



**San Luis & Delta-Mendota Water Authority
Monday, February 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 2021-499 adopted by the San Luis & Delta-Mendota Water Authority Board of Directors on January 13, 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 January 10, 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/Arroyave**
6. **Water Resources Committee to Consider Recommendation to Board of Directors to Adopt Staff Recommendation for Positions on Legislation and Anticipated Legislation, Petersen**
 - A. S.B. 890 (Nielsen), Department of Water Resources: Water Storage and Conveyance Fund: water storage and conveyance
 - 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

REPORT ITEMS

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**

January 10, 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. 2021-498 adopted by the Board of Directors on December 14, 2021, with Committee Chair Tom Birmingham presiding.

Water Resources Committee Members Present

Ex-Officio

Cannon Michael

William Bourdeau

Division 1

Anthea Hansen, Alternate for Zach Maring

Division 2

Bill Diedrich, Member - Lon Martin, Alternate

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

Rick Gilmore, Director - Lea Emmons, Alternate

Division 2

William Bourdeau, Director

Ara Azhderian, Alternate

Bill Diedrich, Director - Lon Martin, Alternate

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
Frances Mizuno, Special Projects Administrator
Lauren Neves, Accountant III
Cathy Bento, Accountant II
Darlene Neves, Operational Accounting Supervisor
Bob Martin, Facilities O&M Director
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 December 6, 2021 Meeting Minutes.

Committee Chair Tom Birmingham pronounced the December 6, 2021 meeting minutes approved without correction.

5. Water Resources Committee to Consider Recommendation to Board of Directors to Approve Fiscal Year 2023 Activity Budget

Executive Director Federico Barajas provided an overview of this item. Barajas highlighted changes requested at the December 14, 2022 Budget Workshop focusing on the General Membership and Leg Ops funds. General Counsel Rebecca Akroyd reviewed the changes to the legal components of the proposed budget, and reviewed the budget for the Deputy General Counsel position. Water Policy Director Scott Petersen reviewed changes to the science and technical components of the proposed budget. Barajas reviewed the FY23 to FY22 Comparison sheet included in the packet. Staff answered questions posed by Committee members.

Committee Chair Tom Birmingham made the motion to recommend the Board of Directors approve Fiscal Year 2023 Activity Budget. The motion was seconded by Ex Officio Member William Bourdeau. Following additional committee discussion in which Committee Chair Birmingham identified a need for additional discussion regarding the methodology for collection of dues, the motion passed unanimously. The Committee action is reported as follows:

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

6. Executive Director’s Report.

A. **B.F. Sisk Dam Raise and Reservoir Expansion Project** – Executive Director Federico Barajas reported that staff continues to work with Reclamation on the project. Barajas reported that the draft addendum to the feasibility report is under internal review by Reclamation. Barajas reported that there was a technical team meeting held last month regarding next steps of this project. Barajas reported that staff is putting together key notes and items from that meeting to initiate an Activity Agreement. Barajas reported that staff is anticipating holding another technical team meeting towards the end of this month that would include Reclamation allowing them to help better frame important issues. Committee members suggested that B.F. Sisk Dam Raise and

Reservoir Expansion Project become a standing item on the Water Resource Committee agenda, and suggested that staff look into retaining a consultant to act as a project manager. Barajas reported that the Authority would develop an RFP, and the Activity Agreement for the planning process, and bring them both to the Water Resources Committee, and the Board next month.

B. **DMC Subsidence Correction Project** – Barajas reported that staff continues to work closely with DWR to provide information requested regarding the access to state funding. Barajas reported that a decision is anticipated from DWR by early February.

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

Water Policy Director Scott Petersen provided a brief summary of his report included in the packet. Petersen reported U.S. Fish and Wildlife Service intends to submit a revised 12-month finding assessing the status of the San Francisco Bay/Delta Distinct Population (DPS) Segment Longfin smelt to the Federal Register no later than September 30, 2022. Petersen reported that the previous 12-month finding indicated that the DPS was warranted for listing under the Endangered Species Act, but moving ahead with processing a proposed rulemaking was precluded by other listing priorities at the time. Petersen reported that the draft SSA was released for Peer and Partner review November 29, 2021. Petersen noted that this document is not the 12-month finding, nor a proposed rulemaking with respect to a listing determination. Petersen reported that if such a proposed rulemaking ensues, there will be a separate publication and public comment period in the Federal Register and via regulations.gov next calendar year. Petersen reported that the Authority and other member agencies are reviewing the SSA and comments are due on January 14, 2022.

Petersen reported that Reclamation completed its stakeholder outreach workshops on the provisions of the Infrastructure Investment and Jobs Act, more commonly known as the Bipartisan Infrastructure Law, on Friday. The last workshop covered Section 40904, the Aging Infrastructure Account, and a few other topics. Petersen reported that the application process described in the major revisions to Reclamation Manual Directive and Standards PEC 05-03 is near final following the current public comment period. Petersen reported that Reclamation is expecting to issue a final document in the coming weeks.

