



MEMORANDUM

TO: SLDMWA Water Resources Committee Members and Alternates

FROM: Scott Petersen, Water Policy Director

DATE: February 3, 2025

RE: Update on Water Policy/Resources Activities

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) Central Valley Regional Water Board Action, (4) San Joaquin River Restoration Program; (5) Delta conveyance; (6) Reclamation action; (7) Delta Stewardship Council action; (8) San Joaquin Valley Water Blueprint, and (9) San Joaquin Valley Water Collaborative Action Plan.

Policy Items

Implementation of 2024 Record of Decision on Long-Term Operations of the Central Valley Project and State Water Project

On December 20, Reclamation executed the Record of Decision and both the Fish and Wildlife Service and NOAA Fisheries issued their Final Biological Opinions, beginning operations under the new operations regime.

Reclamation has now shifted to implementation of the new biological opinions and associated operations, and is beginning to establish working groups associated with implementation of the Adaptive Management provisions in the 2024 ROD, including the establishment of a policy steering committee and the beginning of analysis around the X2 action associated with the Summer-Fall Habitat Action for this water year.

On January 2024, President Trump issued an Executive Order detailing analysis of potential changes to the operations in the 2024 ROD for consideration by the Administration. There is a 15-day timeline for the Attorney General, Secretary of Defense, Secretary of Agriculture, Secretary of Commerce, Secretary of the Interior, and Secretary of Homeland Security to report back on emergency authorities within their jurisdiction to maximize water supply.

Endangered Species Act Consultation Milestones

- TBD: Trinity Cooperating Agency Draft EIS/Draft Biological Assessment
- TBD: Trinity Public Draft EIS
- TBD: Trinity Biological Opinion, Final NEPA and ROD

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.

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

Phase 1 Status – San Joaquin River and its Tributaries

The State Water Board adopted a resolution² 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)³ 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).

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

² Available at https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2018/rs2018_0059.pdf.

³ Available at https://www.waterboards.ca.gov/public_notices/notices/20220715-implementation-nop-and-scoping-dwr-baydelta.pdf

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 comments⁴.

Phase 2 Status – Sacramento River and its Tributaries and Bay-Delta

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 documents⁵ to the State Water Board that reflect progress since December to flesh-out the previously submitted framework to improve conditions for fish through targeted river flows and a suite of habitat-enhancing projects including floodplain inundation and physical improvement of spawning and rearing areas.

Since the March 1 submittal, 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.

Phase 2 Draft Staff Report

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

⁴ Request from Authority staff

⁵ Available at http://resources.ca.gov/docs/voluntary-agreements/2019/Complete_March_1_VA_Submission_to_SWRCB.pdf

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 agencies⁶.

Program of Implementation

On Oct. 25, the State Water Resources Control Board released a [draft of potential updates](#) for the Sacramento/Delta portions of the Water Quality Control Plan for the San Francisco Bay/Sacramento–San Joaquin Delta Watershed (Bay-Delta Plan). The draft changes include options for incorporating a regulatory pathway, which features tributary inflow and cold water habitat provisions and inflow-based Delta outflows, or a pathway based on the [Healthy Rivers and Landscapes Program](#), formerly referred to as the Voluntary Agreements. Additionally, the draft updates include options for two modular alternatives (Alternatives 5a and 6a) that were described in the State Water Board's 2023 [draft staff report](#).

The State Water Board has not yet selected a pathway for updating the Sacramento/Delta portions of the Bay-Delta Plan. State Water Board staff will develop a revised draft of proposed updates based on comments on this draft.

The State Water Board held multiday workshops, with dates scheduled in November, December, and January, to discuss the draft changes. Written comments on the draft Program of Implementation were submitted by the Water Authority and some of its members⁷. Additionally, written comments on Alternatives 5a and 6a were submitted January 31⁸.

Schedule

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

- Winter 2024/Spring 2025
 - Final draft Staff Report for Tuolumne River VA

⁶ Request from Authority staff.

⁷ Request from Authority staff.

⁸ Request from Authority staff.

- 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

Sac/Delta Update: Key Milestones

- Spring 2025: Response to comments and development of proposed final changes to the Bay-Delta Plan
- Summer 2025: Board consideration of adoption

Healthy Rivers and Landscapes Program

On March 29, 2022, members of the Newsom Administration joined federal and local water leaders in announcing the signing of a memorandum of understanding⁹ that advances integrated efforts to improve ecosystem and fisheries health within the Sacramento-San Joaquin Bay-Delta. State and federal agencies also announced an agreement¹⁰ specifically with the Sacramento River Settlement Contractors on an approach for 2022 water operations on the Sacramento River.

The HRL parties continue to meet to advance various components of the HRL Program for State Board consideration as it considers the updates to the Bay-Delta Water Quality Control 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 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

Protests against the change petition must have been filed by May 13, 2024, with a copy provided to the petitioner. SLDMWA entered into a Settlement Agreement¹¹ with DWR on the project.

⁹ Available at <https://resources.ca.gov/-/media/CNRA-Website/Files/NewsRoom/Voluntary-Agreement-Package-March-29-2022.pdf>

¹⁰ 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/>

¹¹ Request from Authority staff.

The State Water Board Administrative Hearings Office will hold a hearing regarding the Delta Conveyance Project (also known as the Delta Tunnel) beginning on **February 18, 2025 at 9 a.m.** The hearing will address the water right change petitions filed by the Department of Water Resources' State Water Project to add two new points of diversion and rediversion on the Lower Sacramento River to build the Delta Conveyance Project.

The State Water Board will use the evidence presented during the hearing to determine whether to approve these petitions, and if so, what specific terms and conditions (if any) should be included in the amended State Water Project permits. Parties to the proceeding may submit exhibits and testimony relevant to a list of issues and sub-issues to be considered, including:

Would approval of the petitions impact tribal lands, tribal interests, or tribal cultural resources? If approved, what terms and conditions, if any, within the Board's authorities should the Board include in the amended permits to protect these interests?

More Information

- [Second Amended Notice of Hearing and Procedural Ruling](#) (includes hearing details and background, procedures, how to request language or other services, list of issues to be considered, list of Protestants, interested persons). Note that the dates listed in the notice are subject to change.
- Hearing website: bit.ly/aho-dcp
- Subscribe to emails related to this proceeding by visiting bit.ly/swb-subscribe and selecting "Delta Conveyance Project Public Hearing" in the Administrative Hearings Office subscription topic group.

Calendar

Schedule/Deadlines (subject to change)	Date and Time
Deadline for submission of hearing management statement and joint proposal for site visit.	February 11, 2025
Hearing begins with policy statements from 9 a.m. to approximately 12 p.m., and consideration of remaining procedural issues starting at approximately 1 p.m.	February 18, 2025
Hearing continues with remaining policy statements and Petitioner's case-in-chief.	March 24, 2025
Hearing continues with Petitioner's case-in-chief.	March 25, and April 1, 4, 7, 8, 9, 14, 17, 22, 23, and 24, 2025
Deadline for Protestants to submit case-in-chief exhibits, exhibit identification indices, and proposed permit terms or statement of no appropriate conditions for approval. Deadline for	Approximately June 2025

Petitioner to submit any additional case-in-chief exhibits based on any revision to hearing issues or newly available information.

Community Benefits Program Implementation Plan and Guidelines Public Review

The Department of Water Resources has released a [Discussion Draft Implementation Plan and Guidelines](#) for the Delta Conveyance Project's Community Benefits Program (CBP). The implementation plan provides more detail about how the CBP could be implemented and is available for review through March 1, 2025.

The Discussion Draft Implementation Plan and Guidelines and an accompanying feedback form can be found online [here](#).

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

- There are currently no draft Directives and Standards out for review.

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.

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.

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.

Education and Communications

The Blueprint sent a coalition letter to chairman Esquivel to express our support for selecting the Healthy Rivers and Landscapes Program as the pathway to amending the Water Quality Control Plan for the San Francisco Bay/Sacramento San Joaquin Delta Watershed.

The UIF option would cause untold social and economic disruption in communities throughout the State, while also complicating interbasin negotiations on the Colorado River. Reduced State Water Project supplies as a result of the UIF alternative make it more difficult to achieve a collaborative solution to the Colorado River's 2026 Operational Guidelines among the seven basin states.

In contrast, the HRL pathway would provide additional protection of the beneficial use of water for native fish species while also providing greater water supply reliability and regulatory certainty for those same communities than the UIF approach.

Activities

Unified Water Plan for the San Joaquin Valley

The Water Blueprint for the San Joaquin Valley Education Fund and the California Water Institute - Research and Education Division are working together to develop a Unified Water Plan for the San Joaquin Valley. Presentations and outreach are currently focused on Merced County and Madera County after successful presentations in Tulare, Kings, and Fresno Counties. This two-year project will culminate in publishing a report to be submitted to Congress.

CVP and SWP Water Supply Restrictions Strategic Plan¹²

The Hallmark Group developed a strategic plan and an implementation approach for review and approval by the Board. The Hallmark Group Contract for Strategic Advisory Services was approved for work completed from March 1, 2024, through on August 31, 2024. That contract was set at for a monthly retainer for 6 months. Hallmark billed against that retainer through the end of July 31. After the Strategic Plan was approved by the Blueprint Board, Hallmark provided a reduced level of effort while waiting for direction on the Implementation Plan. On a going forward basis Hallmark, starting September 1st, will continue on a time and materials for advisory services as needed through the end of the year.

The Board is engaging West Coast Advisors for outreach and advocacy to the public and state and federal officials specifically related to the efficacy of proposed regulations, water supply reductions, and environmental and socio-economic impacts in the SJV. The objective is to protect the operational flexibility restored by 2019 biological opinions and 2020 record of decision for coordinated operations of the Central Valley Project and State Water Project, which restored approximately 300,000 acre-feet to the average south-of-Delta delivery capability of the projects, and to expand operational flexibility for the CVP

¹² Request from Authority staff

and SWP. The plan is organized into four principal topics: (1) objectives; (2) obstacles to achieving objectives; (3) means of overcoming obstacles; and (4) time frame.

