

The Sacramento Valley

Water Management Agreement



September 2001

*The Sacramento Valley Water Management Agreement
is a grassroots, collaborative effort to increase water supplies
for farms, cities, and the environment*

Sacramento Valley Water Resources



Sacramento Valley at a Glance

- The Sacramento River supplies 80 percent of the water flowing into the Delta.
- The Sacramento River and its tributaries are major habitat and spawning grounds for threatened and endangered fish species.
- The Sacramento Valley has more than 20 percent of California's total irrigated acreage.
- Sacramento Valley water shortages are predicted to continue for both average and drought years.
- The Sacramento Valley is a major resting point for millions of migratory waterfowl on the Pacific Coast Flyway.
- The Sacramento Valley is home to 2 million people.



The Sacramento Valley

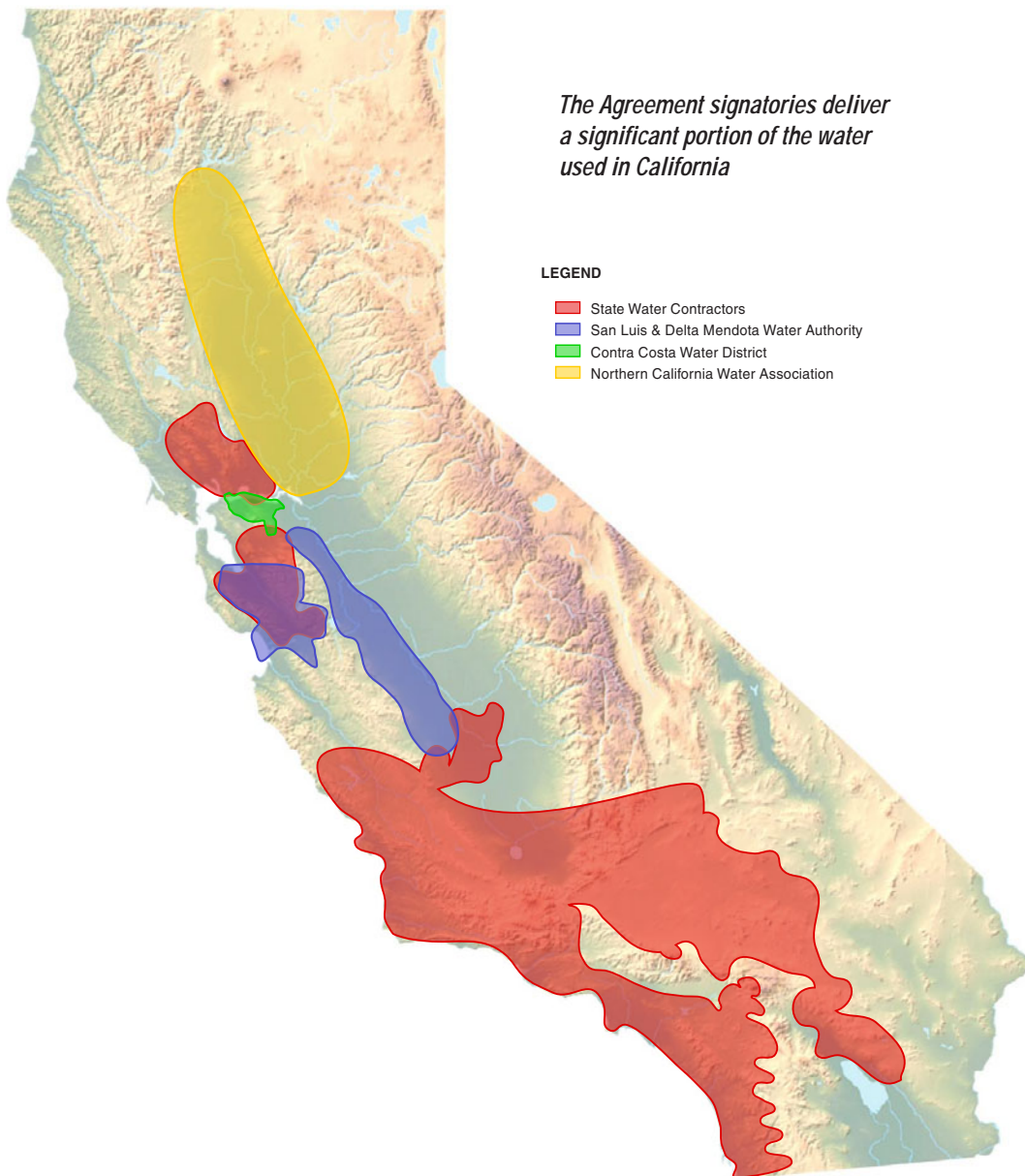
Water Management Agreement

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The Sacramento Valley Water Management Agreement

In April 2001, more than 100 organizations reached an unprecedented agreement to manage water in a way that meets water supply, water quality, and environmental needs in the Sacramento Valley and throughout California.



Agreement Benefits



Increased supplies for all uses

Through integrated water management strategies, upstream and export water users will be able to optimize existing water supplies, enhance water quality, and develop additional supplies. This will enable them to meet existing and future water needs and enhance their water management flexibility.



Sustainable solution

The Sacramento Valley Water Management Agreement (Agreement) calls for solutions to complex problems, rather than stopgap measures. Solutions will be implemented in two tiers, based on how quickly the project can be implemented and begin providing benefits.



Timely resolution

The Agreement provides firm milestones to complete a joint workplan for short-term projects within the first 180 days. These projects will provide benefits for the 2002 and 2003 water years; a long-term workplan will be completed within 1 year.