Petersen reported that on May 17, 2021, DWR and Reclamation jointly filed a Temporary Urgency Change Petition (2021 TUCP) to temporarily modify terms and conditions in their water right license and permits for the State Water Project and Central Valley Project that require compliance with certain water quality objectives in the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary. Petersen reported that on June 1, 2021, the

State Water Board's Executive Director issued a TUCP Order conditionally approving the requested changes. Petersen reported that the State Water Board received petitions for reconsideration and objections to the 2021 TUCP Order, which are addressed in a draft Order released for comment by the State Water Board. Petersen reported that the draft Order denies in part and grants in part the petitions for reconsideration. Petersen reported that the draft Order determines that approvals of the 2021 TUCP Order and the Sacramento River TMP were appropriate, based on the information available at the time, and therefore the petitions for reconsideration are primarily denied. Petersen reported that the draft order imposes additional conditions on DWR and Reclamation's water rights.

Petersen reported that on November 23rd the San Joaquin Valley Water Collaborative Action Plan (SJVV CAP) Plenary Group met and reviewed the Phase 1 Action Plan framework. Petersen reported that the CAP Work Group Co-Chairs and members prepared the framework over the past 2 months. Petersen reported that the Framework provides the solution set elements recommended by the five CAP Work Groups to accomplish the desired outcomes to resolve those problem areas. Petersen reported that the Planning Group unanimously approved the Framework at its November 16, 2021, meeting and recommended approval by the Plenary Group, which approved the Framework. Petersen reported that based on the specifics in the framework and numerous comments received during the past month, the Management Team has developed a draft final CAP Phase 1 Action Plan document which has been distributed to Plenary Group members for a review period. Petersen reported that this document was circulated to Authority Board Members, Water Resources Committee Members, and General Managers last week for comment. Petersen reported that the CAP Management team is requesting that organizations indicate a position for the Phase 1 Action Plan by January 14.

8. Update on Water Operations and Forecasts

Westlands Water District's Tom Boardman reported that the inflows to Shasta Reservoir had recently improved following lower than expected inflow during the initial storms that arrived in December. Although storage is increasing, the rate of increase will need to improve to meet the projected storage of 1.9 MAF by the end of January currently forecasted under 50% exceedance conditions. Flood releases from Folsom are continuing with the accumulated snowpack at 140% of average.

Storage levels in CVP San Luis Reservoir are currently below the expected level under median hydrology. Boardman concluded with an explanation of possible allocations under dry and

median conditions hydrology.

9. **Committee Member Reports.**

No reports.

10. **Agenda Item 11: Closed Session**

Committee Chair Tom Birmingham adjourned the open session to address the items listed on the Closed Session Agenda at approximately 11:25 a.m. Upon return to open session at approximately 11:46 a.m., Chair Tom Birmingham reported that there were no reportable actions taken in closed session.

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

None.

12. **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: February 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 series of cost share agreements with federal partners 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.

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, 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, or following execution by a minimum number of Water Authority member agencies.

Execution of the proposed 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 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, whereby the costs associated with the Water Authority's executed 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 series of cost share agreements with federal partners 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. This authorization conferred by this Resolution, and the documents executed in reliance upon it, shall be contingent upon the occurrence of the following action: at least [NUMBER] members of the Water Authority executing the Activity Agreement.

Section 4. In the event the contingency 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 February, 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

DRAFT

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 February, 2022.

Federico Barajas, Secretary

DRAFT

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY
B.F. SISK DAM RAISE AND RESERVOIR EXPANSION PROJECT
ACTIVITY AGREEMENT

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, 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.

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., a Project Manager) 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 components Reclamation will take the design lead on and 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 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 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 of this Agreement, 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 establish 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 then serve as the governing body for this Activity Agreement.

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.

Commented [A1]: For discussion.

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 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 Participants prior to [DATE], 2022.

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

d) The Board of Directors shall have the right, upon the recommendation of or in consultation with the 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.

e) The Board of Directors delegates to staff the authority 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 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, the approval of a majority of the Activity Participants will constitute approval of the action.

6.2. Approval by the Activity Participant or the Activity Participants as appropriate shall be required for:

a) Approval of an annual budget;

b) Establishing or modifying the Participant Percentage applicable to the Activity Participants; and

c) Amendment of this Activity Agreement, including but not limited to, for purposes of adding a new Activity Participant or the replacement of this Agreement with an alternative form of agreement.

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 Authority Board a budget for this Activity Agreement 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.

Commented [A2]: For discussion.

7.1. Initial Budget. To initially fund the budget for this Activity Agreement, the Activity Participants agree to contribute a total of \$ [REDACTED] according to the Participation Percentages referenced in Section 10 below and described in Exhibit “B” to this Activity Agreement.

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.

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.

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. Beginning with costs incurred by the Authority on or after the Effective Date, each Activity Agreement Member agrees to reimburse the Authority for an equal share of the actual costs due by the Authority under the anticipated Cost Share Agreement, plus an equal share of any Activity Agreement Expenses. For example, if there are five (5) Activity Agreement Members, each Activity Agreement Member would agree to reimburse the Authority one-fifth (1/5th) of those costs.

