply:

24 (I) A member shall make a request to participate remotely at a  
25 meeting pursuant to this clause as soon as possible. The member  
26 shall make a separate request for each meeting in which they seek  
27 to participate remotely.

28 (II) The legislative body may take action on a request to  
29 participate remotely at the earliest opportunity. If the request does  
30 not allow sufficient time to place proposed action on such a request  
31 on the posted agenda for the meeting for which the request is made,  
32 the legislative body may take action at the beginning of the meeting  
33 in accordance with paragraph (4) of subdivision (b) of Section  
34 54954.2.

35 (B) The member shall publicly disclose at the meeting before  
36 any action is taken, whether any other individuals 18 years of age  
37 or older are present in the room at the remote location with the  
38 member, and the general nature of the member's relationship with  
39 any such individuals.

1 (C) The member shall participate through both audio and visual  
2 technology.

3 (3) (A) The provisions of this subdivision shall not serve as a  
4 means for any member of a legislative body to participate in  
5 meetings of the legislative body solely by teleconference from a  
6 remote location for ~~a period of more than three consecutive months~~  
7 ~~or 20 percent of the regular meetings for the local agency within~~  
8 ~~a calendar year, or more than two meetings if the legislative body~~  
9 ~~regularly meets fewer than 10 times per calendar year.~~ *more than*  
10 *the following number of meetings, as applicable:*

11 (i) *Two meetings per year, if the legislative body regularly meets*  
12 *once per month or less.*

13 (ii) *Five meetings per year, if the legislative body regularly*  
14 *meets twice per month.*

15 (iii) *Seven meetings per year, if the legislative body regularly*  
16 *meets three or more times per month.*

17 (B) *For the purpose of counting meetings attended by*  
18 *teleconference under this paragraph, a “meeting” shall be defined*  
19 *as any number of meetings of the legislative body of a local agency*  
20 *that begin on the same calendar day.*

21 (g) The legislative body shall have and implement a procedure  
22 for receiving and swiftly resolving requests for reasonable  
23 accommodation for individuals with disabilities, consistent with  
24 the federal Americans with Disabilities Act of 1990 (42 U.S.C.  
25 Sec. 12132), and resolving any doubt in favor of accessibility. In  
26 each instance in which notice of the time of the meeting is  
27 otherwise given or the agenda for the meeting is otherwise posted,  
28 the legislative body shall also give notice of the procedure for  
29 receiving and resolving requests for accommodation.

30 (h) The legislative body shall conduct meetings subject to this  
31 chapter consistent with applicable civil rights and  
32 nondiscrimination laws.

33 (i) (1) Nothing in this section shall prohibit a legislative body  
34 from providing the public with additional teleconference locations.

35 (2) Nothing in this section shall prohibit a legislative body from  
36 providing the public with additional physical locations in which  
37 the public may observe and address the legislative body by  
38 electronic means.

39 (j) For the purposes of this section, the following definitions  
40 shall apply:

- 1 (1) “Emergency circumstances” means a physical or family  
2 medical emergency that prevents a member from attending in  
3 person.
- 4 (2) “Just cause” means any of the following:
- 5 (A) A childcare or caregiving need of a child, parent,  
6 grandparent, grandchild, sibling, spouse, or domestic partner that  
7 requires them to participate remotely. “Child,” “parent,”  
8 “grandparent,” “grandchild,” and “sibling” have the same meaning  
9 as those terms do in Section 12945.2.
- 10 (B) A contagious illness that prevents a member from attending  
11 in person.
- 12 (C) A need related to a physical or mental disability as defined  
13 in Sections 12926 and 12926.1 not otherwise accommodated by  
14 subdivision (g).
- 15 (D) Travel while on official business of the legislative body or  
16 another state or local agency.
- 17 (3) “Remote location” means a location from which a member  
18 of a legislative body participates in a meeting pursuant to  
19 subdivision (f), other than any physical meeting location designated  
20 in the notice of the meeting. Remote locations need not be  
21 accessible to the public.
- 22 (4) “Remote participation” means participation in a meeting by  
23 teleconference at a location other than any physical meeting  
24 location designated in the notice of the meeting. Watching or  
25 listening to a meeting via webcasting or another similar electronic  
26 medium that does not permit members to interactively hear,  
27 discuss, or deliberate on matters, does not constitute remote  
28 participation.
- 29 (5) “State of emergency” means a state of emergency proclaimed  
30 pursuant to Section 8625 of the California Emergency Services  
31 Act (Article 1 (commencing with Section 8550) of Chapter 7 of  
32 Division 1 of Title 2).
- 33 (6) “Teleconference” means a meeting of a legislative body,  
34 the members of which are in different locations, connected by  
35 electronic means, through either audio or video, or both.
- 36 (7) “Two-way audiovisual platform” means an online platform  
37 that provides participants with the ability to participate in a meeting  
38 via both an interactive video conference and a two-way telephonic  
39 function.

1 (8) “Two-way telephonic service” means a telephone service  
2 that does not require internet access, is not provided as part of a  
3 two-way audiovisual platform, and allows participants to dial a  
4 telephone number to listen and verbally participate.

5 (9) “Webcasting” means a streaming video broadcast online or  
6 on television, using streaming media technology to distribute a  
7 single content source to many simultaneous listeners and viewers.

8 (k) This section shall remain in effect only until January 1, 2026,  
9 and as of that date is repealed.

10 SEC. 2. The Legislature finds and declares that Section 1 of  
11 this act, which amends Section 54953 of the Government Code,  
12 furthers, within the meaning of paragraph (7) of subdivision (b)  
13 of Section 3 of Article I of the California Constitution, the purposes  
14 of that constitutional section as it relates to the right of public  
15 access to the meetings of local public bodies or the writings of  
16 local public officials and local agencies. Pursuant to paragraph (7)  
17 of subdivision (b) of Section 3 of Article I of the California  
18 Constitution, the Legislature makes the following findings:

19 This act is necessary to ensure minimum standards for remote  
20 participation by a member of a legislative body in teleconference  
21 meetings.

**ASSEMBLY BILL**

**No. 2060**

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**Introduced by Assembly Member Soria  
(Coauthor: Assembly Member Alanis)**

February 1, 2024

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An act to amend Section 1610 of the Fish and Game Code, relating to fish and wildlife.

LEGISLATIVE COUNSEL'S DIGEST

AB 2060, as introduced, Soria. Lake and streambed alteration agreements: exemptions.

Existing law prohibits a person, a state or local governmental agency, or a public utility from substantially diverting or obstructing the natural flow of, or substantially changing or using any material from the bed, channel, or bank of, any river, stream, or lake, or depositing or disposing of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, unless prescribed requirements are met, including written notification to the Department of Fish and Wildlife regarding the activity. Existing law requires the department to determine whether the activity may substantially adversely affect an existing fish and wildlife resource and, if so, to provide a draft lake or streambed alteration agreement to the person, agency, or utility. Existing law prescribes various requirements for lake and streambed alteration agreements. Existing law also establishes various exemptions from these provisions, including, until January 1, 2029, the diversion of floodflows for groundwater recharge, as provided.

This bill would indefinitely exempt from these provisions the temporary operation of existing infrastructure or temporary pumps being

used to divert flood stage flows, as identified by the California Nevada River Forecast Center or the State Water Resources Control Board, or near-flood stage flows, as defined, to groundwater recharge as long as certain conditions are met.

The bill would also make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1610 of the Fish and Game Code is  
2 amended to read:

3 1610. (a) Except as provided in subdivision (b), this chapter  
4 does not apply to any of the following:

5 (1) Immediate emergency work necessary to protect life or  
6 property.

7 (2) Immediate emergency repairs to public service facilities  
8 necessary to maintain service as a result of a disaster in an area in  
9 which a state of emergency has been proclaimed by the Governor  
10 pursuant to Chapter 7 (commencing with Section 8550) of Division  
11 1 of Title 2 of the Government Code.

12 (3) Emergency projects undertaken, carried out, or approved  
13 by a state or local governmental agency to maintain, repair, or  
14 restore an existing highway, as defined in Section 360 of the  
15 Vehicle Code, within the existing right-of-way of the highway,  
16 that has been damaged as a result of fire, flood, storm, earthquake,  
17 land subsidence, gradual earth movement, or landslide, within one  
18 year of the damage. Work needed in the vicinity above and below  
19 a highway may be conducted outside of the existing right-of-way  
20 if it is needed to stop ongoing or recurring mudslides, landslides,  
21 or erosion that pose an immediate threat to the highway, or to  
22 restore those roadways damaged by mudslides, landslides, or  
23 erosion to their predamage condition and functionality. This  
24 paragraph does not exempt from this chapter any project  
25 undertaken, carried out, or approved by a state or local  
26 governmental agency to expand or widen a highway damaged by  
27 fire, flood, storm, earthquake, land subsidence, gradual earth  
28 movement, or landslide. The exception provided in this paragraph  
29 does not apply to a highway designated as an official state scenic

1 highway pursuant to Section 262 of the Streets and Highways  
2 Code.

3 *(4) The temporary operation of existing infrastructure or*  
4 *temporary pumps being used to divert flood stage flows, as*  
5 *identified by the California Nevada River Forecast Center or the*  
6 *State Water Resources Control Board, or near-flood stage flows,*  
7 *which are defined to mean that flood stage flows are forecast*  
8 *within 10 days, to groundwater recharge as long as all of the*  
9 *following conditions are met:*

10 *(A) The diversions cease when the flows are no longer flood*  
11 *stage, near-flood stage, or within the State Water Resources*  
12 *Control Board permitted flows.*

13 *(B) Diverted water is not diverted or applied to any of the*  
14 *following:*

15 *(i) Dairy land application areas.*

16 *(ii) Any agricultural field where pesticide or fertilizer*  
17 *application has occurred in the last 30 days.*

18 *(iii) Any area that could cause damage to critical levees,*  
19 *infrastructure, wastewater and water systems, drinking water wells*  
20 *or drinking water supplies, or exacerbate the threat of flood and*  
21 *other health and safety concerns.*

22 *(iv) Any area that has not been in active irrigated agricultural*  
23 *cultivation within the past three years, including grazing lands,*  
24 *annual grasslands, and natural habitats. This limitation does not*  
25 *apply to facilities already constructed for the purpose of*  
26 *groundwater recharge or managed wetlands.*

27 *(C) The diversion utilizes all of the following:*

28 *(i) Existing diversion infrastructure or temporary pumps.*

29 *(ii) Existing groundwater recharge locations, where available.*

30 *(iii) No new permanent infrastructure or permanent*  
31 *construction.*

32 *(iv) Simple screens installed on pump intakes to minimize the*  
33 *impact of diversion to salmon and other aquatic life.*

34 *(D) Applicable fees are paid, pursuant to Section 1609.*

35 *(E) The temporary diversion is permitted by the State Water*  
36 *Resources Control Board under a temporary water rights permit.*

37 *(b) The entity performing the emergency work or other*  
38 *necessary work described in subdivision (a) shall notify the*  
39 *department of the work, in writing, within 14 days of beginning*  
40 *the work. Any work described in the emergency notification that*



1 does not meet the criteria for the emergency work *or other*  
2 *necessary work* described in subdivision (a) is a violation of this  
3 chapter if the entity did not first notify the department in  
4 accordance with Section 1602 or 1611.

