

# Recent Communication Regarding State and Federal Water Project Management

Bay-Delta Committee Item 6c November 23, 2021

#### Overview

- Background: Bay-Delta Regulatory Review
- Interim Operations
- Long-Term Operations
- Voluntary Agreement
- Next Steps



### Background: Regulatory Review

Key Permits and Standards Governing Project Operations

Federal 2019 Biological Opinions (ESA) **State**Water Rights
Decision 1641

State Water

State
2020 Incidental
Take Permit
(CESA)

ESA = Endangered Species Act CESA = California Endangered Species Act

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Project

#### Bay-Delta Regulatory Framework

2019 Biological Opinions/Incidental Take Permit/Water Quality Control Plan



GVP Pumps

# Interim Operations

#### Interim Operations Plan

- "Take" authorization must continue during consultation
- 2019 Biological Opinions continue to be operable unless modified
- Operations during the reinitiated consultation would be modified by the Interim Operations Plan
- September 2021 Interim Operations Plan has not been subject to further permitting

#### Interim Operations Plan

Term Sheet: Interim Operation Plan issued on September 27, 2021 by Federal and State Government and includes:

#### Near-Term Interim Operations (approximately 1 year)

- Changes in Shasta Reservoir operations
- Changes in Federal Project export operations
- New spring outflow
- Excess Flow Requirements Modified (March –June)

#### **Long-Term Consultation Process**

- New operations goal statement (viability and distribution)
- Consultation timeline

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## Complexities of Interim Operations



2019 Biological Opinions contain drought planning and response actions



Changes in project operations require compliance with environmental permitting requirements



Changes in project operations without appropriate permitting can have unintended environmental consequences



WIIN Act requires that federal agencies include water contractors in the consultation

#### Response to Interim Operations Plan

State Water Contractors and Federal Water Project Contractors provided feedback early October

- Congressional letters to state and federal agencies from:
  - Costa, Garamendi, Harder
  - Feinstein, Costa, Garamendi, Harder
  - Calvert, Garcia, Issa, Kim, La Malfa,
     McClintock, Nunes, Obernolte, Steel

October 14<sup>th</sup>

October 20th

October 21st

# Long-Term Operations

#### Reinitiation of Section 7 Consultation

Long-Term Operations for Central Valley Project and State Water Project



#### United States Department of the Interior

BUREAU OF RECLAMATION 2800 Cottage Way Sacramento, CA 95825-1898



2.2.1.06

VIA ELECTRONIC MAIL

Paul Souza, Regional Director U.S. Fish and Wildlife Service Interior Region 10, California-Great Basin 2800 Cottage Way, Suite W-2606 Sacramento, CA 95825 paul\_souza@fws.gov

Barry Thom, Regional Administrator National Marine Fisheries Service West Coast Regional Office 1201 Northeast Lloyd Boulevard Portland, OR 97232 barry thom@noaa.gov

Subject: Reinitiation of Section 7 Consultation for the Long-Term Operation of the Central Valley Project (CVP) and State Water Project (SWP)

Dear Mr. Souza and Mr. Thom:

Reclamation, after coordination with you and the California Departments of Water Resources (DWR) and Fish and Wildlife (CDFW), requests reinitiation of consultation on the Long-Term Operation of the CVP and SWP. Pursuant to 50 CFR § 402.16, 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 anticipate a modified Proposed Action and associated biological effects analysis that would result in new Biological Opinions for the CVP and SWP. The goals will be to support species viability, protect life history diversity, support operational flexibility, provide regulatory certainty, support science and monitoring, and to create a single feasible adaptable coordinated operation for the CVP and SWP. Reclamation understands that DWR will be an applicant in the consultation and that CDFW participation will facilitate updating DWR's Incidental Take Permit for the operation of the SWP.

INTERIOR REGION 10 . CALIFORNIA-GREAT BASIN

CALIFORNIA", NEVADA", OREGON'

PARTIAL

January 2021

President Executive Order 13990 issued: "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis"

May 2021

**Federal Government Agencies**<sup>1</sup> responded via written response acknowledging a process to "reconcile" BiOps 2019 with State's permit (ITP) was underway

Oct 1, 2021

**US Bureau of Reclamation** initiated consultation of long-term Operations of both federal and state project

Oct 5, 2021

MWD submitted letter requesting Water Infrastructure Improvement (WIIN) act participation in Reinitiation

<sup>1</sup> US Fish and Wildlife Services (USFWS), National Marine Fisheries Service (NMFS) and US Bureau of Reclamation (USBR)

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Overview: Reinitiation of Section 7
Consultation Long-Term Operations for

Central Valley Project and State Water Project

Initiate or Reinitiate
Consultation

Biological Assessment Biological Opinion

Typically a Multiple Year process

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# Voluntary Agreements

#### Voluntary Agreement (VA)





Savin Newcom

October 20, 2021 Letter from Secretary Bloomfield and Secretary Crowfoot to Phase I Tributary Water District Leaders

"proposed voluntary actions by water agencies on the San Joaquin River tributaries have fallen short of needed flow and habitat improvements, and viable proposals are not being offered at this time."

"we will focus our efforts on advancing a VA with the Sacramento River basin water users and water agencies who contract with the State and Federal water projects"

October 20, 2021

Michael Carlin, Acting General Manager and Chief Operating Officer San Francisco Public Utilities Commission 525 Golden Gate Avenue (at Polk St.) San Francisco, CA 94102

Steve Knell, General Manager Oakdale Irrigation District 1205 East F Street Oakdale, CA 95361

Michelle Reimers, General Manager Turlook Irrigation District 333 East Canal Drive P.O. Box 949 Turlook, CA 95381

Peter Reitkerk, General Manager South San Joaquin Irrigation District P.O. Box 747 Ripon, CA 95366

Bill Schwandt, General Manager Modesto Irrigation District 1231 11th Street Modesto, CA 95352

John Sweigard, General Manager Merced Irrigation District 744 W. 20th Street Merced, CA 95340

Dear water district leaders.

Thank you for your engagement over the last several years to develop a Voluntary Agreement (VA) to improve conditions for fish and wildlife in the Sacramento-San Joaquin Delta and its major rivers, through a commitment to create habitat and increase flows while providing regulatory certainty to water users. Your collaboration and hard work have been truly appreciated.

We all recognize that a successful VA among water users and state and federal agencies must withstand legal and scientific scrutiny. This VA will be submitted to the State Water Resources Control Board (State Water Board) as a proposed pathway to implement its update to the San



#### Next Steps

Interim Operations

Long-Term Operations

Voluntary Agreements

- Engagement between State and Federal Gov't with State and Federal Water Contractors
- Participate in the development of Biological Opinions under WIIN Act
- Participate in development efforts with State and Water Users across the state

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