

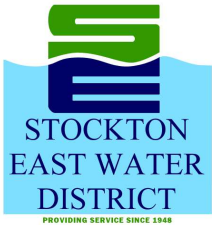
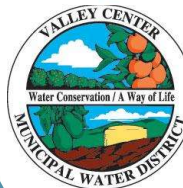
Suisun-Solano Water Authority

DESERT WATER



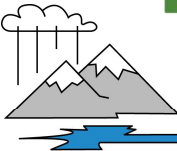
Westlands Water District

Inland Empire Utilities Agency
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A CENTURY OF SERVICE

Valley Water

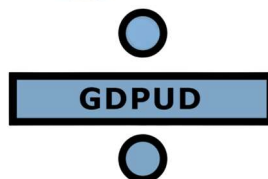
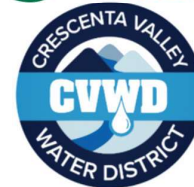


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CONTRA COSTA
WATER DISTRICT



Submitted via electronic mail to SacDeltaComments@waterboards.ca.gov

January 10, 2025

Mr. Erik Ekdahl, Deputy Director
Division of Water Rights
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

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

Dear Mr. Ekdahl:

The Association of California Water Agencies (ACWA) appreciates the opportunity to provide public comments to the State Water Resources Control Board (State Water Board) on the draft Sacramento/Delta updates to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed (Bay-Delta Plan), including the program of implementation. ACWA represents approximately 470 public water agencies that collectively deliver approximately 90% of the water in California for domestic, agricultural, and industrial uses.

The Bay-Delta Plan update will have important implications for water supplies and affordability for many of ACWA's members and California's water users. ACWA and our member agencies have been actively engaged in the State Water Board's amendments to the Bay-Delta Plan to support a solution that will improve water supply reliability for the 35 million people and nearly 8 million acres of farmland dependent on the San Francisco Bay/Sacramento-San Joaquin Delta (Bay-Delta) watershed and its water supply, while improving habitat for native species.

ACWA strongly supports the Healthy Rivers and Landscapes (HRL) Program as the preferred pathway for updating the Bay-Delta Plan. The HRL Program can be expeditiously implemented to establish a holistic and integrated approach to improving the Bay-Delta ecosystem for fish and wildlife by aligning a broad spectrum of habitat, science, and adaptive management tools. Concurrently, it would help secure water supply reliability for other beneficial uses of water, including California's communities, farms, recreation, and hydropower.

ACWA offers the following input for State Water Board consideration.

A. Address the following changes in the revised draft of the Sacramento/Delta updates and final Staff Report.

1. Incorporate the HRL Program as proposed by the HRL Program parties.

The Memorandum of Understanding signatories (parties) developed the HRL Program using the best available science—with direct engagement from the California Environmental Protection Agency, California Natural Resources Agency, California Department of Water Resources, California Department of Fish and Wildlife, and U.S. Bureau of Reclamation (Reclamation). As a result of this collaborative process, the parties carefully packaged the comprehensive and integrated HRL Program to meaningfully contribute to meeting narrative fish objectives. Key components of the HRL Program include a Governance Program, Science Plan, and Funding Plan, all of which are integral to its success, but are not fully reflected in the draft Sacramento/Delta updates.

The HRL Program’s robust governance and shared science programs would facilitate collaboration, streamline the review of data and hypotheses, direct science needs, and inform decision-making to advance and improve fish and wildlife restoration. The science program would rely on the most current scientific information to guide actions and support rapid adaptive management as decision-makers continue to learn about the interactions between the flow and non-flow measures, which is critical as climate change increases uncertainty and drives extreme conditions. This adaptive management would occur through a structured, open, and transparent process through which the State Water Board will maintain oversight and assess progress.

