



**San Luis & Delta-Mendota Water Authority
Monday, March 7, 2022 10:00 a.m.**

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

Join ZOOM Meeting

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In accordance with Government Code section 54953(e) and Resolution 2021-501 adopted by the San Luis & Delta-Mendota Water Authority Board of Directors on February 10, 2022, members of the Water Resources Committee/Board and Water Authority staff will be participating in this meeting from multiple locations. This meeting will occur exclusively through Zoom. If members of the public have any problems using the call-in number during the meeting, please contact the Authority office at 209-826-9696.

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

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

Agenda

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

ACTION ITEMS

4. **Water Resources Committee to Consider Approval of the February 7, 2022 Meeting Minutes**
5. **Water Resources Committee to Consider Recommendation to Board of Directors to Adopt Resolution Authorizing Execution of B.F. Sisk Dam Raise and Reservoir Expansion Project Activity Agreement, Barajas/Akroyd**

REPORT ITEMS

6. Presentation Regarding Evapotranspiration of Fallow Fields in the Sacramento-San Joaquin Delta, Petersen/Land IQ
7. Executive Director's Report, Barajas
 - A. B.F. Sisk Dam Raise and Reservoir Expansion Project
 - B. DMC Subsidence Correction Project
 - C. May include reports on activities within the Water Resources Committee's jurisdiction related to 1) CVP/SWP water operations; 2) California storage projects; 3) regulation of the CVP/SWP; 4) existing or possible new State and Federal policies; 5) Water Authority activities; 6) COVID-19 response
8. Update on Water Policy/Resources Activities, Petersen
(May include reports on activities related to 1) Reinitiation of Consultation on Long-Term Operations of the Central Valley Project and State Water Project, including environmental compliance; 2) State Water Resources Control Board action; 3) San Joaquin River Restoration Program; 4) Delta conveyance; 5) Reclamation action; 6) Delta Stewardship Council action; 7) San Joaquin Valley Water Blueprint and San Joaquin Valley Water Collaborative Action Plan)
9. Update on Water Operations and Forecasts, Boardman
10. Committee Member Reports
11. Closed Session

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Initiation of Litigation Pursuant to paragraph (4) of Subdivision (d) of Government Code Section 54956.9 – 2 potential cases

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

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

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

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

- A. Natural Resources Defense Council, et al. v. Haaland, et al., U.S. District Court, E.D. Cal., Case No. 1:05-cv-01207-DAD-EPG, 9th Cir. Case No. 21-15163 (2005 DMC Contract Renewals)
- B. Pacific Coast Federation of Fishermen's Associations, et al. v. Donald R. Glaser and San Luis & Delta-Mendota Water Authority, U.S. District Court, E.D. Cal., Case No. 2:11-CV-02980-KJM-CKD (PCFFA v Glaser or GBP Citizens Suit)
- C. Delta Stewardship Council Cases, Sacramento County Superior Court, Case No. JCCP 4758 (formerly San Luis & Delta-Mendota Water Authority and Westlands Water District v. Delta Stewardship Council, et al., Sacramento County Superior Court, Case No. 34-2013-80001500) (Delta Plan Litigation)
- D. City of Fresno, et al. v. United States, U.S. Court of Federal Claims, Case No. 1:16-cv-01276-EDK (2014 Friant Breach of Contract)
- E. Monterey Coastkeeper, et al. v. Central Valley Regional Water Quality Control Board, et al., Third District Court of Appeal Case No. C093513, Sacramento County Superior Court Case No. 34-2018-80002853; Environmental Law Foundation v. State Water Resources Control Board, Third District Court of Appeal Case No. C093513, Sacramento County Superior Court Case No. 34-2018-80002851; Protectores del Agua Subterranea v. State Water Resources Control Board, Third District Court of Appeal Case No. C093513, Sacramento Superior Court Case No. 34-2018-80002852 (Waste Discharge Requirement Cases)
- F. North Coast Rivers Alliance v. Delta Stewardship Council, Sacramento County Superior Court, Case No. 34-2018-80002898; Central Delta Water Agency v. Delta Stewardship Council, Sacramento County Superior Court, Case No. 34-2018-80002900; Friends of the River v. Delta Stewardship Council, Sacramento County Superior Court, Case No. 34-2018-80002901; California Water Impact Network v. Delta Stewardship Council, Sacramento County Superior Court, Case No. 34-2018-80002904 (Delta Plan Amendment Cases)

- G. North Coast Rivers Alliance, et al. v. San Luis & Delta-Mendota Water Authority, et al., Merced County Superior Court, Case No. 19CV-04989 (GBP Long-Term Storm Water Management Plan)
 - H. Pacific Coast Federation of Fishermen's Associations, et al. v. Raimondo, et al., U.S. District Court, E.D. Cal., Case No. 1:20-cv-00431-DAD-EPG (ROC on LTO BiOps)
 - I. California Natural Resources Agency, et al. v. Raimondo, et al., U.S. District Court, E.D. Cal., Case No. 1:20-cv-00426-DAD-EPG (ROC on LTO BiOps)
 - J. CDWR Water Operation Cases, Sacramento County Superior Court, Case No. JCCP 5117 (formerly Tehama-Colusa Canal Authority et al. v. California Department of Water Resources et al., Fresno County Superior Court, Case No. 20CECG01303) (SWP EIR Challenge)
 - K. AquAlliance et al. v. U.S. Bureau of Reclamation, et al., U.S. District Court, E.D. Cal., Case No. 1:20-cv-00878-DAD-EPG (Long-Term Water Transfers EIS/EIR)
 - L. Winnemem Wintu Tribe et al. v. State Water Resources Control Board et al., Merced County Superior Court, Case No. 21CV-02721 (GBP Waste Discharge Requirements)
 - M. SWRCB Administrative Hearing Office: County of San Joaquin Application for Permit to Appropriate Water from the South Fork American River at the Freeport Regional Water Authority Facility on the Sacramento River, Pending Application A029657 (SJC Permit Application Protest)
 - N. AquAlliance et al. v. San Luis & Delta-Mendota Water Authority, Merced County Superior Court, Case No. 21-CV-03487 (Long-Term Water Transfers EIS/EIR Addendum)
- 12. Return to Open Session
 - 13. Report from Closed Session, if any, Required by Government Code Section 54957.1
 - 14. Reports Pursuant to Government Code Section 54954.2(a)(3)
 - 15. ADJOURNMENT

Persons with a disability may request disability-related modification or accommodation by contacting Cheri Worthy or Sandi Ginda at the San Luis & Delta-Mendota Water Authority Office via telephone (209) 826-9696 or email cheri.worthy@sldmwa.org or sandi.ginda@sldmwa.org at least 3 days before a regular meeting or 1 day before a special meeting/workshop.

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

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

February 7, 2022

The Water Resources Committee and Joint Water Resources Committee Regular Telephonic Meeting and Special Board Workshop of the San Luis & Delta-Mendota Water Authority convened at approximately 10:00 a.m. via teleconference in accordance with Government Code section 54953(e) and Resolution No. 2021-499 adopted by the Board of Directors on January 13, 2022, with Committee Chair Tom Birmingham presiding.

Water Resources Committee Members Present

Ex-Officio

Cannon Michael
William Bourdeau

Division 1

Zach Maring, Member - Anthea Hansen, Alternate

Division 2

Bill Diedrich, Member

Division 3

Chris White, Member - Ric Ortega, Alternate

Division 4

Vincent Gin, Member - Jeff Cattaneo, Alternate

Division 5

Tom Birmingham, Member - Manny Amorelli, Alternate

Board of Directors Present

Division 1

Anthea Hansen, Director
Lea Emmons, Alternate

Division 2

William Bourdeau, Director
Ara Azhderian, Alternate
Bill Diedrich, Director

Division 3

Chris White, Director - Jarrett Martin, Alternate
Cannon Michael, Director
Ric Ortega, Director

Division 4

Jeff Cattaneo, Director
Sara Singleton, Alternate

Division 5

Tom Birmingham, Director
Manny Amorelli, Director

Authority Representatives Present

Federico Barajas, Executive Director
Pablo Arroyave, Chief Operating Officer
Scott Petersen, Water Policy Director
Rebecca Akroyd, General Counsel
Joyce Machado, Director of Finance
Stewart Davis, IT Officer

Others Present

Tom Boardman, Westlands Water District

1. Call to Order/Roll Call

Committee Chair Tom Birmingham called the meeting to order and roll was called.

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

No additions or corrections.

3. Opportunity for Public Comment

No public comment.

4. Water Resources Committee to Consider Approval of the January 10, 2022 Meeting Minutes.

Committee Chair Tom Birmingham pronounced the January 10, 2022 meeting minutes approved without correction.

5. Water Resources Committee to Consider Recommendation to Board of Directors to Adopt Resolution Authorizing Execution of B.F. Sisk Dam Raise and Reservoir Expansion Project Activity Agreement.

Executive Director Federico Barajas provided an overview of this item. Rebecca Akroyd provided a summary of the draft activity agreement included in the packet. Committee and Board members suggested additional changes to the activity agreement, and after a lengthy discussion the Committee did not take any action. This item will be brought back to the Committee next month.

6. **Water Resources Committee to Consider Recommendation to Board of Directors to Adopt Staff Recommendation for Positions on Legislation and Anticipated Legislation.**

- A. **S.B. 890 (Nielsen), Department of Water Resources: Water Storage and Conveyance Fund: water storage and conveyance** – This item was removed from the agenda and no action was taken.