5 (c) This chapter does not apply to activities undertaken pursuant  
6 to Section 1242.1 of the Water Code.

**Introduced by Senator Hurtado**February 14, 2024

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An act to add Section 10724.1 to the Water Code, relating to groundwater.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1156, as introduced, Hurtado. Groundwater sustainability agencies: financial disclosures.

Existing law, the Sustainable Groundwater Management Act, requires all groundwater basins designated as high- or medium-priority basins by the Department of Water Resources to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans, except as specified. Existing law requires a groundwater sustainability plan to be developed and implemented for each medium- or high-priority basin by a groundwater sustainability agency. Existing law authorizes any local agency or combination of local agencies overlying a groundwater basin to decide to become a groundwater sustainability agency for that basin, as provided.

Existing provisions of the Political Reform Act of 1974 prohibit a public official from making, participating in making, or attempting to use their official position to influence a governmental decision in which they know or have reason to know that they have a financial interest, as defined. However, existing law permits a public official to make or participate in the making of a governmental decision, even if the public official knows or has reason to know that the official has a financial interest, if the official's participation is legally required for the action or decision to be made. Existing law makes a knowing or willful violation of the act a misdemeanor and subjects offenders to criminal penalties.

This bill would require members of the executive team, board of directors, and other groundwater management decision makers of groundwater sustainability agencies to annually disclose any economic or financial interests pursuant to the Political Reform Act of 1974 that may reasonably be considered to affect their decision-making related to groundwater management, as provided. Because it would expand the scope of a crime, this bill would impose a state-mandated local program. The bill would require the Fair Political Practices Commission to establish guidelines and procedures for the submission and review of those disclosures. The bill would authorize the commission to investigate and take appropriate enforcement actions for violations of the disclosure requirements.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
 State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares it is essential
- 2 to establish mechanisms that promote transparency, prevent
- 3 conflicts of interest, and ensure accountability within groundwater
- 4 sustainability agencies to safeguard the sustainable management
- 5 of groundwater resources.
- 6 SEC. 2. Section 10724.1 is added to the Water Code, to read:
- 7 10724.1. (a) (1) Members of the executive team, the board of
- 8 directors, and other groundwater management decision makers of
- 9 groundwater sustainability agencies shall annually disclose any
- 10 economic or financial interests as required pursuant to Article 2
- 11 (commencing with Section 87200) of Chapter 7 of Title 9 of the
- 12 Government Code that may reasonably be considered to affect
- 13 their decision-making related to groundwater management.
- 14 (2) The disclosures shall be submitted to the Fair Political
- 15 Practices Commission in a format specified by the commission.
- 16 (b) The disclosure shall include, but not be limited to,
- 17 information on all of the following:

1 (1) Investments, ownership, or financial interests in entities  
2 engaged in groundwater related activities or that may be impacted  
3 by groundwater related activities.

4 (2) Receipts of gifts, loans, or other economic benefits due to  
5 the person's role in groundwater management.

6 (3) Other economic or financial interests that may reasonably  
7 influence decision-making pursuant to Article 1 (commencing  
8 with Section 87100) of, and Article 2 (commencing with Section  
9 87200) of, Chapter 7 of Title 9 of the Government Code.

10 (c) (1) The Fair Political Practices Commission shall establish  
11 guidelines and procedures for the submission and review of  
12 disclosures required pursuant to this section.

13 (2) The commission may investigate and take appropriate  
14 enforcement actions for violations of the disclosure requirements.

15 (d) Failure to comply with the disclosure requirements pursuant  
16 to this section may result in penalties pursuant to Chapter 11  
17 (commencing with Section 91000) of Title 9 of the Government  
18 Code.

19 SEC. 3. No reimbursement is required by this act pursuant to  
20 Section 6 of Article XIII B of the California Constitution because  
21 the only costs that may be incurred by a local agency or school  
22 district will be incurred because this act creates a new crime or  
23 infraction, eliminates a crime or infraction, or changes the penalty  
24 for a crime or infraction, within the meaning of Section 17556 of  
25 the Government Code, or changes the definition of a crime within  
26 the meaning of Section 6 of Article XIII B of the California  
27 Constitution.

**Introduced by Senator Caballero**  
(Coauthor: Assembly Member Soria)

February 16, 2024

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An act to amend Section 1242.1 of the Water Code, relating to groundwater.

LEGISLATIVE COUNSEL'S DIGEST

SB 1390, as introduced, Caballero. Groundwater recharge: floodflows: diversion.

Existing law declares that all water within the state is the property of the people of the state, but the right to the use of the water may be acquired by appropriation in the manner provided by law. Existing law requires the appropriation to be for some useful or beneficial purpose. Existing law provides, however, that the diversion of floodflows for groundwater recharge does not require an appropriative water right if certain conditions are met, including that a local or regional agency has adopted a local plan of flood control or has considered flood risks part of its most recently adopted general plan. Existing law also requires the person or entity making the diversion to file with the State Water Resources Control Board a final report after the diversions cease, as provided. These requirements apply to diversions commenced before January 1, 2029.

This bill would extend the operation of these requirements to diversions commenced before January 1, 2034. The bill would revise, recast, and expand the conditions that are required to be met to include a requirement that a local or regional agency make a declaration that its proposed diversion is in accordance with one of certain enumerated plans relating to flood control or flood risk, as specified, or a county emergency operations plan. The bill would also require the final report

to contain information, if applicable, describing the forecasting models used to determine a likely imminent escape of surface water and a description of the methodology used to determine the abatement of flood conditions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
 State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1242.1 of the Water Code is amended to  
 2 read:  
 3 1242.1. The diversion of floodflows for groundwater recharge  
 4 shall not require an appropriative water right if all of the following  
 5 conditions are met:  
 6 (a) ~~(1) A local or regional agency that has adopted a local plan~~  
 7 ~~of flood control pursuant to Section 8201 or has considered flood~~  
 8 ~~risk as part of its most recently adopted general plan has given~~  
 9 ~~notice via its internet website, electronic distribution list,~~  
 10 ~~emergency notification service, or another means of public notice,~~  
 11 ~~that flows downstream of the point of diversion are at imminent~~  
 12 ~~risk of flooding and inundation of land, roads, or structures.~~  
 13 (a) (1) *A local or regional agency has taken the following*  
 14 *actions:*  
 15 (A) *Made a declaration that its proposed diversion is in*  
 16 *accordance with one of the following:*  
 17 (i) *An adopted local plan of flood control pursuant to Section*  
 18 *8201.*  
 19 (ii) *An applicable general plan that considers flood risk.*  
 20 (iii) *A county emergency operations plan.*  
 21 (iv) *A publicly available regional flood plan certified by the*  
 22 *department.*  
 23 (B) *Has given notice via its internet website, electronic*  
 24 *distribution list, emergency notification service, or another means*  
 25 *of public notice, that flows downstream of the point of diversion*  
 26 *are at imminent risk of flooding and inundation of land, roads, or*  
 27 *structures.*  
 28 (2) As used in this section, “floodflow” means any of the  
 29 following:

1 (A) Where a waterbody is subject to a defined flood stage, flows  
2 in excess of flood stage where actions are necessary to avoid threats  
3 to human health and safety.

4 (B) (i) Except as provided in clause (ii), where a waterbody is  
5 not subject to a defined flood stage, surface water escaped from  
6 or is likely to imminently escape from a channel or waterbody  
7 causing or threatening to cause inundation of residential or  
8 commercial structures, or roads needed for emergency response.  
9 Likely imminent escape from a channel or waterbody shall be  
10 demonstrated by measured *or projected* flows in excess of the  
11 maximum design capacity of a flood control project, where such  
12 a project is present and the maximum design capacity is readily  
13 available information.

14 (ii) This subparagraph does not apply to flows that inundate  
15 wetlands, working lands, or floodplains, events that constitute a  
16 “design flood,” groundwater seepage, or waters confined to a  
17 “designated floodway.”

18 (C) Where flows would inundate *or are projected to inundate*  
19 ordinarily dry areas in the bed of a terminal lake to a depth that  
20 floods dairies and other ongoing agricultural activities, or areas  
21 with substantial residential, commercial, or industrial development.

22 (3) As used in this subdivision, “imminent” means a high degree  
23 of confidence that a condition will begin ~~in the immediate~~ *or is*  
24 *projected to begin in the near future.*

25 (b) The diversions cease when the flood conditions described  
26 in the public notice provided pursuant to subdivision (a) have  
27 abated to the point there is no longer a risk of flooding and  
28 inundation of land, roads, or structures downstream of the point  
29 of ~~diversion.~~ *diversions, as determined by the local or regional*  
30 *agency making the diversion.*

31 (c) Any water diverted is not diverted to, and will not be applied  
32 to, any of the following:

33 (1) Any barns, ponds, or lands where manure or waste from an  
34 animal facility that generates waste from the feeding and housing  
35 of animals for more than 45 days per year in a confined area that  
36 is not vegetated are applied.

37 (2) Any agricultural field that has been identified as an outlier  
38 with respect to nitrogen application by any of the following:

39 (A) The board.

40 (B) The appropriate regional board.

1 (C) An agricultural coalition charged with implementation of  
2 the Irrigated Lands Regulatory Program.

3 (3) Any area that could cause damage to critical levees,  
4 infrastructure, wastewater and drinking water systems, drinking  
5 water wells or drinking water supplies, or exacerbate the threat of  
6 flood and other health and safety concerns.

7 (4) Any area that has not been in active irrigated agricultural  
8 cultivation within the past three years, including grazing lands,  
9 annual grasslands, and natural habitats. This limitation does not  
10 apply to facilities already constructed for the purpose of  
11 groundwater recharge or managed wetlands.

12 (d) With respect to diversions from water tributaries to the  
13 Sacramento-San Joaquin Delta (Delta), water rights holders are  
14 not making releases of stored water or reoperating facilities to  
15 provide flow for the purposes of meeting water quality control  
16 plan or endangered species requirements in the Delta at the time  
17 of the diversion.

18 (e) The diversion of floodflows for groundwater recharge uses  
19 the following as part of the diversion:

20 (1) Either existing diversion infrastructure or temporary pumps.

21 (2) Existing groundwater recharge locations, where available.