Urban Water Agency Partnerships

Consistent with the Groundwater Storage Investigation MOU that was signed in May, Metropolitan Water District, Stantec and the Blueprint have an agreed-upon final draft scope. Stantec is preparing a budget for approval to address the mutual analysis of groundwater storage and conveyance opportunities in the Central Valley. An investigation management committee is being established that will include directors from MET and the Blueprint to provide oversight and direction on the work. Additionally, Valley Water has expressed an interest in joining and coordinating with the Blueprint on this investigation, a copy of the final scope has been shared for discussion.

Farmer to Farmer – Great Valley Farm Water Partnership

Initial focus and priority for the partnership is on Silt Removal. The partnership will look to align efforts with South Delta Water Agency, CA Division of Boating and Waterways and the Army Corps of Engineers.

San Joaquin Valley Water Collaborative Action Program (SJVW CAP)

Background

The CAP Plenary Group adopted work groups to implement the CAP Term Sheet¹³, 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 January 28 to continue discussions around what the next phase of the CAP would entail, discussions are ongoing associated with potential work products, and received a presentation from PPIC on the recent study about water available for recharge in the San Joaquin Valley.

¹³ Request from Authority staff

APPENDIX A



— BUREAU OF —
RECLAMATION

LTO Interested Parties

January 2025



— BUREAU OF —
RECLAMATION

Agenda

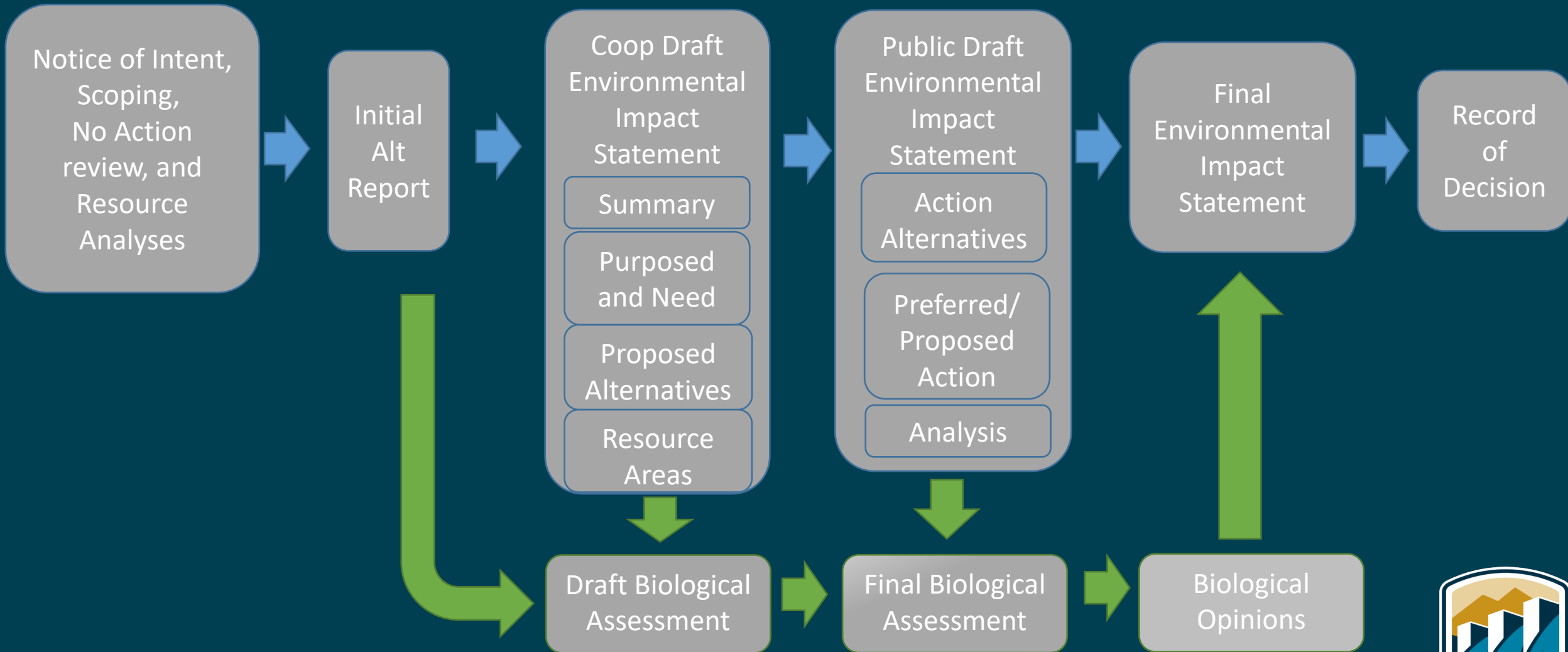
- Final Record of Decision Published
- Transition to Trinity River Division
- Frequency of IP Meetings

Prior Monthly Meetings

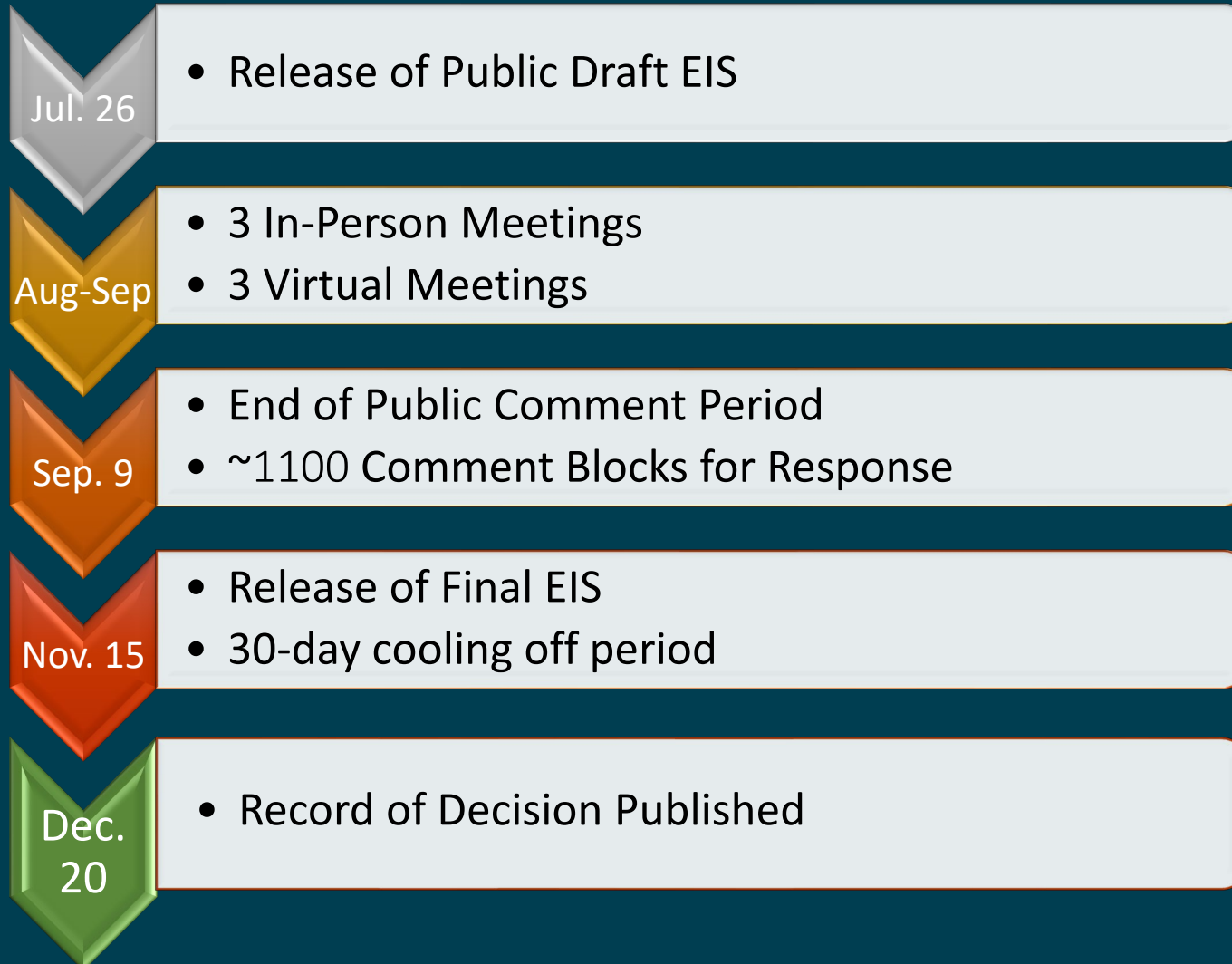
- March 2022 – Scoping
- April – NEPA and ESA Process
- May – Knowledge Base Papers
- Initial Alternatives (June – October)
- November – Alternative Formulation Update
- December – WIIN Act Quarterly Update
- January 2023 – No meeting
- February – Analytical Tools
- March – WIIN Act Quarterly Update
- April – Environmental Baseline
- May – Preliminary Alternatives
- June – WIIN Act Quarterly Update
- July – Qualitative Biological Assessment
- August – Cooperating Agency Draft EIS
- September – WIIN Act Quarterly Update
- October – Qualitative Biological Assessment Updates
- November – Delta Inflow Bins and OMR
- December – WIIN Act Quarterly Update
- February 2024 – Lines of Evidence and Sufficiency Review
- March – WIIN Act Quarterly Update
- April – 2nd Draft Cooperating Agency EIS
- May – 2nd Draft Cooperating Agency EIS Comment Themes
- June – WIIN Act Quarterly Meeting
- July – Public Draft EIS
- August - Public Comment Process
- September – WIIN Act Quarterly Update
- October – Draft to Final EIS
- December – WIIN Act Quarterly Update