10.2. Changing Participation Percentages. The Participation Percentages shall be revised in response to the withdrawal of one or more Activity Agreement Members pursuant to Section 14 of this Activity Agreement. Upon withdrawal of one or more of the Activity Participants from participation in this Activity Agreement, the remaining Activity Participants agree that each of them will be allocated an equal share of all Activity Agreement Expenses and all remaining rights in the Reservoir Expansion Project held by the Authority for Activity Participants.

10.3. Changing Participation Percentages Due to Addition. The Participation Percentages shall be revised in response to the addition of one or more (a) members of the Authority, or (b) Non-Member Participating Party(ies), pursuant to Section 15 of this Activity Agreement.

10.4. 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.

10.5. 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. Payments are due thirty (30) days following the receipt of the Authority’s invoice.

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, or the earlier date it is executed by the Authority and at least **NUMBER** Activity Agreement Members, 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.

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 share of the Authority's cost under the anticipated Cost Share Agreement or any additional Activity Agreement Expenses.

Commented [A4]: For discussion.

14.2. If all but one of the Activity Agreement Members provide notice of withdrawal from this Agreement, the Authority shall: (1) provide notice of withdrawal from the Cost Share Agreement, and (2) cooperate with the one Activity Agreement Member that did not provide notice of withdrawal from this Agreement, to ensure that the Activity Agreement Member joins and is assigned: (a) the Authority’s rights and obligations under the Cost Share Agreement and any related agreements, and (b) the Authority’s Project benefits.

14.3. If the Authority withdraws from the 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

Commented [A5]: For discussion.

Members of the Authority may become Members of this Activity Agreement 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 Participants under this Activity Agreement. Admission of a Non-Member Participating Party at any time shall be through execution of a MOU and action by the Board of Directors. Such amendment, or MOU, as appropriate, 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 Participants under this Activity Agreement. The admission of the new Activity Participant 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.

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 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.

Commented [A6]: For discussion.

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: _____

DRAFT – 2/2/22

Agency Name: _____

Agency Name: _____

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Agency Name: _____

Agency Name: _____

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

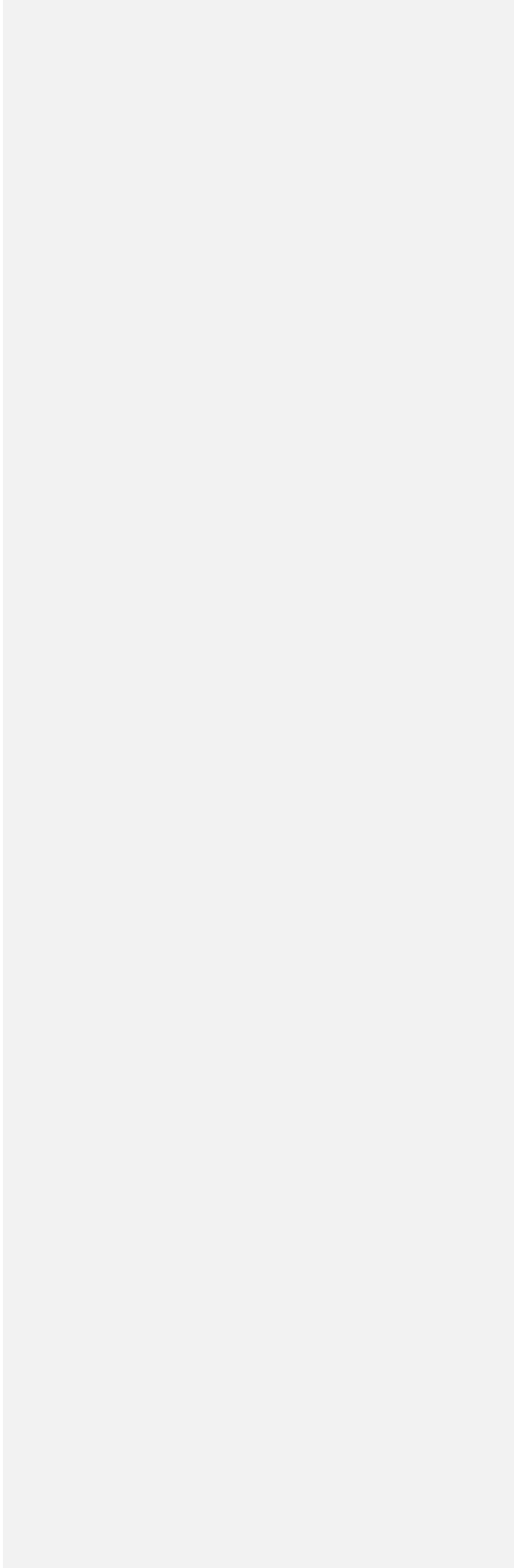
Agency Name	Participation Status (AA Member or Non-Member Participating Party)

DRAFT

EXHIBIT B
ALLOCATION OF EXPENSES AMONG ACTIVITY PARTICIPANTS

Activity Participants	Allocation (%)