22 (3) No new permanent infrastructure or permanent construction.

23 (4) For diversions directly from rivers or streams, protective  
24 screens on temporary pump intakes to minimize the impacts of  
25 diversion to fish and other aquatic life. ~~Such~~ *Those* screens shall  
26 be constructed of any rigid material, perforated, woven, or slotted,  
27 that provides water passage while physically excluding fish. The  
28 screen face shall be parallel to the flow and adjacent to the water's  
29 edge. The upstream and downstream transitions to the screen  
30 structure shall be designed and constructed to minimize eddies  
31 upstream of, in front of, and downstream of the screen, while  
32 minimizing entrainment to the degree feasible. Prior to  
33 implementing this paragraph, the Department of Fish and Wildlife  
34 shall conduct at least one public workshop to review recommended  
35 design parameters and ranges of scenarios for deployment and use  
36 of protective screens. These recommendations and any other  
37 guidelines provided by the Department of Fish and Wildlife on  
38 the implementation of this paragraph shall not be subject to the  
39 Administrative Procedure Act (Chapter 3.5 (commencing with



1 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
2 Code).

3 (f) The person or entity making the diversion for groundwater  
4 recharge does not claim any water right based on that diversion  
5 and recharge.

6 (g) (1) The person or entity making the diversion for  
7 groundwater recharge files all of the following with the board and  
8 with any applicable groundwater sustainability agency, as defined  
9 in Section 10721, for the basin:

10 (A) A notice that provides the information specified in  
11 ~~Subparagraphs (A) through~~ *subparagraphs (A) to (C)*, inclusive,  
12 of paragraph (2), 48 hours before whenever feasible, and in no  
13 event later than 48 hours after initially commencing diversion of  
14 floodflows for groundwater recharge.

15 (B) A preliminary report no later than 14 days after initially  
16 commencing diversion of floodflows for groundwater recharge.

17 (C) A final report no later than 15 days after diversions cease.  
18 *The final report shall contain information, if applicable, describing*  
19 *the forecasting models used to determine a likely imminent escape*  
20 *of surface water pursuant to subdivision (a). The final report shall*  
21 *also include a description of the methodology used to determine*  
22 *the abatement of flood conditions.*

23 (2) The preliminary and final reports shall do all of the  
24 following:

25 (A) Identify the person or entity making the diversion for  
26 groundwater recharge.

27 (B) Provide the Global Positioning System (GPS) coordinates  
28 for the point of diversion, a map identifying the approximate area  
29 inundated by the floodflows, and the corresponding assessor parcel  
30 numbers.

31 (C) Identify the time when diversions of floodflows to  
32 groundwater recharge commenced, and, for final reports, when  
33 diversions ceased.

34 (D) Provide an estimate, as of the report's date, of the amount  
35 of floodflows diverted for groundwater recharge.

36 (h) This section shall only apply to diversions commenced  
37 before January 1, ~~2029~~ 2034.

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## MEMORANDUM

TO: SLDMWA Water Resources Committee Members and Alternates

FROM: Scott Petersen, Water Policy Director

DATE: April 1, 2024

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 of the Central Valley Project and State Water Project, including environmental compliance; (2) State Water Resources Control Board action; (3) San Joaquin River Restoration Program; (4) Delta conveyance; (5) Reclamation action; (6) Delta Stewardship Council action; (7) San Joaquin Valley Water Blueprint and San Joaquin Valley Water Collaborative Action Plan.

### 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.

On September 30, 2021, Reclamation Regional Director Ernest Conant sent a letter to U.S. FWS Regional Director Paul Souza and NMFS Regional Administrator Barry Thom requesting reinitiation of consultation on the Long-Term Operation of the CVP and SWP. Pursuant to 50 CFR § 402.16, Reclamation indicated that reinitiation is warranted based on anticipated modifications to the Proposed Action that may cause effects to listed species or designated critical habitats not analyzed in the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) Biological Opinions, dated October 21, 2019. To address the review of agency actions required by Executive Order 13990 and to voluntarily reconcile CVP operating criteria with operational requirements of the SWP under the California Endangered Species Act, Reclamation and DWR indicated that they anticipate a modified Proposed Action and associated biological effects analysis that would result in new Biological Opinions for the CVP and SWP.

Following this action, on October 20, 2021, the SLDMWA sent a letter to Reclamation Regional Director Ernest Conant requesting participation in the reinitiation of consultation pursuant to Section 4004 of the WIIN Act and in the NEPA process as either a Cooperating Agency or Participating Agency.

On February 26, 2022, the Department of the Interior released a Notice of Intent To Prepare an Environmental Impact Statement (EIS) and Hold Public Scoping Meetings on the 2021 Endangered Species Act Reinitiation of Section 7 Consultation on the Long-Term Operation of the Central Valley Project and State Water Project<sup>2</sup>. In response to this, on March 30, 2022, the SLDMWA submitted a comment letter highlighting actions for Reclamation to consider during preparation of the EIS.

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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/>

<sup>2</sup> <https://www.govinfo.gov/content/pkg/FR-2022-02-28/pdf/2022-04160.pdf>

During May 2022, Reclamation issued draft copies of the Knowledge Base Papers for the following management topics and requested supplementary material review and comments, to which the Authority submitted comment letters in June:

1. Spring-run Juvenile Production Estimate- Spring-run Survival Knowledge Base Document, May 2022
2. Steelhead Juvenile Production Estimate-Steelhead Survival Knowledge Base Document, April 2022
3. Old and Middle River Reverse Flow Management – Smelt, Chinook Salmon, and Steelhead Migration and Survival Knowledge Base Document, May 2022
4. Central Valley Tributary Habitat Restoration Effects on Salmonid Growth and Survival Knowledge Based Paper, March 2022
5. Delta Spring Outflow Management Smelt Growth and Survival Knowledge Base Document, May 2022
6. Pulse Flow Effects on Salmonid Survival Knowledge Base Document, May 2022
7. Summer and Fall Habitat Management Actions – Smelt Growth and Survival Knowledge Base Document, May 2022
8. Shasta Cold Water Pool Management – End of September Storage Knowledge Base Document, May 2022

Subsequent to the Knowledge Base Paper review, a Scoping Meeting was held, to which Water Authority staff provided comments, resulting in the release of a Scoping Report<sup>3</sup> by Reclamation in June 2022.

On October 14, 2022, Reclamation released an Initial Alternatives Report (IAR).

On May 16, 2023, Reclamation provided an administrative draft copy of the Proposed Action, titled “State and Federal Cooperating Agency Draft LTO Alternative” to agencies that have executed an MOU with Reclamation on engagement. Authority staff is reviewing the document and provided feedback to Reclamation, in coordination with member agencies and other CVP contractors.

On June 30, 2023, Reclamation released a draft Qualitative Biological Assessment for review by agencies that have executed an MOU with Reclamation on engagement, though Reclamation is not accepting formal comments. Note that this release does not initiate formal ESA consultation and is being provided to assist the fishery agencies in setting up their documents and resources for the formal consultation, which we expect to begin in late September/early October.

On July 21, 2023, Reclamation released an Administrative Draft Terrestrial Biological Assessment for review by agencies that have an MOU with Reclamation on engagement, though Reclamation is not accepting formal comments. Note that this release does not initiate formal ESA consultation and is being provided to assist the fishery agencies in setting up their documents and resources for the formal consultation, which we expect to begin in late September/early October.

On September 15, Reclamation released a Draft Environmental Impact Statement for 30-day NEPA Cooperating Agency review. The SLDMWA coordinated review of the document with member agencies

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<sup>3</sup> <https://www.usbr.gov/mp/bdo/docs/lto-scoping-report-2022.pdf>

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and technical consultants and submitted both high-level and technical comments on the document<sup>4</sup> on October 16.

On October 10, Reclamation transmitted an Aquatic species Quantitative Biological Assessment, and on October 18, Reclamation transmitted a Terrestrial Species Quantitative Biological Assessment to the Services and to consulting agencies pursuant to the WIIN Act.

### Current Milestones

- April 2024 – 2<sup>nd</sup> Cooperating Agency Draft EIS (2 week comment period)
- May-June 2024: Draft Biological Assessment/Biological Opinion
- Summer 2024 – Public Draft EIS
  - The public draft EIS will be the avenue for comments to Reclamation
  - Cooperating agencies will receive an administrative draft of the EIS
  - Anticipate a 45-day public comment period
- Fall 2024 – Final Biological Opinion
- Winter 2024 – Final EIS
- Winter 2024 – Record of Decision

**Note:** There are also Endangered Species Act consultations on the Trinity River and Klamath River that may have overlap/interactions with the consultation for the CVP/SWP. Timelines on the other consultations are unclear, but both are lagging the CVP/SWP consultation at this point in time.

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

### Bay Delta Water Quality Control Plan Update

#### Background

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>5</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>4</sup> Request from Authority staff.

<sup>5</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>6</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.

Most recently, on July 18, 2022, the State Water Resources Control Board issued a Notice of Preparation (NOP)<sup>7</sup> and California Environmental Quality Act (CEQA) Scoping Meeting for the Proposed Regulation to Implement Lower San Joaquin River Flows (LSJR) and Southern Delta Salinity Objectives in the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta (Bay-Delta Plan).

The purpose of the NOP is: (1) to advise responsible and trustee agencies, Tribes, and interested organizations and persons, that the State Water Board or Board will be the lead agency and will prepare a draft EIR for a proposed regulation implementing the LSJR flow and southern Delta salinity components of the 2018 Bay-Delta Plan, and (2) to seek input on significant environmental issues, reasonable alternatives, and mitigation measures that should be addressed in the EIR. For responsible and trustee agencies, the State Water Board requests the views of your agency as to the scope and content of the environmental information related to your agency's area of statutory responsibility that must be included in the draft EIR.

In response to the release of the NOP, the Water Authority and member agencies provided scoping comments<sup>8</sup>.

**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.

On March 1, 2019, the California Department of Water Resources and the Department of Fish and Wildlife submitted documents<sup>9</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.

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<sup>6</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>7</sup> Available at [https://www.waterboards.ca.gov/public\\_notices/notices/20220715-implementation-nop-and-scoping-dwr-baydelta.pdf](https://www.waterboards.ca.gov/public_notices/notices/20220715-implementation-nop-and-scoping-dwr-baydelta.pdf)

<sup>8</sup> Request from Authority staff

<sup>9</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)

Since the March 1 submittal, 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.

On September 28, The State Water Resources Control Board released a draft Staff Report in support of possible updates to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Plan) that are focused on the Sacramento River watershed, Delta, and Delta eastside tributaries (Sacramento/Delta).