2021 NEPA and ESA Process – LTO of the CVP



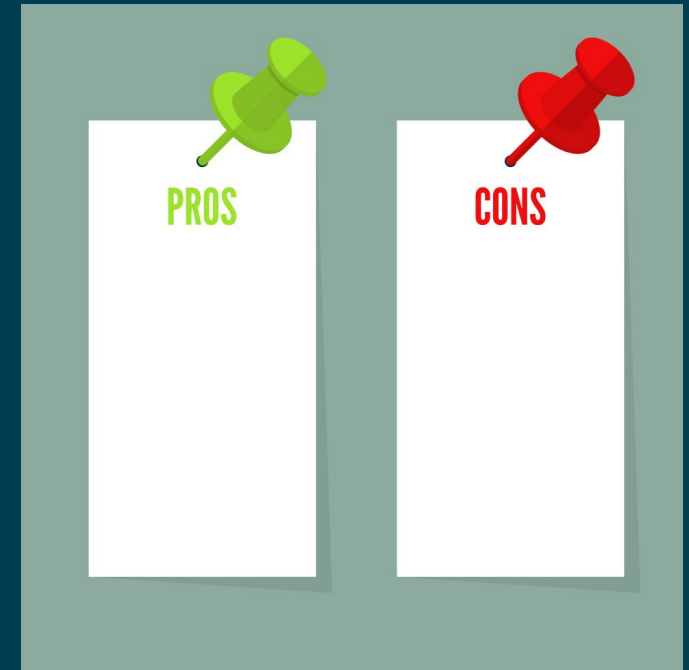
Public Review



Record of Decision

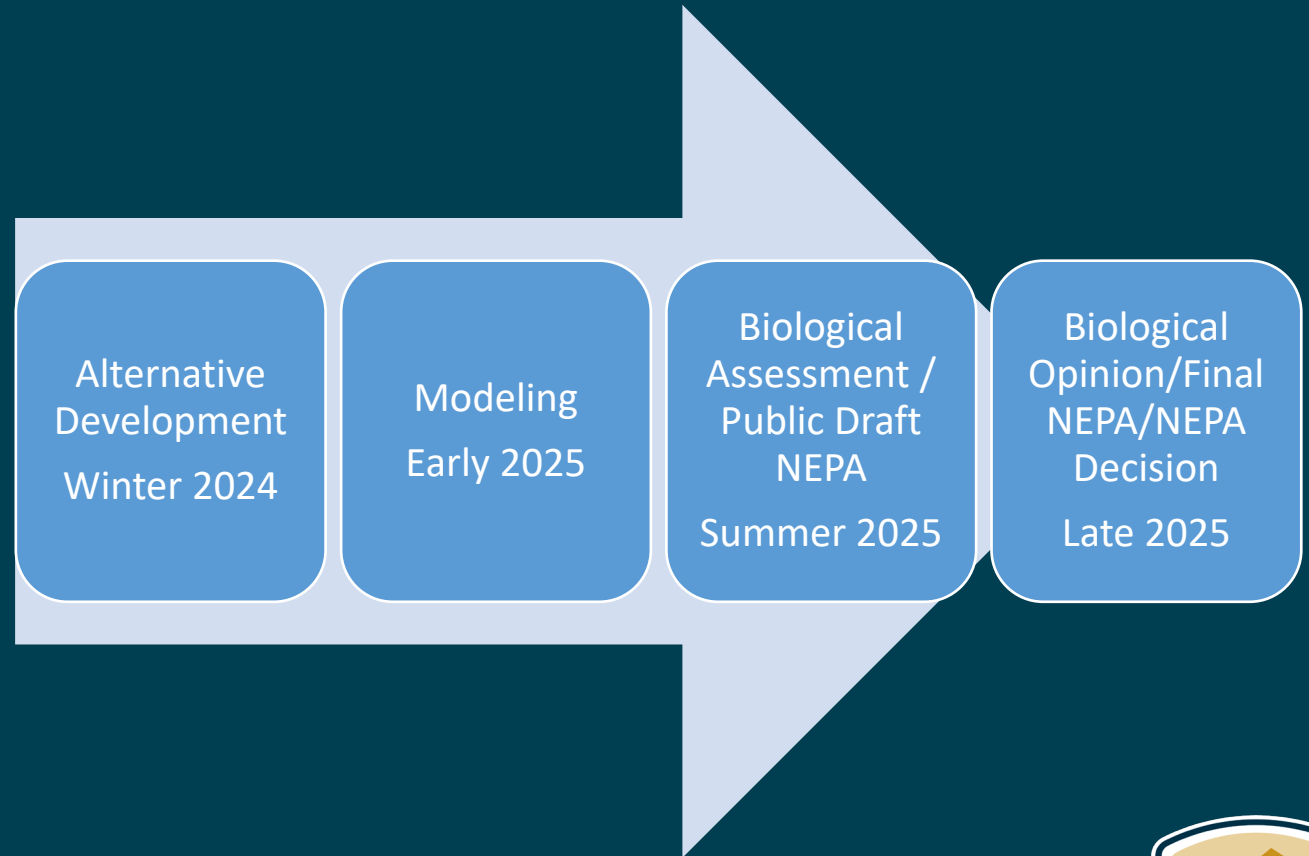
- Alternative 2 is the Selected Alternative
- Alternative 2 is the Environmentally Preferable Alternative
- Highlights Key Components
- Lists Mitigation Measures
- Summarizes Permitting and Compliance Completed During Review

Reclamation is now operating to the 2024 ROD



Transition to Trinity River Division

- Quarterly Interested Party Meeting Topics
 - Alternatives
 - Modeling
 - Biological Resources
 - NEPA Documentation



Thank you



January 10, 2024

Sent via email: SacDeltaComments@waterboards.ca.gov &
Joaquin.Esquivel@Waterboards.ca.gov

State Water Resources Control Board
Division of Water Rights
Attn: Bay-Delta & Hearings Branch
P.O. Box 100
Sacramento, CA 95812-2000

Subject: Comment Letter – Draft Sacramento/Delta Bay-Delta Plan Updates

Dear Chair Esquivel,

We appreciate the opportunity to provide these comments, on behalf of the parties currently participating in the Healthy Rivers and Landscapes (HRL) Program, in response to the October 2024 draft Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed (October 2024 draft).

The HRL approach offers an adaptive framework that integrates flow and non-flow measures to balance beneficial uses of water to both enhance the ecological health of the Bay-Delta and ensure water reliability for communities. By prioritizing a science-driven process and fostering collaboration among diverse stakeholders, the HRL Program provides a sustainable and balanced pathway for achieving long-term water quality and ecosystem goals. We provide the following information toward advancing those goals.

The October 2024 draft represents a significant first step in an iterative process to finalize updates to the Bay-Delta Plan. At a high level, the October 2024 draft contains the key elements including the identification of beneficial uses, including new tribal beneficial uses; establishment of water quality objectives including a new narrative fish viability objective; and a program of implementation (POI). The October 2024 draft also includes a series of placeholders that require additional detail and refinement to fully realize its objectives.

The March 2022 VA MOU Term Sheet¹ confirmed that the HRL Program parties' request that the State Water Board consider and approve an updated Bay-Delta Plan that includes two regulatory pathways for implementation of the existing Narrative Salmon Objective and a new Narrative Fish Viability Objective – the HRL Program and an alternative pathway. The October 2024 draft (at p. 70) notes that the HRL Program parties (HRL Parties) did not submit a complete

¹ See State Water Board Staff's September 23, 2023, Draft Staff Report/Substitute Environmental Document (DSR/SED), Append. G1 and Append. A thereto, Memorandum of Understanding Advancing a Term Sheet for the Voluntary Agreements to Update and Implement the Bay-Delta Water Quality Control Plan, and Other Related Actions (Mar. 29, 2022), Term Sheet for Voluntary Agreements to Update and Implement the Bay-Delta Water Quality Control Plan (Mar. 29, 2022) and associated amendments, herein referred to as the March 2022 VA MOU Term Sheet.

POI, and it sets forth in Section 4.4.10 “possible implementation provisions for . . . the Healthy Rivers and Landscapes Proposal.”

In response, we are submitting the attached draft HRL POI for the Narrative Salmon Objective and Narrative Fish Viability Objective (HRL POI) (Attachment 1). This draft is consistent in format with the current POI in Chapter IV of the December 12, 2018, Water Quality Control Plan and provides some of the additional information missing from the October 2024 draft. The draft HRL POI was crafted to reflect the terms of the March 2022 VA MOU Term Sheet and address a subset of questions that were raised in the April 2024 workshops on the HRL Program. Of particular note, the draft HRL POI includes provisions for incorporating the Science Plan and the Enforcement Agreements as the cornerstones of the HRL Program, a process by which the HRL Program could be evaluated and modified by the State Water Board, and a process for accounting for and protecting HRL flow assets.

There are key structural differences between the State Water Board’s October 2024 draft POI and the POI in the existing 2018 Bay-Delta Plan. As explained in the 2018 Bay-Delta Plan, there are five general components to its program of implementation: “(1) implementation measures within State Water Board authority; (2) measures requiring a combination of State Water Board authorities and actions by other agencies; (3) recommendations to other agencies; (4) a monitoring and special studies program; and (5) other studies that are being conducted by other entities but may provide information relevant to future proceedings.” (2018 Bay-Delta Plan, p. 22.)

In contrast, the October 2024 draft changes the structure and proposes to organize the program of implementation by category of objectives: “This program of implementation consists of measures to implement the Water Quality Objectives for Municipal and Industrial Beneficial Uses (Table 1 Objectives), Water Quality Objectives for Agricultural Beneficial Uses (Table 2 Objectives); and Water Quality Objectives for Fish and Wildlife Beneficial Uses (Table 3 Objectives).” (October 2024 draft, p. 29). As noted above, the structure of the draft HRL POI is consistent with the format of the 2018 Bay-Delta Plan POI. The structure in the 2018 Bay-Delta Plan POI is preferred because it more clearly establishes how the State Water Board expects each of the water quality objectives to be achieved. Thus, the HRL Parties encourage the State Water Board to retain the structure of the 2018 Bay-Delta Plan POI in the final Bay-Delta Plan Update absent further explanation for the need of an alternative structure.

