



CALIFORNIA NEEDS NEW AND MODERN APPROACHES TO SUPPLY WATER FOR CITIES AND RURAL COMMUNITIES, FARMS, FISH, BIRDS AND RECREATION IN THE 21ST CENTURY
November 13, 2017

Water suppliers in every part of California call on the Governor and both the state and federal administrations to embrace a coordinated and modern 21st century approach to water management for the Bay-Delta by protecting all beneficial uses of water.

We share the current interest to improve fisheries and our agencies have made substantial investments and advanced programs for the benefit of fish. Furthermore, water suppliers acknowledge flow as an important component of habitat, and encourage a new approach where every drop of water serves a specific and targeted beneficial use or multiple uses. However, a flow only approach that fails to take steps to incorporate flow with habitat and other important species functions, such as proposed by the State Water Board in the Water Quality Control Planning process, will not improve species. Continuing on the path set by the State Water Board will not help the environment, it will not help water supplies throughout the State, and it will not help California successfully implement groundwater management. It could lead to an adjudication of the entire Bay-Delta watershed, which would threaten progress on ecosystem restoration and other priority water issues in the California Water Action Plan.

We offer this statement to set a new path. We support California’s co-equal goals of protecting, restoring and enhancing the Delta ecosystem and providing more reliable water supplies for California. We believe these goals can be achieved by holistically planning for ecosystem functions to ensure the most efficient use of water for all beneficial uses, by using the interaction of flow with other habitat aspects to create the type of conditions that allow us to meet our objectives. This requires us to take into account the altered physical landscape in California and our highly managed water system, which must be addressed in combination with appropriate hydrology to protect and balance all beneficial uses of water.

A Flow Only Approach Does Not Work for Modern California

A flow only approach is at the core of the State Water Board's Phase I San Joaquin River Substitute Environmental Document (SED) and its recently released Phase II scientific basis report. These proposals, if implemented, would have significant negative impacts throughout California because they:

- focus on one beneficial use of water (instream flow for fish) without balancing and protecting all beneficial water uses, including water for drinking and sanitation for cities and rural communities, fire suppression, farms, salmon, birds and wildlife along the Pacific Flyway, hydroelectric generation, and recreational opportunities;
- ignore the state policy for "One Delta, One Science" and the Delta Science Program's conclusion that directing more water to a sterile and inhospitable rip-rapped channel in the Delta will not benefit fish or other aquatic species, regardless of how much water is applied;
- will deplete reservoir storage and thus lose the benefit of water storage (including carryover storage) in such a way that will create greater risk for all beneficial uses during dry years, such as 2014-15, particularly under various climate change scenarios evaluated by the state administration;
- undermine significant fishery efforts and success stories in areas upstream of the Delta, which have benefitted from integrating functional flows with habitat improvements and partnerships among our agencies; and
- result in less surface water put into groundwater to help California comply with the Sustainable Groundwater Management Act (SGMA) without significant economic impacts.

California Should Embrace a Modern, Functional Flow Approach for 21st Century California

Together, the water suppliers embracing this statement serve water for 39 million people, the safest and most productive agricultural economy in the world, the wildlife refuges and ricelands that serve birds and wildlife along the Pacific Flyway, hydro-electric generation, recreation and many other beneficial uses of water. We are actively implementing progressive and innovative 21st century water management to serve nearly every beneficial use of water in California. To support these efforts throughout California, we need state and federal agencies to also embrace a practical and progressive approach that will empower 21st century water resources management. These initiatives are consistent with the California Water Action Plan and will create positive, transformative change in the management of California's water resources.

The Natural Resources Agency's Resiliency Strategies, for both smelt and salmon, are prime examples of this progressive approach. The Resiliency Strategies pursue a new and innovative path to improve conditions for fish using scientifically based conceptual models to advance habitat and nourishment by connecting water and land with the volume, rate, and timing of flows. For example, the use of flows in the Yolo Bypass to export food to the Delta demonstrated that the right amount of flow at the right place and the right time can provide the ecosystem functions key to species success. Importantly, these programs can be achieved without negatively affecting other beneficial uses. We support this new path and implore the state and federal administrations to build upon the successes in the Resiliency Strategies by pursuing the following actions:

- Advance the landscape scale ecosystem improvements that are being implemented in many parts of the Central Valley to restore ecological functions to California’s highly-altered landscape. These programs include: (i) the numerous actions underway and planned for Eco-Restore, (ii) the Yolo and Sutter Bypasses, (iii) the San Francisco Estuary Institute’s (SFEI) Delta Renewed, and (iv) the various Fish-Food Programs in the bypasses, ricelands and other managed wetlands in the traditional floodplain. The modern, scientific, approach in all of these programs--to spread water out and slow it down--is the approach recommended by the leading scientists at the Delta Science Program and the University of California, and better matches the ecosystem functions in which the Bay-Delta species evolved. Evacuating water from storage and quickly conveying it through a sterile, inhospitable channel through the Delta cannot produce the type of ecosystem functions necessary to meet co-equal goals. This latter approach, in combination with other factors, has led to fish declines and makes California more vulnerable for the next drought.
- Fully evaluate the nearly 1.3 million acre-feet (maf) of water that has been redirected annually to Delta outflow over the past two decades, largely through the 2008 and 2009 OCAP Biological Opinions and State Water Board Decision 1641. Only a small portion of this water was intentionally meant for outflow; the remainder is incidental to other restrictions. With the current flow-only regime failing for fish and wildlife and water supply reliability, an adaptive management approach would suggest that the state and federal agencies evaluate and then re-purpose this water to more effectively and efficiently to benefit fish and wildlife beneficial uses, and other beneficial uses of water. This should be done in the context of co-equal goals and directing water for more functional and targeted flows connected to land as part of Delta Renewed and the other landscape scale ecosystem programs.
- Further develop the opportunities and mechanism for water acquisitions and re-operations to help balance supply and demand, and provide water for the Delta Smelt Resiliency Strategy’s “Outflow Augmentation” adaptive management effort.

For the past several decades, the principal stressor addressed through various regulatory processes has been flow, and fishery populations have continued to decline, notwithstanding the ever-greater quantities of water directed at “solving” the problem. In the California Water Action Plan, the administration committed itself to seeking transformative change by embracing new science and re-thinking old assumptions. Transformative change will not occur if we continue on the same path. The programs described above come directly from the California Water Action Plan and the Natural Resources Agency has seen the way that these programs have galvanized a wide variety of stakeholders to collaborate to restore the ecosystem.

California is one of the most progressive parts of the world and California’s citizens deserve a modern and innovative, 21st century water management approach to support and reasonably protect all beneficial uses of water throughout California. We welcome the opportunity to discuss these multi-faceted, collaborative approaches and we stand ready to work with the administrations, including the resources agencies and State Water Board members and staff, to craft a solution that improves the environment and works for all beneficial uses of water.

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The various Bay-Delta processes continue with the State Water Board moving forward with the Water Quality Control Plan (WQCP) update; the state administration is advancing CalWaterFix (tunnels); and the federal agencies are consulting on new biological opinions for the operation of the Central Valley Project and the State Water Project. These processes are all looking to redirect water from the Sacramento River Basin to serve various water needs in the Bay-Delta. For context, these processes appear to be looking to redirect 500,000 acre-feet (af) to 1,000,000 af from the region.

In Northern California, we all know [What's at Stake](#) in these various processes. The NCWA Bay-Delta

Sacramento River Basin



Source: Department of Water Resources

Task Force continues to meet monthly to coordinate all the various efforts in the Sacramento River Basin surrounding the Delta and to bring our team of Directors, water resources managers, attorneys, biologists, and engineers together to strategize and take action to protect Northern California water rights and supplies and to help manage the water resources in our region for [multiple beneficial uses](#). The following is an update on these various processes and the actions that NCWA and the Sacramento Valley Water Users are taking as part of this unified and concerted strategy.

New Task Force Chair

After 25 years on the NCWA Board of Directors, Tib Belza retired from the NCWA Board and was honored by NCWA with the [Will S. Green Award](#). NCWA Chairman Bryce Lundberg appointed Roger Cornwell as the new Chair of the Bay-Delta Task Force. Roger is the General Manager for [River Garden Farms](#), he serves on the RD 108 Board of Trustees, he is the Chairman of the Sacramento River Settlement Contractor Group, and a Vice-Chair for the NCWA Board of Directors.

SWRCB – Water Quality Control Plan

1) Regulatory Process

The State Water Board continues to move forward with the phased review and update of the 2006 Water Quality Control Plan for the Bay-Delta ([2006 Bay-Delta Plan](#)) and flow objectives for priority tributaries to the Delta to protect beneficial uses in the Bay-Delta watershed. The update to this plan continues to be the primary focus for Northern California water right holders and suppliers, as many people want to use

this process to redirect water rights and supplies away from the Sacramento Valley to the Delta. The Bay-Delta Plan identifies beneficial uses of water in the Bay-Delta, water quality objectives for the reasonable protection of those beneficial uses, and a program of implementation for achieving the water quality objectives.