The draft Staff Report includes scientific information and environmental and economic evaluations to support possible Sacramento/Delta updates to the Bay-Delta Plan. The report assesses a range of alternatives for updating the Sacramento/Delta portions of the Bay-Delta Plan, including: an alternative based on a 2018 Framework document identifying a 55% of unimpaired flow level (within an adaptive range from 45-65%) from Sacramento/Delta tributaries and associated Delta outflows; and a proposed voluntary agreements alternative that includes voluntary water contributions and physical habitat restoration on major tributaries to the Delta and in the Delta. In addition, based on input from California Native American tribes, the draft Staff Report identifies the proposed addition of tribal and subsistence fishing beneficial uses to the Bay-Delta Plan.

The draft Staff Report is available for review on the [Board’s website](#). The Authority coordinated and submitted comments with member agencies<sup>10</sup>.

Next steps include a planned workshop on the Agreements to Support Healthy Rivers and Landscapes from April 24-26, 2024, where detailed information about the current status of the Agreements will be presented.

### *Schedule*

#### *LSJR Flow/SD Salinity Implementation Next Steps Assuming Regulation Path (Phase 1)*

- Winter/Spring 2024
  - Final draft Staff Report for Tuolumne River VA
  - Board workshop and consideration of Tuolumne River VA
  - Final draft EIR and regulation implementing Lower SJR flows and South Delta Salinity
  - Board consideration of regulation implementing Lower SJR flows and South Delta Salinity

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<sup>10</sup> Request from Authority staff.

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### *Sac/Delta Update: Key Milestones*

- Fall 2024: Response to comments and development of proposed final changes to the Bay-Delta Plan
- Winter 2024: Board consideration of adoption

### *Voluntary Agreements*

On March 29, 2022, members of the Newsom Administration joined federal and local water leaders in announcing the signing of a memorandum of understanding<sup>11</sup> that advances integrated efforts to improve ecosystem and fisheries health within the Sacramento-San Joaquin Bay-Delta. State and federal agencies also announced an agreement<sup>12</sup> specifically with the Sacramento River Settlement Contractors on an approach for 2022 water operations on the Sacramento River.

Both announcements represent a potential revival of progress toward what has been known as “Voluntary Agreements,” an approach the Authority believes is superior to a regulatory approach to update the Bay-Delta Water Quality Control Plan.

The broader MOU outlines terms for an eight-year program that would provide substantial new flows for the environment to help recover salmon and other native fish. The terms also support the creation of new and restored habitat for fish and wildlife, and provide significant funding for environmental improvements and water purchases, according to a joint news release from the California Natural Resources Agency and the California Environmental Protection Agency (CalEPA). Local water agency managers signing the MOU have committed to bringing the terms of the MOU to their boards of directors for their endorsement and to work to settle litigation over engaged species protections in the Delta.

On June 16, the SLDMWA, Friant Water Authority and Tehama Colusa Canal Authority signed onto the VA MOU. Additionally, since that time, in September and November, four more agencies – Contra Costa Water District, San Francisco Public Utilities Commission (SFPUC), Turlock Irrigation District (TID) and Modesto Irrigation District (MID) – have signed onto the VA MOU.

Work continues to develop the working documents associated with execution and implementation of the VA’s and workgroups for participating agencies have been formed. A number of documents continue to be developed, including a global agreement, implementing agreements for each tributary, enforcement agreements, an updated Science Plan, and governance plan.

### *Delta Conveyance Project*

#### *Petition for Change of Point of Diversion and Rediversion for the Delta Conveyance Project*

On February 22, 2024, the State Water Resources Control Board (Board) received a Petition for Change from the Department of Water Resources (DWR) to add two new points of diversion (POD) and rediversion (PORD) to the water right permits associated with the State Water Project. Specifically, the petition seeks to change Water Right Permits 16478, 16479, 16481, and 16482 (Applications 5630, 14443, 14445A, and

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<sup>11</sup> Available at <https://resources.ca.gov/-/media/CNRA-Website/Files/NewsRoom/Voluntary-Agreement-Package-March-29-2022.pdf>

<sup>12</sup> Available at <https://calepa.ca.gov/2022/03/29/informational-statement-state-federal-agencies-and-sacramento-river-settlement-contractors-agree-on-approach-for-2022-water-operations-on-the-sacramento-river/>



17512, respectively). The proposed new PODs/PORDs would consist of screened intakes 2.3 miles apart located on the lower Sacramento River between Freeport and Sutter Slough. The proposed new intakes are part of the Delta Conveyance Project, which would allow DWR to divert water from the northern Sacramento-San Joaquin Delta Estuary (Delta) and convey the water through a tunnel to existing water distribution facilities in the southern Delta.

This petition is available on the DWR website at: [https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Delta-Conveyance/Public-Information/Revised\\_DCP\\_CPOD\\_Petition\\_Package\\_2024.pdf](https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Delta-Conveyance/Public-Information/Revised_DCP_CPOD_Petition_Package_2024.pdf)

Protests against the change petition must be filed by April 29, 2024, with a copy provided to the petitioner. Details regarding how to submit a protest can be found at: [https://www.waterboards.ca.gov/waterrights/water\\_issues/programs/bay\\_delta/docs/2024/dcp-notice-of-change-petition.pdf](https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/docs/2024/dcp-notice-of-change-petition.pdf)

## U.S. Bureau of Reclamation

### Reclamation Manual

#### *Documents out for Comment*

##### *Draft Policy*

- There are currently no Draft Policies out for review.

##### *Draft Directives and Standards*

- [RCD 03-01 Reclamation Manual Release Procedures](#) (comments due 04/14/24)
- [CMP 08-01 Capital Investment and Repair Needs](#) (comments due 03/15/24)
  - [Feb 28, 2024 CMP 08-01 Public Outreach Session Slides](#)
- [PEC 05-03 Funding and Extended Repayment of Extraordinary Maintenance Costs](#) (comments due 12/21/23)
  - [Nov 30, 2023 PEC 05-03 Public Outreach Session Slides](#)

##### *Draft Facilities Instructions, Standards, and Techniques (FIST)*

- There are currently no Instructions, Standards, and Techniques out for review.

##### *Draft Reclamation Safety and Health Standards (RSHS)*

- There are currently no Safety and Health Standards out for review.

##### *Draft Reclamation Design Standards*

- There are currently no Design Standards out for review.

SLDWMA staff submitted letters on CMP 08-01 and PEC 05-03, which are included in Appendix 1.

## San Joaquin Valley Water Blueprint

The Water Blueprint for the San Joaquin Valley (Blueprint) is a non-profit group of stakeholders, working to better understand our shared goals for water solutions that support environmental stewardship with the needs of communities and industries throughout the San Joaquin Valley.

**Blueprint's strategic priorities for 2022-2025:** Advocacy, Groundwater Quality and Disadvantaged Communities, Land Use Changes & Environmental Planning, Outreach & Communications, SGMA Implementation, Water Supply Goals, Governance, Operations & Finance.

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**Mission Statement:** *“Unifying the San Joaquin Valley’s voice to advance an accessible, reliable solution for a balanced water future for all.*

## Committees

### *Executive/Budget/Personnel*

Blueprint contribution requests have been circulated and Board members will be following up with participants. Hallmark’s revised scope for defined services and deliverables (Develop & implement a strategic plan to protect operational flexibility of the 2019 Bi Ops) has been approved and will run from 3/1-8/31 and has been approved by the Board, with consultation from an ad-hoc committee of public water agency technical and policy professionals.

- Urban Water Agency Partnerships: A draft letter agreement with Urban Water Agencies, including Metropolitan Water District and the Blueprint, is being reviewed which would include monetary participation and review and analysis of water storage and conveyance opportunities. Discussions have focused on mutual concerns/issues faced by water scarcity as well as opportunities for collaboration including recharge, conveyance, and funding.
- The Blueprint has been accessed to provide input at the Urban Water Institute’s Fall Water Conference in San Diego and the International Water Congress in Toronto. It includes leading water experts on today’s most pressing water management issues, representing a broad range of expertise and perspectives.

### *Technical Committee*

Two specific priorities/efforts to help bridge the water deficit in the San Joaquin Valley, the Patterson ID conveyance project, and Delta Operations have been selected. The committee is evaluating total recharge opportunities and potential environmental enhancement and utilization.

## Activities

### *Farmer to Farmer Summit – Second Session*

The second phase of the Farmer to Farmer Delta/SJV summit was held on January 29th and 30th and took place here in the Central Valley. The Summit was two nights, the first night in Bakersfield with a presentation and tour of the South Valley and the second night at Santa Nella with a presentation of the Westside and the San Luis unit. The group has agreed to focus on two priorities in the coming year: (1) the installation of a non-physical fish passage barrier at the Delta Cross Channel gates, and (2) South Delta Channel maintenance, including dredging.

### *Unified Water Plan for the San Joaquin Valley*

The Blueprint and California Water Institute, Fresno State are developing a Unified Water Plan for the San Joaquin Valley, consistent with the Bureau of Reclamation grant<sup>13</sup>. Both Stantec and The Hallmark Group are helping develop the plan. The final water plan will include measures to address San Joaquin Valley needs and potential portfolios to address needs and objectives, this report will ultimately be transmitted to Congress by Reclamation in 2025.

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<sup>13</sup> For background presentation, see Appendix A.

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Fresno State received another round of funding for a groundwater recharge feasibility study. It can include 4 counties (Madera, Tulare, Fresno, Kern). The study will also include a layer of flood plain analysis. Fresno State will be reaching out to districts and GSAs to gather information during the partnership.

The group is focused on multi-benefits for recharge with a focus on drinking water with measurable results.

### *Central Valley Community Foundation*

CA has engaged CVCF to develop an "inclusive 'community investment plan'" for Fresno, Madera, Tulare, and Kings Counties. It is a part of the State's "Jobs First" (formerly known as Community and Economic Resilience Fund) initiative, which has broken the state down into 13 economic regions and provided grant funding to civic organizations to engage a broad group of stakeholders to develop a "triple bottom line" (economy, environment, equity) economic development plan.

CVCF is working in partnership with the Urban Institute, Fresno State, United Way Fresno Madera Counties, Tulare Workforce Investment Board, and about 120+ community and civic leaders from the four-county region to develop this plan. They completed Phase I in 2023, which involved community engagement, outside learning, and developing the framework for our investment plan. Their framework identifies (1) three priority industry clusters for growth – "climate solutions" (includes clean energy generation and distribution), responsible food systems, and circular manufacturing; (2) essential infrastructure – water and broadband; and (3) community investment areas – education/skill building, community health, and small business development. Here is a link with information on the work so far: <https://www.valleycerf.org/resources>

They are planning an 8-week "investment plan sprint" in approximately May to June to get as much specificity as possible on the types of investments needed in each of these eight investment theme areas.