The Funding Plan would serve as a foundational component of the HRL Program and is intended to outline the financial framework for implementing commitments to flow, habitat restoration, science, and other measures under the Bay-Delta Plan. Public water agencies will self-assess fees to support implementation of the HRL Program, and water users and the State will make flows available through significant water purchases and voluntary reductions in diversions. Funding will support water purchases, crop idling, and construction of new habitat, including dedicated resources to monitor and ensure performance.

ACWA is concerned that the draft Sacramento/Delta updates do not accurately incorporate all of the components of the HRL Program. Page 69 of the draft updates states: “Where appropriate, provisions of the subsequent [HRL Program] documents are incorporated into the draft program of implementation text. Otherwise, the [HRL Program] documents would not be proposed to be approved in their entirety if the State Water Board moves forward with [the HRL Program].” ACWA strongly encourages the State Water Board to avoid selectively incorporating certain provisions while excluding others. Each component of the HRL Program is equally important, including, but not limited to, the flow and non-flow measures, Governance Program, Science Plan, and Funding Plan. In addition, embellishing the HRL Program by introducing additional components not proposed by the HRL Program parties would preemptively undermine their efficacy.

2. Clearly define the unimpaired flow pathway.

The revised draft needs to more clearly define the State Water Board's unimpaired flow pathway. Currently, interested parties do not have a clear and shared understanding of the unimpaired flow pathway, including its various components (e.g., flow shaping, local cooperative solutions), making it difficult to provide feedback and understand operational effects. There are multiple complicated off-ramps and regulatory adjustments embedded within the modeling and the description of the unimpaired flow pathway that have not been fully analyzed and explained. Additionally, the current uncertainty surrounding the adaptive range for unimpaired flow, ranging between 35% and 75%, complicates the ability to offer actionable input. Narrowing and defining this adaptive range more precisely will allow operators and interested parties to assess its implications realistically.

ACWA recognizes, and the State Water Board's draft Staff Report/Substitute Environmental Document in Support of Potential Updates to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary for the Sacramento River and its Tributaries, Delta Eastside Tributaries, and Delta (draft Staff Report) acknowledges, that many critical details regarding implementation of the unimpaired flow pathway will be determined at a later stage. ACWA strongly recommends that the State Water Board work collaboratively with water system operators to resolve operational constraints and implementation challenges, and to better understand the water supply, temperature management, and other water management effects of the unimpaired flow pathway. Establishing clear guidelines and leveraging operator expertise will help address uncertainties with the unimpaired flow pathway, leading to a more balanced and effective water management approach for parties not involved in the HRL Program.

B. Identify the HRL Program as the preferred pathway for updating the Bay-Delta Plan in the revised draft of proposed Sacramento/Delta updates and final Staff Report.

ACWA strongly believes the HRL Program is the best path forward for updating the Bay-Delta Plan. In adopting a final plan, the State Water Board should consider the following.

3. Recognize the limitations and effects of the unimpaired flow pathway on water supply reliability, temperature management, and regulatory alignment.

ACWA has significant concerns that the unimpaired flow pathway would have more severe water supply effects on communities and temperature-dependent aquatic species, as well as increased regulatory uncertainty, when compared to the HRL Program. In addition, ACWA believes that the draft Staff Report proposes mitigation measures for water supply reductions that are infeasible and should be corrected in the final Staff Report.

- a. Impacts to Water Supply: As outlined in the draft Staff Report, the implementation of the unimpaired flow pathway would result in drastic reductions to water supplies across California, with particularly devastating consequences for communities already struggling with water scarcity. In Solano County, for example, the 55% unimpaired flow scenario would reduce municipal and agricultural water use in the Putah Creek watershed by 75%. Modeling based on the past 20 years of hydrological data indicates that 40% of the time, Lake Berryessa allocations for Solano County agencies would be zero; in years when allocations are provided, they would never exceed 71%. Moreover, under the 55% unimpaired flow scenario, in critically dry years, Vallejo, Fairfield, Suisun City, and Benicia would have no alternate sources of supply.