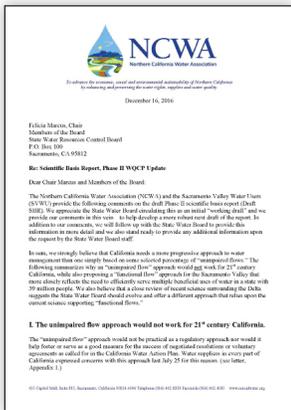
- **Phase I** of this work involves updating San Joaquin River flow and southern Delta water quality requirements included in the Bay-Delta Plan. The Phase I plan has relied upon additional unimpaired flows from the San Joaquin River—approximately 40% of unimpaired flows from February through June as the preferred alternative (a range of 30-50%). The State Water Board is currently reviewing the comments it received on its Substitute Environmental Document (SED) for the San Joaquin River (Phase I). NCWA and the Sacramento Valley Water Users are concerned about the approach in this process and commented on the SED on March 17, 2017. The comments provided that: the unimpaired flow approach is not supported by the best available science; by proposing to amend the wrong water quality control plan, the State Water Board fails to undertake the statutorily mandated balancing of the public interest on the affected streams; complex delta systems require a coordinated approach to management; and the unimpaired flow approach would impose significant costs, without evidence of significant benefits. In July 2015, a broad group of water suppliers from throughout the state sent a letter to the State Water Board encouraging it to abandon the unimpaired flow approach, which also raises concerns that a similar approach will



take place in Phase II with respect to the Sacramento River and its tributaries.

- **Phase II** involves other comprehensive changes to the Bay-Delta Plan to protect beneficial uses not addressed in Phase I, which includes the Sacramento River Basin (see map page 1). Phase II focuses on the following issues: (1) Delta outflow objectives, (2) export/inflow objectives, (3) Delta Cross Channel Gate closure objectives, (4) Suisun Marsh objectives; (5) potential new reverse flow objectives for Old and Middle Rivers; (6) potential new floodplain habitat flow objectives; (7) potential changes to the monitoring and special studies program, and (8) other potential changes to the program of implementation. The State Water Board will also consider other potential changes to the Bay-Delta Plan during this phase, including issues identified through the scoping process, and information that is produced as part of the Cal WaterFix.
- **Phase III** involves changes to water rights and other measures to implement changes to the Bay-Delta Plan from Phases I and II.
- **Phase IV** involves developing and implementing flow objectives for priority Delta tributaries outside of the Bay-Delta Plan updates, i.e. smaller tributaries in the Central Valley, see [here](#).

The State Water Board last fall issued its scientific basis report for Phase II, essentially proposing that it will consider a range of 35 to 70 percent unimpaired flows. NCWA and many others commented on the document on December 16, 2016, basically saying the unimpaired flow approach does not work for California and instead the SWRCB should focus on a functional flow approach for the Sacramento River Basin. As part of these comments, MBK Engineers has estimated that a 40% unimpaired flow for Delta outflow would redirect 480,000 af of water and a 50% unimpaired flow 1.1 maf away from storage and beneficial uses in the Sacramento River Basin.



NCWA/SWU



Counties



Growers



Ducks Unlimited

including responses to peer review comments; and

- [hydrologic modeling information](#) (the Sacramento Water Allocation Model or SacWAM) in support of Phase II, including an updated model and model output and responses to peer review comments on the model.

NCWA and its Task Force will be reviewing the documents and engaging with the State Water Board in various ways.

Importantly, since the State Water Board's last major WQCP update in 2000, there has been a serious and concerted effort to implement the following types of programs and projects in the Sacramento River Basin:

- flow arrangements;
- habitat enhancements;
- fish passage improvements;
- fish-food production projects; and
- studies to advance the science that informs management decisions.

These actions are described in comprehensive detail in the following document.