Accordingly, at this time the HRL Parties provide a high-level vision of an updated Bay-Delta Plan that should include:

- Beneficial Uses: Retention of existing beneficial uses and a process for further definition of new tribal beneficial uses.
- Water Quality Objectives: Retention of existing narrative salmon, municipal and industrial, and agricultural objectives, and addition of a new narrative fish viability objective.
- Program of Implementation: A comprehensive and actionable framework that includes:
 - An accurate description of the HRL Program including the Science Plan and Science Committee for assessing the effectiveness of flow and non-flow measures.

- A process by which the flow only (e.g. Unimpaired Flow (UIF)) pathway could become a viable alternative to the HRL Program.
- Clear definition of “backstopping” and clear accountability for the HRL Program² and the UIF alternative.
- Improved tribal engagement.
- A process that allows for changes in participation in HRL Program and UIF alternative.
- Robust and efficient State Board oversight procedures; and
- Appropriate monitoring and reporting requirements.

The HRL Parties recognize that additional work is needed to refine the Bay-Delta Plan and are committed to dedicating the resources needed to maintain the schedule such that the updates to the Bay-Delta Plan can be adopted by the State Water Board by Summer of 2025. While the attached draft HRL POI reflects our initial efforts, we acknowledge it may not yet fully incorporate feedback from recent State Water Board workshops or address some of the concerns identified in the October 2024 draft.

We appreciate the hard work and dedication of the State Water Board members and staff. We value your partnership and are committed to advancing solutions that enhance the viability of native species while also balancing the need for reliable water deliveries to our constituents. In the upcoming months, we look forward to continued engagement with the State Water Board members and staff to provide relevant and timely input to allow for an adoptable Bay-Delta Plan by Summer 2025. Thank you for your consideration of these comments.

Sincerely,



² There must be an additional regulatory process in accordance with the Porter-Cologne Water Quality Control Act (Porter-Cologne) prior to the imposition of an alternative pathway/UIF objective on the HRL Program parties. (VA MOU Term Sheet, §§ 7.4, 7.4.B(iii), 7.4.F, 7.5.)

cc: The Honorable Dorene D'Adamo, Vice Chair, State Water Resources Control Board
The Honorable Laurel Firestone, Member, State Water Resources Control Board
The Honorable Sean Maguire, Member, State Water Resources Control Board
The Honorable Nichole Morgan, Member, State Water Resources Control Board
Eric Oppenheimer, Executive Director, State Water Resources Control Board
Michael Lauffer, Chief Counsel, State Water Resources Control Board

Attachment 1

Draft HRL Program of Implementation

Chapter IV. Program of Implementation

B. Measures Requiring a Combination of State Water Board Authorities and Actions by Other Agencies

* * *

3. Narrative Objective for Salmon Protection & Narrative Fish Viability Objective

D-1641 assigned primary responsibility to the USBR and DWR to comply with certain quantitative objectives for the protection of beneficial uses in the Delta, including fish and wildlife. D-1641 did not require separate actions to implement the narrative objective for salmon.

The narrative objective for salmon protection in the Delta is consistent with the anadromous fish doubling goals of the CVPIA. Under the Anadromous Fish Restoration Program (AFRP), State, federal and local entities are continuing to implement programs within and outside the Delta geared towards achieving the CVPIA anadromous fish doubling goals.

CDFW, NOAA Fisheries, and other agencies monitoring the progress of the salmon protection effort have presented the results from ongoing studies and fishery improvement programs to the State Water Board. The State Water Board considered the monitoring results, as well as other information, and has determined to augment that narrative salmon objective with the new narrative fish viability objective and with additional actions for implementation of those objectives.³ The actions fall within three categories.

Category 1: The Healthy Rivers and Landscapes Actions

The State Water Board will implement the narrative objective for salmon and the narrative fish viability objective through continued implementation of D-1641 (or as may be amended for Phase I) as well as through the Healthy Rivers and Landscapes Program, which is a comprehensive approach to managing and integrating habitat, flow, landscape, and other factors required to protect native fish and wildlife species, while concurrently protecting water supply reliability, consistent with the legal requirement of providing reasonable protection for all beneficial uses.

The Healthy Rivers and Landscapes Program was developed as a regulatory path similar to pathways employed by the State Water Board in prior Water Quality Control Plans for the Bay Delta. Although they have been referred to as “Voluntary Agreements”, upon the State Water Board updating this Bay-

³ For ease of reference for this draft, the proposed narrative fish viability objective’s text is as follows: “Maintain water quality conditions, including flow conditions in and from tributaries and into the Delta, together with other measures in the watershed, sufficient to support and maintain the natural production of viable native fish populations. Conditions and measures that reasonably contribute toward maintaining viable native fish populations include, but may not be limited to, (1) flows that support native fish species, including the relative magnitude, duration, timing, temperature, and spatial extent of flows, and (2) conditions within water bodies that enhance spawning, rearing, growth, and migration in order to contribute to improved viability. Indicators of viability include population abundance, spatial extent, distribution, structure, genetic and life history diversity, and productivity. Flows provided to meet this objective shall be managed in a manner to avoid causing significant adverse impacts to fish and wildlife beneficial uses at other times of the year. *

* The actions the State Water Board and other agencies expect to take to implement this objective are described in section [insert number] of this Plan’s Program of Implementation.”

Delta Plan and the parties executing the agreements described below, the commitments made through the Healthy Rivers and Landscapes Program are binding on the parties and enforceable by the State Water Board. As recognized by the State Water Board in its 2018 Bay-Delta Plan, this type of approach will “expedite implementation ... and provide durable solutions in the Bay-Delta watershed while also providing reasonable protections for fish and wildlife.”

i. The Healthy Rivers and Landscapes Program

The Healthy Rivers and Landscapes Program has established governance procedures that will be implemented through and as provided by three plans:

Strategic Plan. This plan describes the Healthy Rivers and Landscapes Program and schedule for implementation. In addition to a description of the flow and non-flow assets included in the program, including flexibility brackets for flow to support adaptive management, it reflects the governance structures that will: (a) ensure the synergistic benefits of the flow and non-flow measures are realized to the extent feasible and consistent with Healthy Rivers and Landscapes plans and (b) provide accountability and transparency of the Healthy Rivers and Landscapes Program to State Water Board and interested parties. As set forth in more detail in the Strategic Plan, the following tables summarize the Healthy Rivers and Landscapes flow and non-flow commitments, subject to the specific terms of the Global, Implementation and Enforcement Agreements that are included in appendices to this program of implementation and are discussed below (Table 1⁴).

Table 1 New Contributions to Tributary Flow and Delta Outflows in Thousand Acre Feet by Sacramento River Index (Adapted from Term Sheet, Appendix 1 and associated amendments)

Source Category	Specific Source	C (15%)	D (22%)	BN (17%)	AN (14%)	W (32%)
San Joaquin River Basin	<i>Minimum Placeholder Contributions (Stanislaus and Merced)</i>	11	83	101	85	0
San Joaquin River Basin	<i>San Joaquin Basin Portion of Gap</i>	-	11	2	10	-
San Joaquin River Basin	Tuolumne	37	62	78	27	0
Friant	-	0	50	50	50	0
Sacramento River Basin	Sacramento	2	102	100	100	0
Sacramento River Basin	Feather	0	60	60	60	0
Sacramento River Basin	Yuba	0	50	50	50	0
Sacramento River Basin	American	30	40	10	10	0
Sacramento River Basin	Mokelumne	0	5	5	7	0
Sacramento River Basin	Putah	7	6	6	6	0
CVP/SWP Export Reduction	-	0	125	125	175	0
PWA Water Purchase Program	Fixed Price	3	63.5	84.5	99.5	27
PWA Water Purchase Program	Market Price	0	50	60	83	0
Permanent State Water Purchases	-	65	108	9	52	123

⁴ Table 1 here references Table 1 in the Strategic Plan and incorporates the footnotes in the Strategic Plan by reference. It is also important to note that some of the assumptions and values are still being finalized as of the date of this letter.

<i>Year 1 New Outflow Above Baseline (Low Target)</i>	-	155	825.5	750.5	824.5	150
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As discussed below, the State Water Board finds that all flow commitments, and contributions of flow under those commitments, constitute an application of water to the beneficial use of preservation of fish and wildlife resources under Water Code section 1243 and do not constitute non-use of water.

In addition to flow assets, the Healthy Rivers and Landscapes Program also includes substantial habitat restoration, that together with flow measures above, will be implemented to contribute to the narrative objectives (Table 2⁵).

Table 2 Minimum Additive Contributions to Habitat Restoration and other Non-flow Measures (Source: Appendix 2 of Term Sheet and associated amendments)

Area	Total Acres
San Joaquin Basin – Tuolumne	77 (rearing/floodplain), >21.35 (spawning gravel)
Sacramento Basin – Sacramento	137.5 (instream), 113.5 (spawning)
Sacramento Basin – Sutter Bypass, Butte Sink, and Colusa Basin	20,000 (floodplain), 20,000 (fish food production) <i>Initial Targets per funding and permitting</i>
Sacramento Basin – Feather	15 (spawning), 5.25 (instream), 1,655 (floodplain)
Sacramento Basin – Yuba	50 (instream), 100 (floodplain)
Sacramento Basin – American	25 (spawning), 75 (rearing)
Sacramento Basin – Mokelumne	1 (instream), 25 (floodplain)
Sacramento Basin – Putah	1.4 (spawning)
North Delta Arc and Suisun Marsh	5,227.5

Science Plan. This plan presents the procedures and other requirements that will evaluate the effects of the Healthy Rivers and Landscapes Program and includes procedures to test the hypotheses underlying the Healthy Rivers and Landscapes Program, to support ongoing adaptive management, synthesis reports to the State Water Board and ultimately the decision on whether or not to continue the Healthy Rivers and Landscapes Program. It establishes the coordinated collective of tributary and Delta-focused monitoring and research programs, including existing programs. It has several high-level functions:

- To inform decision-making by the Systemwide Governance Committee, Tributary/Delta Governance Entities, and Healthy Rivers and Landscapes Parties;
- To track and report progress relative to the metrics described in Section 2 [HRL Program Science Plan] of this document;
- To reduce management-relevant scientific uncertainty;
- To provide recommendations on adjusting management actions to the Systemwide Governance Committee, Tributary/Delta Governance Entities, and Healthy Rivers and Landscapes Parties; and
- To inform the State Water Board process to evaluate and determine the implementation pathway for the Healthy Rivers and Landscapes Program parties after the eighth year.

