

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

February 2, 2026

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

Re: Comment Letter – Revised Draft Sacramento/Delta Bay-Delta Plan Updates & Ch. 13 of Draft Staff Report

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 December 2025 revised draft Sacramento/Delta updates (revised draft updates) to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed (Bay-Delta Plan) and the limited recirculation of the draft Staff Report/Substitute Environmental Document (draft Staff Report) in support of Sacramento/Delta updates to the Bay-Delta Plan. ACWA represents approximately 470 public water agencies that collectively deliver approximately 90% of the water in California for domestic, agricultural, and industrial uses.

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 submitted written comments on the September 2023 draft Staff Report and October 2024 draft Sacramento/Delta updates in January 2024 and January 2025, respectively. Specific to the revised draft updates and Chapter 13 of the draft Staff Report, ACWA offers the following input to the State Water Board.

1. Provide additional clarity on potential unimpaired flow pathway.

The revised draft updates indicate that the State Water Board intends to develop curtailment methodologies to implement the Bay-Delta Plan's unimpaired flow

pathway. Given the significant impacts of the unimpaired flow pathway on water supply and reservoir storage, as well as uncertainty related to elements like the water supply adjustments and other components of the regulatory approach, additional detail on the authorities and process associated with developing those methodologies will be required.

2. Address Chapter 13 deficiencies.

The State Water Board's modeling in Chapter 13 does not accurately represent the flow contributions of the HRL Program parties. By utilizing a baseline that includes the inflow to export ratio for both the State Water Project (SWP) and Central Valley Project (CVP), the modeling results artificially diminish the scale of the HRL Program's contributions. This baseline issue, combined with the modeling of refuge supplies, appears to affect the results across all unimpaired flow scenarios—making it difficult to accurately determine the water supply effect of this pathway.

In addition, Appendix H3 in the draft Staff Report assumes that water supply reductions could be mitigated with groundwater storage and recovery, water transfers, alternative supplies, and water conservation. However, 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. Under the unimpaired flow pathway, reductions in deliveries would result in less water available for transfer. Developing alternative water supplies is capital-intensive and subject to regulatory challenges. In Southern California, for example, replacing up to 515,000 acre-feet would require the construction of nine additional Carlsbad-sized desalination plants. Finally, 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.

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. The modeling in Chapter 13 shows that the unimpaired flow pathway significantly impacts agricultural and urban water supplies, and the mitigation for those impacts is insufficient because it transfers the burden of that mitigation onto the affected regions.

3. Ensure the final draft updates are consistent with the core elements of the proposal advanced by the HRL Program parties.

The Memorandum of Understanding (MOU) signatories (parties) developed the HRL Program using the best available science—with direct engagement from the California Environmental Protection Agency (CalEPA), California Natural Resources Agency, California Department of Water Resources (DWR), California Department of Fish and Wildlife (DFW), and U.S. Bureau of Reclamation. As a result of this collaborative process,

the parties carefully crafted the comprehensive and integrated HRL Program to meaningfully contribute to meeting the Bay-Delta Plan's objectives. The final draft updates should accurately incorporate the HRL Program as proposed by the parties.

- a. Agreement Structure and Enforcement: It has long been the intention of the parties—based on engagement with the State Water Board and CalEPA—to utilize several agreements, including the Global Agreement, Implementation/Tributary Agreements, and Enforcement Agreements. Currently, the structure of the agreements and enforcement mechanisms is unclear. ACWA recommends that the final draft updates clarify how these agreements will be incorporated into the Bay-Delta Plan.
- b. Flow Accounting: The parties, in consultation with State Water Board staff, worked to collaboratively develop detailed flow accounting for each tributary that accurately reflects the MOU proposals. However, some tributaries' flow accounting provisions in Appendix B.1 have been significantly modified from what was previously developed, and Section B.1.3 defers development of a transparent accounting process to "[w]ithin 90 days of adoption of the Sacramento/Delta updates to the Bay-Delta Plan". Given the extensive work already completed, ACWA believes that this deferral is unnecessary and recommends that the State Water Board both acknowledge the sufficiency of the previously developed flow accounting documents and revise the final draft updates to more accurately capture what was previously agreed upon.
- c. Non-flow Habitat Accounting: The HRL Program is built on ambitious, statewide commitments by participating parties to implement habitat enhancement and restoration projects. To ensure accountability, the State Water Board must adopt habitat accounting protocols that allow the State Water Board, the participating parties, and the public to determine whether these targets have been met. The accounting framework needs to provide clarity, consistency, and transparency in how habitat outcomes are measured and credited. ACWA recommends that the final draft updates include habitat accounting protocols that enable a clear and reasonable assessment of whether the program's commitments have been met.