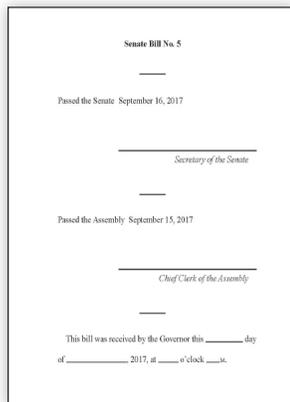
- a [Fact Sheet](#) on the current status of the Phase II process, including a description of the proposed changes to the Bay-Delta Plan's water quality objectives and implementation approach;
- a [notice](#) informing interested persons how to stay updated on the Phase II process (this notice was also mailed to water users and others);
- a series of [questions for public input](#) to help inform potential Phase II implementation measures in the Bay-Delta Plan, with comments due on November 9, 2017;
- the final [Scientific Basis Report](#) supporting potential Phase II changes to the Bay-Delta Plan and information on peer review of the report,



Additionally, the Legislature on September 15 passed SB 5, which, if signed by the Governor and approved by the voters in June 2018, has the following provisions in Public Resources Code §80114 to encourage and fund voluntary agreements:

“(a) Of the amount made available pursuant to Section 80110, two hundred million dollars (\$200,000,000) shall be available to the Natural Resources Agency for implementation of voluntary agreements that provide multi-benefit water quality, water supply, and watershed protection and restoration for the watersheds of the state to achieve the objectives of integrating regulatory and voluntary efforts, implementing an updated State Water Resources Control Boards’ San Francisco Bay/Sacramento-San Joaquin Delta Estuary Water Quality Control Plan, and ensuring ecological benefits. Expenditure of funds provided in this section shall be in accordance with the following:

(1) For the purposes of this section, watershed restoration includes activities to fund wetland habitat, salmon, steelhead, and fishery benefits, improve and restore river health, modernize stream crossings, culverts, and bridges, reconnect historical flood plains, install or improve fish screens, provide fish passages, restore river channels, restore or enhance riparian, aquatic, and terrestrial habitat, improve ecological functions, acquire from willing sellers conservation easements for riparian buffer strips, improve local watershed management, predation management, hatchery management, and remove sediment or trash.



(2) For purposes of this section, funds may be used for projects that measurably enhance

stream flows at a time and location necessary to provide fisheries or ecosystem benefits or improvements that improve upon existing flow conditions. Project types that may be eligible include, but are not limited to, water transactions such as lease, purchase, or exchange, change of use petitions to benefit fish and wildlife, surface storage to be used to enhance streamflow, forbearance of water rights, changes in water management, groundwater storage and conjunctive use, habitat restoration projects that reshape the stream hydrograph, water efficiency generally, irrigation efficiency and water infrastructure improvements that save water and enable reshaping of the stream hydrograph, reconnecting flood flows with restored flood plains, and reservoir reoperations both at existing and new storage sites.

(b) The funds authorized by this section shall be available for direct expenditures and local assistance grants by the Natural Resources Agency, in consultation with the Department of Fish and Wildlife, that satisfy all of the following:

(1) Implement voluntary agreements executed by the Department of Fish and Wildlife with federal and state agencies, local government, water districts and agencies, and nongovernmental organizations that improve ecological flows and habitat for species, create water supply and regulatory certainty for water users, and foster a collaborative approach to facilitate implementation of the State Water Resources Control Board’s Bay-Delta Water Quality Control Plan.

(2) Implement a voluntary agreement submitted by the Department of Fish and Wildlife to the State Water Resources Control Board on or before June 1, 2018, for consideration.

(3) Implement a voluntary agreement that is of statewide significance, restores natural aquatic

or riparian functions or wetlands habitat for birds and aquatic species, protects or promotes the restoration of endangered or threatened species, enhances the reliability of water supplies on a regional or interregional basis, and provides significant regional or statewide economic benefits.

(c) Funds provided by this section shall not be expended to pay the costs of the design, construction, operation, mitigation, or maintenance of Delta conveyance facilities.

(d) If the Department of Fish and Wildlife submits a voluntary agreement that satisfies paragraph (2) of subdivision (b), unencumbered funds available pursuant to this section to implement that voluntary agreement shall no longer be available 15 years after the date the State Water Resources Control Board approves the submitted agreement, at which point funds remaining available pursuant to this section shall become available to the Natural Resources Agency for the purposes of Sections 79732 and 79736 of the Water Code. If no voluntary agreements are submitted on or before June 1, 2018, any remaining funds shall be available to the Natural Resources Agency for the purposes of Sections 79732 and 79736 of the Water Code. The Secretary of the Natural Resources Agency shall ensure an annual reporting of the funds pursuant to Section 80012."



3) Delta Dynamic

With respect to functional flows in the Delta, NCWA has joined water suppliers in other parts of the state to offer a different approach to the Delta that fully integrates flows with habitat. The current approach that focuses on outflow has not worked for either co-equal goal—ecosystem health or water supply reliability. A new approach to flows in the Delta is clearly needed to meet the co-equal goals.

