



MEMORANDUM

TO: SLDMWA Board of Directors, Alternates

FROM: Rebecca Akroyd, Interim General Counsel

DATE: December 3, 2018

RE: Update on Reinitiation of Consultation on Long-Term Operations, Bay-Delta Water Quality Control Plan Update, and California WaterFix Project

BACKGROUND

This memorandum is provided to briefly summarize the current status of various agency processes regarding the (1) Reinitiation of Consultation on Long-Term Operations (“ROC on LTO”), (2) Bay-Delta Water Quality Control Plan update, and (3) California WaterFix project.

1. Reinitiation of Consultation on Long-Term Operations

Reclamation continues to work on the reinitiation of consultation on long-term operations (“ROC on LTO”). Per the October 19, 2018 Presidential Memorandum on Promoting the Reliable Supply and Delivery of Water in the West¹, the adjusted timeline for the ROC on LTO includes final biological assessment(s) by January 31, 2019, and final biological opinions by June 15, 2019. On November 21, 2018, the Secretaries of Interior and Commerce named Paul Souza, Regional Director for the Pacific Southwest Region of the U.S. Fish and Wildlife Service, as the Lead Official in charge of managing the Central Valley Project’s compliance with the Presidential Memorandum’s requirements.

2. Bay-Delta Water Quality Control Plan Update

As previously discussed, the State Water Resources Control Board (“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”).

The Bay-Delta Plan is being updated through two separate processes (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

¹ Available at <https://www.whitehouse.gov/presidential-actions/presidential-memorandum-promoting-reliable-supply-delivery-water-west/>.

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”).

Phase 1 Status: The Water Board was scheduled to consider agenda item 10, “a proposed Resolution 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 November 7, 2018 public meeting. After extensive discussion and public comment, the Water Board voted to delay its consideration of the item to its December 11, 2018 meeting, to allow ongoing discussions regarding voluntary agreements to progress.

Phase 2 Status: The Water Board is expected to issue draft Phase 2 amendments and a draft substitute environmental document (“SED”) by the end of 2018, which will then trigger a public comment period.

3. California WaterFix Project

State Water Resources Control Board Change Petition: The hearing has effectively concluded. The Hearing Officers are expected to announce a schedule for closing briefs soon, although a number of parties have asked the Hearing Officers to delay scheduling briefing until after the supplemental environmental document is finalized.

Environmental Documentation: Comments on the Draft Supplemental EIR/EIS were accepted through November 5, 2018. The Supplemental EIR/EIS is expected to be finalized later this year.

Delta Stewardship Council Consistency Appeals: The Delta Stewardship Council held a hearing on October 24 through 26, 2018 regarding nine appeals challenging DWR’s certification of consistency for the California WaterFix. Subsequently, the Delta Stewardship Council issued staff-prepared draft findings regarding the appeals of the certification of consistency and held a public workshop for November 15-16, 2018. In the draft findings, staff recommended that the Council (1) conclude substantial evidence does not exist in the record to support a finding of consistency (with regards to five Delta Plan policies), and (2) remand the matter to DWR for reconsideration.² The Council is expected to take action on the proposed findings either denying the appeals or remanding the matter to DWR at the Council’s December 20-21, 2018 meeting.

² Available at https://coveredactions.deltacouncil.ca.gov/profile_summary.aspx?c=1790396c-5419-4ccb-b0d3-10cc4e985105.