Environmental restoration

The programs and projects provided for in the Agreement will avoid unmitigated impacts to Delta water quality and the environment and will be developed and implemented to provide environmental benefits, including benefits to fish and wildlife, in the Sacramento River watershed.



Water quality standards will be met

The California Department of Water Resources and the U.S. Bureau of Reclamation will continue to voluntarily meet the requirements in the State Water Resources Control Board 1995 Water Quality Control Plan to protect the Bay-Delta until a long-term solution is negotiated as a part of the Agreement.



Consistent with other water management activities

The projects implemented under this Agreement are consistent with the August 2000 CALFED Bay-Delta Program Record of Decision and with the CALFED Integrated Storage Investigation.

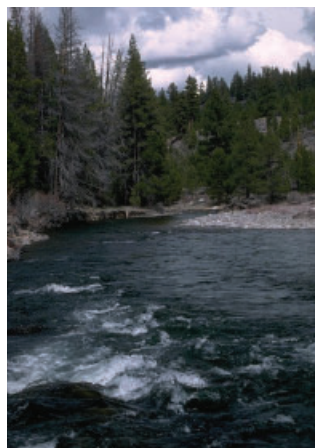
A 40-Year Struggle for Bay-Delta Water Quality

1959 Delta Protection Act passed.	1973 California Department of Fish and Game (DFG) conclude Peripheral Canal best Delta water facility.	1977 California experiences driest year on record.	1978 SWRCB issues Water Right Decision 1485 (D-1485) requiring Central Valley Project (CVP) and State Water Project (SWP) operations to meet Delta water quality standards.	1982 Voters defeat Proposition 9 – the Peripheral Canal Measure.
	1971 State Water Resources Control Board (SWRCB) issues Delta Water Right Decision 1379.	1974 Department of Water Resources (DWR), DFG, U.S. Bureau of Reclamation (USBR) and U.S. Fish and Wildlife Service (USFWS) sign statement of intent that agencies will provide protection of Delta fish and	1979 USBR announces CVP will voluntarily comply with D-1485 until mandatory compliance is resolved.	1986 Racanelli Appellate Court Decision requires SWRCB to revise water rights and water quality process. Historic USBR-DWR Coordinated Operation Agreement authorized by Congress.