### San Joaquin Valley Water Collaborative Action Program (SJWV CAP)

#### Background

The CAP Plenary Group adopted work groups to implement the CAP Term Sheet<sup>14</sup>, adopted on November 22, 2022. During Phase II, Work Groups are continuing to meet and discuss priorities and drafting various documents for their respective areas: Safe Drinking Water; Sustainable Water Supplies; Ecosystem Health; Land Use, Demand Reduction and Land Repurposing; Implementation.

The Plenary Group met on March 26, to hear a presentation from John Watts about Reclamation engagement with the CAP, discussions around an updated decision making process advanced by the CAP, Proposition 218 legislation, and the Safe Drinking Water Needs Assessment updates by the State Water Resources Control Board. Additionally, during the upcoming April 8-9 Plenary in-person Plenary Group meeting, the White Paper<sup>15</sup> from the Water Supply Workgroup will be considered for adoption.

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<sup>14</sup> Request from Authority staff

<sup>15</sup> See Appendix A.

## **APPENDIX A**

**San Luis & Delta-Mendota Water Authority**



P.O. Box 2157  
Los Banos, CA 93635  
Phone: (209) 826-9696  
Fax: (209) 826-9698

***VIA ELECTRONIC MAIL***

March 22, 2024

Morgan Raymond  
Program Analyst  
Law Administration Division  
Bureau of Reclamation  
Denver Federal Center  
Denver CO 80225-0007

RE: Draft CMP 08-01 Capital Investment and Repair Needs

Dear Morgan:

On behalf of San Luis & Delta-Mendota Water Authority (“Water Authority”) this letter is in response to the Bureau of Reclamation’s (“Reclamation’s”) draft CMP 08-01 “Capital Investment and Repair Needs”.

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, to serve two important roles: 1) to provide representation on common interests of the Water Authority’s member agencies; and 2) to operate and maintain the Delta Division and south of Delta Central Valley Project (“CVP”) facilities, including the Jones Pumping Plant, the Delta- Mendota Canal (“DMC”) and the O’Neill Pumping Plant, that the Water Authority’s member agencies depend on for delivery of CVP water. 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 the San Joaquin, Santa Clara, and San Benito Valleys, a portion of the water supply for nearly 2 million people in 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.

We largely concur with the comments submitted by the Central Valley Project Water Association (CVPWA). In addition to those comments, we make the following observations, all of which will require additional resources and time to implement:

Article 7.A requires a funding horizon of 30 years; the Water Authority currently manages projects on a horizon of 10 years per the terms of the transferred works agreement between Reclamation and the Water Authority. Development of a 30 year project horizon with cost estimates will take an unknown amount of time to complete .

Article 7.B has reference to advanced water user funding. This method of this funding source has yet to be developed between Reclamation and the Water Authority.

Article 7.C states that the project cost estimates must align with FAC 09-01; this would be incorporated into the transitional project to create a 30 year horizon which will take coordination between Reclamation and the Water Authority.

Article 8.A requires an annual certification on each of the projects that are identified on the CIRN by August 31. To the best of our knowledge, this currently isn't being done. The Water Authority will need to work closely with SCCAO and Regional Office annually to make sure the projects on the CIRN are appropriately prioritized, scheduled and the cost estimates are accurate prior to the August 31 deadline. A preliminary assessment and timeline is required to reach compliance.

Generally, the document makes sense but it is a directive that will require time to implement. The directive is silent as to a phase-in or transition period and we question if Reclamation has the resources to manage the D&S the way it is written.

Thank you for your consideration.

Sincerely,

*Pablo Arroyave*

Pablo Arroyave, Chief Operating Officer

Cc: Adam Nickels, CGB Principal Deputy Regional Director

**San Luis & Delta-Mendota Water Authority**



P.O. Box 2157

Los Banos, CA 93635

Phone: (209) 826-9696

Fax: (209) 826-9698

***VIA ELECTRONIC MAIL***

March 22, 2024

Morgan Raymond  
Program Analyst  
Law Administration Division  
Bureau of Reclamation  
Denver Federal Center  
Denver CO 80225-0007

RE: Draft PEC 05-03 Extended Repayment of Extraordinary Maintenance Costs

Dear Morgan:

Thank you for the opportunity to provide comments on behalf of San Luis & Delta-Mendota Water Authority ("Water Authority") to the Bureau of Reclamation's ("Reclamation's") second draft revisions to PEC 05-03, "Extended Repayment of Extraordinary Maintenance Costs".

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, to serve two important roles: 1) to provide representation on common interests of the Water Authority's member agencies; and 2) to operate and maintain the Delta Division and south of Delta Central Valley Project ("CVP") facilities, including the Jones Pumping Plant, the Delta- Mendota Canal ("DMC") and the O'Neill Pumping Plant, that the Water Authority's member agencies depend on for delivery of CVP water. 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 the San Joaquin, Santa Clara, and San Benito Valleys, a portion of the water supply for nearly 2 million people in 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.

We largely agree with the comments submitted by the Central Valley Project Water Association (CPVWA), specifically as it relates to the draft update's requirement of an ATP study for repayment terms beyond 30 years. 43 U.S.C. § 510b(b)(1) allows for up to 50-year repayment. 43 U.S.C. § 510b(b)(1) does not specify an ATP study as the means for financial justification for requesting an extended repayment period, so it is limiting for the draft update to require an ATP study. We believe funding for critical infrastructure repairs will be delayed if extended repayment terms beyond 30 years are reliant on the requirement of the ATP study. The Water Authority requests this requirement be removed from the draft before it is formally adopted and replaced with some alternative financial justification method that we understand has yet to be developed. We welcome the opportunity to collaborate with Reclamation and the CVPWA in developing an

alternative method.

Thank you for your consideration.

Sincerely,

*Pablo Arroyave*

Pablo Arroyave, Chief Operating Officer

Cc: Adam Nickels, CGB Principal Deputy Regional Director





# Unified Water Plan for the San Joaquin Valley

**FRESNO**  
**STATE**

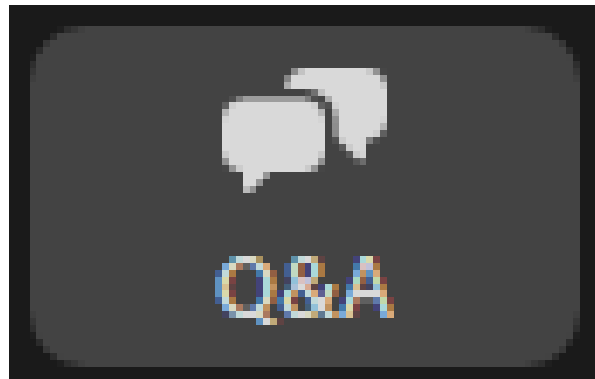
California Water  
Institute

**Water  
Blueprint**



for the San Joaquin Valley

If you have questions during the presentation,  
please click the Q&A button at the bottom of your screen.



# Agenda

1. Authorizing Legislation
2. Project Overview
3. Project Organization
4. Timeline
5. Task Descriptions
6. Discussion

# Authorizing Legislation

PART II of P.L. 111-11 (2009) authorized Reclamation to provide a grant to the California Water Institute for a study regarding the coordination and integration of sub-regional integrated regional water management plans into a **Unified Water Plan for Kern, Tulare, Kings, Fresno, Madera, Merced, Stanislaus, and San Joaquin counties** to address:

- (A) water quality;
- (B) water supply (both surface, ground water banking, and brackish water desalination);
- (C) water conveyance;
- (D) water reliability;
- (E) water conservation and efficient use;
- (F) flood control;
- (G) water resource-related environmental enhancement; and
- (H) population growth.

The Unified Water Plan will be a guide to address and solve long-term water needs in a sustainable and equitable manner.

Reclamation shall provide a report containing the results of the Integrated Water Plan to House of Representatives committees.



# Project Overview

The California Water Institute, Research and Education Division and the Water Blueprint for the San Joaquin Valley Education Fund (Blueprint) will work together to develop a Unified Water Plan for the San Joaquin Valley.

In consideration of the range of ongoing, at times disconnected, work to identify water management solutions for areas of the Valley, the **Unified Water Plan Report** (Report) will leverage available information and assets and describe an approach for the development of comprehensive regional solutions.

The intent of the Report is not to review or evaluate individual projects or efforts, but rather to coordinate and integrate among San Joaquin Valley subregions in the development of a unified plan for the San Joaquin Valley, one that enables and is consistent with local projects/efforts.

# Project Organization



## Task 2 – Stakeholder Engagement and Participation

- Regularly Engage Interested Stakeholder in Update Meetings
- Present and Facilitate Relevant Conversations at Blueprint Technical Work Group Meetings
- Identify other Regional Stakeholders
- Identify Established and Ongoing Stakeholder Forums to Present and Facilitate Relevant Conversations
- Conduct 2 Stakeholder Engagement Forums in Year 2

# Project Tasks and Timeline

Task 1:  
Project  
Administration

CWI



2023

Task 3:  
Prepare Report  
Introduction

CWI



Task 5:  
Compile Measures  
to Address Needs

Stantec & Blueprint



2025

Task 2:  
Stakeholder  
Engagement  
CWI & Hallmark



Task 4:  
Define Existing and Future  
Conditions with No Action  
Stantec & Blueprint



Task 6:  
Prepare Report  
CWI, Blueprint,  
Stantec





# Task 3 – Prepare Report Introduction

## Consideration Factors

As specified by legislation, the following criteria will be considered while compiling information:

- A. Existing and Future Conditions
  - A. Water Quality
  - B. Water Supply (Surface Water and Groundwater)
  - C. Water Conveyance Infrastructure
  - D. Water Reliability
  - E. Water Conservation and Efficiency
  - F. Flood Control;
  - G. Water Resource-related Environmental Enhancement and
  - H. Population Growth
- B. Potential Changes in the Future
- C. Identify the Economic and Social Impacts of Existing Surface Water Supply

## Task 3 – Prepare Report Introduction

### Overview of 2016 Draft Report – Based on Integrated Regional Water Plans

- The Regional Water Management Planning Act (SB 1672) was passed by the Legislature in 2002.
- Several bonds incentivized regional water infrastructure and management solutions that improve self-sufficiency, reduce water use impacts, and support environmental protection and restoration.
- The 2016 Report was based on 19 IWRM reports available in 2014.
  - Nineteen IRWM regions were established in the San Joaquin Valley.
  - Each region developed a list of projects to address local needs, underscoring the value of integrated water data, conditions, facilities, goals and outcomes that were not available to individual entities, but collectively provide a structure to achieve regional goals.
  - The number one issue found in the assessment for the region was the lack of water reliability, either for surface water, groundwater, or both, depending on the location within region.