DRAFT





MEMORANDUM

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

FROM: Scott Petersen, Water Policy Director

DATE: February 7, 2022

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

Recommendation

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

- Adopt a position of “Support” on proposed legislation to expedite certain water right permit applications

Summary

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

RECOMMENDATION: SUPPORT

OBJECTIVE: To enable a Groundwater Sustainability Agency to submit an application, for the State Water Board’s consideration, that seeks to appropriate excess surface water during wet periods, for storage in a groundwater basin, to be subsequently used through the implementation of the Groundwater Sustainability Plan

Summary

This legislation would amend Section 1206 of the California Water Code to include a third exception that allows the State Water Board to consider a permit application to capture excess flows on fully appropriated streams, subject to the following conditions:

- (1) That the diversions would occur during high flows when (a) Flow in the stream system exceeds the claims of all known legal users who divert water downstream of the proposed point of diversion(s), (b) Unregulated flow in the stream system will be sufficient below the proposed point of diversion(s) to meet instream flow requirements and water quality objectives, and (c)



Streamflow at the point of diversion is above the 80th percentile, calculated on a daily basis from the gage data during the period-of-record.

- (2) Additionally, the water right application is submitted by a Groundwater Sustainability Agency, as that term is defined in Section 10721, and for the purpose of assisting with implementation of its Groundwater Sustainability Plan, adopted pursuant to Part 2.74 of Division 6.

Status

This legislation is anticipated to be introduced before the bill filing deadline on February 18, 2022.

Importance to the Authority

This bill would help Groundwater Sustainability Agencies throughout the State implement their Groundwater Sustainability Plans by allowing them to apply for a water rights for excess flows on fully appropriated streams without opening the fully appropriated stream designation. This could provide another tool to facilitate member agencies to successfully implement SGMA with reduced impacts.

Pros:

- The bill would facilitate increase the opportunities for groundwater recharge projects to utilize excess flows on fully appropriated streams.
- Protects downstream water users and environmental uses

Cons:

- None identified.

Committee Options

Option 1

Recommend that the Board authorize the Executive Director and delegated staff to express support to this legislation when introduced in a substantially similar form.

Fiscal Impact: Unknown. Reduce costs associated SGMA implementation.

Business Analysis: Reduce costs associated with SGMA implementation.

Option 2

Take no action.

Fiscal Impact: Unknown. Member agencies may be excluded from making an application to capture excess flows on these streams or may be subject through higher costs by requiring the board to reconsider the fully appropriated stream designation or through SGMA implementation.

Business Analysis: Member agencies may be excluded from making an application to capture excess flows on these streams or may be subject through higher costs by requiring the board to reconsider the fully appropriated stream designation or through SGMA implementation.

Guidelines for Taking Positions on Legislation

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



Policy

By Agenda Item 8, dated December 9, 2021, the Board adopted the Fiscal Year 2023 Objectives.

Water Authority's Positions on Legislation

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

Amendment Development Process

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

Information Sharing

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

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



Tracked Legislation

Federal Legislation

Bill Number(s)	Sponsor(s)	Bill Title	Summary	Position	Status
H.R. 2552/S. 1179	Costa (D-CA-16)/Feinstein (D-CA)	Canal Conveyance Capacity Restoration Act	This bill authorizes the Bureau of Reclamation to provide financial assistance for various projects in California to mitigate the sinking or settling of the ground (i.e., subsidence mitigation), specifically for projects related to the Friant-Kern Canal, the Delta-Mendota Canal, and certain parts of the San Luis Canal/California Aqueduct.	Support	Introduced and referred to the House Committee on Natural Resources and Senate Committee on Energy and Natural Resources (4/15/2021)
H.R. 644	Calvert (R-CA-42)	REBUILD Act	<p>This bill authorizes (1) the assignment to states of federal environmental review responsibilities under relevant federal environmental laws for projects funded by, carried out by, or subject to approval by federal agencies; and (2) states to assume all or part of those responsibilities.</p> <p>Each responsible federal official who is authorized to assign such responsibility must promulgate regulations that establish requirements relating to information required to be contained in state applications to assume those responsibilities.</p> <p>An official may approve an application only if (1) public notice requirements have been met, (2) the state has the capability to assume the responsibilities, and (3) the head of the state agency having primary jurisdiction over the projects enters into a written agreement with an official to assume the responsibilities and to maintain the financial resources necessary to carry them out.</p>	Support	Introduced and referred to the House Committee on Natural Resources (2/1/2021)