California's Sacramento Valley is rich in agricultural and environmental resources and serves as a major resting point for millions of migratory waterfowl on the Pacific Coast Flyway. The Sacramento River is the lifeblood of this Valley. The Sacramento River and its tributaries are major habitat and spawning grounds for threatened and endangered fish species and supply more than 80 percent of the inflows to the Sacramento-San Joaquin Delta. The Delta is the largest estuary on the west coast and serves as the hub for California's water system.

Competing agricultural, environmental, and urban uses create serious water management challenges within the Sacramento Valley. Current forecasts predict continuing statewide water shortages in both average and drought years. Water managers are striving to ensure that the water supply is of both adequate quantity and quality for the many uses.

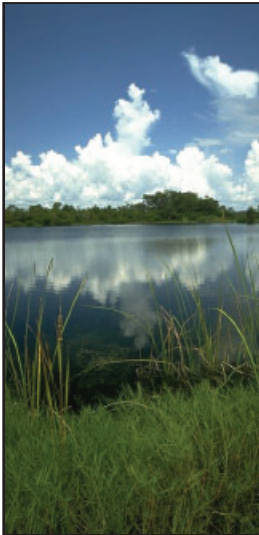
For nearly 40 years, the State of California has struggled to develop the appropriate water quality standards for the Bay-Delta and to determine which water sources are required to meet those standards. This struggle has involved years of contention and litigation and has been elevated to the United States Supreme Court.



A major breakthrough occurred in late 1994 with the so-called Bay-Delta Accord (Accord). The Accord set water quality standards and required the State Water Resources Control Board (Board) to determine which water users would be responsible to meet these standards. In 1995 the Board adopted the Water Quality Control Plan (Plan) as a tool to implement the Accord. The California Department of Water Resources (Department) and the U.S. Bureau of Reclamation (Bureau) have been voluntarily meeting the Plan's water quality standards on an interim basis. Meanwhile, the Board held water rights proceedings to determine final responsibility for meeting the standards.



1987 SWRCB begins proceedings to revise D-1485 upon U.S. Environmental Protection Agency (USEPA) declaration that it is inadequate to protect Bay-Delta water quality.	1992 President George Bush signs CVP Improvement Act, requiring among other things, 800,000 a.f. of water annually for the environment.	1994 Bay-Delta Accord signed. CALFED formed. Sacramento River winter-run chinook salmon listed as federal endangered species.	1995 SWRCB adopts new water quality standards and begins water rights proceedings.	1998 CALFED released programmatic draft EIS/EIR offering three alternatives for Delta restoration.	2001 Sacramento Valley Water Managment Agreement.
1988 Senate Bill 34 passes, providing \$120 million over 10 years for Delta levee maintenance.	1991 SWRCB releases new salinity control plan for Bay-Delta. USEPA calls for more stringent standards.	1993 Delta smelt declared federal threatened species. SWRCB resumes work on permanent Delta Water Quality Standards. USEPA proceeds with setting federal Bay-Delta standards.	1997 Steelhead listed as federal threatened species.	1999 Splittail minnow and spring-run chinook salmon listed as federal threatened species.	2000 CALFED Record of Decision. San Joaquin River Agreement.



Bay-Delta Water at a Glance

- More than 22 million people depend on the Delta for drinking water.
- More than 750 species of plants and animals call the Bay-Delta home, making it the richest ecosystem on the west coast.
- Seven million acres of the nation's most productive agricultural lands depend on Bay-Delta water to irrigate crops and water livestock.
- The Delta is a critical source of freshwater to blend with high salinity waters in other areas of the state to provide safe water for agricultural, environmental, and urban uses.

Phases 1 through 7 of the water rights proceedings involved the San Joaquin Valley and other Delta issues. After completion of these phases, the contentious Sacramento Valley issues (Phase 8) loomed over the State's water users.