- B. **Anticipated State Legislation: Expediting State Water Resources Control Board Consideration of Applications to Appropriate Water During High-Flow Events and to Support Groundwater Recharge Projects** - Water Policy Director Scott Petersen provided an overview of this item. Petersen reported that the anticipated legislation would amend Section 1206 of the California Water Code to include an additional exception that allows the State Water Board to consider a permit application to capture excess flows on fully appropriated streams, subject to certain conditions. Petersen reported that if enacted, it could help some Groundwater Sustainability Agencies throughout California implement their GSPs by allowing them to apply for a water right for excess flows on fully appropriated streams without opening the fully appropriated stream designation. Petersen reported that staff is making this recommendation at this time due to the bill introduction deadline being February 18, 2022, and there will not be another Committee or Board meeting in advance of that deadline.

Chair Tom Birmingham made the motion to recommend the Board of Directors adopt staff recommendation for position on anticipated state legislation. The motion was seconded by Member Bill Diedrich. The Committee action is reported as follows:

AYES: Michael, Bourdeau, Maring, Diedrich, White, Birmingham
NOES: None
ABSTENTIONS: Gin

7. **Executive Director’s Report.**

A. **B.F. Sisk Dam Raise and Reservoir Expansion Project** – Executive Director Federico Barajas reported that the Authority continues to work closely with Reclamation with regards to their review and approval of the addendum to Feasibility Report. Barajas reported that there has been a series of different questions, clarifications, and additional background information that has been requested in the process of review and approval, and Authority staff has had frequent coordination meetings with Reclamation to address their requests.

Chief Operating Officer Pablo Arroyave reported that an RFP was drafted to accompany the

Activity Agreement phase of this project. Arroyave reported that the primary goal of this RFP is to obtain a full-time project manager. Arroyave reported that other tasks included in the draft RFP are facilitation, coordination, and development of the operations plan, coordination between Reclamation and the Authority in development of the initial Cost Share Agreement, and development of an RFP specific to the final design support of the Highway 152 improvements. Arroyave reported that in addition staff is working very closely with Reclamation to support their design efforts focused on the reservoir itself. Chair Birmingham suggested having the RFP reviewed by the Technical Committee in order to adhere to the schedule, with the goal of having the RFP out by the end of the month

B. **DMC Subsidence Correction Project** – Barajas reported that staff is continuing to move forward working with the Department of Water Resources (DWR) on state funding. Barajas reported that additional information was requested from DWR staff and that information was provided. Barajas reported that DWR now has everything they need in order for the DWR Director to formulate and deliberate on the merits of the project, and the next step is for DWR to render a director level decision. Barajas additionally reported that after going through a multi-agency review panel process, CDM Smith was recommended as the contractor to perform the feasibility and environmental review work on the project, and action on their contract award will be brought to the Board on Thursday.

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

Water Policy Director Scott Petersen provided a brief summary of his report included in the packet. Petersen reported that on October 20, 2021, the Authority sent a letter requesting participation in the consultation process pursuant to Section 4004 of the WIIN Act and in the NEPA process. Petersen reported that Reclamation has begun initial outreach meetings regarding the process for consultation. Petersen reported that current milestone timelines anticipate that in 2022 the following will be completed: (1) Virtual Scoping and a Scoping Report (Feb-May), (2) Initial Alternatives and Working Papers (Feb – Sep), and (3) Final Alternatives and Proposed Action (Sep – Dec). Petersen reported that Reclamation has indicated that the Biological Assessment and public draft EIS is targeted for release for public comment in March 2023, with a final EIS and Record of Decision targeted for 2024. Petersen reported that Reclamation has indicated that they intend to hold quarterly stakeholder meetings and to provide an opportunity for public water agency engagement consistent with their statutory obligations under the WIIN Act. Petersen reported that staff will continue to be engaged in this process as it advances.

Petersen reported that Reclamation completed its outreach stakeholder workshops on the provisions of the Infrastructure Investment and Jobs Act (IIJA), more commonly known as the Bipartisan Infrastructure Law, last month. Petersen reported that early last week, he distributed the Status of Reclamation Funding Opportunities, which details anticipated funding availability for Reclamation programs in the coming year.

Petersen reported that last month, the CWC released a draft white paper, “A State Role in Supporting Groundwater Trading with Safeguards for Vulnerable Users: Findings and Next Steps”. Petersen reported that the draft white paper frames state considerations Findings and Next Steps. Petersen reported that the draft white paper frames state considerations around how Groundwater Sustainability Agencies might shape well-managed groundwater trading programs that include appropriate safeguards for communities, farms and the environment. Petersen reported that written comments are due February 28.

Petersen reported that there is a draft order for petition for reconsideration for the 2021 temporary urgency change petition that the Authority provided comments to last month. Petersen reported that the State Water Resources Control Board staff have incorporated those comments, as well as, the finding from a workshop, and released a revised draft order on Friday. Petersen reported that any written potential comments are due February 10.

9. Update on Water Operations and Forecasts

Westlands Water District’s Tom Boardman reported that Shasta storage is increasing, but very little due to persistent dry conditions. Current storage is now about 155 TAF below Reclamation’s latest 50% exceedance forecast. Folsom storage is no longer at the flood control limit as releases remain at elevated levels to meet a higher Delta outflow standard for February. Snowpack has deteriorated from 155% in early January to the current 85%. Boardman explained how stored water from upstream reservoirs is being released to meet the current Delta outflow requirement per D1641. Boardman estimated that about 383 TAF more stored water will be released from storage to meet the additional Delta outflow rate if February remains dry. Boardman pointed out that Oroville releases are higher to meet part of the CVP’s share of the Delta outflow requirement. As such, the SWP is paying back some of the water owed to the CVP per the COA accounting.

Storage conditions in CVP San Luis were also discussed. Boardman concluded with a summary of how much CVP San Luis is expected to refill under dry and median conditions.

10. Committee Member Reports.

No reports.

11. Agenda Item 11: Closed Session

No closed session.

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

None.

13. Agenda Item 14: Adjournment

The meeting was adjourned at approximately 11:47 a.m.



MEMORANDUM

TO: SLDMWA Board of Directors. Alternates
SLDMWA Water Resources Committee Members, Alternates

FROM: Pablo Arroyave, Chief Operating Officer

DATE: March 2, 2022

RE: Resolution Authorizing Execution of B.F. Sisk Dam Raise and Reservoir Expansion Project Activity Agreement

BACKGROUND

The B.F. Sisk Dam Raise and Reservoir Expansion Project (“Reservoir Expansion Project” or “Project”) includes raising the dam crest an additional 10 feet above the 12-foot embankment raise under development by the B.F. Sisk Dam SOD Modification Project. The 10-foot embankment raise would support an increase in reservoir storage capacity of 130,000 acre-feet. In addition, the Reservoir Expansion Project includes installation of downstream stability berms and crack filters and raising the existing outlet works, intake towers, access bridge, and spillway intake by 10 feet and other modifications, including to State Route 152.

The potential benefits from the Reservoir Expansion Project include increasing long-term reliability and quantity of yearly allocations to south-of-Delta contractors dependent on San Luis Reservoir and increasing the certainty of access to supplies stored by south-of-Delta contractors in San Luis Reservoir in subsequent water years.

The Water Authority has worked with the U.S. Bureau of Reclamation (“Reclamation”) to analyze the proposed Reservoir Expansion Project over the past several years, including through the preparation of the draft B.F. Sisk Dam Raise and Reservoir Expansion Project Environmental Impact Report/ Supplemental Environmental Impact Statement a Feasibility Report, and an addendum to the Feasibility Report. The Water Authority has also executed a cost share agreement with Reclamation regarding collaboration on the planning, preliminary design, and environmental compliance for the Reservoir Expansion Project, to seek potential storage benefits of the Project for Water Authority member agencies.

The Water Authority anticipates the need to cover costs for management of this effort (i.e., a Project Manager) and to execute an additional cost share agreement with Reclamation to cover cost sharing for the next phase of planning, permitting, and design activities related to the Project. Rather than allocate costs to all Water Authority members through the existing Leg/Ops activity, the Board has directed Water Authority staff to prepare an Activity Agreement to allocate such costs to Activity Agreement participants. In the February 2022 Water Resources Committee meeting, staff discussed an initial draft Activity Agreement; the proposed draft before the committee includes revisions based on that discussion and additional comments provided by member agencies.

ISSUE FOR DECISION

Whether the Water Authority should adopt the proposed Resolution Authorizing Execution of the B.F. Sisk Dam Raise and Reservoir Expansion Project Activity Agreement.

RECOMMENDATION

Staff recommends the Board adopt the proposed resolution authorizing execution of the proposed Activity Agreement.

ANALYSIS

Upon adoption of the resolution and upon identification of the Activity Agreement participants, the Executive Director would execute the B.F. Sisk Dam Raise and Reservoir Expansion Project Activity Agreement. As drafted, the Activity Agreement would become effective on a date certain (60 days after Board approval).

Execution of the proposed Activity Agreement does not legally bind or otherwise commit the Water Authority or the Activity Agreement participants to participate in or otherwise proceed with the Project. The Water Authority will comply with the California Environmental Quality Act (CEQA), as applicable, prior to participating or otherwise proceeding with the Project. Further, executing the Activity Agreement is an administrative and organizational action that will not result in a direct physical change in the environment or a reasonably foreseeable indirect change to the environment, and thus is not a project as defined by CEQA Guidelines section 15378(b)(5).