				<p>The officials must audit state compliance with federal laws for which responsibilities are assumed. The officials may terminate the responsibilities assigned to states after providing notice to states of any noncompliance and an opportunity to take corrective action.</p>		
H.R. 737	Valadao (R-CA-21)	RENEW WIIN Act		<p>The bill would extend the authorities under the Water Infrastructure Improvements for the Nation Act of 2016 for 10 years, providing operational flexibility, drought relief, and other benefits to the State of California.</p>	Support	Introduced and referred to the House Committee on Natural Resources (2/2/2021)
H.R. 866	Calvert (R-CA-42)	FISH Act		<p>This bill gives the Fish and Wildlife Service (FWS) the sole authority to protect endangered or threatened species that are anadromous species (species of fish that spawn in fresh or estuarine waters and that migrate to ocean waters) or catadromous species (species of fish that spawn in ocean waters and migrate to fresh waters). Currently, the FWS shares this authority with the National Marine Fisheries Service.</p>	Support	Introduced and referred to the House Subcommittee on Water, Oceans, and Wildlife (3/3/2021)
H.R. 1563	Garcia (R-CA-25)	To extend the authorities under the WIIN Act of 2016.		<p>This bill extends the authority of certain federal agencies to provide support for western water infrastructure and extends consultation requirements concerning projects in California.</p> <p>Specifically, the bill extends through 2028 the authority of the Bureau of Reclamation to provide support for projects in certain western states related to federal or state-led water storage, water desalination, and water recycling and reuse. It also extends provisions specific to California, including drought relief and the operations of the Central Valley Project (a hydropower and water management project in California that is operated by Reclamation).</p>	Support	Introduced and referred to the House Natural Resources and Science, Space and Technology Committees (3/3/2021)



			Further, the bill extends through 2033 consultation requirements concerning biological assessments and the coordinated operations of the Central Valley Project and the State Water Project in California.		
S. 29	Klobuchar (D-MN)	Local Water Protection Act	This bill reauthorizes through FY2025 programs within the Environmental Protection Agency that award grants to states for managing nonpoint source water pollution or protecting groundwater quality. Water pollution from nonpoint sources is caused by precipitation picking up pollution as it moves over or through the ground.	Support	Introduced and referred to the Committee on Environment and Public Works. (1/22/2021)
S. 914	Duckworth (D-IL)	Drinking Water and Wastewater Infrastructure Act of 2021	This bill reauthorizes through FY2026 or establishes a variety of programs for water infrastructure. Specifically, it supports programs to provide safe drinking water or treat wastewater, such as sewer overflows or stormwater. For example, the bill reauthorizes and revises the clean water state revolving fund (SRF) and the drinking water SRF.	Support	Passed Senate 89-2 (4/29/2021)
S. 2185	Barrasso (R-WY)	Western Water Infrastructure Act of 2021	This bill reauthorizes the Water Infrastructure Improvements for the Nation (WIIN) Act funding accounts; authorizes funding to eliminate Reclamation's maintenance backlog; and restores storage capacity at Reclamation and U.S. Army Corp of Engineers (USACOE) facilities through a sediment management program.	Support and amend	Introduced and referred to the Committee on Energy and Natural Resources (6/23/2021)

State Legislation

Bill Number(s)	Sponsor(s)	Bill Title	Summary	Position	Status
SB 559	Hurtado	Department of Water Resources: water conveyance systems:	This bill would establish the Canal Conveyance Capacity Restoration Fund in the State Treasury to be administered by the department. The bill would require all moneys deposited in the fund to be expended, upon appropriation by the Legislature, in support of subsidence repair costs, including environmental planning,	Support	Amended in Assembly Appropriations on 8/30/21. Moved to inactive file on 9/8/21.



		Canal Conveyance Capacity Restoration Fund.	<p>permitting, design, and construction and necessary road and bridge upgrades required to accommodate capacity improvements. The bill would require the department to expend from the fund, upon appropriation by the Legislature, specified monetary amounts to restore the capacity of 4 specified water conveyance systems, as prescribed, with 2 of those 4 expenditures being in the form of a grant to the Friant Water Authority and to the San Luis and Delta-Mendota Water Authority. The bill would make these provisions inoperative on July 1, 2030, and would repeal the provisions as of January 1, 2031.</p>		
AB 252	Rivas	Multibenefit Land Repurposing Incentive Program: administration.	<p>Establishes the Multibenefit Land Conversion Incentive Program (MLCIP) at the Department of Conservation (DOC).</p> <p>Major Provisions</p> <ol style="list-style-type: none"> 1) Requires DOC to develop guidelines to implement the program and exercise its expertise and discretion when awarding program funds to eligible applicants. 2) Specifies compliance and eligibility criteria with the Sustainable Groundwater Management Act (SGMA). <ol style="list-style-type: none"> a. Permits the DOC to award funds to eligible local program agencies. b. Eligible agencies include a groundwater sustainability agency (GSA), county, NGO, as well as a local agency or mutual water company designated by a GSA or county. c. Funds are awarded to local agencies regarding a basin/basins designated by the Department of Water Resources 	Support	<p>Included in AB 170 (Resources Trailer bill) at \$50 million.</p> <p>Moved to Inactive file on 9/7/21.</p>



			<p>(DWR) as critically overdrafted, and is managed by one or more GSAs.</p> <p>d. Eligible applicants demonstrate local program matching funds of no less than 50%.</p> <p>3) Provides incentive payments must be awarded for the purposes of:</p> <ul style="list-style-type: none"> a. Habitat restoration or maintenance. b. Conversion of rangelands. c. Multibenefit groundwater recharge facility construction. d. Floodplain restoration e. Cover crop planting f. Dust control measures. g. Community recreation or park areas. <p>4) Prioritizes funding for land with severely poor soil quality, high habitat value, or the best aquifer recharge, community recreational, local water supply enhancement, flood prevention, or wildlife connectivity potential.</p> <p>5) Sunsets MLCIP on January 1, 2032.</p>		
AB 350	Villapudua	Cannella Environmental Farming Act of 1995: technical assistance grant program: groundwater conservation planning.	This bill would require, upon appropriation of funds, the California Department of Food and Agriculture (CDFA) to establish and administer a 3-year grant program to fund technical assistance to support landowners located in a critically overdrafted basin, as defined, in reaching water use reduction goals established pursuant to the Sustainable Groundwater Management Act.	Support	Amended in Senate Appropriations (8/26/21). Moved to Inactive File on 9/2/21.