⁵ Table 2 references Table 25 in the Strategic Plan and incorporates the footnotes in the Strategic Plan by reference.

Funding Plan. This plan describes the funding commitments for the Healthy Rivers and Landscapes Program. It describes the sources from which the revenues to support the Healthy Rivers and Landscapes Program will be collected, directed, and disbursed.

The Healthy Rivers and Landscapes Program, including all the preceding plan components, have been memorialized in the Global Agreement, Implementation Agreements, and the Enforcement Agreements, which are an appendix to this program of implementation.

Global Agreement. The Global Agreement describes the structure, funding, Science Program, and Governance Program.

Implementation Agreements. Each Implementation Agreement states the flow, non-flow, and funding commitments of the Responsible Party(ies), and other measures.

Enforcement Agreements. Pursuant to Government Code section 11415.60, each Enforcement Agreement states the obligations of the Responsible Party(ies) under the respective Implementation Agreement and provides the remedies for enforcement of such obligations.

These legally binding agreements provide for implementation and enforcement of the Healthy Rivers and Landscapes Program in the following watersheds within the Bay-Delta (Table 3).

Table 3 Watersheds Participating in the Healthy Rivers and Landscapes Program that are Parties to the Global Agreement, Implementation Agreements, and Enforcement Agreements.

American River	Delta
Feather River	Friant (San Joaquin River)
Mokelumne River	Putah Creek
Sacramento River Mainstem	Tuolumne River
Yuba River	

The State Water Board approves the Enforcement Agreements, in lieu of an adjudicative water right proceeding, to implement flow, habitat, and other commitments of parties to the Healthy Rivers and Landscapes Program. To the extent that the U.S. Bureau of Reclamation (Reclamation) permits or licenses are modified to implement measures in that program, the State Water Board will use its ordinary enforcement procedures under the California Water Code, consistent with Section 8 of the Reclamation Act. To the extent Reclamation permits and licenses are not modified, or commitments of other state or federal parties to the Healthy Rivers and Landscapes Program are not otherwise memorialized in an Enforcement Agreement, the State Water Board will incorporate such commitments in memoranda of understanding.

The Enforcement Agreements establish a procedure for timely and effective referral of disputes that arise concerning implementation of the applicable elements of the Healthy Rivers and Landscapes Program. The procedure will promptly involve executive leadership (across the parties to those agreements) in resolution of disputes.

Through the decision-making structure that includes consideration of governance, the agreements, adaptive management, and the required annual and triennial reporting, the State Water Board will initiate a process beginning in the sixth year following the Office of Administrative Law's approval of the Bay-Delta Plan updates (Year 6) to evaluate the efficacy of the Healthy Rivers and Landscapes Program. The Year 6 review is described in detail below.

ii. Procedures for Renewal, Modification, and Extension.

In Year 6, the State Water Board will initiate the process to evaluate and determine the implementation pathway for parties to the Healthy Rivers and Landscapes Program after the eighth year following the Office of Administrative Law's approval (Year 8). That process will be comprehensive and transparent.

Information to be Considered. The State Water Board will consider the following information with respect to the Healthy Rivers and Landscapes Program:

- A. Science Program's synthesis of the most current science and analyses of the effects of the Healthy Rivers and Landscapes Program's implementation;
- B. Past, present, and probable future beneficial uses of water;
- C. Environmental characteristics of the Bay-Delta watershed, including the quality of water available thereto;
- D. Water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the Bay-Delta watershed; and
- E. Economic considerations.

The Process. In Year 6, the State Water Board will issue a notice to initiate the process. The State Water Board will hold at least one public informational workshop, at which time the Healthy Rivers and Landscapes Parties will present its second Triennial Report and recommend to the State Water Board whether the Healthy Rivers and Landscapes Program should continue for another term with limited modification or if more significant changes to Healthy Rivers and Landscapes Program terms are needed. The State Water Board will consider that recommendation, all public comments on the progress of Healthy Rivers and Landscapes Program implementation, all annual and triannual reports, as well as any other relevant technical information.

Following the workshop and after consideration of all comments, the State Water Board will distribute a draft proposed pathway to be implemented for Healthy Rivers and Landscapes Parties after Year 8. In summary form, it will select from three options:

Green – The Healthy Rivers and Landscapes Program is substantially achieving the metrics as described in the Science Plan, and the ecological outcomes analysis described there supports the conclusion that continuing the Healthy Rivers and Landscapes Program, together with other actions in the Bay-Delta Plan, will result in attainment of the narrative objectives. If so, implementation of the Healthy Rivers and Landscapes Program will continue without any substantial modification in terms, except for necessary changes to provide for funding and other measures necessary to continue the Healthy Rivers and Landscapes Program for another 7 years. Necessary updates to the Healthy Rivers and Landscapes Program terms (if any) will be determined and the process to renew the Healthy Rivers and Landscapes Program will be initiated so that the renewed Healthy Rivers and Landscapes Program is in place at Year 9.

Yellow – The Healthy Rivers and Landscapes Program is meeting a significant number of metrics as described in the Science Plan, and the ecological outcomes analysis described there supports the conclusion that continuing the Healthy Rivers and Landscapes Program, together with other actions in the Bay-Delta Plan and other measures in the watershed, will result in attainment of the narrative objectives, but some modifications are needed. If that is the case, the parties to the Healthy Rivers and Landscapes Program,

in coordination with State Water Board, will develop proposed modifications to the Healthy Rivers and Landscapes Program, and the State Water Board will initiate the process to modify the Healthy Rivers and Landscapes Program terms to address deficiencies. In that process, the State Water Board may consider alternative means to address deficiencies. The parties to the Healthy Rivers and Landscapes Program must agree to those alternative means before they become implementation requirements as part of a Yellow condition.

Red – A new pathway is required because the Healthy Rivers and Landscapes Program is not achieving the metrics as described in the Science Plan, and the ecological outcomes analysis described there does not support the conclusion that continuing the Healthy Rivers and Landscapes Program, together with other actions in the Bay-Delta Plan, will result in attainment of the narrative objectives. New agreements will be negotiated, or the State Water Board will issue an update to the Bay-Delta Plan that provides a new pathway for implementation by those that were parties to the Healthy Rivers and Landscapes Program. The State Water Board recognizes that all parties to the Healthy Rivers and Landscapes Program reserve all of their rights to fully participate in the related processes, and potential remedies related thereto.

Factors the State Water Board will consider before determining whether a Red, Yellow, or Green condition exists, will include, but not necessarily be limited to:

- A. Whether permits required for implementation of Healthy Rivers and Landscapes agreements were pursued and available within a reasonable timeframe;
- B. Whether the quantity and timing of flow commitments under Healthy Rivers and Landscapes Program were met;
- C. Whether the Triennial Reports analyze progress across the Delta watershed, provide considerations for updating the Strategic Plan, include considerations for updating the Healthy Rivers and Landscapes Program flow and non-flow measures, and are timely submitted to the State Water Board to inform its triennial review process;
- D. Whether the guidance as set forth in the Strategic Plan for the initiation and construction of habitat projects has been achieved;
- E. Whether the Healthy Rivers and Landscapes Program is fully funded through Year 8;
- F. Whether the Triennial Reports or other sources of reliable information indicate that factors outside of the Healthy Rivers and Landscapes Program were impairing the ability to meet intended objectives;
- G. Whether the State Water Board adequately protected flows contributed through the Healthy Rivers and Landscapes Program; and
- H. Whether additional funds are available to continue the Healthy Rivers and Landscapes Program.

Prior to determining whether a Red, Yellow, or Green condition exists, the State Water Board will:

- A. Hold appropriate hearings to review and receive input on the scientific reports, analysis, information, and data generated by the Healthy Rivers and Landscapes Program and other sources and receive recommendations on the anticipated effectiveness of continuing

or modifying the Healthy Rivers and Landscapes Program or requiring an alternative implementation pathway.

- B. Conduct a Delta Independent Science Board review to receive input and recommendations on the scientific rationale for continuing or modifying the Healthy Rivers and Landscapes Program; and
- C. Conduct optional hearings to implement a pathway as an alternative to the Healthy Rivers and Landscapes Program; any such hearings will be conducted consistent with the applicable provisions of the California Bagley-Keene Open Meeting Act, Administrative Procedures Act, and Water Code.

In Year 8, the Healthy Rivers and Landscapes Program will submit its final Annual Report. The State Water Board will distribute any proposed amendments to the Bay-Delta Plan's Program of implementation, which will be informed by the consideration of factors identified above, to be implemented after Year 8.

Subject to the procedural requirements described above, if Year 8 or thereafter, the State Water Board:

- A. Determines a Red condition exists, the State Water Board may implement the narrative objective for salmon and the narrative fish viability objective through another pathway; or
- B. Determines a Yellow condition exists and:
 - i. If the State Water Board completes the process described above and modifications are made to the Healthy Rivers and Landscapes Program, the Healthy Rivers and Landscapes Program, as modified, will continue to be implemented; or
 - ii. If modifications are not made to the Healthy Rivers and Landscapes Program, then the State Water Board may update the Bay-Delta Plan to amend the Program of implementation to identify a pathway for implementation by those who were parties to the Healthy Rivers and Landscapes Program; or
- C. Determines a Green condition exists, and new agreements have been adopted by the Healthy Rivers and Landscapes Parties, the Healthy Rivers and Landscapes Program will continue, but unless otherwise negotiated, those obligations will not extend beyond 15 years.

If at the end of 15 years it appears that objectives are not being met as intended, the Parties will continue to seek modified agreements and may continue implementing actions as described.