Statewide, the effects of the unimpaired flow pathway would be equally severe. In a dry year, exports by the Central Valley Project (CVP) and the State Water Project (SWP) would be reduced by more than 1.3 million acre-feet under the proposed 55% unimpaired flow scenario for the Sacramento River and its tributaries.¹ For CVP and SWP contractors in the San Joaquin Valley that rely on Delta exports, this represents a 707,000 acre-feet reduction.² Under Reclamation's allocation procedure, irrigation contractors would bear the majority (i.e., 658,000 acre-feet) of this reduction³; in critical and dry years, allocations to CVP irrigation contractors would be zero, and in below normal years, would never exceed 5%. For SWP contractors in Southern California reliant on Delta exports, this reduction amounts to 667,000 acre-feet for municipal and industrial use in dry years, representing a 40% cut in allocations.⁴ These export reductions are in addition to those already mandated by existing restrictions on CVP and SWP operations under state and federal law.

The draft Staff Report assumes that water supply reductions could be mitigated with alternative supplies, water conservation, groundwater, and the transfer market. However, developing alternative water supplies is capital-intensive and subject to regulatory challenges. In Southern California, for example, replacing the annual average reduction of 446,000 acre-feet would require the construction of nine additional Carlsbad-sized desalination plants.⁵ Many water agencies have already made substantial investments in conservation efforts, including messaging, infrastructure retrofitting, and turf removal, and further actions may yield diminishing returns. For many regions, relying on groundwater to compensate for Delta losses is unsustainable, increases subsidence risks, and could lead to adverse impacts to other beneficial uses—particularly when those regions depend on Delta supplies for recharge. Finally, under the unimpaired flow pathway, reductions in deliveries across all regions, both north- and south-of-Delta, would result in less

¹ State Water Resources Control Board. 2023. *Draft Staff Report*. Chapter 6.

² Ibid. Chapter 6, Section 6.4.8. Page 6-74.

³ Ibid. Chapter 6, Section 6.4.8. Page 6-75.

⁴ Ibid. Chapter 6, Section 6.4.9. Page 6-79.

⁵ Ibid.

water available for transfer. Public water agencies throughout the state are working diligently to effectively manage limited water supplies, however the reductions proposed under the unimpaired flow pathway present enormous challenges. Under the unimpaired flow pathway, many of the proposed mitigation options would create severe water affordability issues that would be imposed on individual ratepayers, often disproportionately impacting disadvantaged communities.

- b. Impacts to Temperature Management: As discussed at the State Water Board's November 20, 2024, workshop, the unimpaired flow pathway could also have significant impacts on temperature management for salmonids and other native aquatic species. Water temperature, in addition to flow, is one of the most critical factors in supporting native fish.^{6,7} However, under the unimpaired flow pathway, the draft Staff Report acknowledges that impacts could occur "if reductions in reservoir storage limit the availability of cold water to protect anadromous salmonids and other native fish in tributaries in the Sacramento River watershed and Delta eastside tributaries."⁸ MBK Engineers evaluated average monthly water temperatures at locations on the Sacramento and Feather Rivers downstream of major reservoirs under the 55% unimpaired flow scenario.⁹ Their findings show that, in dry and critical years on the Sacramento River, water temperatures are one to two degrees Fahrenheit higher than baseline levels in June and July. On the Feather River, temperatures increase by one to four degrees Fahrenheit from June through October across several water year types. These temperature increases occur despite simulated actions that reduce reservoir releases and downstream water supplies to implement the narrative cold water habitat objective. Similarly, a 2022 analysis conducted by Yuba Water Agency found that implementing a minimum flow requirement of 55% of unimpaired flows would impact salmonids in the lower Yuba River by increasing water temperatures.¹⁰ The identified pathway for updating the Bay-Delta Plan must balance flow requirements with temperature management to effectively protect native fish populations.
- c. Regulatory Alignment: Finally, the unimpaired flow pathway introduces substantial regulatory uncertainty, particularly in its interaction with existing requirements on many tributaries. For instance, many reservoirs must adhere to operational conditions stipulated in Federal Energy Regulatory Commission licenses. It remains unclear how the provisions in the unimpaired flow pathway would align (or conflict) with these federally mandated operations. This ambiguity extends to other regulatory frameworks such as the federal and California Endangered Species Acts,

⁶ Water Forum. 2019. *Fisheries and In-Stream Habitat (FISH): Management and Restoration Plan for the Lower American River*.