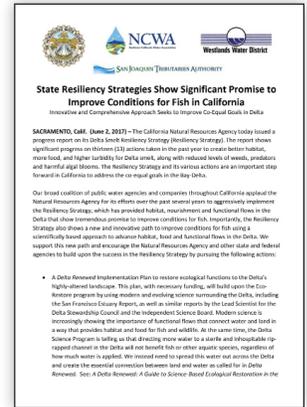
California WaterFix (Delta Tunnels)

1) Agency Approvals

On July 21, the Department of Water Resources (DWR) approved and certified the environmental documents for California WaterFix, which is the Delta tunnel proposal. "The Notice of Determination and decision documents signed by the DWR Acting Director approve WaterFix as the proposed project under the California Environmental Quality Act (CEQA).

For more information on the DWR approval, see [here](#).

On June 26, the National Marine Fisheries Service (NOAA Fisheries) and U.S. Fish and Wildlife Service (USFWS) released their biological opinions for the proposed construction and operation of California WaterFix. These agencies are responsible for the protection of species listed under the U.S. Endangered



Species Act (ESA). These biological opinions seem to rely upon a significant increase of spring outflow of approximately 44,500cfs.

Additionally, on July 28, the California Department of Fish and Wildlife issued an incidental take permit for the construction and operation of California WaterFix in compliance with Section 2081(b) of the California Endangered Species Act. This permit authorizes the incidental take of state-listed species associated with future operation of the State Water Project (SWP) with the addition of the California WaterFix, which includes construction of the proposed water conveyance facilities within the Sacramento-San Joaquin River Delta. A copy of the permit and more details are [here](#).

Various conservation groups on September 22 filed suit in Sacramento Superior Court challenging the California Fish and Wildlife's (CDFW) July 2017 issuance of a "take" permit for the tunnel operations. The suit claims that CDFW improperly authorized the California Department Water Resources to kill and harm state-protected fish species, including winter-run and spring-run chinook salmon, longfin smelt and Delta smelt. The groups include the: Bay Institute, Center for Biological Diversity, Natural Resources Defense Council and San Francisco Baykeeper; all represented by Earthjustice.

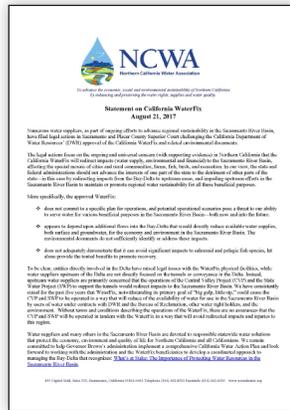
The details for the California WaterFix and California EcoRestore are available [here](#).

2) Legal Actions

With DWR approving the Cal WaterFix and the related environmental documents described above, various parties in the Sacramento River Basin filed legal action challenging the environmental review process. For the past five years, NCWA working with the North State Water Alliance assembled a team of experts to provide detailed comments on the proposed California WaterFix. These comments were largely ignored by DWR and the proponents. These statements and correspondence are available [here](#). The parties that filed suit in the Sacramento River Basin include:

- Anderson-Cottonwood Irrigation District, Reclamation District 1004
- City of Folsom, City of Roseville, Sacramento Suburban Water District, San Juan Water District
- City of Sacramento
- County of Butte
- County of Sacramento, Sacramento County Water Agency
- Glenn-Colusa Irrigation District, Reclamation District No. 108, Carter Mutual Water Company, El Dorado Irrigation District, El Dorado Water & Power Authority, Maxwell Irrigation District, Natomas Central Mutual Water Company, Meridian Farms Water Company, Oji Brothers Farm, Inc., Oji Family Partnership, Pelger Mutual Water Company, Pleasant-Grove Verona Mutual Water Company, Princeton-Codora-Glenn Irrigation District, Provident Irrigation District, Henry D. Richter, et al., Richter Bros., Inc., River Garden Farms Company, South Sutter Water District, Sutter Extension Water District, Sutter Mutual Water Company, Tisdale Irrigation & Drainage Company, Windswept Lands & Livestock Company, Biggs-West Gridley Irrigation District
- North Delta Water Agency, California Central Valley Flood Control Association, Brannan Andrus Levee Maintenance District, Reclamation District No. 3, Reclamation District No. 150, Reclamation District No. 349, Reclamation District No. 551, Reclamation District No. 554, Reclamation District No. 563, Reclamation District No. 800 (Byron Tract), Reclamation District No. 999, Reclamation District No. 1002, Reclamation District No. 2060, Reclamation District No. 2067, Reclamation District No. 2068
- Placer County Water Agency
- Sacramento Municipal Utility District
- Sacramento Regional County Sanitation District

On August 21, NCWA offered this statement summarizing the legal action and the importance of an operations plan surrounding the tunnels to determine whether there will be an impact to water rights and supplies in the Sacramento River Basin.