The Water Authority's participation in the Activity Agreement will require staff time to manage the project and coordinate with the Activity Agreement participants. Activity Agreement participants would be responsible for all financial (including Water Authority staff time) obligations and liabilities associated with the Water Authority's engagement with the Project (see Article 12 of the proposed Activity Agreement).

BUDGET

No direct budget impact, due to the proposed structure of the Activity Agreement. The costs associated with the Water Authority's execution of future cost sharing agreements with Reclamation, and any additional financial obligations and liabilities associated with the planning and design phase of the Project, will be paid for by only the Activity Agreement participants.

EXHIBITS

1. Resolution No. 2022-XX Authorizing Execution of the B.F. Sisk Dam Raise and Reservoir Expansion Project Activity Agreement
2. Draft B.F. Sisk Dam Raise and Reservoir Expansion Project Activity Agreement

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

RESOLUTION NO. 2022-

RESOLUTION AUTHORIZING EXECUTION OF THE B.F. SISK DAM RAISE AND RESERVOIR EXPANSION PROJECT ACTIVITY AGREEMENT

WHEREAS, the B.F. Sisk Dam Raise and Reservoir Expansion Project (“Reservoir Expansion Project” or “Project”) includes raising the dam crest an additional 10 feet above the 12-foot embankment raise under development by the B.F. Sisk Dam Safety of Dams (“SOD”) Modification Project, which would support an increase in reservoir storage capacity of 130,000 acre-feet, and would also include installation of downstream stability berms and crack filters, raising the existing outlet works, intake towers, access bridge, and spillway intake by 10 feet, and other modifications, including to State Route 152; and

WHEREAS, the potential benefits from the Reservoir Expansion Project include increasing long-term reliability and quantity of yearly allocations to south-of-Delta contractors dependent on San Luis Reservoir and increasing the certainty of access to supplies stored by south-of-Delta contractors in San Luis Reservoir in subsequent water years; and

WHEREAS, the San Luis & Delta-Mendota Water Authority (“Water Authority”) has worked with the U.S. Bureau of Reclamation (“Reclamation”) to analyze the proposed Reservoir Expansion Project over the past several years, including through the preparation of the draft B.F. Sisk Dam Raise and Reservoir Expansion Project Environmental Impact Report/ Supplemental Environmental Impact Statement, Feasibility Report, and Addendum to the Feasibility Report; and

WHEREAS, the Water Authority has also executed a cost share agreement with Reclamation regarding collaboration on the planning, preliminary design, and environmental compliance for the Reservoir Expansion Project, to seek potential storage benefits of the Project for Water Authority member agencies; and

WHEREAS, the Water Authority anticipates the need to cover costs for management of this effort and to execute an additional cost share agreement with Reclamation to cover cost sharing for the next phase of planning, permitting, and design activities related to the Project; and

WHEREAS, the Board has considered that certain form of the B.F. Sisk Dam Raise and Reservoir Expansion Project Activity Agreement (**Attachment 1**) setting forth the terms by which the certain members of the Water Authority are willing to participate in the benefits and are willing to incur the obligations of the anticipated cost share agreement, through the joint exercise of the powers common to each of the parties; and

WHEREAS, authorizing execution of the B.F. Sisk Dam Raise and Reservoir Expansion Project Activity Agreement does not legally bind or otherwise commit the Water Authority or the Activity Agreement Members to participate in or otherwise proceed with the Reservoir

Expansion Project, and further, executing the B.F. Sisk Dam Raise and Reservoir Expansion Project Activity Agreement is an administrative and organizational action that will not result in a direct change in the environment or a reasonably foreseeable indirect change to the environment, and thus does not constitute a project under the California Environmental Quality Act (CEQA Guidelines Section 15378(b)(5).

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS, THAT:

Section 1. The facts stated in the recitals above are true and correct, and the Board so finds and determines.

Section 2. The Board hereby authorizes the Executive Director to execute the B.F. Sisk Dam Raise and Reservoir Expansion Project Activity Agreement in substantially the form presented to the Board, subject to such additions, deletions, and other revisions as the said Executive Director shall approve prior to execution and further subject to the contingencies described in Section 3 of this Resolution.

Section 3. The authorization conferred by this Resolution, and the documents executed in reliance upon it, shall be contingent upon the occurrence of the following actions: (1) the passage of sixty (60) days from the adoption date of this Resolution, and (2) at least two (2) members of the Water Authority executing the Activity Agreement.

Section 4. In the event the contingencies described in Section 3 fails to occur, the authorization conferred by this Resolution for which the contingency is not satisfied is revoked *ab initio* as to the document not achieving the signatures as required by said Section 3, and any documents executed by the Water Authority in reliance upon it shall have no binding force or effect.

Section 5. The Executive Director, Chief Operating Officer, or such Water Authority employee or consultant as either of such officers may designate, is further authorized and directed to take such additional steps, and to execute such additional documents, as may be required or reasonably necessary to the completion of the activities authorized by this Resolution, subject to the budgets and approvals as set forth in the respective documents.

PASSED, APPROVED AND ADOPTED this 10th day of March, 2022, by the Board of Directors of the San Luis & Delta-Mendota Water Authority.

Cannon Michael, Chairman
San Luis & Delta-Mendota Water Authority

Attest:

Federico Barajas, Secretary

I hereby certify that the foregoing Resolution No. 2022- was duly and regularly adopted by the Board of Directors of the San Luis & Delta-Mendota Water Authority at the meeting thereof held on the 10th day of March, 2022.

Federico Barajas, Secretary

DRAFT

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

**B.F. SISK DAM RAISE AND RESERVOIR EXPANSION PROJECT
ACTIVITY AGREEMENT**

Commented [A1]: Questions raised in WRC/BOD review:
-What happens to agreement when construction is complete? Any continuing role for operations?
-How is the AA binding on Non-Member Participating Parties?
-If there is no steering committee, how are “votes” recorded?

This **B.F. SISK DAM RAISE AND RESERVOIR EXPANSION PROJECT ACTIVITY AGREEMENT** (“**Activity Agreement**”) is entered into and made effective as of this ____ day of 2022 (“**Effective Date**”), by and among the San Luis & Delta-Mendota Water Authority, a joint powers agency of the State of California (“**Authority**”), and its members who execute this Agreement, who are hereinafter referred to jointly by the plural term “**Activity Agreement Members**.” Capitalized terms used in this Activity Agreement shall have the meanings set forth in Section 2 below. This Activity Agreement shall become effective when all Activity Agreement Members that execute this Activity Agreement later agree in writing as to their respective “Initial Participation Percentage” as set forth in Sections 2, 10.1, and 13 below.

Commented [A2]: For discussion.

1. RECITALS

A. The parties to this Activity Agreement, together with certain other local agencies, have entered into an amended and restated Joint Exercise of Powers Agreement-San Luis & Delta-Mendota Water Authority dated as of January 1, 1992 (the “**JPA**” or “**JPA Agreement**”), by and among the parties indicated therein, establishing the Authority for the purpose of exercising the common powers of the Activity Agreement Members, including those powers described in this Activity Agreement.

B. The Activity Agreement Members are each empowered, among other powers, to provide water service to lands within their boundaries; to operate and maintain works and facilities for the development, distribution, and use of water for irrigation and for any drainage or reclamation works connected therewith or incidental thereto and/or to operate and maintain works and facilities for the development, distribution and use of water for municipal and industrial use; to contract with the United States, the State, and other public agencies and, effective January 1, 1995, with mutual water companies, for such purposes; to control the quality of water accepted into their respective systems; to exercise powers related to the construction, operation, or maintenance of water storage and delivery facilities; and to adopt rules and regulations necessary to the exercise of such powers.

C. The Activity Agreement Members have each entered into contracts with the United States for water from the Central Valley Project (“CVP”) and receive water conveyed through the Delta-Mendota Canal, the San Luis Canal, and/or the Pacheco Pumping Plant and Tunnel.

D. For several years to come, because of hydrologic conditions and/or regulatory constraints, the operation of the CVP by the United State Bureau of Reclamation (“Reclamation”) will likely result in shortages of supply, which would result in less water being made available to the members of the Authority than required to meet the demands of their customers.

E. The Authority has authorized execution of a series of cost-share agreements with federal parties regarding collaboration on the planning, preliminary design, and environmental compliance for the B.F. Sisk Dam Raise and Reservoir Expansion Project (“Reservoir Expansion Project” or “Project”), to seek potential storage benefits of the Project for Authority member agencies.

F. Authority member agencies, including the Activity Agreement Members, have paid the costs associated with planning to date.

G. The Authority, together with Reclamation, has considered the feasibility of the Reservoir Expansion Project to, among other things, increase long-term reliability and quantity of yearly allocations to south-of-Delta CVP contractors dependent on San Luis Reservoir, increase the certainty of access to supplies stored by south-of-Delta CVP contractors in San Luis Reservoir in subsequent water years, and provide additional surface water access during drought periods, while maintaining benefits from the existing San Luis Reservoir.

H. The planning to date for the Project included, but was not limited to, planning for the construction of an expanded San Luis Reservoir with a total additional capacity of 130,000 acre-feet, and related modification to Highway 152.

I. The Authority anticipates the need to ~~cover future costs of managing this effort (i.e., hire a Project Management Consultant) to manage this effort~~ and to execute a cost share agreement with Reclamation for Reservoir Expansion Project Planning (“Cost Share Agreement”) in the near future, for the purpose of providing cost-sharing to complete planning, permitting, and design activities related to the Project. For design activities, the separate project components are the Sisk Dam Raise, Recreation Sites, Tower, Highway 152, bridge, and spillway. The Cost Share Agreement will specify ~~which the~~ components on which Reclamation will take the design lead ~~on~~

and on which the Authority will take the lead-~~on~~. Subsequent amendments would be expected for construction related activities.