⁷ Del Rio, A., et al. 2019. *Combined effects of warming and hypoxia on early life stage Chinook salmon physiology and development*. Conservation Physiology (1):coy078.

⁸ State Water Resources Control Board. 2023. *Draft Staff Report*. Chapter 7, Section 7.6.2.4. Page 7.6.2-34.

⁹ MBK Engineers. 2024. Technical Review of the Draft Staff Report/Substitute Environmental Document in Support of Potential Updates to the Water Quality Control Plan and Associated Modeling.

¹⁰ Yuba Water Agency. 2021. Federal Energy Regulatory Commission eLibrary. Accession Number 20220307-5273.

where the need to reevaluate temperature impacts for biological opinions could further complicate operations. Moreover, the unimpaired flow pathway could disrupt established agreements like the Coordinated Operation Agreement for the CVP and SWP; disintegration of these coordinated systems could lead to fragmented management, reduced operational efficiency, and diminished ecological benefits. This regulatory overlap and potential for conflict underscore the critical need for clarity and alignment to avoid undermining existing frameworks and the benefits they provide.

Please refer to comment letters from the State Water Contractors, Metropolitan Water District, Valley Water, Yuba Water Agency, and other public water agencies on the draft Staff Report for additional discussion about the concerns related to water supply reductions, mitigating water supply reductions, temperature management, and regulatory alignment.

4. Recognize the benefits of non-flow measures.

Based on best available science, ACWA strongly believes that an integrated approach with both functional, natural flow and non-flow actions is necessary for native species recovery.^{11,12} This is supported by the Delta Stewardship Council's March 15, 2017, letter to the State Water Board regarding the Lower San Joaquin River (LSJR) amendment to the Bay-Delta Plan, stating that "[a] successful Bay-Delta Plan amendment should include both flow and non-flow actions. Because the LSJR ecosystem is substantially modified from its pre-20th century state, providing greater unimpaired flows without non-flow, ecosystem restoration actions may be inadequate and inefficient for the recovery of some native species...To the extent implementation of a combination of flow and non-flow measures is only feasible through voluntary negotiated settlements, we strongly support that approach as long as the outcomes are in keeping with the furtherance of the coequal goals."¹³

ACWA appreciates that many non-flow actions are primarily within the jurisdiction or control of other agencies or water users. However, ACWA has significant concerns that the State Water Board's continued overreliance on only one management tool (i.e., unimpaired flows) will be ineffectual in generating the desired ecological outcomes. Science indicates that the correlation between species' response and a given amount of

¹¹ Herbold, B., et al. 2018. *Managing for Salmon Resilience in California's Variable and Changing Climate*. San Francisco Estuary and Watershed Science 16(2).

¹² Sherman, S. et al. 2017. *Effects of Tidal Wetland Restoration on Fish: A Suite of Conceptual Models*. Department of Water Resources, Sacramento, CA.

¹³ Delta Stewardship Council Comment Letter to the State Water Board. March 2017. *RE: Recirculated Draft SED in Support of Potential Changes to the Bay-Delta Plan: San Joaquin River Flows and Southern Delta Water Quality*. Page 3.

flow yields diminishing returns,^{14,15} unpredictable changes to flow-abundance relationships and the inherent uncertainty in species modeling suggests that decision-makers should not rely on flow alone to restore fish populations.^{16,17}

Applying multiple tools, such as flow and habitat availability synergistically, can increase species' resiliency and promote population persistence, even in low flow years.¹⁸ Floodplains and tidal wetlands provide multiple ecological benefits (i.e., shallower depths, warmer water, longer water residence times, and increased prey abundance) that improve juvenile salmonid growth rates and survival and improve Delta Smelt foraging success.^{19,20} The benefits of these habitats can be maximized when used in conjunction with appropriately timed flow actions, activating these habitat types at specific flow regimes and enhancing connectivity.