The various legal actions will likely be coordinated with all the parties in Sacramento County Superior Court.

Also, on September 15, several Delta counties were joined by Butte and Plumas Counties in legal action challenging the proposed bonds that will be used to pay for the construction of the Cal WaterFix. The parties are seeking a court order declaring the bonds invalid, which could prevent the Department of Water Resources from securing required funding for the project to go forward. The legal action contends that "DWR's bond validation must be dismissed as premature since essential details of the project and its financing remain undefined, unapproved, or both, and the procedure for bond repayment is vague and confusing at best." They also claim that DWR is seeking to illegally shift a substantial share of the cost of the tunnels to state taxpayers, rather than ensuring that the recipients of the water be responsible for all costs, as state law requires and as Governor Jerry Brown promised.

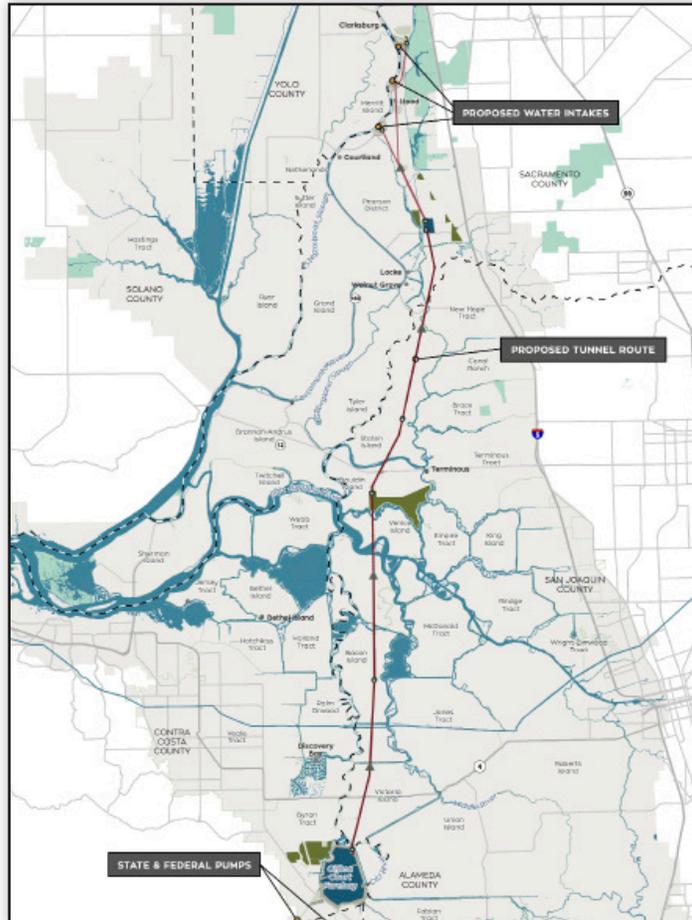
3) State Water Board Proceedings

In addition to the Resources Agency processes, the Department of Water Resources (DWR) and the U.S. Bureau of Reclamation (Reclamation) filed a petition with the State Water Board in 2015 for a change in their respective water rights to move water via new facilities on the Sacramento River. In addition to other federal, State and local approvals, DWR and Reclamation must request changes to the water right permits and license of the State Water Project (SWP) and federal Central Valley Project (CVP) to authorize the new points of diversion. The State Water Board is responsible for approving changes in water right permits and licenses, and the Board's review of this project is also required by provisions of the Sacramento-San Joaquin Delta

Reform Act of 2009 (Delta Reform Act).

The proposed facilities, part of the California WaterFix, would divert water near Courtland and route it around the Delta through two tunnels to the existing State and federal pumping facilities in Tracy.