# Task 3 – Prepare Report Introduction

## Overview of 2016 Draft Report – Cont'd

- The 2016 report recommended several strategies learned over the 2010-2016 period to improve the development and management of local water supplies to meet water demands.
  - Prior experience was that individual agencies focused on their own needs.
  - Integrated regional water management groups have developed relationships, information and synergies that can be used to solve agreed-upon regional problems.
  - A lack of overall information and integration of management plans for water sources impedes the development of a comprehensive water budget for the region.
  
- **However**, the 2016 Report did not address the effects of SGMA compliance, which had been recently enacted but not yet implemented.

# Task 3 – Prepare Report Introduction

## Reasons for Update – Changes After the 2016 Draft Report was Prepared

- **2012-2016** – Severe drought resulted in unprecedented water delivery reductions to Central Valley Project and State Water Project water users in the San Joaquin Valley.
- **2014** – The State of California enacted the Sustainable Groundwater Management Act (SGMA).
- **2015** – Reclamation prepared an Investment Strategy for the San Joaquin River Restoration Program that identifies projects that can reduce or avoid water supply impacts from the release of Restoration Flows.
- **2016** – Reclamation prepared the Sacramento and San Joaquin River Basins Study, which quantified the potential effects of future climate change on water supplies in the Central Valley.
- **2019** – The Water Blueprint for the San Joaquin Valley was established to champion water resource policies and projects to maximize accessible, affordable, and reliable supplies for sustainable and productive farms and ranches, healthy communities, and thriving ecosystems in the San Joaquin Valley.
- **2020** – GSAs throughout the Valley submitted initial GSPs that describe long-term groundwater sustainability objectives and identify potential projects and management actions.

# Task 4 – Define Problems, Needs, and Potential Opportunities

## **Describe Existing and Future Conditions with No Action**

- Compile information from existing public documents
- Confirm intended use of data with originators
- Example – water demand and supply estimates in GSPs

## **Describe Range of Needs and Opportunities**

- Combine information to define needs
- Address uncertainty by presenting needs as ranges, not single values
- Confirm combination of data with originators

# Task 5 – Compile Measures to Address Needs (All Examples are for Water Supply)

## Identify Initial Project Concepts and Evaluate Completeness

- Organize projects by region and type
- Identify potential effectiveness (e.g. source and amount of water supply)
- Indicate level of detail in project description (conceptual --> planning --> design)

## Describe Potential Portfolios to Address Identified Needs and Objectives

- Develop portfolios by theme
  - Maximize use of local supplies
  - Opportunity for increased imported supplies
- Describe combined effectiveness in meeting needs and range of costs

## Develop Water Plan Implementation Approach

- Identify needs that can be address through existing Reclamation authorities
- Describe collaboration requirements for Regional or Valley-wide solutions

# Task 6 – Prepare Report

## **Prepare concise summaries of**

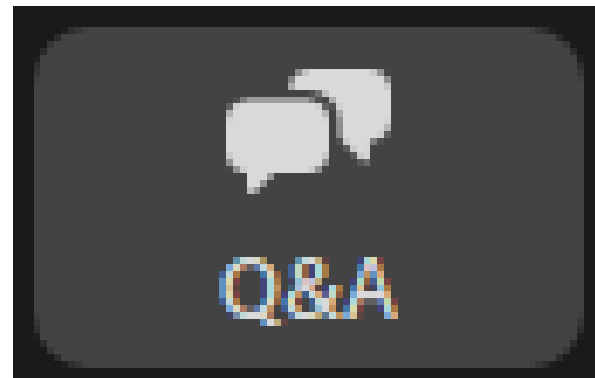
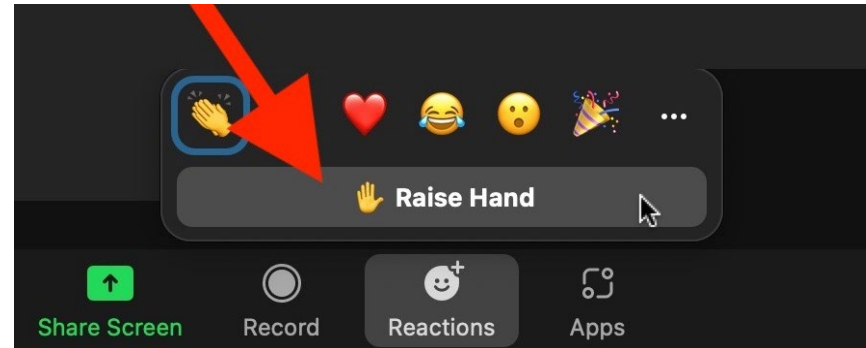
- Problems and needs
- Solution portfolios
- Potential Reclamation roles
- Regional approach to implement the plan

## **Incorporate Report into Water Blueprint for the San Joaquin Valley**

- Assure stakeholder input is reflected in report
- Provide to Blueprint committees for review and approval

# Questions?

Raise your hand!







**Thank you**

Contact us

Laura Ramos or Austin Ewell

Signup for updates: send an email to [cwi@mail.fresnostate.edu](mailto:cwi@mail.fresnostate.edu)

# Wet Year Surplus Water

Draft 3/15/24

## Overview and Approach

The CAP Sustainable Water Supply Workgroup was tasked to estimate the potential range of water available that could be utilized to address the supply-demand imbalance in the San Joaquin Valley consistent with the CAP Term Sheet. The Workgroup appointed a subgroup to develop the range. The subgroup agreed to accept, for purposes of discussion, the same regulatory outflow requirements as that in the analysis completed to support the Public Policy Institute of California (PPIC) Policy Brief, *Tracking Where Water Goes in a Changing Sacramento-San Joaquin Delta*, published in May of 2022 (“PPIC Report”).

During the preliminary discussions, the subgroup agreed on a workflow that separated flows originating from the San Joaquin River or its tributaries from flows originating from the Sacramento River or its tributaries in order to later engage a broader set of impacted stakeholders in the discussions around Sacramento River origin flows (**Figure 1**).

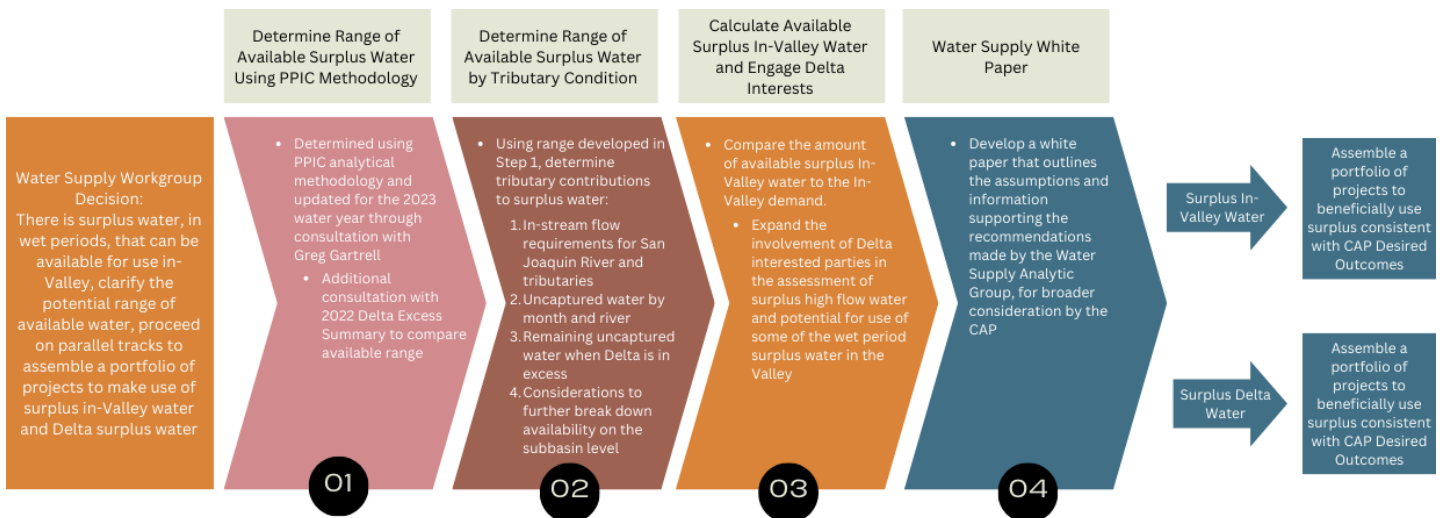


Figure 1: CAP Water Supply Process Diagram

This approach allows the CAP to consider potential actions to be undertaken with flows originating in the San Joaquin Valley while performing further analytical work on Sacramento River origin flows. To ensure the range did not “double count” San Joaquin River origin flows, it was important to ensure alignment in the approach taken to develop San Joaquin River origin flows from the estimate of flows available from the Delta described in the PPIC Report. Additionally, this approach created an opportunity to engage with recent work performed by the Department of Water Resources (DWR) and MBK Consulting Engineers to assess the availability of San Joaquin River and tributary origin flow available for recharge, which is summarized in a memo titled “Estimate of Available San Joaquin River Flow for Recharge” (“DWR Study”).

This memo describes studies consulted to date for developing an estimate of available flow for use in meeting the Desired Outcomes detailed in the CAP Term Sheet and recommendations for work to be performed by the Workgroup during 2024.

## Major Conclusions

1. These two studies demonstrate that, in wet years, there is sufficient water available within the Delta watershed to meet the regulatory requirements during the period of the analysis and that there is uncaptured water that could be available for use in the San Joaquin Valley to achieve the CAP's Desired Outcomes. Water in the Valley could be used through diversions upstream of the Delta or through removing physical system capacity limitations that reduce Delta exports. As described in the CAP Term Sheet, the PPIC study indicates that between 400 and 800 TAF of water from the Delta is available in wet years (exclusive of water that might also be captured upstream). To further support this opportunity in the San Joaquin Valley, a DWR analysis indicates that an average annual wet year availability is approximately 775 thousand acre-feet (TAF). The total annual volume available during wet years is highly variable and ranges from zero to over seven (7) million acre-feet. The variability is due to conditions resulting from the preceding water year and, reservoir conditions at the start of the new water year, and of course annual variability in precipitation. The DWR analysis considers protections for the CVP and SWP operations and regulatory requirements for flow and water quality conditions in the Delta to estimate available SJR flow.
2. Importantly, the studies demonstrate that water availability during wet years is not the limiting factor for increasing diversions for in-Valley use, either from diversions within the San Joaquin River watershed or increases in Delta exports. Instead, the limiting factor is the diversion and storage capacity of projects within the San Joaquin River watershed and the capacity for conveyance and storage of Delta exports south of Delta.
3. Forthcoming changes in regulations and changes in climate will significantly affect how much water is available during what time period, although current proposals would not affect wet year results, as wet years may include significant periods of flood conditions in the San Joaquin watershed. While further research and analysis are important to better understand this variability and its impacts, the subgroup does not think it necessary to wait for additional analysis to move forward.
4. These analyses do not evaluate the full-face value of existing water rights, and water rights would have to be considered to understand better what water is legally available in the San Joaquin River watershed. The subgroup does not intend to complete a robust water availability analysis to determine the amount of unappropriated water.