In addition, Appendix B.2 includes provisions that risk discounting the benefits of early implementation habitat enhancement projects. Since December 2018, the State Water Board, other State agencies, and parties have all worked to incentivize and encourage the planning, permitting, and construction of habitat projects. These projects should not be subject to strict application of the design criteria included in habitat accounting protocols of the final plan updates as those provisions were not available at the time that those projects were designed, permitted and constructed. However, the revised draft updates do not clearly reflect this need, creating uncertainty for these projects. It is neither feasible nor appropriate to hold early implementation projects to strict design criteria that did not exist at the time of their

implementation. ACWA recommends that the final draft updates explicitly recognize early implementation projects and provide flexibility on crediting protocols that reflect their development prior to the establishment of new criteria.

- d. Narrative Objective for Interior Delta Flows: The revised draft updates include new implementation responsibilities for the SWP and CVP under the Narrative Objective for Interior Delta Flows. However, under the MOU, the full extent of the parties' responsibility for implementing the new narrative objectives is limited to their specific contributions to the HRL Program. By requiring compliance with the United States Fish and Wildlife Service and National Marine Fisheries Service Biological Opinions (BiOps) and DFW Incidental Take Permit, the State Water Board effectively imposes additional obligations that are beyond its regulatory authority. These new requirements are contrary to the language and intent of the MOU and ACWA recommends they be removed.
- e. No Redirected Impacts: The MOU also indicated no redirected impacts from the State Water Board's selected approach to the protection of flows. However, the State Water Board has no ability to enforce, since it does not have diversion information that is complete and on the relevant timestep. As a result, the SWP and CVP would end up backstopping flow, resulting in impacts to their water supplies. The State Water Board needs to protect SWP and CVP water supplies.

Each component of the HRL Program is important. The HRL Program has the potential to bring enhanced flows, restored habitat, a robust science program, and collaborative approaches to decision-making through governance processes to meet the Bay-Delta Plan's objectives.

4. Establish clear process for onboarding new HRL Program parties.

The State Water Board should clarify the process by which new parties can be added to the HRL Program, further broadening the scope and benefits of this comprehensive approach. By leveraging the expertise of the California Department of Water Resources, the California Department of Fish and Wildlife, and the HRL Program's Systemwide Governance Committee, the State Water Board can ensure that new parties are integrated in a manner that contributes meaningfully to meeting the narrative objectives for salmon protection and native fish viability. Please refer to the coalition letter from the Northern California Water Association and Sacramento Valley Water Users for a more detailed discussion of the proposed onboarding process.

5. Protect all beneficial uses of water.

The State Water Board is responsible for updating the Bay-Delta Plan to establish water quality objectives that ensure the reasonable protection of all beneficial uses of water, considering environmental characteristics, water quality conditions, and economic considerations, among other things. The HRL Program achieves this balance, increasing

Delta inflow and outflow above the requirements of Water Right Decision 1641 and the 2024 BiOps. 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. Advance and adopt the Sacramento/Delta update to the Bay-Delta Plan.

The Administration and parties have invested considerable time and resources in developing their proposal and are prepared to move forward. It is now incumbent on the State Water Board to finalize the Bay-Delta Plan update without further delay. Water is a foundational resource for California's economy—supporting communities, farms, and businesses—and is equally vital to the health of our rivers and the native species that depend on them. Every year of delay postpones urgently needed habitat projects and ecosystem restoration efforts for salmon, smelt, and other imperiled species, while prolonging uncertainty for communities, water managers, and the economy. Finalizing the update will provide the regulatory foundation needed to sustain economic productivity, maintain affordability, and protect public health, while also delivering ecological assets required to restore species and habitats that cannot afford further delay.

7. Conclusion

ACWA appreciates the opportunity to provide input on the revised draft updates and draft Staff Report. 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
Association of California Water Agencies

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 Meghan Hertel, 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. Marwan Khalifa, Interim Executive Director, Association of California Water Agencies