J. Individual Authority member agencies desire to provide cost-sharing, including through the Authority’s execution of the anticipated Cost Share Agreement on their behalf.

K. Each of the parties to this Activity Agreement desires to participate in the benefits and incur the obligations associated with project management and the anticipated Cost Share Agreement, through the joint exercise of their common powers under this Activity Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the true and correct facts recited above, and of the covenants, terms, and conditions set forth herein, the Activity Agreement Members and the Authority agree as follows:

2. DEFINITIONS

2.1. **“Activity Agreement”** or **“Agreement”** shall mean this B.F. Sisk Dam Raise and Reservoir Expansion Project Activity Agreement.

2.2. **“Activity Agreement Expenses”** shall mean all expenses directly incurred by the Authority pursuant to this Activity Agreement and any agreements executed in conjunction with this Activity Agreement, together with a share of Authority Operating Costs allocable to Members of this Activity Agreement and allocable to any Non-Member Participating Parties through Memoranda of Understanding executed in conjunction with this Activity Agreement.

2.3. **“Activity Agreement Member”** shall mean a member of the Authority who is signatory to this Activity Agreement. The Activity Agreement Members are listed on Exhibit “A” attached hereto.

2.4. **“Activity Participants”** shall mean the Activity Agreement Members and the Non-Member Participating Parties, as defined below.

2.5. **“Administration Agreements”** shall mean those certain agreements between the Authority and Activity Agreement Members for the undertaking of activities and sharing of costs and benefits pursuant to Sections 22 and 23 of the JPA.

2.6. **“Authority”** shall mean the San Luis & Delta-Mendota Water Authority.

2.7. “**Authority Operating Costs**” shall mean the Authority’s rent and other occupancy charges, acquisition costs of office furniture and equipment, including telephone, telecopy, photocopy, cost of cars and other vehicles, insurance premiums, salaries and wages of employees including payments in connection with retirement programs and other benefit programs, fees of creditors, lawyers, engineers and other consultants, travel, telephone, telecopy, and photocopy expenses, and any other general administrative expenses.

2.8. “**Board of Directors**” shall mean the Board of Directors of the San Luis & Delta-Mendota Water Authority.

2.9. “**Cost Share Agreement**” shall mean the Cost Share Agreement for the B.F. Sisk Dam Raise and Reservoir Expansion Project planning entered into by the Authority on behalf of the Activity Agreement Members.

2.10. “**Fiscal Year**” shall mean the Authority’s March 1 – February 28/29 fiscal year.

2.11. “**JPA**” or “**JPA Agreement**” shall mean that certain ~~Amended and Restated~~ Joint Exercise of Powers Agreement effective January 1, 1992, establishing the Authority, as it has been and may be amended or restated over time.

2.12. “**Memorandum of Understanding**” or “**MOU**” shall mean an agreement in the form approved by the Activity Agreement Members and Authority Board of Directors between the Authority and a local agency, city, county, or mutual water company that is not a member of the Authority but which desires to participate in this Activity Agreement as a Non-Member Participating Party; “**Memoranda of Agreement**” or “**MOUs**” shall refer collectively to all such Memoranda of Understanding.

2.13. “**Non-Member Participating Party**” shall mean a local agency, city, county, or mutual water company that is not a member of the Authority but which by execution of an MOU agrees to undertake the same obligations and is accorded the same benefits as a member of the Authority that has executed this Activity Agreement. The Non-Member Participating Parties are listed on Exhibit “A” attached hereto.

2.14. “**Participation Percentage**” shall mean each Activity Participant’s allocated share of Activity Agreement Expenses determined as described in Section 10 of this Agreement and set forth on Exhibit “B” as updated from time to time.

2.15. “Reservoir Expansion Project” or “Project” shall mean the proposed project pertaining to the planning, design, permitting, and other preconstruction activities associated with the B.F. Sisk Dam Raise and Reservoir Expansion Project.

3. PURPOSE OF AGREEMENT

3.1. The purpose of this Activity Agreement is to allow, through the joint exercise of some or all of the common powers of the Activity Agreement Members described in the Recitals above, as appropriate, the Activity Agreement Members to participate through the Authority in the anticipated Cost Share Agreement to obtain the benefits; and ~~to~~ share the obligations of ~~the anticipated~~said Cost Share Agreement under the terms set forth herein.

3.2. The parties acknowledge and agree that the Authority’s role in this Activity Agreement is to: 1) provide the umbrella joint powers agreement pursuant to which the parties may exercise their common powers and to provide coordinated services at the expense of the Activity Agreement Members; 2) negotiate, implement, and administer the anticipated Cost Share Agreement in coordination with the Activity Agreement Members; 3) provide administrative services for implementation of the Cost Share Agreement, including, but not limited to, providing notices, ~~providing~~ billing, and accounting services to the Activity Agreement Members during the term hereof; and 4) undertake such additional activities and responsibilities as may be requested and funded by the Activity Agreement Members.

4. ORGANIZATION

The business of this Activity Agreement shall be conducted by the Authority at large and therefore be governed by the Board of Directors of the Authority. However, it is recognized that at some time in the future the Activity Agreement Members may wish to form a separate body specifically for the purpose of directing the business of the Activity Agreement. Within eighteen (18) months of the Effective Date, the Activity Agreement Members will evaluate whether to facilitate the formation of an Activity Agreement steering committee. If the Activity Agreement Members unanimously agree, upon that agreement, the Board of Directors of the Authority will consider establishing the organizational structure proposed by the Activity Agreement Members, which will be described in an amendment to this Activity Agreement, and that organizational structure ~~shall~~may then serve as the governing body for this Activity Agreement.

Commented [A3]: For discussion: If there isn’t a Steering Committee, how are the activities to be overseen? O&M technical committee?

Should members ask the question of a Steering Committee upfront, rather than potentially waiting?

5. ROLE OF AUTHORITY; POWERS RESERVED TO BOARD OF DIRECTORS AND LIMITATIONS THEREON

5.1. Role of the Authority. The role of the Authority under this Activity Agreement will be to provide, through Authority staff or contracts with consultants, coordinated services to assist the Activity Participants in conducting the activities contemplated by this Agreement. The Authority will provide only those services supported with funding from the Activity Participants, grant funding, or other means that will not impose costs on members of the Authority that are not Activity Agreement Members, in accordance with budgets recommended by staff, and approved by the Activity Participants and the Board of Directors, as more specifically provided under the terms of this Agreement.

5.2. Powers Reserved to Board of Directors and Limitations Thereon.

a) The Board of Directors shall have ultimate approval authority over all Activity Agreement annual budgets based upon the recommendation of staff and approval of the Activity Participants; provided, the Board of Directors may only alter an Activity Agreement annual budget in a manner consistent with the Activity Participants' recommendation.

b) The Board of Directors shall have the right, upon recommendation of or in consultation with staff, and the approval of Activity Participants, to approve all amendments to this Activity Agreement, including any amendment terminating the Activity Agreement, and to approve the MOU with each entity seeking to become a Non-Member Participating Party; provided, that no amendment of this Activity Agreement shall be required to add new Activity Agreement Members prior to [DATE], 2022.

Commented [A4]: For discussion.

c) The Board of Directors shall have the right, upon the recommendation of or in consultation with staff, and the approval of Activity Participants, in the form of formal Board action, to authorize execution of all agreements relating to the Reservoir Expansion Project.

Commented [A5]: Suggest 60-day period from Board approval.

Commented [A6]: For discussion.

d) The Board of Directors shall have the right, upon the recommendation of or in consultation with staff, and the approval of Activity Participants, to act on any claims and to make decisions concerning the prosecution of, defense of, or other participation in actions or proceedings at law brought against the Authority arising from this Activity Agreement; provided if that action is taken at the request of the Activity Participants then the costs for such action shall be borne by the Activity Participants.

Commented [A7]: For discussion.

e) The Board of Directors delegates to staff the authority power to conduct the activities described in this Activity Agreement pursuant to the terms of this Activity Agreement and MOUs, without the required approval of the Board of Directors except as specifically provided in this Section 5.2. ~~Also, except as set forth in this Section 5.2,~~ This delegation shall specifically include, but not be limited to, the authority power to enter into contracts within approved Activity Agreement budgets.

6. APPROVAL BY AN ACTIVITY PARTICIPANT OR ACTIVITY PARTICIPANTS

6.1. When the terms of this Activity Agreement or applicable law require the approval of an Activity Participant, written documentation of such approval, whether by Resolution, motion, or other form of authorization, must be provided to the Authority and to each of the other Activity Participants.

a) For actions requiring the approval of only the particular Activity Participant, approval by such Activity Participant is required.

b) When approval of the Activity Participants is required for a particular action, unanimous approval of the Activity Participants will be required relative to the following actions:

6.1.b.1. Admitting a new Activity Agreement Members following the expiration of the date in Section 5.2.b and Section 15.1;

6.1.b.2. Admitting a Non-Member Participating Party at any time;

6.1.b.3. Establishing or modifying the Participant Percentage applicable to the Activity Participants; and

6.1.b.4. Amendment of this Activity Agreement.

c) For all other actions that require approval of the Activity Participants, including approval of an annual budget, the approval of a majority of the Activity Participants will constitute approval of the action.