- iii. **Protection of Flows.** The State Water Board will use its legal authorities to protect against diversions for other purposes all flows generated by the Healthy Rivers and Landscapes Program. Specific protections, whether arising from regulatory actions of the State Water Board or as part of the Enforcement Agreements will include provisions specifying that water contributed under the Healthy Rivers and Landscapes Program:
 - a. constitutes beneficial use of that water, consistent with Water Code section 1243;
 - b. does not constitute non-use of the water;

- c. is not abandoned water available for appropriation; and
 - d. will be protected from unauthorized diversions; provided that if unauthorized diversions occur, the State Water Board will work with the Healthy Rivers and Landscapes Parties to identify and resolve any redirected adverse impacts to water supply in excess of the contributions required by the Implementing Agreements and resulting from the protection of these flows as Delta outflow.
- iv. **Report on Protection of Flows.** The State Water Board will prepare a report and post the report on its website annually on what actions the State Water Board has taken to protect these flows from unauthorized uses.
- v. **Accounting for flow.** Consistent with the applicable terms of the Global, Implementation, and Enforcement Agreements and their respective appendices, the parties will account for flow and habitat contributions made under the Healthy Rivers and Landscapes Program.
- vi. **Potential for Delay in Permitting.** If a representative of the Healthy Rivers and Landscapes Program or of a tributary governance entity notifies the State Water Board of an unanticipated permitting delay that substantially impacts implementation, the State Water Board will hold a workshop at which representatives of the relevant participants in the Healthy Rivers and Landscapes Program will explain the basis for the delay and interested parties will be afforded an opportunity to provide their input. The Executive Director, through authority delegated by the State Water Board, may defer review and performance milestones required by the Healthy Rivers and Landscapes Program; provided the Executive Director finds after the workshop that the delay results from actions or inactions that were beyond the control of the Responsible Parties obligated to provide the relevant contribution to the Healthy Rivers and Landscapes Program. The workshop will be held within 45 days of the State Water Board receiving the notice.

Category 2: Tributaries, or Persons or Entities, Not Covered by the Healthy Rivers and Landscapes Program

- i. **Non-Covered Persons or Entities.** The State Water Board encourages water-right holders not participating in or otherwise covered by the Healthy Rivers and Landscapes Program to join that program in accordance with the Global Agreement, and corresponding provisions in the various Implementation Agreements providing for the addition of new parties. For those water-right holders that do not participate in, or are otherwise not covered by, the Healthy Rivers and Landscapes Program, the State Water Board will use its legal authorities and public processes to require those entities to make adequate contributions to implementing the narrative objectives for salmon and fish viability.
- ii. As part of the process to assign responsibility under this alternative pathway, the State Water Board will use its legal authorities to account for and protect the resulting flows without causing redirected direct or indirect adverse impacts to any person or entity that has implementation responsibility under the Healthy Rivers and Landscapes Program, including to water supplies and reservoir operations. The State Water Board will also factor into its consideration the ability of any person or entity to:

- a. Meet existing or future federal or other state legal requirements, including (i) requirements imposed pursuant to the federal and state endangered species acts and the federal Clean Water Act, as applicable, (ii) requirements imposed by the Federal Energy Regulatory Commissions, and (iii) alternative implementation pathways (e.g., Category 1 actions) to implement the Water Quality Control Plan for the Bay Delta Estuary;
 - b. Generate hydropower to support the State energy needs and further the State’s carbon-free energy objectives;
 - c. Adaptively manage between or among tributaries and to optimize flows to achieve the objectives while allowing for consideration of other beneficial uses and the implementation of the Healthy Rivers and Landscapes Program;
 - d. Protect minimum reservoir carryover storage targets or other requirements to help ensure that providing flows to meet the flow objectives will not have significant adverse temperature or other impacts on fish and wildlife or, if feasible, on other beneficial uses and the implementation of the Healthy Rivers and Landscapes Program;
 - e. Meet desired minimum flows;
 - f. Conduct experiments;
 - g. Avoid flooding or other related public safety concerns;
 - h. Respond to emergency events;
 - i. Avoid impacts to supplies of water for minimum health and safety needs, particularly during drought periods; and
 - j. Any new information provided to or gathered by the State Water Board that may inform their decisions.
- iii. Further, when the State Water Board exercises its authorities, for the additional pathway, the State Water Board will consider, on a case-by-case basis, direct evidence of impacts to beneficial uses of water, all material and relevant information submitted by the persons or entities that are the subject of the State Water Board’s proposed action and other interested parties, and relevant information developed and/or published by other agencies and organizations.
- iv. **Protection of Flows.** The State Water Board will use its legal authorities to protect water contributed by water users as a result of actions by the Board within this Category 2 against unauthorized diversions. The State Water Board will prepare a report and post the report on its website annually on what actions the State Water Board has taken to protect these flows from unauthorized diversions.

Category 3: Actions by Other Agencies

Federal, state, and local agencies will take actions to implement the narrative objectives for salmon and fish viability.

- i. **Salmon and other Native Fish:** Outside of the actions required by Category 1 and Category 2 of this program of implementation, the U.S. Fish and Wildlife Service, NOAA Fisheries, and the California Department of Fish and Wildlife must ensure factors affecting the protection of salmonids and viability of all native fish are addressed. Some of those factors have been identified in (1) the Delta Smelt Resiliency Strategy, (2) California Salmon Strategy for a Hotter, Drier Future: Restoring Aquatic Ecosystems in the Age of Climate Change, and (3) the “Recovery Plan for The Evolutionarily Significant Units of Sacramento River Winter-run Chinook Salmon and Central Valley Spring-run Chinook Salmon and the DPS of California Central Valley Steelhead.” The

State Water Board will hold at least two workshops each year at which Federal, state, and local agencies will be requested to present information on the actions they have taken to comply with this provision.

- ii. In addition, State and Federal agencies should continue to pursue the following specific activities:
 - a. Through the CVPIA Section 3406 (b)(19), Anadromous Fish Screen Program, the USBR, USFWS, and other participating agencies should continue to assist the State of California in efforts to develop and implement measures to avoid losses of juvenile anadromous fish resulting from unscreened or inadequately screened diversions on the Sacramento and San Joaquin rivers, their tributaries, the Sacramento-San Joaquin Delta, and the Suisun Marsh.
 - b. The DWR and the USBR, in coordination with the CDFW, USFWS, and NOAA Fisheries, should continue to evaluate and implement all feasible measures and programs to reduce entrainment and mortality of fish salvaged at the Skinner Fish Protection Facility (Banks Pumping Plant) and the Tracy Fish Collection Facility (Tracy Pumping Plant).
- iii. **Permitting:** Federal, state, and local agencies will expedite and coordinate permitting of measures undertaken as part of the Healthy Rivers and Landscapes Program, consistent with applicable laws. To achieve that result, among other actions, the following actions will be taken:
 - a. The CDFW will apply flexible and innovative uses of its Lake and Streambed Alteration, California Endangered Species Act, and other relevant Fish and Game Code authorities to expedite permitting of these restoration projects.
 - b. The State Water Board will complete and employ its general order for Clean Water Action section 401 Water Quality Certification and waste discharge requirements for restoration projects statewide (Order WQ 2022-0048-DWQ) to expedite permitting of these restoration projects.
 - c. The State Water Board will consider on an expedited basis any water-right actions that may be necessary to implement agreements within the Healthy Rivers and Landscapes Program.
 - d. The USFWS and NOAA Fisheries have been requested to prioritize HRL and other habitat permitting.
 - e. The U.S. Army Corps of Engineers will be requested to expedite Healthy Rivers and Landscapes actions that may require Clean Water Act section 404 or Section 14 of the Rivers and Harbors Act (USC 408 (Section 408)).
 - f. State agencies participating in the Healthy Rivers and Landscapes Program will establish a multi-disciplinary restoration unit of at least 8 full-time specialists to assist the Healthy Rivers and Landscapes Program on developing, permitting, and expeditiously implementing these restoration projects. This team will regularly report to Secretaries for Environmental Protection and Natural Resources.
 - g. The Healthy Rivers and Landscapes Program, in coordination with relevant state and federal agencies, shall update the California Governor's Office on at least an annual basis on the status of developing, permitting, and expeditiously implementing those projects.

January 10th, 2025

The Honorable Joaquin Esquivel
Chair, State Water Resources Control Board
1001 I Street
Sacramento, CA 95814
SacDeltaComments@waterboards.ca.gov

Dear Chair Esquivel and Members of the State Water Resources Control Board,

We are writing to express our support for selecting the Healthy Rivers and Landscapes Program as the pathway to amending the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed (“Bay Delta Plan”). From our perspective, the State Water Resources Control Board (“Board”) is faced with a fundamental policy choice: amend the Bay Delta Plan by adopting unimpaired flow (“UIF”) objectives, as proposed by the Water Board staff; or amend Bay Delta Plan by approving the Voluntary Agreements, also known as Healthy Rivers and Landscapes (HRL), proposed in March 2022 by a diverse group of stakeholders. These stakeholders have specific expertise in managing and operating California’s water systems, which includes numerous state agencies, the Bureau of Reclamation, and numerous public water agencies.

The UIF option would cause untold social and economic disruption in communities throughout the State, while also complicating interbasin negotiations on the Colorado River. Reduced State Water Project supplies as a result of the UIF alternative make it more difficult to achieve a collaborative solution to the Colorado River’s 2026 Operational Guidelines among the seven basin states.

In contrast, the HRL pathway would provide additional protection of the beneficial use of water for native fish species while also providing greater water supply reliability and regulatory certainty for those same communities than the UIF approach. For that reason, we join Governor Gavin Newsom in expressing enthusiastic support for the Voluntary Agreements and urge the Board to adopt them without modification.

Lost Groundwater Recharge Opportunities

According to the Water Board staff’s analysis, adoption of the proposed unimpaired flow objectives would cause devastating water supply reductions in every region of California that relies on water originating in the Sacramento – San Joaquin Delta watershed. The Water Board staff’s analysis indicates that in dry and below normal water years, regions of the San Joaquin Valley and southern California that are reliant on water provided through the Central Valley Project and the State Water Project would suffer water supply reductions of more than 1.3 and 1.1 million acre-feet, respectively. Even in above normal water years, which should be years in which groundwater basins could see recharge opportunities under an alternative approach, these areas of California

will see reduced surface water supplies of nearly 800,000 acre-feet. These water supply reductions are in addition to reductions experienced by these regions under existing restrictions imposed on CVP and SWP operations under the current Bay-Delta Plan, the federal Endangered Species Act, and the California Endangered Species Act. As a result, south-of-Delta SWP contractors are expected to receive additional allocation reductions up to 40%, and south-of-Delta CVP irrigation contractors are expected to receive zero allocations in all critical and dry years, and many below normal years.