AB 377	Rivas	Water quality: impaired waters.	This bill requires the State Water Resources Control Board (State Water Board) and regional boards, by January 1, 2025, to evaluate impaired state surface waters and report to the Legislature a plan to bring all water segments into attainment by January 1, 2050. This bill requires the plan to include total maximum daily load (tmdl) compliance schedules as they existed on January 1, 2021, and prohibits the report from extending the existing compliance schedules. The report is required to be updated with progress summaries every five years until January 1, 2050.	Oppose	Died. Failed to meet house of origin requirements.
AB 979	Frazier	Sacramento-San Joaquin Delta: projects: sea level rise analysis report	<p>This bill requires any individual or entity undertaking a project in the Sacramento-San Joaquin Delta (Delta) to complete a report(Report)analyzing the impact of current sea-level rise projections on the project. Specifically, this bill:</p> <ol style="list-style-type: none"> 1) Requires the Report to analyze different scenarios contained in the Ocean Protection Council’s (OPC) Sea-Level Rise Guidance 2018 Update document (Guidance Document). Allows more probable or more severe sea level rise scenarios to be included in the Report. 2) Requires the Report to be submitted to the Delta Stewardship Council (DSC), Delta Protection Commission (DPC) and the Legislature. Requires DSC and DPC to post the report on their internet websites. 3) Specifies the definition of “project” is the same as used in the California Environmental Quality Act (CEQA) as well as that nothing in the bill abridges any law, including the Delta Protection Act. 	Oppose	Died. Failed to meet house of origin requirements.

BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares the following:

- (a) It is the intent of the Legislature in enacting this measure to expedite the State Water Resources Control Board consideration of applications for water right permits during times of high-flow events and to support groundwater recharge projects to assist in providing a more reliable water supply for the state.

SECTION 2. Section 1206 of the Water Code is amended to read:

1206(a) From and after the date of adoption of a declaration that a stream system is fully appropriated, and subject to subdivision (b), the board shall not accept for filing any application for a permit to appropriate water from the stream system described in that declaration, and the board may cancel any application pending on that date.

(b) Notwithstanding subdivision (a), the board may provide, in any declaration that a stream system is fully appropriated, for acceptance for filing of applications to appropriate water under specified conditions. Any provision to that effect shall specify the conditions and may contain application limitations, including, but not limited to, limitations on the purpose of use, on the instantaneous rate of diversion, on the season of diversion, and on the amount of water which may be diverted annually. The board may make those limitations applicable to individual applications to appropriate water, or to the aggregate of the applications, or to both.

(c) Subdivision (a) shall not apply (i) to applications for temporary permits made pursuant to Chapter 6.5 (commencing with Section 1425), (ii) to any provision of this code respecting change in point of diversion, place of use, or purpose of use, or (ii) to applications for permits made pursuant to Chapter 2 (commencing with Section 1250), provided:

- (1) Diversions would occur during high flows when –
- (A) Flow in the stream system exceeds the claims of all known legal users who divert water downstream of the proposed point of diversion(s);
- (B) Unregulated flow in the stream system will be sufficient below the proposed point of diversion(s) to meet instream flow requirements and water quality objectives;
- (C) Streamflow at the point of diversion is above the 80th percentile, calculated on a daily basis from the gage data during the period-of-record; and
- (2) The application is submitted by a Groundwater Sustainability Agency, as that term is defined in Section 10721, and for the purpose of assisting with implementation of its Groundwater Sustainability Plan, adopted pursuant to Part 2.74 of Division 6.



MEMORANDUM

TO: SLDMWA Water Resources Committee Members and Alternates

FROM: Scott Petersen, Water Policy Director

DATE: February 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.

Reclamation is beginning initial outreach meetings and Authority staff will continue to engage with member agencies interested in participating in the process.