Through the HRL Program, significant, coordinated investments will be made to improve fish and wildlife habitat conditions throughout the watershed. The HRL Program includes constructing, restoring, and enhancing more than 45,000 acres of instream habitat, spawning and rearing habitat, floodplain habitat, and fish food production on agricultural lands. The parties are actively working with state agencies, federal entities, and conservation organizations to implement habitat projects aimed at meeting the environmental targets outlined in the HRL Program. Since December 2018, the parties have completed 34 restoration projects to accelerate improvements for fish and wildlife and are evaluating over 500,000 acres of historic floodplain habitat for reactivation feasibility.

These non-flow actions have already aided in the recovery of salmonids. For example, following restoration on the American River, there has been an observed increase in the number of salmon redds in the river, with habitat restoration sites supporting 30-50% of all natural spawning after accounting for interannual variability.²¹ Similarly, the 2024-2025 fall run of Chinook salmon on the Mokelumne River set a new record for the

¹⁴ Tamburello, N., et al. 2019. *Durability of environment–recruitment relationships in aquatic ecosystems: insights from long-term monitoring in a highly modified estuary and implications for management*. *Limnology and Oceanography* 64(S1):S223-S39.

¹⁵ Kimmerer, W. 2002. *Effects of freshwater flow on abundance of estuarine organisms: physical effects or trophic linkages?* *Marine Ecology Progress Series* 243:39-55.

¹⁶ Kimmerer, W. 2002. *Physical, biological, and management responses to variable freshwater flow into the San Francisco Estuary*. *Estuaries* 25(6B):1275-90.

¹⁷ Thomson, J., et al. 2010. *Bayesian change point analysis of abundance trends for pelagic fishes in the upper San Francisco Estuary*. *Ecological Applications*. 20(5):1431-1448.

¹⁸ Herbold, B., et al. 2018. *Managing for Salmon Resilience in California's Variable and Changing Climate*. *San Francisco Estuary and Watershed Science* 16(2).

¹⁹ Jeffres, C., et al. 2020. *Detrital food web contributes to aquatic ecosystem productivity and rapid salmon growth in a managed floodplain*. *PLoS ONE* 15(9): e0216019.

²⁰ Hammock, B., et al. 2019. *Tidal Wetlands Associated with Foraging Success of Delta Smelt*. *Estuaries and Coasts* 42(3):857-867.

²¹ Presentation to the State Water Board. December 1, 2023. *Agreements to Support Healthy Rivers and Landscapes*. Slide 16.

second year in a row with more than 30,000 fish returning to spawn.²² This success can largely be attributed to the implementation of the Lower Mokelumne River Joint Settlement Agreement, which employs flow management, habitat restoration, collaborative science, and adaptive management—much like the HRL Program. After habitat restoration efforts started on Butte Creek in the early 1990s, the average spring-run Chinook abundance increased by approximately 2,000% post-restoration, making it the most abundant naturally spawned spring-run Chinook population in the stock complex.²³ Following implementation of the Putah Creek Accord, up to 2,000 fall-run Chinook now return to the system and native fish species dominate and are stable in the upper portions of Lower Putah Creek—all with a small but strategic amount of flow and habitat improvements.²⁴

These successes highlight the importance of pairing modest additional flows with targeted restoration efforts—simply increasing flows without restoration is unlikely to yield comparable outcomes. On Putah Creek, the ‘flows only’ approach proved ineffective until 14 years of dedicated and effective restoration projects ultimately enabled the return of Chinook salmon. Similar outcomes can be replicated in the Bay-Delta watershed through the strategic habitat investments and well-timed flow actions employed by the HRL Program.