The State Water Board is transitioning between Part 1 (water rights and supplies) to Part 2 (fish and wildlife). Part 1, which just finished, was focused on impacts to water rights and supplies. Nearly every water right holder upstream of the Delta has filed a protest



with the State Water Board claiming injury to their water rights and supplies. Under the Water Code, the agencies (DWR, Reclamation) must "demonstrate a reasonable likelihood that the proposed change will

not injure any other legal user of water” and provide “a statement of any measures proposed to be taken for the protection of fish and wildlife in connection with the change.” The issue before the State Water Board is primarily focused upon the operations of the projects in conjunction with the conveyance through the Delta. DWR on September 8 provided a letter to the State Water Board with a summary and tables of operating criteria for the project approved by DWR (see section 1). The Natural Resources Defense Council and others have moved to strike the letter because it does not have specific operating requirements.

NCWA and the Sacramento Valley Water Users presented a detailed case in Part 1, with various expert witnesses, questioning the lack of a meaningful operations plan to show that the project will not impact water rights and supplies. This testimony builds upon the work the past several years by the North State Water Alliance to assemble a team of experts to provide detailed analysis and comments on the proposed California Water Fix. More details on these recent statements and correspondence are available [here](#).

[Part 2](#), which focuses on fish and wildlife, will begin soon. The State Water Board has just issued its notice describing its process for 2017-18. More detailed information is posted on the State Water Board’s website [here](#).

[4\) Project Proponents](#)

The primary proponent for CalWaterFix is Metropolitan Water District, which has published several [white papers](#) describing the importance of the project to Southern California.

For some perspective on the tunnels, [these videos](#) show how the tunnels would be constructed.

Biological Opinions (BiOps)

With the decade-long legal wrangling over the Biological Opinions for the CVP and SWP (BiOps) barely resolved, on August 2, 2016, Reclamation requested re-initiation of Endangered Species Act (ESA)

Section 7 consultation with the United States Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) on the Coordinated Long-Term Operation (LTO) of the Central Valley Project (CVP) and State Water Project (SWP). Reclamation requested re-initiation of consultation under the ESA based on the apparent decline in the status of several listed species, new information related to recent multiple years of drought, and the evolution of best available science. The overall goal of the re-initiation of consultation (ROC) on the LTO to achieve a durable and sustainable Biological Opinion(s) issued by the USFWS and NMFS that accounts for the updated status of the species and species’ needs as developed through ongoing collaborative science processes, operation of CVP and SWP facilities, existing operations of the CVP and SWP, and operation of potentially new components of the CVP and SWP. On December 30, 2016, an MOU was signed by all these parties and the state Department of Water Resources and Department of Fish and Wildlife outlining the tasks, processes and schedules to complete the BiOps over the next three years. For more information, see [here](#).

Specifically, with respect to Sacramento River salmon, on January 19, 2016 (the last day of the previous federal administration), NMFS proposed an amendment to the Reasonable and Prudent Alternative (RPA) of the 2009 NMFS Biological Opinion for the long-term operation of the Central Valley and State Water Projects related to Shasta Reservoir operations. The proposal would have major impacts on the operations of Lake Shasta and the Settlement Contractors, wildlife refuges and water service contractors. Reclamation has responded to the NMFS proposal on both January 25 and March 22, 2017 and the Sacramento River Settlement Contractors sent a letter on January 11, 2017 providing concerns with the proposed RPA and recommendations on a better RPA process.

With the past two years having good storage levels in Lake Shasta, Reclamation has developed temperature management plans that have been concurred to

by NMFS. The process to address temperature on the Sacramento River appears to be folding into the larger process for revising the BiOps for the CVP and SWP. The Sacramento River Settlement Contractors are working with Reclamation and NMFS to improve modeling, monitoring and to develop a rationale temperature plan. For more details, see [here](#).

For operations this year, in a positive light, the U.S. Fish and Wildlife Service on September 27 approved a plan to provide more flexibility on Fall X2 in the Delta under the BiOps, which will allow state and federal contractors to pump additional water this Fall (approximately 400,000af) from the Delta.

Recent work by Delta scientists have identified several possible causes of the smelt population decline, including a sharp decrease in food availability in the Delta, invasive plants and aquatic animals, and toxic runoff from pesticides. In response to the decision, the State Water Contractors added “based on new research and the best available science, regulatory agencies are adjusting one of the most restrictive water supply regulations, known as Fall X2, without reducing protections for Delta Smelt.”

Delta Stewardship Council

The Delta Stewardship Council (DSC) continues to provide a forum and integrating policy venue for the various actions in the Delta. The DSC on May 16, 2013 adopted the [Delta Plan](#) as required by the 2009 Delta Reform Act. The Delta Plan is a comprehensive, long-term management plan for the Delta designed per the Delta Reform Act to further the state’s co-equal goals for the Delta.