In Phase 8, the Department and the Bureau claim that certain water rights holders in the Valley must cease diversions or release water from storage to help meet Delta water quality standards. Sacramento Valley water users believe

their use has not contributed to water quality problems in the Delta; and as senior water right holders and water users within the watershed and counties of origin, they contend they are not responsible for meeting these standards. The Phase 8 process would ultimately determine which entities and individuals (if any) would be responsible for meeting water quality standards.

Agreement Partners

California Department of Water Resources
U.S. Bureau of Reclamation
State Water Contractors

San Luis & Delta-Mendota Water Authority
Contra Costa Water District
Northern California Water Association

San Luis & Delta-Mendota Water Authority includes the following:

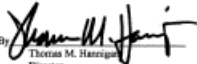

Banta-Carbona Irrigation District
Broadview Water District
Central California Irrigation District
Centinella Water District
City of Tracy
Columbia Canal Company
Del Puerto Water District
Eagle Field Water District
Firebaugh Canal Water District
Fresno Slough Water District
Grassland Water District
James Irrigation District
Laguna Water District
Mercey Springs Water District
Oro Loma Water District
Pacheco Water District
Pajaro Valley Water Management Agency
Panoche Water District
Patterson Irrigation District
Plain View Water District
Pleasant Valley Water District
Reclamation District 1606
San Benito County Water District
San Luis Canal Company
San Luis Water District
Santa Clara Valley Water District
Tranquility Irrigation District
Tummer Island Water District
West Side Irrigation District
West Stanislas Irrigation District
Westlands Water District
Widren Water District



Northern California Water Association includes the following:



Brophy Water District
Browns Valley Irrigation District
Cordua Irrigation District
Feather Water District
Garden Highway Mutual Water Company
Glenn-Colusa Irrigation District
Joint Water Districts Board
Biggs-West Gridley Water District
Butte Water District
Richvale Irrigation District
Sutter Extension Water District
Maxwell Irrigation District
Natomas Mutual Water Company
Pelger Mutual Water Company
Plumas Mutual Water Company
Princeton-Codora-Glenn Irrigation District
Provident Irrigation District
Ramirez Water District
Reclamation District 108
Reclamation District 1004
South Sutter Water District
South Yuba Water District
Sutter Bypass-Butte Slough Water UA
Sutter Mutual Water Company
Tehama-Colusa Canal Authority
Colusa County Water District
Corning Water District
Cortina Water District
Davis Water District
Dunnigan Water District
4-M Water District
Glenn Valley Water District
Glide Water District
Holthouse Water District
Kanawha Water District
Kirkwood Water District
LaGrande Water District
Myers-Marsh Mutual Water Co.
Orland-Artois Water District
Proberta Water District
Thomes Creek Water District
Westside Water District
Thermalito Irrigation District
Tudor Mutual Water Company
Western Canal Water District
Yuba County Water Agency

State Water Contractors includes the following:

Alameda County Flood Control and Water Conservation District Zone 7
Alameda County Water District
Antelope Valley-East Kern Water Agency
Casitas Municipal Water District
Castaic Lake Water Agency
Central Coast Water Authority
City of Yuba City
Coachella Valley Water District
County of Kings
Crestline-Lake Arrowhead Water Agency
Desert Water Agency
Dudley Ridge Water District
Empire-West Side Irrigation District
Kern County Water Agency
Littlerock Creek Irrigation District
Metropolitan Water District of Southern California
Mojave Water Agency
Napa County Flood Control and Water Conservation District
Oak Flat Water District
Palmdale Water District
San Bernardino Valley Municipal Water District
San Gabriel Valley Municipal Water District
San Geronio Pass Water Agency
San Luis Obispo County Flood Control and Water Conservation District
Santa Clara Valley Water District
Solano County Water Agency
Tulare Lake Basin Water Storage District

DEPARTMENT OF WATER RESOURCES
DATED: 3/23/01
Approved as to legal date and authenticity:
By: 
Thomas M. Hastings
Director
APPROVED AS TO LEGAL DATE AND AUTHENTICITY:
By: 
Lester A. Shaw
Regional Director
UNITED STATES BUREAU OF RECLAMATION
MID-PACIFIC REGION