Increased Fallowing Will Result in Economic Harm to the State

These water supply reductions are simply unbearable. In the San Joaquin Valley, an additional 260,000 acres will have to be fallowed in dry years. It is important to note that this is in addition to the estimated 700,000 acres of land that is anticipated to be fallowed to comply with the requirements of California's Sustainable Groundwater Management Act (SGMA). The reduction in crop values caused by adopting the unimpaired flow objectives in a dry year will be more than \$1.3 billion dollars in the San Joaquin Valley, and statewide, the Water Board staff estimates the reduction in crop values will be more than \$2.7 billion. For regions like the San Joaquin Valley, which are dependent on irrigated agriculture, the economic impacts of these fallowed acres and reduced crop values will ripple throughout the entire region.

Perpetual Drought and Food Insecurity

A 2014 report by the US Department of Agriculture estimated the 2007-09 drought resulted in the loss of more than 21,000 jobs in the San Joaquin Valley. The same report states it is reasonable to project that similar drought conditions could result in an overall unemployment rate as high as 40% in communities dependent on agricultural production, "leading to a dramatic increase in demand for assistance from social service agencies." [USDA Rural Development Strategy](#). The economy of the San Joaquin Valley has not measurably changed in the last decade, and the consequence of the adoption of unimpaired flow objectives, when combined with implementation of SGMA, will result in perpetual drought for San Joaquin Valley communities and its economy.

That same 2014 USDA report also stated:

Ironically, a number of communities within the [San Joaquin Valley], many of which are dependent on employment in the agricultural sector are also among the most food insecure in California and the US, with 33% to 41% of low-income residents classified as food insecure.

In other words, the economic disruption caused by drought induced unemployment will exacerbate difficult socio-economic conditions in disadvantaged rural communities. This reality is acknowledged by the Water Board staff's own analysis. Draft Staff Report: Sacramento/Delta Update to the Bay-Delta Plan, pg. 8-88.

We have witnessed this scenario play out too many times in the last two-and-a-half decades. As agricultural and agricultural-related employment declines there are numerous effects. Agricultural workers are forced to migrate to other regions, which in turn leads to fewer residents in the region and lower enrollment in local schools. As land is taken out of irrigated agricultural production, local tax revenue declines, particularly when the title to land is acquired by public water agencies, as was the case in the early part of this century when water districts in Fresno County acquired 100,000 acres to reduce demands for water. At the same time as these reductions in revenue are occurring, demands for social services increase. And none of these impacts take into consideration the loss of healthy, affordable food supplies for the state and nation. All of these impacts are likely to be exacerbated if surface water supplies are further limited by the adoption of unimpaired flow objectives.

A Balanced Ecosystem and Water Supply Solution

Fortunately, there is an alternative approach - the adoption of which is entirely within the Board's discretion. The Voluntary Agreements, or HRL, pair increased instream flow and Delta outflow with non-flow measures, including habitat improvements, which will improve the biological function of aquatic habitat for the benefit of species. More specifically, the Voluntary Agreements include increased flow contributions, including instream flow and Delta outflow, which are paired with non-flow habitat restoration measures to enhance the biological function of habitat that supports native fish species. Additionally, the Agreements include funding sources (estimated to be \$2.6 billion) to implement the program, robust monitoring and collaborative adaptive management, and a watershed-wide shared governance and science process. The Voluntary Agreements are a viable alternative for the reasonable protection of water for fish and wildlife uses that are likely to achieve equivalent, if not better, protection for native fish viability without the water supply reductions that will result from the adoption of unimpaired flow objectives.

It is worth noting that the flow and non-flow habitat restoration program described in the March 2022 Memorandum of Understanding Advancing a Term Sheet for the Voluntary Agreements to Updated and Implement the Bay-Delta Water Quality Control Plan, and Other Related Actions ("VAs MOU") was developed by the Department of Fish and Wildlife, Department of Water Resources, Bureau of Reclamation, the U.S. Fish and Wildlife Service, and numerous public water agencies. In a statement celebrating the execution of the VAs MOU, Governor Gavin Newsom stated:

"We don't have to choose between healthy ecosystems or a healthy economy, we can choose a path that provides for both. This is a meaningful, hard-earned step in the right direction."

The Water Board staff proposal for unimpaired flow objectives is premised on the belief that "more water will lead to healthy fish populations." A 2009, Public Policy Institute of California report entitled "California Water Myths" labeled this belief as a "myth." Hanak, E., et al., 2009, California Water Myths. That same report stated "without sufficient physical habitat, more water does little

good and may cause harm. Habitat needs connectivity and complexity, along with the ability to adjust to changing conditions.” The Voluntary Agreements are premised on the unassailable observation that healthy fish populations need more than water to thrive.

Meeting Water Quality and Water Supply Objectives Together

The amendment of the Bay Delta Plan is a quasi-legislative act, which involves the balancing of competing uses of water. This is evident from the Legislature’s declaration “that activities and factors which may affect the quality of the waters of the state shall be regulated to attain the highest water quality, which is reasonable, considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible.” Water Code § 13000 (emphasis added).

In this circumstance, what is “reasonable” considering all of the demands being made on the water involved, including environmental, economic, and social values, is undeniable. The Water Board should exercise its discretion to approve the Voluntary Agreements, as described in the VAs MOU, and reject unimpaired flow objectives proposed by the Water Board staff.

Sincerely,

A handwritten signature in black ink, appearing to read 'Eddie Ocampo', with a stylized flourish at the end.

Eddie Ocampo, Chair
Water Blueprint for the San Joaquin Valley



Deanna Jackson, Executive Director
Tri-County Water Authority



Dave Puglia, President & CEO
Western Growers Association



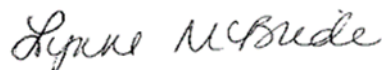
Tricia Stever Blattler, Executive Director
Tulare County Farm Bureau



Cornell Kasbergen, Board Chairman
Milk Producers Council



Emily Rooney, President
Agricultural Council of California



Lynne McBride, Executive Director
California Dairy Campaign



David Ahlem, President & CEO
Hilmar Cheese Company



Rachel Glauser
Delta View Water Association



Charles Wilson, Executive Director
Southern California Water Coalition



Mike Wade, Executive Director
California Farm Water Coalition



William Stretch, General Manager
Fresno Irrigation District



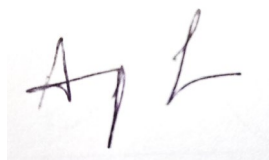
Katie Davey, Executive Director
Dairy Institute of California



Paul Boyer, Council Member
City of Farmersville California



Glenn Wallace, CEO
Valley Milk LLC



Arshdeep Singh, Director
Punjabi American Growers Group



Breanne Vandenberg, Executive Director
Merced County Farm Bureau



Renee Pinel, President/CEO
Western Plant Health Association



Darrin Monteiro, SVP, Sustainability/Membr Relations
California Dairies, Inc.



Casey Creamer, President
California Citrus Mutual



Francis Pacheco
VP of Membership and Public Affairs
Dairy Farmers of America- Western Area



Robert Verloop, Executive Director/CEO
California Walnut Commission



Priscilla Rodriguez, Assistant Vice President
Western Agricultural Processors Association
California Cotton Ginners and Growers
Association



Zachary Fraser, President & CEO
American Pistachio Growers



Matt Wohlman
Vice President, Government Relations
Land O' Lakes, Inc.



Jason Phillips, Chief Executive Officer
Friant Water District

Water Blueprint

for the San Joaquin Valley



January 15, 2025

The Honorable Sean Duffy
Secretary-designee
United States Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Secretary-designee Duffy:

On behalf of, the Water Blueprint for the San Joaquin Valley* (Blueprint), I am writing to convey our support for the San Luis & Delta-Mendota Water Authority (Water Authority) request for \$25 million of 2025 Rebuilding American Infrastructure with Sustainability and Equity (RAISE), grant funding for planning efforts for the B.F. Sisk Dam Raise and Reservoir Expansion State Route 152 Modification (PM MER R5.239 to MER R6.295) Project (Project) in Merced County, California.

State Route 152 is an essential commute route for residents of Merced County and an essential freight link in the state. This travel artery has no existing transit options and is a critical transportation link for the agricultural interests and low-income residents who work in and near Merced County. RAISE funds will help this complex Project – which includes SR 152 seismic improvements, in addition to important “green” and “grey” climate adaptation features, to preserve and protect this critical transportation infrastructure and the natural environment– will help move from plan to completion.

The Blueprint supports the Water Authority efforts to seek \$25 million in RAISE funding for the following Project planning efforts:

- Planning and design efforts for:
 - Modifications needed to protect the SR 152 roadway from wave action. With the proposed modifications to the Sisk Dam, the lowest point of the SR 152 crossing will be approximately 1 foot above the proposed maximum water storage level.
 - Application of appropriate and current Caltrans seismic design criteria.
 - Relocating the roadway in low elevation segments that will be prone to flooding.
- Ongoing public outreach to inform project design decisions

Sincerely,



Eddie Ocampo,
Chair
Water Blueprint for the San Joaquin Valley

\The.Water.Blueprint.for.the.San.Joaquin.Valley.is.a.coalition.of.community.leaders?businesses?water.agencies?local.governments? and. agricultural. representatives. working. together. to. address. water. management. challenges. in. the. region; The.Blueprint.speaks.as.a.unified.voice.for.the.San.Joaquin.Valley.to.advance.accessible?reliable.solutions.for.a.balanced.water.future.for.all;



January 15, 2025

VIA EMAIL

El Dorado County Water Agency
1107 Investment Blvd., Suite 240
El Dorado Hills, CA 95762
Email: edcwa@edcgov.us

Re: **EDWRP DEIR Comments**

To Whom It May Concern:

The San Luis & Delta-Mendota Water Authority ("SLDMWA"), the State Water Contractors ("SWC"), and Westlands Water District ("WWD") jointly submit the following comments on the El Dorado County Water Agency's ("EDCWA") Draft Environmental Impact Report ("Draft EIR") for the El Dorado Water Reliability Project ("Proposed Project"). SLDMWA, SWC, and WWD appreciate the opportunity to provide comments on the Draft EIR.