5. Protect all beneficial uses of water.

The State Water Board is responsible for updating the Bay-Delta Plan in a manner that establishes water quality objectives that ensures the reasonable protection of all beneficial uses of water, including domestic, municipal, agricultural, and industrial supply; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources. In doing so, the State Water Board must consider past, present, and probable future beneficial uses; environmental characteristics; water quality conditions; and economic considerations, among other things. Thus, when setting water quality objectives, the State Water Board must consider "all demands being made and to be made on those waters".

ACWA is concerned that the State Water Board is disproportionately focused on flows for fisheries-related beneficial uses and the proposed adaptive ranges for the unimpaired flow pathway would not adequately balance other key beneficial uses, as required by the California Constitution.²⁵ While the draft Staff Report and draft Sacramento/Delta updates emphasize preserving, enhancing, and restoring water quality for all beneficial uses, the unimpaired flow pathway would have severe water

²² East Bay Municipal Utility District. 2024. *Mokelumne River salmon run breaks record for the second year in a row*.

²³ Cordoleani, F., et al. 2023. *Restoring freshwater habitat mosaics to promote resilience of vulnerable salmon populations*. *Ecosphere* 15:e4803.

²⁴ Solano County Water Agency. 2024. Comment letter to the State Water Board on the draft Staff Report.

²⁵ California Constitution. art 10, §2.

supply impacts, as described in Comment B.3.a, to California's communities and economy.

- a. Housing Impacts: The unimpaired flow pathway threatens California's ability to meet its legal housing obligations, as outlined in the California Department of Housing and Community Development's 2022 Statewide Housing Plan, which estimates that the State "must plan for more than 2.5 million new homes over the next eight years, and no less than one million of those homes must meet the needs of lower-income households." The proposed reductions under the unimpaired flow pathway fail to account for these obligations, jeopardizing critical housing projects in areas of the state.

For example, Solano County, one of the Bay Area's most affordable regions, anticipates it would experience a 75% reduction in municipal water supplies from the Solano Project, which would force building moratoriums in cities like Vallejo, Fairfield, Vacaville, Benicia, and Suisun City. These restrictions would likely limit housing opportunities for disadvantaged communities, conflict with state mandates like Senate Bill (SB) 35 and SB 330, and shift demand to higher-cost areas, exacerbating regional inequality. Furthermore, reduced water supplies would hinder compliance with long-standing legislation like SB 610 and SB 221, which require public agencies to determine whether adequate water supplies exist during normal, dry, and multiple dry years to meet the projected demand of proposed development projects over a 20-year planning horizon. By disproportionately prioritizing certain beneficial uses without adequately addressing these critical impacts, the unimpaired flow pathway risks undermining California's housing goals, deepening the state's housing crisis, and compromising long-term sustainability.

- b. Economic Impacts: The unimpaired flow pathway additionally poses economic risks to California's agricultural regions and urban centers alike, with substantial implications for local economies, employment, and poverty rates. A 2022 study highlights the persistent correlation between CVP allocations and poverty in Fresno and Kings Counties, which are served by the Westlands Water District (Westlands).²⁶ During years of reduced water availability, poverty levels in these counties rise, and economic activity declines, emphasizing the critical role of agricultural water supplies in stabilizing these disadvantaged communities. When combined with the Sustainable Groundwater Management Act (SGMA), the unimpaired flow pathway could result in perpetual drought-like conditions for these regions, exacerbating already dire economic challenges.