STATE WATER CONTRACTORS
DATED: 4/3/01
By: 
John C. Cohen
General Manager
SAN LUIS & DELTA-MENDOTA WATER AUTHORITY
DATED: 3/30/01
By: 
David G. Nelson
Executive Director

CONTRA COSTA WATER DISTRICT
DATED: 4/3/01
By: 
Walter J. Bishop
General Manager
NORTHERN CALIFORNIA WATER ASSOCIATION
DATED: 4/4/01
By: 
David J. Gray
Executive Director

Unprecedented Cooperation

The Sacramento Valley Water Management Agreement is a grassroots, collaborative effort to increase water supplies to farms, cities, and the environment.

Proceeding with Phase 8 could involve litigation and judicial review for nearly 10 years. This extended process could result in adverse impacts to the environment and undermine progress on other statewide water management initiatives. To avoid the consequences of delay, the Sacramento Valley water users, the Department, the Bureau, and export water users developed the Sacramento Valley Water Management Agreement (Agreement). This Agreement establishes a framework to meet water supply, water quality, and

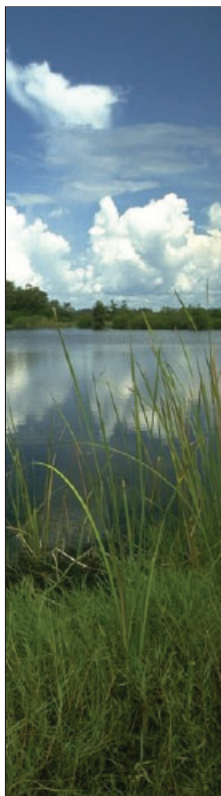
environmental needs in the areas of origin and throughout California in an unprecedented cooperative spirit. The Board on April 26, 2001, issued an order to postpone and possibly dismiss Phase 8 of its Bay-Delta water rights proceedings and allow implementation of the Agreement, thus providing an amicable way to resolve these contentious issues.

Regional Strategy Based on Collaboration

The cornerstone of the Agreement is that it was achieved and will be implemented through a collaborative process including Sacramento Valley water users, the Department, the Bureau, and export water users. This will include active participation by water district managers, technical consultants, and local political leaders. The Agreement provides the foundation for a regional strategy to ensure that local water needs are fully met while helping improve water supplies throughout the state.

Agreement Principles

- The state and federal export projects will continue to meet water quality standards in the Delta until a long-term solution is negotiated as a part of the Agreement.
- The parties fully commit to an integrated water management and water supply development program for the Sacramento Valley that will meet 100% of the water needs in the Sacramento Valley, improve the water supplies and quality for other areas of the state, and provide water for environmental purposes.
- The parties will work together to secure public funding for water management and supply projects in the Sacramento Valley that will help assure environmental restoration, optimize the use of existing water supplies and enable local interests to develop additional water supplies in areas of origin.
- By the end of 2001, the parties will prepare a joint workplan for short-term Sacramento Valley water management projects to implement the Agreement. Workplans on longer-term projects will follow in 2002.
- The parties will evaluate the projects and workplans against the Agreement's goals and principles on an ongoing basis to ensure that water needs are being met.



Next Steps: Workplans for Implementation



To implement the Agreement, the parties are preparing joint workplans. The workplans will describe certain Sacramento Valley projects and provide an estimate of the quantity of water or other water management benefits that can be realized by implementing these projects. The short-term workplan will provide benefits for 2002 and 2003 and will be completed by the end of 2001. The long-term workplan will be completed by May 2002.