## Terms and Phrases to Consider

- “Surplus” is meant to describe water that is present in the system that is beyond the current regulatory flows required for ecosystems, water quality, etc. The term surplus does not imply that all potential needs or beneficial uses are being met in tributaries and upstream of the Delta, but rather that there is water available that is in excess of what is needed to meet regulatory flow requirements but goes uncaptured through the watershed and leaves the Delta. (Note: some regulatory requirements like water for wildlife refuges are not currently be met.)
- “Regulatory Baseline” reflects the agreed approach on which the CAP will base decisions and discussions. This is consistent with the baseline conditions utilized in the PPIC study. This would mean that discussions and recommendations are made considering the existing regulatory environment. While the subgroup recognizes the ongoing discussions about the Voluntary

Agreements (VAs), the impacts of the implementation of functional flows or VAs would not impact the amount of available water during flood conditions when most excess water is available.

- “Diversion(s)” reflects the use of surface water, either through actual diversion or inundation of existing or restored floodplains. The term “diversion” as used here does not differentiate between the ultimate beneficial use of the water or the legal basis through which the water is taken.

## Summary of Analyses

### PPIC Report

#### Overview

The PPIC Report originally considered data for 1980-2016 (Gartrell et al. 2017) and was later expanded to include data from 2017-2021. There is discussion on the policies and management decisions that affect where water is used, including the federal Water Infrastructure Improvements for the Nation (WIIN) Act and 2008-9 Record of Decision on the Long-Term Operations of the Central Valley Project (“CVP”) and State Water Project (“SWP”), the associated 2009 Biological Opinions from the U.S. Fish and Wildlife Service and National Marine Fisheries Service, and the CDFW ITP (the more recent 2019 BiOp did not affect the 2019 analysis because it was implemented in the fall, water year 2020). The report provides details on a very dry water year, 2021, with measures taken to reduce outflow while maintaining water quality, and a very wet year, 2017, with potential opportunities to increase exports from the Delta while remaining consistent with the environmental baseline. The analysis includes the entire Delta watershed, including both Sacramento and San Joaquin River origin flows, and the update provided a more aggregated methodology for attributing water use through the Sacramento and San Joaquin River watershed. This includes how much water does not reach the Delta due to upstream diversion and use and how changes in reservoir operations impact potential surplus water availability.

Importantly, the PPIC Report is not written with the explicit intention of defining a range of excess flows that could be captured through upstream in-Valley diversions or Delta exports for in-Valley use. However, the methodology and results of the report provide general information that supports that there is excess water available in wet years (specifically, 2011, 2017, and 2019) for diversion while meeting the environmental baseline if physical system limitations were improved.

#### General Methodology

The PPIC Report estimates excess “Uncaptured Outflow” that would be available for diversion either upstream of the Delta or for export from the Delta while meeting the environmental baseline. The PPIC Report defines uncaptured outflow as the following:

Outflow above that is required for system outflow and ecosystem outflow, including export limits. Most uncaptured outflow is beyond the physical capacity of the export facilities to take the water; in some situations, exports are occurring below authorized export limits, and there is capacity in the aqueducts but nowhere to put the water.

For the purposes of what the CAP is considering, this uncaptured outflow value is used as the determining factor for the water available for diversion upstream of the Delta or as additional export through the

pumping facilities if physical system capacity limitations are lessened or removed. The approach utilized by PPIC for characterizing water in the Delta can be summarized into the following four-step process:

1. Water is tracked from its origin to outflow accounting for use by cities and farms, including water stored and released from reservoirs and used upstream of the Delta and water exports and in-Delta uses.
2. Water is assigned for any day where there are flow and water quality regulations for exports and in-Delta uses (“system outflow” in the analysis) and further parsed into the categories of outflow to maintain water quality for exports, in-Delta municipal and industrial, and in-Delta agriculture.
3. Determine the additional water, on top of system outflow, needed to meet regulations that protect endangered species and the ecosystem (“ecosystem outflow” in the report), and further parsed for different regulations, including export restrictions for fish species.
4. Calculate the inflow that exceeds the system and ecosystem needs and get the resulting Delta outflow, resulting in the uncaptured outflow.

### Caveats and Assumptions

A general caveat in the analysis is that the water necessary for system and ecosystem outflows does not always impact the ability to export water through the Delta pumps. When there is a sufficient volume of uncaptured outflow, the water needed for salinity and flow standards may not require tradeoffs with export pumping as there is sufficient water to meet all needs. In these cases, diversions are typically limited by export pumping capacity or a lack of physical capacity within the south-of-Delta water infrastructure system to convey and deliver uncaptured outflow. Alternatively, ecosystem regulations that limit export pumping may reduce exports even if there is uncaptured outflow; in this case, available export capacity is limited to the daily exports that were less than the export limit, if any (usually there is none).

When determining the required ecosystem outflows, the PPIC Report considered various levels of regulation. A methodology was developed to attribute water under these regulations for comparison and determination in the applicable years. In general, the following regulations were considered:

- D1485 (1978-94)
- D1641 (since 1995)
- Endangered Species Act Biological Opinions (BiOps) (since 1993, revised in 1995, 2008-09)<sup>1</sup>
- Central Valley Project Improvement Act (CVPIA, since 1992)
- Vernalis Adaptive Management Program (VAMP, 2000-11)
- The 2019 BiOps did not affect any of the wet years included in the PPIC analysis.

### Results

The PPIC Report indicates that uncaptured outflows are typically present when Delta inflow exceeds all demands in the Delta, including in-Delta uses, exports, system outflows, and ecosystem outflows. This occurs most often during winter high-flow pulses or periods with high snowmelt runoff, and reservoirs are spilling water. There can also be uncaptured outflow in wet years when export pumping is reduced to

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<sup>1</sup> ESA BiOps were also updated in 2019, but that baseline was not utilized in the analysis due to the timing of the rollout during the applicable period.

levels below those allowed by regulation. This typically occurs when there is a lack of capacity in CVP and SWP aqueducts or when current south-of-Delta storage is at capacity.

The PPIC Report indicates that a total of **400 to 800 thousand acre-feet (TAF)** of additional water is available in wet years for diversion or export from the Delta watershed while meeting the environmental baseline. This study examined how much water could be captured and pumped at the export facilities. It did not include the flows that could be taken upstream. For example, in 2017, up to almost 1 MAF could have been diverted upstream (reducing flood risk) in addition to that which could have been pumped with the excess capacity at the export pumps, bringing the total available to well over 1.5 MAF.

### DWR Study

The Department of Water Resources (DWR) contracted with MBK Engineers to complete an estimate of available San Joaquin River Flow for Recharge (DWR Study). The results are an estimate of the flow in the San Joaquin River, measured at Vernalis, that exceeds monthly water demands and existing regulatory requirements.

### General Methodology

The study utilized the CalSim 3.0 model to estimate monthly water demand based on land use and other model inputs. The study provides results for the average monthly available San Joaquin River flows by water year type and an average annual volume available by water year type.

A second analysis estimated the available volume of water at Vernalis after the diversion of water upstream of Vernalis within the tributaries or upper San Joaquin River, which considers the full diversion capacity at points of diversion to estimate current maximum in-valley use. This analysis tries to differentiate between what water may be used in Valley and what water flows to the Delta.

### Caveats and Assumptions

The DWR analysis utilized four criteria to set the conditions under which water was determined to be “available” in the modeling and estimation of water quantity:

1. Delta outflow is in excess of the required Delta outflow
2. Vernalis flow is above the minimum flow requirements
3. Vernalis water quality standard is met
4. Consideration of the following restrictions on Delta exports:
  - a. Old and Middle River flow requirements
  - b. Actions in the SWP Incidental Take Permit (ITP)
  - c. SJR inflow-to-export (I/E) requirements under Biological Opinions and Decision 1641

The DWR Study acknowledges that the CalSim 3.0 model does not assume that surface water diverters are using the full-face value of their existing water rights and, therefore, does not provide an estimation of the amount of unappropriated water in the San Joaquin River system. Consequently, it could not be used to support a water availability analysis for an appropriative water right application.

The second analysis, including the upstream diversion capacity in tributaries, utilized assumed maximum diversion capacities for each tributary, which is summarized in the table below.

Table 2: Assumed Diversion Capacity Utilized in DWR Study

River	Diversion Capacity (cfs)
Upper San Joaquin	6,750
Fresno	300
Chowchilla	370
Merced	1,900
Tuolumne	3,215
Stanislaus	1,800

## Results

The first analysis estimates that the average annual San Joaquin River flow available for diversion is approximately 775 TAF in wet years. Within that, approximately 579 TAF of water is available in the months of January through March. The total annual volume available during wet years is highly variable and ranges from zero to over seven (7) million acre-feet. The variability is due to conditions resulting from the preceding water year, reservoir conditions at the start of the new water year, and of course annual variability in precipitation.

The second analysis estimates that the average annual available San Joaquin River flow is approximately 281 TAF in wet years after maximizing diversions at all existing diversion points (a proxy for estimating current, maximum in Valley uses). Within that, approximately 236 TAF of the water is available in the months of January through March. The total annual volume available during wet years ranges from zero to approximately 3.2 million acre-feet.

Important takeaways for the CAP from the study include:

- Findings of wet year water availability are similar between PPIC and DWR study with significant variability in wet year water availability, depending on wet year conditions and the prior year end-of-year storage conditions.
- Existing regulatory requirements for Delta conditions significantly limit water availability in the San Joaquin River watershed.
- Results of both studies indicate “physical” water available in the system, not “legal” water available. “Legal” water available will be a smaller number than those presented here (DWR and MBK are working on further analysis to understand this better).
- Better management during wet years, especially January through March, is needed to take advantage of when water is available and at times when there are fewer demands on the system.

## How the Studies Interact

These two studies reach compatible conclusions on the availability of excess water in the Delta watershed without impacting operations. The PPIC Report considers the Delta watershed, while the DWR Study considers the amount of San Joaquin River water available for diversion as measured at Vernalis. These studies and their conclusions can likely be used in tandem to support the goals of the CAP in determining the amount of water that may be available for use in the San Joaquin Valley.

Through the analysis and numerous discussions with the lead author Greg Gartrell, the PPIC Report shows that, in wet years, diversions of water upstream of the legal Delta (often referred to as “in-Valley” diversions by CAP members) could occur without impacting flows required through the Delta, because



there is so much excess water available. Under these circumstances, the limiting factor on diverting water in Valley is the physical capacity of diversion facilities to move water to storage and available storage, and not the instream flow requirements. The results of this analysis also indicate that there could be the opportunity for additional Delta export pumping during wet years when there are uncaptured outflows if there was more south-of-Delta storage.