Reclamation Manual

Documents out for Comment

Draft Policy

- [IRM P05 Information Management and Technology Program \(comments by 2/21/2022\)](#)

Draft Directives and Standards

- [FAC 02-01 Operating Practices and Procedures for High and Significant Hazard Potential Dams \(and other facilities, as applicable\) \(comments by 2/14/2022\)](#)

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 46 Ionizing and Nonionizing Radiation \(comments by 2/28/2022\)](#)

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

Notice of Proposed Rulemaking: Urban Water Use Efficiency and Conservation – Water Loss Performance Standards

Background

Water Code section 10608.34 (added by Senate Bill (SB) 555 of 2015) requires the State Water Resources Control Board (State Water Board) to develop and adopt performance standards for water loss for urban retail water suppliers² (URWS or supplier), while considering lifecycle cost accounting. The proposed Water Loss Performance Standards (WLPS or regulation) aim to reduce water loss, reduce the energy and associated greenhouse gas emissions associated with supplying and treating water that is lost to leakage³, and achieve more efficient water use in California. Additionally, section 10608.34 established water loss reporting for URWS; URWS have

² “Urban retail water supplier” means a water supplier, either publicly or privately owned, that directly provides potable municipal water to more than 3,000 end users or that supplies more than 3,000 acre-feet of potable water annually at retail for municipal purposes (Wat. Code, § 10608.12).

³ California has a high energy consumption associated with water supply, accounting for 20% of total electricity use and 30% of total natural gas consumed in the state (PPIC Water Policy Center, 2016).

been required to report their water loss estimates through annual water loss audits since 2017.

On December 4, 2021, the State Water Board released a proposed water loss performance standards regulation for a 45-day public comment period, which closes at 12:00 pm on February 11, 2022.

According to the State Water Board, the proposed regulation is designed to bring water losses to levels that are cost-effective and feasible for each URWS, and the proposed regulation will support each URWS in planning and implementing water loss control in a cost-effective manner. The intent of the proposed regulation is to identify and require each supplier to reduce leakage to the level of a specific volumetric standard that is based on its own unique characteristics and is cost-effective, while providing each supplier the flexibility to choose any effective approach best suited for its system and budget to meet its standard. Cost savings may be passed on to customers, and URWS supplying water to disadvantaged communities that face burdensome upfront costs will have additional time to comply if their standard requires at least a 25% reduction from their baseline.

On February 10, the State Water Board will conduct a public hearing regarding the subject proposed regulation at the time and place noted below. The public hearing will provide a detailed overview of the proposed regulation, overall framework, timeline, and proposed requirements. At the hearing, any person may present comments orally or in writing relevant to the proposed action described in this notice. The public hearing will be preceded by a staff presentation summarizing the proposed regulation, followed by an opportunity for the public to ask questions. While a quorum of the State Water Board may be present, the Board will not take formal action at the public hearing. This hearing is for the public to provide comments on the proposed regulation. The Board will not take formal action at this public meeting. After consideration of all written and oral comments, the Board is expected to consider adoption of the final regulation in the second quarter of 2022.

[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.⁴ 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 resolution⁵ 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 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 documents⁶ 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.

⁴ Available at <https://water.ca.gov/-/media/DWR-Website/Web-Pages/Blogs/Voluntary-Settlement-Agreement-Meeting-Materials-Dec-12-2018-DWR-CDFW-CNRA.pdf>.

⁵ Available at https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2018/rs2018_0059.pdf.

⁶ Available at http://resources.ca.gov/docs/voluntary-agreements/2019/Complete_March_1_VA_Submission_to_SWRCB.pdf

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

- 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

Water Blueprint for the San Joaquin Valley Activity

Background

The Water Blueprint for the San Joaquin Valley (Blueprint) is 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 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: A nominating committee was formed and presented a slate of Directors to the Executive Committee and Plenary Group to expand the 501c(3) Board to 23 members, with representatives from the following groups: Agriculture Organizations, Water Agencies, White Lands, Local Government, and At Large. A total of 23 Directors were recommended, with 3 slots remaining open for a representative from the northern portion of the San Joaquin Valley and a representative from refuge/environmental interests. Board members have been approved and the new Board was seated at the inaugural meeting on Tuesday, January 18. Additionally, the Blueprint Board will be nominating a Chair and Vice Chair at the next meeting.

Agriculture: Casey Creamer, CA Citrus Mutual
Ian Lemay, CA Fresh Fruit Association
Geoff Vanden Heuvel, Dairy

Water Agencies: Scott Petersen, San Luis & Delta-Mendota Water Authority
Jason Phillips, Friant Water
Steve Chedester, SJ River Exchange Contractors Water Authority
Vacant (State Water Contractor)

White Lands: Johnny Gailey, Delta View Water Association
Jack Rice, Western Resource Strategies
Deanna Jackson, Tri-County Water Authority

Govt: Augustine Ramirez, Fresno County
Stephanie Anagnoson, Madera County
Paul Boyer, Farmersville

At-Large: Sarah Woolf, Water Wise

Eddie Ocampo, Self-Help Enterprises
Austin Ewell, Ewell Group
Christina Beckstead, Madera County Farm Bureau
Vince Lucchesi, Patterson Irrigation District
Kassy Chauhan, Fresno Irrigation District
Vacant (north Valley or westside)
Vacant (refuge)

Committee Chairs: Scott Hamilton, Ag Economist (Technical Committee)
Mike Wade, CA Farm Water Coalition (Communications Committee)

Outreach & Engagement: Congressman Costa requested input in preparation of an infrastructure investment letter for submittal to U.S. DOI, with input from the Blueprint and others, Congressman Costa and Harder sent the attached.