7. BUDGETARY RESPONSIBILITIES

To the extent that the Authority prepares budgets for this Activity Agreement, the Authority shall coordinate with Activity Participants in the development of any such budgets for the activities authorized by this Activity Agreement, annually or more frequently as needed, for presentation to the Board of Directors of the Authority in accordance with Section 22 of the JPA Agreement. The Authority staff will not present to the Board of Directors a budget for this Activity Agreement

Commented [A8]: For discussion: Should we think separately about borrowing authority? More than simple majority, less than unanimous?

unless and until supported by each of the Activity Participants. Budgeted amounts for this Activity Agreement will be collected through the invoicing process described in Section 10 of this Activity Agreement, and, provided each of the Activity Participants is in agreement, formal amendment of such budgets through Board of Directors of the Authority approval is not required for adjustments of expenditure for activities authorized by this Activity Agreement.

7.1. Initial Budget. To initially fund the budget for this Activity Agreement, the Activity Participants agree to contribute a total of \$1,000,000 according to the Participation Percentages referenced in Section 10 below and described in Exhibit “B” to this Activity Agreement. This initial budget amount will be used, among other purposes, to reimburse the Authority for costs paid to support the Reservoir Expansion Project from March 1, 2022~~3~~ onward using funds from the Authority’s Fiscal Year 2023 Leg/Ops budget.

Commented [A9]: Subject to revision.

7.2. Budget to Actual Adjustments. The Authority shall true up budgeted amounts collected from the Activity Participants, grant funding, or other means to actual expenditures annually following the end of each fiscal year. Any over-payments between budgeted and actual expenditures, taking into account any year-end carryover reserve, shall be credited or refunded to each Activity Participant for the period through February 28, 2023, and for each year thereafter, based upon its Participation Percentage. Each Activity Participant shall be billed for any under-payment following the true-up, with payment due thirty (30) days after the invoice is received.

Commented [A10]: For discussion: should there be an end date, i.e., until execution of Activity Agreement?

8. ACCOUNTABILITY, REPORTS, AND AUDITS

8.1. Full books and accounts for this Activity Agreement shall be maintained by the Authority in accordance with practices established by, or consistent with, those utilized by the Controller of the State of California for public entities. The books and records shall be open to inspection by the Activity Participants at all reasonable times, and by bondholders and lenders as and to the extent provided by resolution or indenture.

8.2. There shall be strict accountability of all funds deposited on behalf of the Activity Agreement with the Authority. The Treasurer of the Authority, directly or acting through its Accounting Department, shall provide regular reports of Activity Agreement accounts. Funds of the Activity Agreement shall be subject to audit by the official auditor of the Authority. An Activity Participant may request an independent audit of the Activity Agreement funds; such audit shall be conducted at the expense of the requesting Activity Participant.

9. ACTIVITY AGREEMENT EXPENSES AND ALLOCATION OF OPERATING COSTS

9.1. The Authority and the Activity Participants agree that all Activity Agreement Expenses incurred by the Authority under this Activity Agreement are the costs of the Activity Participants, and not of the Authority, and shall be paid by the Activity Participants. Fundamentally, Activity Agreement Members and Non-Member Participating Agencies, if any, shall be primarily responsible for determining, among themselves, a fair and equitable apportionment of Activity Agreement Expenses at all stages of the Project and throughout the term of this Activity Agreement.

Commented [A11]: For discussion.

9.2. The Activity Participants further agree that the Board of Directors is authorized to allocate a share of Authority Operating Costs, which includes a portion of costs addressed by the Administration Agreements, as part of the Activity Agreement Expenses to cover the cost to the Authority of administering this Activity Agreement.

10. PARTICIPATION PERCENTAGES

10.1. Initial Participation Percentages. Within forty-five (45) days of the Effective Date, the Activity Agreement Members will reach agreement as to the initial participation percentages that will dictate each Activity Agreement Member’s respective share of the initial budget amount referenced above in Section 7.1, plus any subsequent Activity Agreement Expenses.

Commented [A12]: For discussion: What happens if the signatories do not reach agreement?

10.2. Changing Participation Percentages. Once established by unanimous agreement, ~~The~~ Participation Percentages ~~will shall~~ be reconsidered and may be ~~or~~ revised in each of the following circumstances:

Commented [A13]: Alternative Proposal: “Within forty-five (45) days of [DATE], all proposed Activity Agreement Members will attempt to reach agreement as to the initial participation percentages between themselves that will dictate each Activity Agreement Member’s respective share of the initial budget amount referenced above in Section 7.1, plus any subsequent Activity Agreement Expenses. The intent of these initial participation percentages is to match the anticipated percentage of expansion water storage that each Activity Agreement Member will receive from the Project. As set forth below, this Agreement will not become effective until all Activity Agreement Members reach agreement on their initial participation percentages.”

- a) Execution of Cost Share Agreement;
- b) Addition of Activity Participant(s); and
- c) Withdrawal of Activity Participant(s). Upon the withdrawal of one or more

Activity Participants pursuant to Section 14, the remaining Activity Participants agree that each of them will be allocated a proportionate share of all Activity Agreement Expenses and any associated interests in the Reservoir Expansion Project. Any Activity Participant may be relieved of its obligation to assume the additional proportionate share created by the withdrawal of an Activity Participant if the remaining Activity Participants agree to assume that share of obligations and benefits.

Commented [A14]: For discussion: consider adding fourth circumstances “Completion of project construction.”

In addition to the circumstances listed above, the Participation Percentages may be revised at other times if the Activity Participants unanimously agree to a revision.

Commented [A15]: For discussion: Will any adjustment of past costs occur?

Commented [A16]: For discussion: Will cost allocation for planning vs. construction/financing be different?

10.3. Ongoing Documentation of Participation Percentages. The Participation Percentages of each Activity Participant shall be dated and attached as Exhibit “B” to this Activity Agreement, effective upon the date approved by all Parties, without any further amendment of this Agreement being required. Any further amendments to Exhibit “B” may be made using the procedure included in this Section 10 without any further separate amendment of this Activity Agreement being required.

10.4. Invoicing and Payment. The Authority shall bill the Activity Participants for all Activity Agreement Expenses in their respective Participation Percentages on the same schedule as it utilizes for collecting membership dues to implement the Authority budget for each March 1 through February 28/29 fiscal year, generally twice yearly in mid-March and August of such year. The schedule for billing Activity Participants for any additional costs associated with the anticipated Cost Share Agreement will be determined at a later date. In all cases, payments are due thirty (30) days following the receipt of the Authority’s invoice.

Commented [A17]: For discussion: If we get to construction, would bi-annual billing be too much?

Commented [A18]: For discussion: What is the difference between “all Activity Agreement Expenses” referenced above and “any additional costs” here?

11. SOURCE OF PAYMENTS

Each Activity Participant agrees that it will timely take actions necessary to provide sufficient money to meet its obligations hereunder. Each Activity Participant hereby confirms that the Authority and other Activity Participants are third party beneficiaries of such Activity Participant’s obligations under this Agreement and may take such actions in law or in equity as may be desirable to enforce payments hereunder.

12. INDEMNIFICATION OF AUTHORITY MEMBERS WHO DO NOT PARTICIPATE IN THIS ACTIVITY AGREEMENT

The Activity Participants shall hold the Authority and each of its members who are not Activity Participants, free and harmless from and indemnify each of them against any and all costs, losses, damages, claims, and liabilities arising actions or inactions taken under this Activity Agreement or the MOUs. This indemnification obligation includes the obligation of the Activity Participants to defend the Authority, and all members of the Authority that are not participants in this Activity Agreement, at the sole expense of the Activity Participants, in any action or proceeding brought against the Authority or any of its members not participating in this Activity Agreement, to recover any such costs, losses, damages, claims, or liabilities arising from this Activity Agreement, as well as the obligation to pay for any and all costs of litigation incurred by the Authority as a result of entering into this Activity Agreement. Such costs may include, but are not

limited to, attorneys' fees and costs incurred by the Authority pursuant to approved budgets to defend its provision of services under this Activity Agreement.

13. TERM

This Activity Agreement shall take effect on DATE, 2022 (“**Effective Date**”), and shall remain in full force and effect until this Activity Agreement is rescinded or terminated by the Authority and the Activity Agreement Members, with approval by the Non-Member Participating Parties, if any.

Commented [A19]: Alternative Proposal: “This Activity Agreement shall take effect on the date that all Activity Agreement Members agree in writing on their Initial Participation Percentage (“Effective Date”), and shall remain in place . . .”

14. WITHDRAWAL FROM FURTHER PARTICIPATION

14.1. An Activity Participant may withdraw from this Activity Agreement at any time by providing written notice to the Authority and the other Activity Participants. The withdrawal shall be effective fifteen (15) days after sending the written notice. A withdrawing Activity Participant shall not be entitled to a return of any money paid pursuant to Section 10.5. However, if a withdrawing Activity Participant withdraws prior to execution of the anticipated Cost Share Agreement, the withdrawing Activity Participant shall have no obligation to pay any future share of the Authority’s cost under the anticipated Cost Share Agreement or any additional Activity Agreement Expenses.

Commented [A20]: For discussion: Is longer time period required?

Commented [A21]: For discussion: Does this change if another entity is willing to take over the withdrawing participant’s share of the project?

If money is borrowed, is the remaining debt then reshuffled based upon the remaining participants’ resultant allocations?