In the legal arena, the Sacramento Superior Court last year issued a ruling on the seven suits filed challenging the 2013 Delta Plan approved by the DSC. According to the DSC’s news release, “The Sacramento Superior Court...ruled in favor of the Delta Stewardship Council on the vast majority of issues regarding the adequacy of its master plan for the Delta. The court ruled that the Council did have the authority to develop a legally

enforceable management plan for the Delta – one that requires reduced reliance on the Delta as a source of water, sets aside zones to help restore the Delta ecosystem and preserves and enhances the unique character of the largely agricultural collection of islands and waterways east of the San Francisco Bay. The Court did cite two instances in which it concluded that the Council’s Delta Plan fell short of requirements included in the 2009 Delta Reform Act that created the Council and directed it to develop the plan. The Court said the Delta Plan did not contain sufficiently quantifiable performance measures and also did not adequately “promote options” to improve the way water projects move water across the Delta.” The Council and other parties have appealed the Court’s ruling, which means the invalidation of the Plan has been stayed (placed on hold) pending further action by the Appellate Court. Thus, the Delta Plan remains in force and project proponents with covered actions remain legally required to file consistency certifications with the Council.

The DSC Council is working on an amendment to the Delta Plan to promote conveyance options and better integrate new storage opportunities and improved operations. More information is available [here](#).

An important part of the DSC, the Delta Independent Science Board continues to perform valuable work regarding the science surrounding the Delta. The various reports are available [here](#). The Council appointed Dr. John Callaway as [the new Lead Scientist for the Delta Independent Science Board](#), replacing Cliff Dahm.

As part of this process, the Science Action Agenda (SAA) is a four-year science agenda for the Sacramento-San Joaquin Delta that prioritizes and aligns science actions to inform management decisions, fill gaps in knowledge, promote collaborative science, build the science infrastructure, and achieve the objectives of the [Delta Science Plan](#). A [new interactive webpage](#) provides more information on this program.



February 16, 2017

The Honorable Jerry Brown
State Capitol, Suite 1173
Sacramento, CA 95814

Re: Concerns with SWRCB Flow Proposals

Dear Governor Brown:

The undersigned counties throughout the Sacramento Valley are very concerned with the recent scientific basis report (Phase II) prepared by the State Water Resources Control Board as part of its Water Quality Control Plan update. We support a healthy Delta, but the approach proposed by the State Water Board will redirect impacts upstream into the Sacramento Valley and will likely fail to achieve its goal of protecting Delta water quality.

The State Water Board proposal calls for a 35-75 percent unimpaired flow into the Delta. The result would redirect significant amounts of water away from the Sacramento Valley into the Delta. The simplistic approach would go beyond what is needed for environmental needs and would result in a substantial amount of water being put out to the ocean without any benefit. This in turn would be devastating to both the economy and the environment in the counties we represent, adversely affecting the availability of critical water for cities and rural communities, farms, wildlife refuges for birds and many other species, salmon and other fisheries and recreation.

More specifically, the “unimpaired flow” approach will have two significant effects in our region:

- 1) Evacuate critical water in storage and prevent the diversion of water throughout our region, which will significantly affect precious water supplies for all these purposes. This is particularly true in dry years like we have seen this decade, where water available in storage is critical to helping Californians get through these challenging times. In other words, we will go backward under the State Water Board approach—not forward—in our efforts to better prepare for the next drought in California.
- 2) Less surface water available will lead to significant additional groundwater pumping throughout the region, which will make our efforts to implement sustainable groundwater management envisioned under the Sustainable Groundwater Management Act (SGMA) more difficult. In our region, the groundwater resources are currently sustainable and we will continue to work hard with other local agencies to assure that our precious groundwater resources remain sustainable into the future. The State Water Board proposal will make our collective efforts to achieve groundwater sustainability more difficult if not impossible.



FEB 7 2017

Date


DAVID A. KEHOE, CHAIRMAN
Shasta County Board of Supervisors

Date


JIM WHITEAKER, CHAIRMAN
Sutter County Board of Supervisors

Date


DENNIS GARTON, CHAIRMAN
Tehama County Board of Supervisors

Date


RANDY FLETCHER, CHAIR
Yuba County Board of Supervisors

/ldr

cc: Nancy McFadden, Executive Secretary – Governor Brown
Karla Nemeth, Deputy Secretary for Water Policy – CA Natural Resources Agency
Felicia Marcus, Chair – State Water Resources Control Board
Bruce Babbitt, Special Advisor – CA Natural Resources Agency