A 2022 report on unimpaired flow scenarios projects that East Bay Municipal Utility District would face severe economic and social impacts to the communities within its

²⁶ Shires, M. 2022. *The Economic Impact of the Westlands Water District on the Local and Regional Economy: 2022 Update*.

service area.²⁷ Under a 45% unimpaired flow scenario, by 2050, demand would exceed supply in one out of three years, necessitating an average 14% demand rationing in those years. This would result in the loss of over 13,000 jobs and \$2.5 billion in business sales annually, with worst-case drought years leading to over 160,000 lost jobs and \$27 billion in lost business sales. Under a 55% unimpaired flow scenario, demand would exceed supply in one out of two years, requiring 25% rationing on average—costing over 42,000 jobs and \$7 billion in business sales each year. In extreme drought conditions, demand rationing of 88% would devastate the local economy, eliminating over 333,000 jobs and \$56 billion in business sales. These scenarios impose untenable burdens on households and businesses; the State Water Board must adopt a more balanced strategy to ensure water management aligns with the needs of California’s communities and economy.

The examples presented here illustrate some of the impacts of the unimpaired flow pathway; however, they represent only a small portion of similar challenges faced by communities across the state. These examples underscore the requirement of Water Code section 13241, which mandates that the State Water Board consider “the need for developing housing within the region” and “economic considerations”, and other relevant factors, when establishing water quality objectives. By failing to adequately address these concerns, the unimpaired flow pathway risks causing irreversible harm to California's communities, industries, and economic stability.

In contrast, the HRL Program provides reasonable protection for all beneficial uses of water and would increase Delta inflow and outflow above the requirements of Water Right Decision 1641 and the 2019 Biological Opinions. By protecting reservoir storages and preserving the ability to implement conjunctive use programs, the HRL Program is the best and most balanced pathway for protecting municipal, domestic, and industrial supplies; water affordability; sanitation; fire suppression; agriculture; birds and wildlife along the Pacific Flyway; recreation; hydropower generation and grid reliability; affordable housing; disadvantaged communities; and jobs, businesses, and the state’s economy.

6. Adopt the pathway for the Sacramento/Delta update that best aligns with state goals, priorities, and plans.

The selected pathway for the Sacramento/Delta update to the Bay-Delta Plan must align with established state policies, including the coequal goals, sustainable groundwater management, the Water Resilience Portfolio, and “One Delta, One Science”. ACWA believes that, based on Comments B.3 and B.4, the HRL Program is most consistent with the goals, priorities, and plans below, when compared to the unimpaired flow pathway.

²⁷ Sunding, D. L. and O.R. Browne. 2022. *The Economic Impacts of Water Shortages in the EBMUD Service Area*.

- a. Coequal Goals: Since enactment of the Sacramento-San Joaquin Delta Reform Act of 2009, state law declared the following goals for the Delta: *Achieving the two coequal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resources and agricultural values of the Delta as an evolving place.* ACWA is committed to furthering the coequal goals and supports a comprehensive approach to ecosystem management. As discussed in Comments B.3 and B.4, ACWA is concerned that the unimpaired flow pathway would not achieve the coequal goals to the same extent that the HRL Program would.
- b. Sustainable Groundwater Management: Since the 2014 enactment of SGMA, the State has made it clear that its goal is to achieve sustainable management of groundwater basins. In July 2020, Governor Newsom released the Water Resilience Portfolio, which proposed that state agencies facilitate water supply diversification by “help[ing] regions secure groundwater supplies” by “[e]xplor[ing] ways to further streamline groundwater recharge and banking efforts”.²⁸ In August 2022, Governor Newsom released California’s Water Supply Strategy which aims to “improve the flexibility of current water systems to move water throughout the state”,²⁹ outlines the State’s intention to “help local water agencies...accelerate the pace and scale of groundwater recharge”,³⁰ and includes a goal to expand average annual groundwater recharge by at least 500,000 acre-feet. However, the draft Staff Report recognizes that reduced surface water availability under the unimpaired flow pathway would decrease opportunities for groundwater recharge, presenting challenges for meeting the goals of SGMA, the Water Resilience Portfolio, and the Water Supply Strategy. While the draft Staff Report indicates that water agencies could capture local precipitation, storm water, and flood flows to recharge local aquifers, these actions would incur significant costs with no clear source of funding and could be severely constrained by the supply reductions imposed under the unimpaired flow pathway.
- c. Water Resilience Portfolio: In the Water Resilience Portfolio, Governor Newsom “direct[s] state agencies...to develop voluntary agreements”, recognizes the HRL Program as an alternative to the State Water Board staff’s unimpaired flow pathway to updating the Bay-Delta Plan, and acknowledges that the HRL Program holds “the promise to adaptively manage enhanced flows and habitat to improve conditions for fish and wildlife.”³¹