14.2. If the Authority withdraws from the anticipated Cost Share Agreement and, Reclamation returns to the Authority any money paid, the Authority shall use its best efforts to ensure that money is refunded proportionately to the Activity Agreement Members that initially contributed it.

15. INITIAL MEMBERSHIP/ADMISSION OF NEW MEMBERS

15.1. Authority Members. Members of the Authority may become Members of this Activity Agreement without Board action through [DATE], 2022. After [DATE], 2022, admission of new Members shall require amendment of this Activity Agreement and approval by the Board of Directors and the Activity Agreement Members. Such approval of new Members will include terms, if necessary, to ensure the Activity Participants do not bear undue financial obligations, e.g., payment of an equal share of the costs previously paid and opportunity costs by Activity Agreement Members under this Activity Agreement.

Commented [A22]: Alternative Proposal: “After [DATE], admission of new Members shall require approval by the Board of Directors and all Activity Agreement Members. Such approval of new Members will include terms, if necessary, to ensure that all Activity Participants (existing and prospective) do not bear undue financial obligations, e.g. payment of an equal share of the costs previously paid and opportunity costs by Activity Agreement Members under this Activity Agreement. At all times the financial contributions and obligations of all Activity Agreement Members should be proportionate to all other Activity Agreement Members and proportionate to their anticipated Project benefits relative to all other Activity Agreement Members, taking into account past financial contributions.”

15.2. Non-Authority Members. A local agency, city, county, or mutual water company that is not a member of the Authority may become a Non-Member Participating Party (and Activity

Participant) at any time following the Effective Date, if the existing Activity Agreement Members unanimously approve the admission of the Non-Member Participating Party. Such admission will occur through execution of a MOU and action by the Board of Directors. Such MOU, as appropriate, will include terms, if necessary, to ensure that existing Activity Participants do not bear undue financial obligations, e.g., payment of an equal share of the costs previously paid and opportunity costs by Activity Participants under this Activity Agreement. At all times the financial contributions and obligations of all Activity Agreement Members and Non-Member Participating Parties should be proportionate to all other Activity Participants and proportionate to their anticipated Project benefits relative to all other Activity Participants, taking into account past financial contributions.

Commented [A23]: Alternative Proposal: “Such admission will occur through execution of an MOU with the Authority and with all other Activity Agreement Members and approval by the Board of Directors.”

Commented [A24]: For discussion.

15.3. Documentation. The admission of any Activity Participant pursuant to this section shall be documented by that new Activity Agreement Member signing this Activity Agreement or that new Non-Member Participating Party entering into a MOU with the Authority, subject to this Activity Agreement. Upon admission of a new Activity Participant, the parties shall agree to the participation percentage of such new Activity Participant, to be documented in the above-referenced amendment or MOU and Exhibit “B” to this Activity Agreement.

16. MISCELLANEOUS

16.1. California Environmental Quality Act. The physical, operational, and financial details of the Reservoir Expansion Project have been analyzed by the Authority as lead agency pursuant to the California Environmental Quality Act (“CEQA”) in the Final Environmental Impact Statement/Final Environmental Impact Report (“EIR”). The Authority has not yet certified the EIR or approved the Reservoir Expansion Project, but plans to do so in the near future. The Authority plans to concurrently consider adoption of CEQA Findings of Fact, Mitigation Measures, a Mitigation Monitoring and Reporting Program, and a Statement of Overriding Considerations. The Authority and/or Activity Participants and other public agencies may be responsible agencies under CEQA for actions related to the Reservoir Expansion Project; however, the actions contemplated by this Activity Agreement have no potential for physical effects on the environment. Each potential improvement, project, and/or activity subject to this Activity Agreement or other related agreements, have been or will be fully evaluated in compliance with CEQA, as applicable. This Activity Agreement does not, and is not intended to, bind any party to a definite course of action or

limit in any manner the discretion of the Authority and/or Activity Participants, or any other public agency, as applicable, in connection with consideration of agreements relating to the Reservoir Expansion Project, including without limitation, all required environmental review, all required public notice and proceedings, consideration of comments received, and the Authority’s and/or Activity Participants’ or other public agencies’ evaluation of mitigation measures and alternatives including the “no project” alternative.

16.2. Amendments. This Agreement may be amended in writing by the Authority and the Activity Agreement Members, with approval from the Non-Member Participating Parties, if any.

Commented [A25]: For discussion: should their consent be required as well?

16.3. Assignment; Binding on Successors. Except as otherwise provided in this Activity Agreement, the rights and duties of the Activity Participants may not be assigned or delegated without the written consent of the Authority and other Activity Participants. Any attempt to assign or delegate such rights or duties in contravention of this Activity Agreement shall be null and void. Any approved assignment or delegation shall be consistent with the terms of any contracts, resolutions, indemnities, and other obligations of the Authority then in effect. This Activity Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the Authority and the Activity Participants.

16.4. Counterparts. This Activity Agreement may be executed by the Authority and the Activity Agreement Members in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

16.5. Choice of Law. This Activity Agreement shall be governed by the laws of the State of California.

16.6. Severability. If one or more clauses, sentences, paragraphs or provisions of this Activity Agreement shall be held to be unlawful, invalid or unenforceable, it is hereby agreed by the Activity Agreement Members and the Authority that the remainder of the Activity Agreement shall not be affected thereby.

16.7. Headings. The titles of sections of this Activity Agreement are for convenience only and no presumption or implication of the intent of the parties as to the construction of this Activity Agreement shall be drawn therefrom.

16.8. Reasonable Cooperation. Activity Participants will reasonably cooperate with each other and the Authority to perform the obligations under this Activity Agreement and to carry out the purpose and intent of this Activity Agreement.

IN WITNESS WHEREOF, the Members and the Authority have executed this Activity Agreement as of the date appearing next to their respective signature lines:

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

By: _____
Name: _____
Title: _____
Date: _____

ACTIVITY AGREEMENT MEMBERS

Agency Name: _____ Agency Name: _____

By: _____ By: _____
Name: _____ Name: _____
Title: _____ Title: _____
Date: _____ Date: _____

Agency Name: _____ Agency Name: _____

By: _____ By: _____
Name: _____ Name: _____
Title: _____ Title: _____
Date: _____ Date: _____

Agency Name: _____ Agency Name: _____

DRAFT – 3/2/22

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

DRAFT

EXHIBIT A

B.F. SISK DAM RAISE AND RESERVOIR EXPANSION PROJECT ACTIVITY AGREEMENT MEMBERS AND NON-MEMBER PARTICIPATING PARTIES

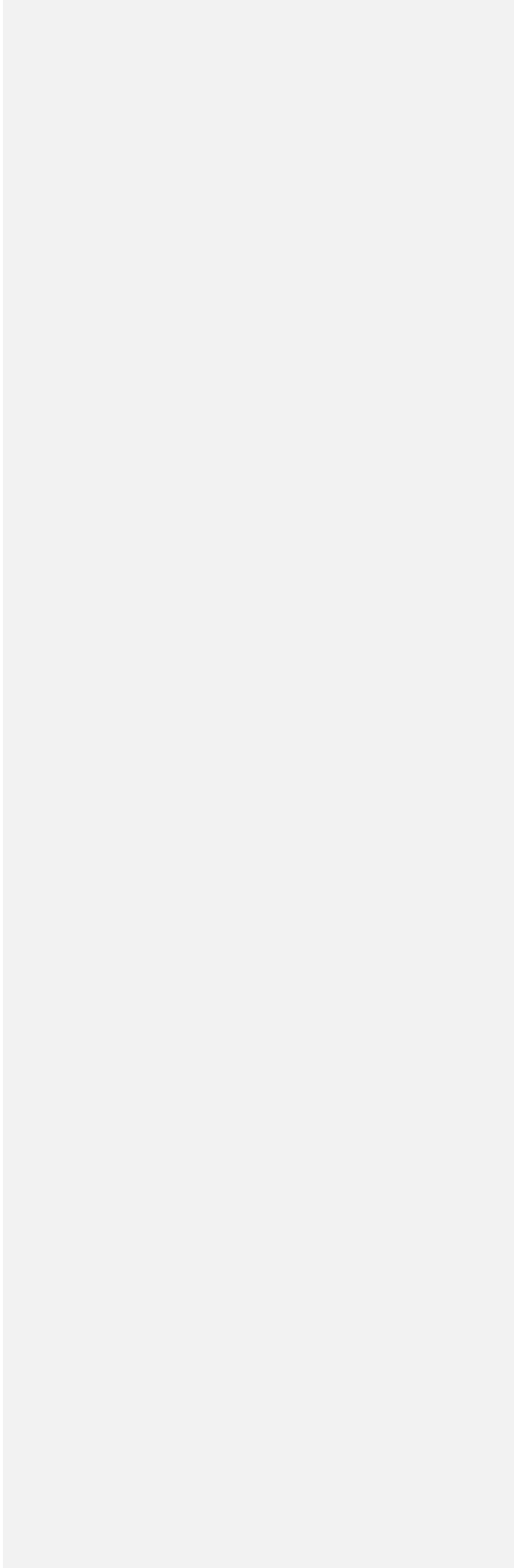
Agency Name	Participation Status (AA Member or Non-Member Participating Party)

DRAFT

EXHIBIT B
ALLOCATION OF EXPENSES AMONG ACTIVITY PARTICIPANTS

Activity Participants	Allocation (%)

DRAFT





MEMORANDUM

TO: SLDMWA Water Resources Committee Members and Alternates

FROM: Scott Petersen, Water Policy Director

DATE: March 7, 2022

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

POLICY ITEMS

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

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

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

The biological opinions carefully evaluated the impact of the proposed CVP and SWP water operations on imperiled species such as salmon, steelhead and Delta smelt. FWS and NMFS documented impacts and worked closely with Reclamation to modify its proposed operations to

minimize and offset those impacts, with the goals of providing water supply for project users and protecting the environment.