Technical Committee: Committee is establishing a strategy for establishing a criteria and steps for identifying 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 allocation of such flows.

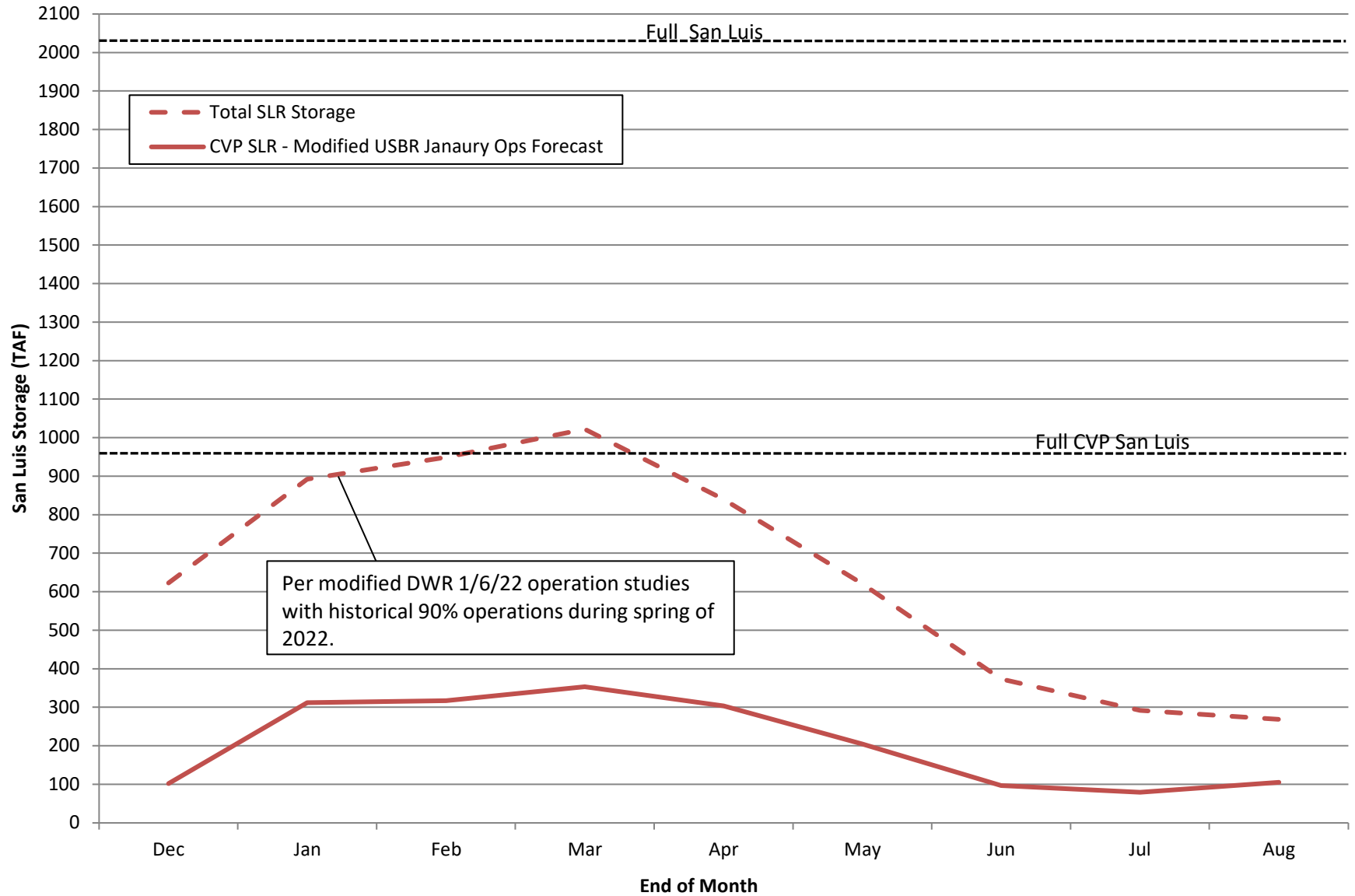
Blueprint continues to engage with Central Valley stakeholders regarding opportunities to construct infrastructure, balanced approach to water resources, low interest loans for farmers unable to farm and focus on inter-regional conveyance and habitat restoration.

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

In phase I the CAP produced a Framework to provide solution set elements recommended by its five CAP Work Groups to accomplish the desired outcomes and to resolve those problem areas and will look to implement phase II.

- December 2021 – February 2022: Finalize CAP Phase 1 Action Plan Report and secure broad-based support
- February - March 2022: Conduct extensive outreach/education effort; plan for Phase 2
- March 2022: Launch CAP Phase 2 and initiate implementation
- September 2022: Complete a detailed program for demand reduction and determine whether and how the Delta could supply additional recharge water
- September 2023: Complete comprehensive, detailed CAP Sustainability Action Plan

2021-22 San Luis Storage Projection 90% Exceedance Hydrology



2021-22 San Luis Storage Projection 50% Exceedance Hydrology