SLDMWA represents 27 member agencies, including Westlands Water District, most of which hold contracts with the U.S. Bureau of Reclamation for water from the Central Valley Project ("CVP"), and which depend on CVP water as the principal source of water they provide to users within their service areas. That water supply supports approximately 1.2 million acres of prime agricultural lands and a portion of the drinking water supply for nearly 2.5 million people in the San Joaquin, Santa Clara, and San Benito Valleys, in addition to 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.

SWC represents 27 of the 29 Public Water Agencies ("PWAs") that hold contracts with the California Department of Water Resources ("DWR") for participation in the State Water Project ("SWP"). Together, these agencies supply water to approximately 27 million Californians—about two-thirds of the state's population—and irrigate over 750,000 acres of agricultural land. SWC members provide water to consumers throughout the San Francisco Bay Area, the San Joaquin Valley, the Central Coast, and Southern California. The SWP's water supply delivered through the Delta is a critical source for most SWC members.

Westlands Water District is a California water district formed pursuant to California Water Code sections 34000 et seq. Westlands' service area is in western Fresno and Kings counties and encompasses approximately 614,000 acres that include some of the most highly productive

agricultural lands in the world. Westlands provides water primarily for irrigation, but also provides water for some municipal and industrial uses, including for use by disadvantaged communities, and to Naval Air Station Lemoore. To provide water in its service area, Westlands has contracted with the United States Bureau of Reclamation (“Reclamation”) to receive water from the CVP. Westlands has contractual entitlements to approximately 1,195,000 acre-feet of CVP water per year.

Given the CVP and SWP’s reliance on water from the Sacramento-San Joaquin Delta, the undersigned have a strong interest in issues affecting the water supplies of the CVP and SWP. We therefore offer the following comments on the Draft EIR and the Proposed Project.

1. The Proposed Project Would Adversely Impact the CVP and SWP.

The Draft EIR describes how EDCWA would implement the Proposed Project to secure the partial assignment of surface water rights of up to 40,000 acre-feet (“AF”) per year from the upper American River and its tributaries. (Draft EIR, p. ES-1.) Although the partial assignment relates to State filed water rights applications dating back to the 1920s, the 40,000 AF has never been diverted. Diverting 40,000 AF from the upper American River will therefore remove 40,000 AF from the system upstream of Folsom Reservoir and the lower American River, which will adversely impact the quantity of water available for diversion by downstream water users and for protection of fish in the lower American River. Both of these adverse impacts have the potential to affect flow and temperature operations of the CVP and SWP. The removal of 40,000 AF from the American River would also adversely affect Delta inflows, which the Draft EIR acknowledges rely on runoff from Central Valley streams and are affected by the operations of water facilities on those streams (Draft EIR, p. 4.2-20.)

The Draft EIR acknowledges potential direct and indirect impacts on “various water resources-related aspects of the CVP and SWP (e.g., river flows, reservoir storage, water quality, exports).” (Draft EIR, p. 4.2-21.) The Draft EIR correctly recognizes:

...the Proposed Project would directly affect inflows to Folsom Reservoir, which is part of the CVP. Changes at Folsom Reservoir may propagate through the CVP/SWP, requiring operational changes to meet regulatory requirements and other operational goals and agreements. For example, if releases from Folsom change, adjustments to releases from Shasta may be needed to meet Delta outflow requirements or provide water for Delta exports. In addition, changes at Folsom can affect the SWP because of the 1986 Coordinated Operations Agreement (COA) between the CVP and SWP (amended in 2018). The COA defines the rights and responsibilities of the CVP and SWP to meet ongoing water quality and regulatory standards and governs the sharing of unstored water and Delta export capacity. Changes in Folsom inflow and releases may change the SWP’s responsibilities under the COA, which can affect operations at Oroville or other SWP facilities.

(*Id.*) Yet, the modeling referenced in the Draft EIR identifies relatively small decreases in storage and exports from CVP and SWP facilities:

- “Based on CalSim 3 modeling results, average changes in long-term average end-of-month storage at Shasta Lake, Trinity Lake, and Lake Oroville reservoirs under the With-Project scenario were all less than 10 TAF...” (*Id.* at p. 4.4-39.)
- “Monthly average exports from the Jones Pumping Plant decreased under the Proposed Project less than 0.1 percent compared to existing conditions, amounting to a change of less than approximately 1 TAF.” (*Id.* at p. 4.3-11.)
- “Differences in With-Project long-term averaged monthly SWP exports from Banks Pumping Plant were also relatively negligible, decreasing by an average of less than 0.3 percent when compared to the existing-conditions baseline, which amounted to an average monthly decrease of less than 1 TAF (Table 4.3-4 and Table 4.3-6).” (*Id.*)
- For CVP exports: “Decreases were nominal when considering Dry and Critically Dry years. (The differences in average annual export was 0.4 percent, which amounted to a decrease of 8 TAF in annual exports.)” (*Id.*)
- For SWP exports: “Decreases were similarly nominal when considering Dry and Critically Dry years. (The difference in average annual exports was 0.4 percent, which amounted to a decrease of 5 TAF in annual exports.)” (*Id.* at 4.3-16.)

The modeling performed should use the latest¹ 2024 biological opinions for CVP and SWP long-term operations and the 2024 Incidental Take Permit for SWP long-term operations as the basis for the EIR analysis.

In the current climate, where CVP and SWP contractors receive consistently low contract allocations, particularly in dry and critical years, these decreases have significance, regardless of whether they exceed a five percent change. The allocations are forecasted to be further impacted with projected climate change conditions. In particular, surface water supplies are a critical tool to ensure compliance with California’s Sustainable Groundwater Management Act for areas reliant on surface water imports. Impacts from each additional Delta requirement and new water supply project upstream of or in-Delta are cumulative; CVP and SWP contractors are increasingly being limited in the number of tools that can be used to comply with SGMA, and the resulting negative regional socioeconomic effects are directed in areas with high concentrations of economically disadvantaged communities. In this context, any additional adverse effect to quantity and reliability of water supplies for the CVP and SWP is unacceptable. The Final EIR must clearly identify cumulative impacts to the CVP and SWP, and better identify dry and critical year impacts to CVP and SWP operations and exports.

¹ The 2024 biological opinions issued by the U.S. Fish and Wildlife Service and National Marine Fisheries Service and the Record of Decision issued by Reclamation in 2024 are the current operative documents for the CVP; the 2024 incidental take permit issued by the California Department of Fish and Wildlife to the California Department of Water Resources is the current operative document for the SWP. Outdated references in the Draft EIR to prior biological opinions (see p. 4.2-1, referencing 2008/2009 biological opinions) should be corrected.

Furthermore, we are concerned that the assumptions underlying the modeling best case scenarios may not align with the most recent baseline operations conditions as described in the recent U.S. Bureau of Reclamation's Final Environmental Impact Statement for the Long-Term Operations of the Central valley Project, dated November 15, 2024, and 2024 biological opinions issued by U.S. Fish and Wildlife Service and the National marine Fisheries Service Biological Opinion. A comparison of the Draft EIR baseline assumptions versus the baseline operating conditions of the long-term operations alternative two as outlined in the federal documents shows discrepancies between the baseline levels of CVP and SWP exports, Shasta carryover, and Folsom carryover. Use of an incorrect baseline risks an incorrect evaluation of impacts, and may significantly underestimate the impact of the Proposed Project's operations. The Final EIR must ensure analysis of impacts to exports to the CVP and SWP utilizes the most up to date information regarding baseline operating conditions, and make any associated modifications to the analysis of the impact of the project on exports and storage from CVP and SWP facilities.

CVP and SWP are jointly responsible for meeting the Bay-Delta water quality control plan requirements. Any increases in water diversions upstream of the Delta for consumptive use are likely to further stress the CVP and SWP resources to meet their non-discretionary requirements. As such the proposed water diversion should be limited to times when the Delta is in excess conditions, once CVP and SWP have fully met their obligations.

2. Significant Outstanding Issues re Project

In addition to the impacts identified in the Draft EIR, there are outstanding issues regarding the Proposed Project that cause concern. First, the Draft EIR makes numerous references to the petitions for partial assignment of state-filed application 5645 and 5644 that would secure the assignment of surface water rights for EDCWA. We understand that the 2008 petitions of El Dorado Water and Power Authority have been assigned to EDCWA, and that the petitions are still pending. While the undersigned did not protest in 2008, we formally request to be included in future State Water Board proceedings, as the water supply for the CVP and SWP has changed drastically since that time.

Second, the petition for partial assignment asserts that although the portion of the South Fork American River from which the Project proposes to divert water has been declared to be fully appropriated during a portion of the proposed diversion season, a county of origin exception applies. This position is echoed in the Draft EIR. (Draft EIR, p. 2-13.) We understand that various protestants have previously questioned whether any exception to allow a partial assignment from a fully appropriated stream applies. This issue should be fully analyzed and resolved prior to EDCWA proceeding with the Project.

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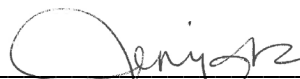
Conclusion

SLDMWA, SWC, and WWD appreciate the opportunity to submit these comments. If you have any questions regarding these comments, please contact Federico Barajas, Water Authority Executive Director, at (209) 826-9696; Jennifer Pierre, State Water Contractors General Manager, at (916) 447-7357 x203; or Allison Febbo, Westlands Water District General Manager, at (559) 224-1523.

Regards,



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



Jennifer Pierre, General Manager
State Water Contractors



Allison Febbo, General Manager
Westlands Water District