Both FWS and NMFS concluded that Reclamation's proposed operations will not jeopardize threatened or endangered species or adversely modify their critical habitat. These conclusions were reached for several reasons – most notably because of significant investments by many partners in science, habitat restoration, conservation facilities including hatcheries, as well as protective measures built into Reclamation's and DWR's proposed operations.

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

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

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

On January 20, 2021, President Biden signed an Executive Order: “Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis”, with a fact sheet¹ attached that included a non-exclusive list of agency actions that heads of the relevant agencies will review in accordance with the Executive Order. Importantly, the NOAA Fisheries and U.S. Fish and Wildlife Service Biological Opinions on the Long-Term Operation of the Central Valley Project and State Water Project were both included in the list of agency actions for review. It’s unclear what this agency review will analyze, but staff will be engaged.

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

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

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

On February 26, 2022, the Department of the Interior released a Notice of Intent To Prepare an Environmental Impact Statement and Hold Public Scoping Meetings on the 2021 Endangered Species Act Reinitiation of Section 7 Consultation on the Long-Term Operation of the Central Valley Project and State Water Project².

Submit written comments on the scope of the EIS on or before March 30, 2022.

Reclamation will hold virtual public scoping meetings at the following dates and times. The virtual public scoping meetings are identified geographically; however, virtual attendance is open at all meetings. Comments during the scoping meetings will be recorded. If you do not wish to be recorded, you may submit written comments.

- Tuesday, March 8, 2022, 2 p.m. to 4 p.m., Sacramento, CA, virtual meeting.
- Wednesday, March 9, 2022, 5:30 p.m. to 7:30 p.m., Red Bluff, CA, virtual meeting.
- Thursday, March 10, 2022, 2 p.m. to 4 p.m., Fresno, CA, virtual meeting.
- Tuesday, March 15, 2022, 5:30 p.m. to 7:30 p.m., Los Banos, CA, virtual meeting.
- Wednesday, March 16, 2022, 2 p.m. to 4 p.m., Tracy, CA, virtual meeting.
- Thursday, March 17, 2022, 2 p.m. to 4 p.m., Chico, CA, virtual meeting.

Information on participation will be posted at www.usbr.gov/mp/bdo by the day prior to the meeting.

Reclamation will review and consider comments received during scoping and will prepare a scoping report. After the draft EIS is completed, anticipated in 2023, Reclamation will publish a notice of availability (NOA) and request public comments on the draft EIS. After the public comment period ends, Reclamation will then develop the final EIS and anticipates making the final EIS available to the public in 2024. In accordance with 40 CFR 1506.11, Reclamation will not make a decision or issue a Record of Decision (ROD) sooner than 30 days after the final EIS is released. Reclamation anticipates the issuance of a ROD by October 2024.

Reclamation Manual

Documents out for Comment

Draft Policy

- There are currently no Policies out for review.

Draft Directives and Standards

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

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

Draft Facilities Instructions, Standards, and Techniques (FIST)

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

Draft Reclamation Safety and Health Standards (RSHS)

- [RSHS 7 Health Hazard Assessments \(comments by 3/18/2022\)](#)
- [RSHS 17 Hand and Power Tools, Pressure Vessels, Compressors, Chainsaws, and Welding \(comments by 3/18/2022\)](#)

Draft Reclamation Design Standards

- There are currently no Design Standards out for review.

State Water Resources Control Board (State Water Board) Activity

Documents out for Comment

- No documents of note out for comment at this time.

Bay Delta Water Quality Control Plan Update

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

During the December 12, 2018 Water Board Meeting, the Department of Water Resources (“DWR”) and Department of Fish and Wildlife presented proposed “Voluntary Settlement Agreements” (“VSAs”) on behalf of Reclamation, DWR, and the public water agencies they serve to resolve conflicts over proposed amendments to the Bay-Delta Plan update.³ The State Water Board did not adopt the proposed VSAs in lieu of the proposed Phase 1 amendments, but as explained below, directed staff to consider the proposals as part of a future Delta-wide proposal.

Phase 1 Status: The State Water Board adopted a resolution⁴ to adopt amendments to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary and adopt the Final Substitute Environmental Document during its December 12, 2018 public meeting.

Phase 2 Status: In the State Water Board’s resolution adopting the Phase 1 amendments, the Water Board directed staff to assist the Natural Resources Agency in completing a Delta

³ Available at <https://water.ca.gov/-/media/DWR-Website/Web-Pages/Blogs/Voluntary-Settlement-Agreement-Meeting-Materials-Dec-12-2018-DWR-CDFW-CNRA.pdf>.

⁴Available at https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2018/rs2018_0059.pdf.

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

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

On March 1, 2019, the California Department of Water Resources and the Department of Fish and Wildlife submitted 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.

On December 8, the State Water Resources Control Board will hear an information item on upcoming actions to update and implement the Water Quality Control Plan for the San Francisco Bay Sacramento San Joaquin Delta. During this presentation, State Water Board staff provided the following updates on various activities:

Biological Goals

Past Activities

- January 2019 – Independent Science Advisory Panel: Concepts and Ideas for Developing Biological Goals for the Bay-Delta Plan
- September 2019 – Draft Initial Biological Goals for the LSJR for public comment

Current Activities

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

- Completion of revisions based on public comment to produce a draft Final Biological Goals Report

Future Activities

- Winter/Spring 2022 – Release draft Final Biological Goals Report
- Winter/Spring 2022 – Public Workshop & comment
- Summer 2022 – Board consideration of adoption

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

Spring 2022 – Spring 2023

- Initiate CEQA process
- Draft environmental document and public comment
- Notice of draft regulation
- Final environmental document

Summer 2023

- State Water Board consideration of approval
- Notice of final regulation
- Submission to Office of Administrative Law

Sac/Delta Update: Key Milestones

- Early 2022: expected submittal of proposed voluntary agreement
- Winter – Summer 2022: development of Scientific Basis Report for any voluntary agreement, including public review and comment
- Fall 2022: Draft Staff Report public review and comment
- Winter 2023: Public workshop on Draft Staff Report
- Early Fall 2023: Response to comments and development of proposed final changes to the Bay-Delta Plan
- Late Fall 2023: Board consideration of adoption

Delta Conveyance

2022 Public Engagement Outlook

The upcoming year will mark an important milestone in the proposed Delta Conveyance Project planning process with the anticipated release of the Draft Environmental Impact Report (EIR) for public review and comment in mid-2022. To outline the public outreach and engagement activities planned for 2022, the Department of Water Resources (DWR) has put together [a plan](#) that details these actions intended to improve public access to information and participation in the public review process. Read more about the plan [here](#).

NEW Informational Webinars Materials Now Available

As follow-up to the four informational webinars held between July and September 2021 to provide background information related to preparation of the Draft EIR for the proposed Delta Conveyance Project, DWR has prepared and published digital articles highlighting the information provided during each webinar:

- NEW: [Operations of the State Water Project and Delta Conveyance](#)
- NEW: [Climate Change](#)
- NEW: [Environmental Justice](#)
- [Fisheries](#) (*published in November 2021*)

As a reminder, all other information and resources from the webinars, including the presentations (in English and Spanish), videos (in English and Spanish) and a comprehensive [Frequently Asked Questions document](#) can be found on the [project website](#).

Water Blueprint for the San Joaquin Valley Activity

Background

The Water Blueprint for the San Joaquin Valley (Blueprint) is a non-profit with a broad and evolving group of stakeholders, working to better understand shared goals for water solutions that support environmental stewardship with the needs of communities and industries throughout the San Joaquin Valley. The Blueprint has engaged with stakeholders to try and ensure that everyone has safe, reliable, and affordable access to water for drinking, supporting their farms and communities and a thriving ecology.

The SJV faces significant impacts to its long-term economic, social, and environmental health if nothing is done to address water scarcity, as highlighted in Phase I of Dr. David Sunding's Economic Impact Assessment (EIA) <https://www.waterblueprintca.com>.

The board, large group and committees continue to meet and pursue the mission of Blueprint, including outreach, technical support and working in collaboration with other stakeholders.

Governance: The Blueprint's new board of 20 directors met for the second time and elected Ian Lemay (Ag Caucus – CA Fresh Fruit Assoc.) as Chairman and Eddie Ocampo (At-large Caucus – Self Help Ent.) as Vice Chairman; they will serve a one-year term. Austin Ewell will remain as the volunteer executive director. The Blueprint Board is made up of the following caucus who will each look to select a caucus chair to represent their participants. The caucuses are: Local Government, Water Agency, At-Large, White Area & Agriculture. The Board has 3 seats vacant for additional broad representation. Board meetings are open to all Blueprint participants.

Outreach & Engagement: Blueprint board has scheduled a Strategic Planning session for March 21st to review its mission, identify the goals and objectives as well as prioritize outreach to Blueprint participants, valley communities then to policy makers and elected and lastly to the greater public. The Citizens Advisory Committee will look to gather additional community participants, schedule ongoing meetings/briefings and look for opportunities to express the water issues facing the SJV communities.