The DWR Study focuses specifically on water potentially available within the San Joaquin River watershed for diversion for recharge by utilizing flow thresholds at Vernalis and considering potential demands throughout the system. The secondary DWR analysis also considers the amount of water that would potentially be available at Vernalis, given the maximum capacity of upstream diversions from the San Joaquin River tributaries and upper San Joaquin River. This supports the assertion that water is available within the San Joaquin River watershed without impacting Delta outflow requirements.

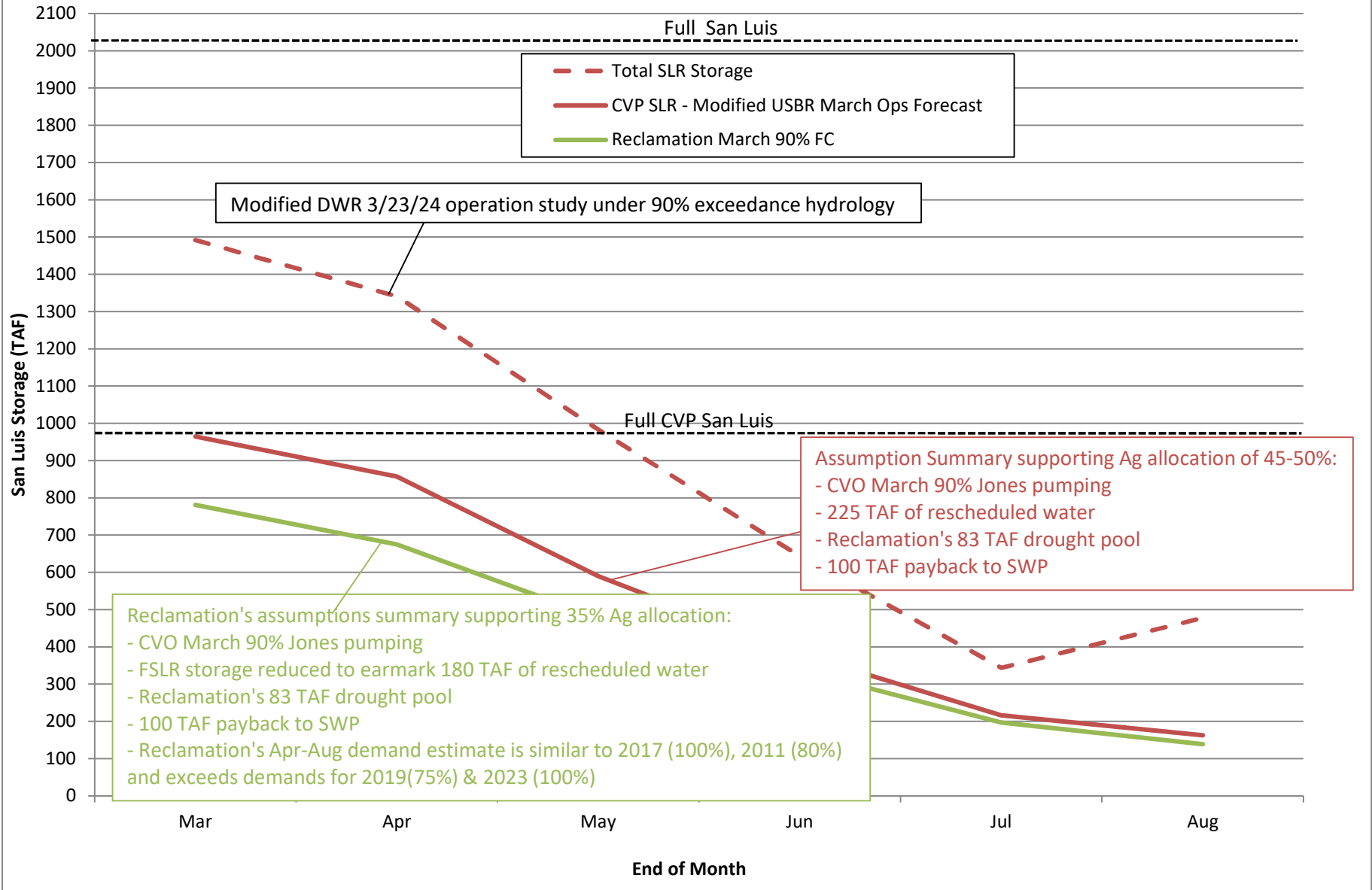
## Next Steps

The subgroup recommends the CAP Water Supply Workgroup review and discuss the findings of this memo and consider the following actions:

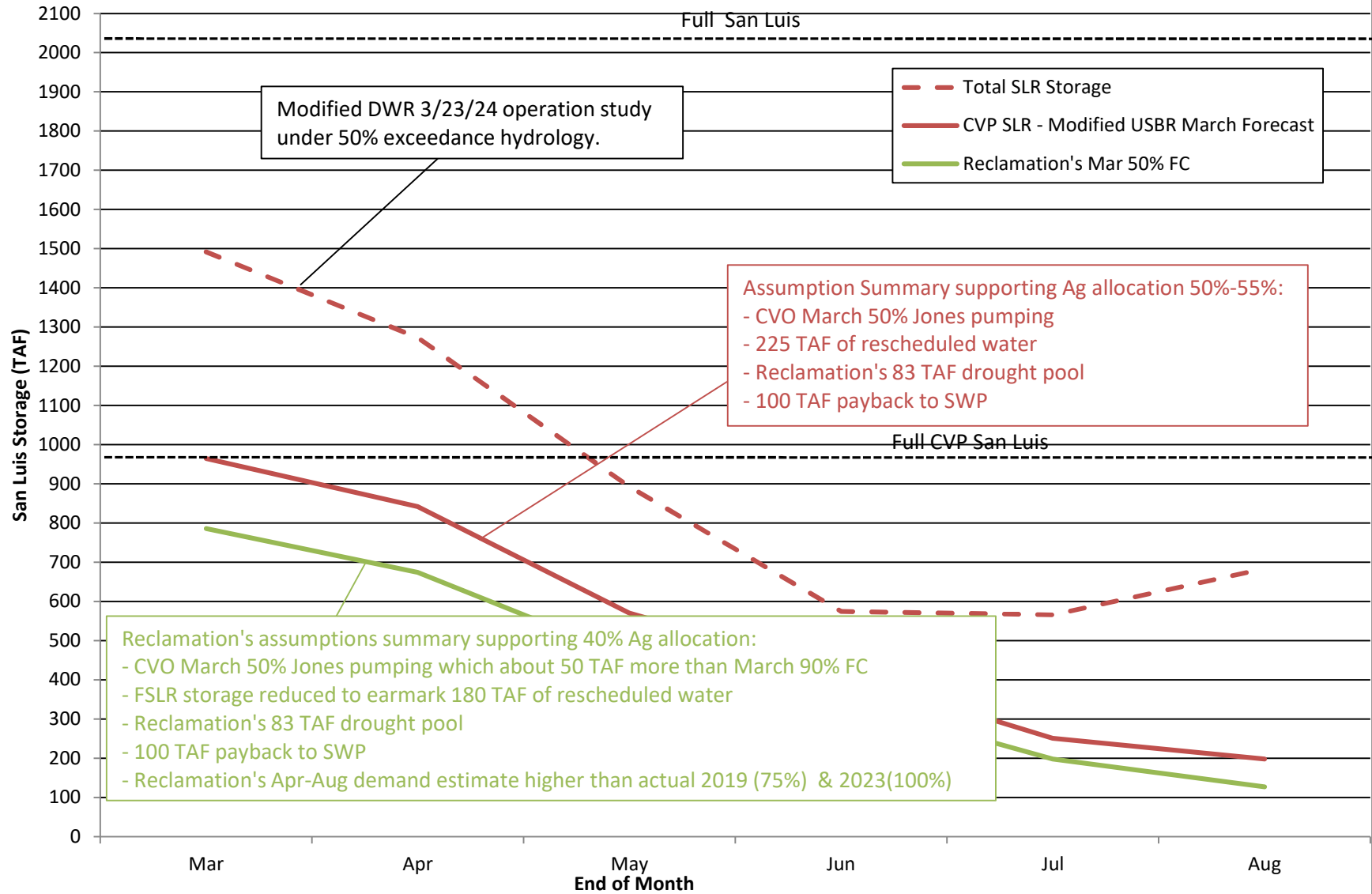
1. Evaluate and recommend an approach through which this uncaptured water may be captured and utilized, including through existing water rights, natural inundation of floodplains, administrative changes to the water right process, permitting and appropriation of legally available water, etc.
2. Identify ways to (a) maintain export capacity in conveyance facilities and (b) increase south-of-Delta water storage are critical components of capturing surplus flood flows for beneficial use.
3. Identify (a) the additional diversion, conveyance, and recharge capacity needed to capture high flows in the San Joaquin Valley not needed for environmental purposes and (b) additional recharge capacity needed to utilize uncaptured Delta flows available under existing regulations. Note that this identification can also provide information on reduction in downstream flood risk.
4. Determine the amount of available water by tributary conditions. The DWR study set the stage for some of this work and highlighted key areas the CAP should consider. The determination of available water by the tributary condition could be followed by comparing water available for in-Valley use and the in-Valley demand. The studies referenced to date do not consider the licensure and actual use of existing diversions within the San Joaquin River and tributaries.
5. Water right permitting, under existing procedures, can include the Water Board's streamlined process for diversions in December through March, the period which the DWR study indicates is when most uncaptured water is available.
6. The CAP could assess how Area of Origin laws may influence the implementation of the proposal to use more water upstream of the Delta and through Delta exports for recharge.



## 2023-24 San Luis Storage Projection 90% Exceedance Hydrology



## 2023-24 San Luis Storage Projection 50% Exceedance Hydrology



Modified DWR 3/23/24 operation study under 50% exceedance hydrology.

- - Total SLR Storage  
 - CVP SLR - Modified USBR March Forecast  
 - Reclamation's Mar 50% FC

Assumption Summary supporting Ag allocation 50%-55%:

- CVO March 50% Jones pumping
- 225 TAF of rescheduled water
- Reclamation's 83 TAF drought pool
- 100 TAF payback to SWP

Reclamation's assumptions summary supporting 40% Ag allocation:

- CVO March 50% Jones pumping which about 50 TAF more than March 90% FC
- FSLR storage reduced to earmark 180 TAF of rescheduled water
- Reclamation's 83 TAF drought pool
- 100 TAF payback to SWP
- Reclamation's Apr-Aug demand estimate higher than actual 2019 (75%) & 2023(100%)