²⁸ California Natural Resources Agency, California Environmental Protection Agency, and California Department of Food and Agriculture. 2020. *California Water Resilience Portfolio: Governor’s Executive Order N-10-19*. Page 19.

²⁹ California For All, et al. *California’s Water Supply Strategy*. Page 12.

³⁰ Ibid. Page 6.

³¹ California Natural Resources Agency et al. 2020. *California Water Resilience Portfolio*. Page 16.

- d. One Delta, One Science: The HRL Program advances the Delta Stewardship Council's vision of "One Delta, One Science", an open Delta science community that works together to build a common body of scientific knowledge. The HRL Program includes a collaborative and shared science program that would accelerate the discovery of facts; have the capacity to adapt; and inform future water, societal, and environmental decisions across multiple organizations and programs.

Conclusion

ACWA strongly supports the HRL Program, promoted by Governor Newsom, because California "[does not] have to choose between healthy ecosystems or a healthy economy, we can choose a path that provides for both".³² ACWA stands ready to collaborate with the State Water Board and appreciates the opportunity to provide input on the draft Sacramento/Delta updates. Please do not hesitate to contact Stephen Pang at StephenP@acwa.com or (916) 669-2369 if you have any questions or would like to discuss these comments further.

Sincerely,



Stephen Pang
State Relations Advocate
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³² Governor Gavin Newsom. 2022. State, Federal Agencies Announce Agreement with Local Water Suppliers to Improve the Health of Rivers and Landscapes. California Natural Resources Agency webpage.



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Palmdale Water District

David J. Coxey
General Manager
Bella Vista Water District

Jason Martin
General Manager
Rancho California Water District

Valerie Pryor
General Manager
Zone 7 Water Agency

Craig D. Miller, P.E.
General Manager
Western Municipal Water District

Sarah Woolf
General Manager
Eastside Water District

Jim Peifer
Executive Director
Regional Water Authority

Rachel Murphy
General Manager
Contra Costa Water District

Jimi Netniss
General Manager
Modesto Irrigation District

Dennis P. Cafferty
General Manager
El Toro Water District

Robert J. Reeb
Executive Director
Valley Ag Water Coalition

Justen Cole
Director of Utilities
City of Vacaville

Aaron Baker, P.E.
Chief Operating Officer, Water Utility
Santa Clara Valley Water District

Nicholas Schneider
General Manager
Georgetown Divide Public Utility District

Greg Thomas
General Manager
Elsinore Valley Municipal Water District

cc: The Honorable Wade Crowfoot, Secretary for Natural Resources, California
Natural Resources Agency
The Honorable Yana Garcia, Secretary for Environmental Protection, California
Environmental Protection Agency
The Honorable E. Joaquin Esquivel, Chair, State Water Resources Control Board
The Honorable Dorene D'Adamo, Vice Chair, State Water Resources Control
Board
The Honorable Laurel Firestone, Member, State Water Resources Control Board
The Honorable Sean Maguire, Member, State Water Resources Control Board
The Honorable Nichole Morgan, Member, State Water Resources Control Board
The Honorable Charlton Bonham, Director, California Department of Fish and
Wildlife
The Honorable Karla Nemeth, Director, California Department of Water
Resources
Mr. Eric Oppenheimer, Executive Director, State Water Resources Control Board
Mr. Dave Eggerton, Executive Director, Association of California Water Agencies
Ms. Cindy Tuck, Deputy Executive Director, Association of California Water
Agencies