Technical Committee: Committee is drafting criteria for naming and implementing high priority projects. This effort is being discussed to dovetail with the CAP process underway. The Board

agreed to engage MBK for additional evaluation of the Delta flood flows and evaluate the priority allocation of such flows.

Blueprint continues to engage with Central Valley stakeholders regarding opportunities to construct infrastructure, balanced approach to water resources, low interest loans for farmers unable to farm and focus on inter-regional conveyance and habitat restoration

[San Joaquin Valley Water Collaborative Action Program \(SJVW CAP\)](#)

CAP produced a Phase I Framework with solution set elements recommended, the five CAP Work Groups and working to finalize the necessary language and understanding for evaluating Delta water supplies and land fallowing. Once agreed upon the CAP will look to implement phase II.

By September 2022 Complete the following:

- An initial list of projects that are consistent with the CAP criteria that can improve water supplies. These projects will be supported by the CAP participants.
- Review and analysis of updated Delta study by the PPIC.
- Workplan for activities necessary to finish the 2023 comprehensive plan to reach sustainability by 2040.

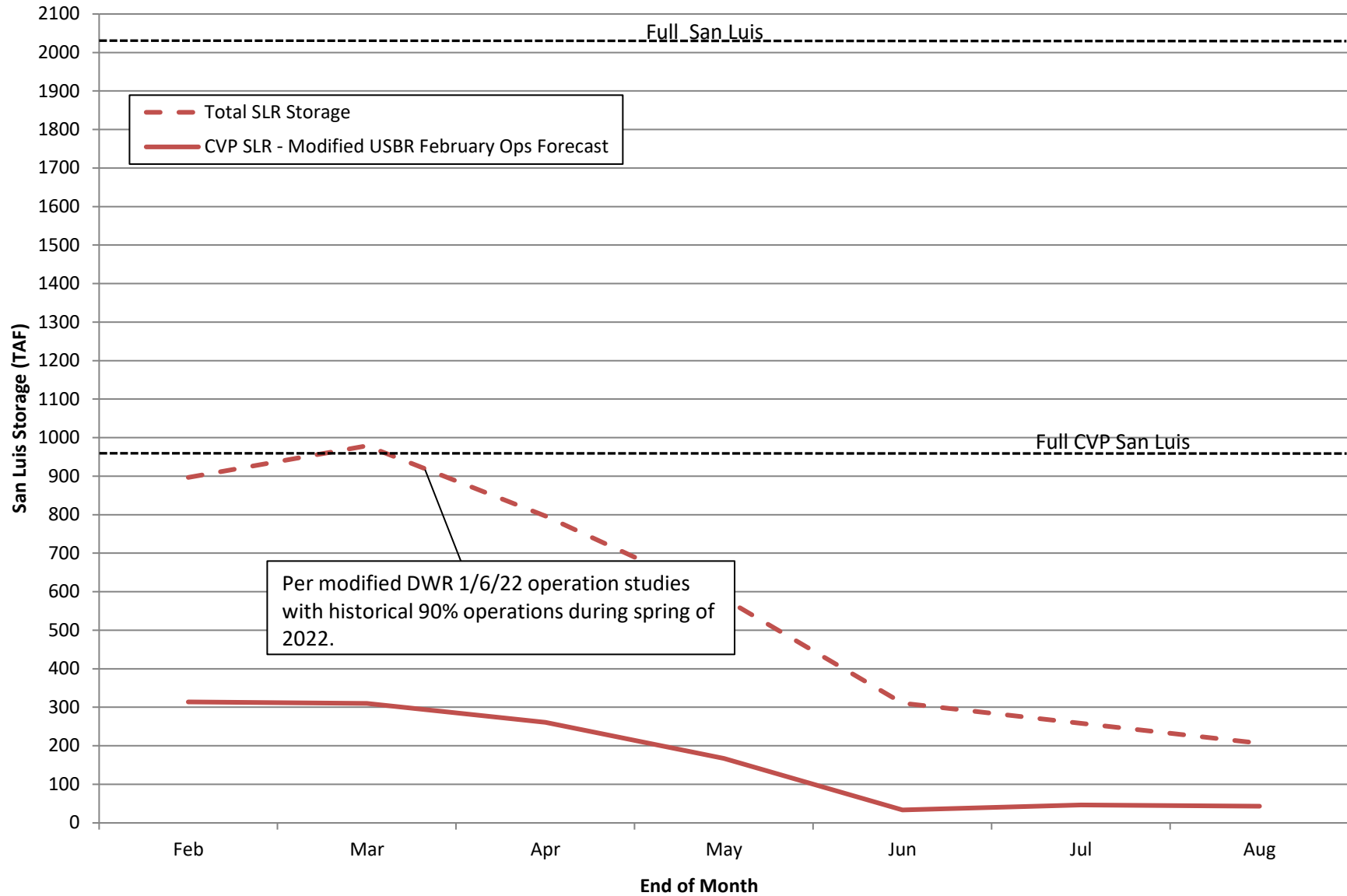
By September 2023:

- The in-Valley and Delta opportunities assessments.
- Regional action plan for strategic land repurposing
- List of actions and projects that will achieve a water balance by 2040.

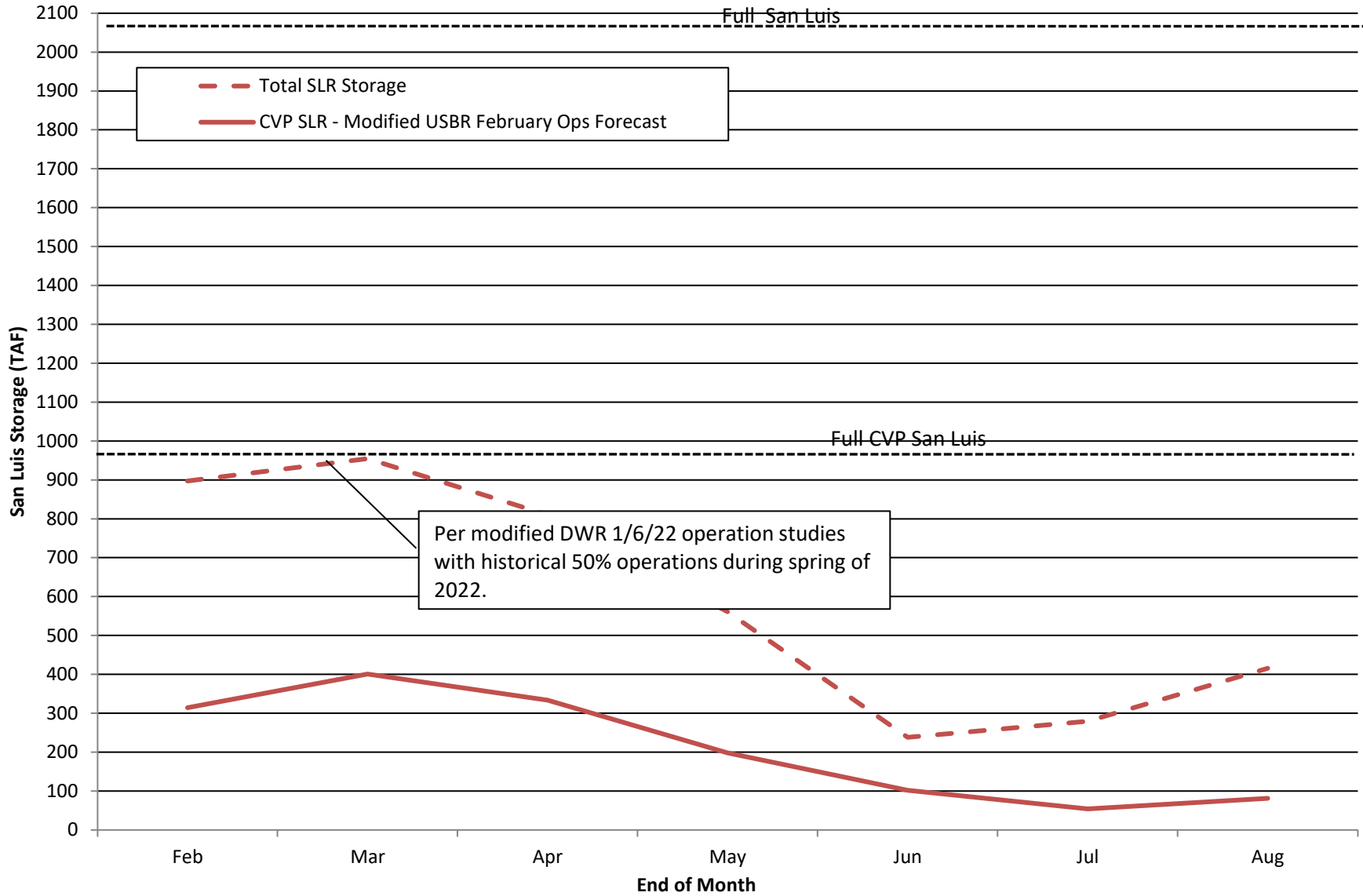
DAC Drinking Water Feasibility Study – FKC: Participants, including FWA, FSU, Self Help, Sustainable Conservation and Leadership Council, are looking to study Tulare and Fresno County related to surface water supply, recharge and drinking water supplies. Fresno State, in coordination with the other participants, will be creating a more specific scope tailored to Tulare to provide to DWR to review and fund.

2021-22 San Luis Storage Projection

90% Exceedance Hydrology



2021-22 San Luis Storage Projection 50% Exceedance Hydrology



Per modified DWR 1/6/22 operation studies with historical 50% operations during spring of 2022.