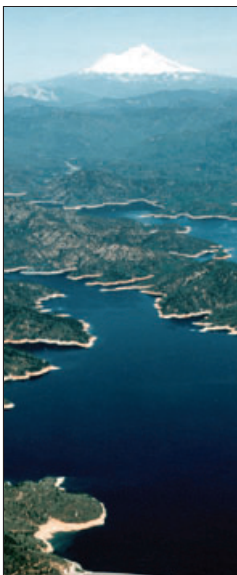
The workplans will identify a palette of voluntary water management measures that will lead to an integrated water management program. The program will include the

coordinated use of storage facilities, management and recovery of tailwater through major drains, water conservation, conjunctive management of surface water and groundwater, and transfers and exchanges among Sacramento Valley water users and other water users in the state. Furthermore, the Agreement contains a commitment to implement Sites Reservoir as an integral component of the water management and water supply development program for the Sacramento Valley.

The workplans are being developed through the process illustrated in Figure 1. It is a locally driven process, with

Figure 1 **Project Development Process**





Management Tools

Implementation of voluntary water management measures are key to accomplishing the goals of this Agreement. These include:

- Coordinated use of storage facilities
- Conjunctive management of surface water and groundwater
- Management and recovery of tailwater through major drains
- Water conservation
- Transfers and exchanges among Sacramento Valley water users and other water users in the state
- Increased surface storage

extensive involvement by all stakeholders. More than 50 stakeholders completed detailed questionnaires to propose projects for the short-term workplan. The proposed projects will be screened on the basis of a broad range of potential benefits and broad geographic coverage in the Valley.

Those projects will then be reviewed and evaluated on the basis of more detailed project summaries. From that review, projects will be selected for inclusion in the short-term workplan and implementation plans will be developed.

The next steps will be:

- Conduct environmental review and obtain necessary permits
- Secure appropriate funding
- Provide for public participation

Environmental review is a part of all projects, even those that will generate positive net effects on the environment. Envi-

ronmental documentation will be prepared for all projects, and cumulative impacts will be addressed.

Funding will be pursued from a number of sources. As most of the projects will provide multiple benefits to various participants, cost-sharing arrangements will be negotiated to reflect those benefits. Many of the projects will also provide public benefits, primarily environmental, and efforts will be made to obtain state and federal funds to support those benefits. Potential funding sources include Proposition 13, Proposition 204, and state and federal funding through the CALFED program.

Public support will be crucial to successful development of the projects. Public meetings will be held to provide opportunities for full input into the planning process.



Appendix A

AGREEMENT REGARDING RESOLUTION OF PHASE 8 ISSUES, DEVELOPMENT AND MANAGEMENT OF WATER SUPPLIES, AND A BINDING COMMITMENT TO PROCEED PURSUANT TO SPECIFIED TERMS

This Agreement is in furtherance of a resolution of Phase 8 of the State Water Resources Control Board's (hereinafter "SWRCB") current Bay-Delta Water Rights Hearings. The Parties will work together to settle issues related to obligations or potential obligations to meet existing Bay-Delta water quality and flow objectives by developing a cooperative water management partnership among (a) those south of the Sacramento-San Joaquin Delta who possess water rights or are State Water Project ("SWP") or Central Valley Project ("CVP") water users; (b) the Contra Costa Water District and those who derive SWP water from the North Bay Aqueduct (hereinafter (a) and (b) for the purposes of this Agreement referred to collectively as "Export Water Users"); (c) those who possess water rights or are water users within the watershed of the Sacramento River and its tributaries (hereinafter "Upstream Water Users"); (d) the California Department of Water Resources (hereinafter "DWR"); and (e) the United States Bureau of Reclamation on behalf of the CVP (hereinafter "Reclamation"), all of which are hereafter referred to as the Parties.

Now therefore, it is mutually agreed as follows:

1. Goals and Principles

The Parties hereto agree to the following statement of goals and principles that shall guide the implementation of all aspects of this Agreement, including development of a cooperative water management partnership. This Agreement, during its term, is intended to:

- (a) Provide the mechanism for satisfying the flow-related objectives of the SWRCB's 1995 Bay-Delta Water Quality Control Plan (hereinafter the "1995 WQCP");
- (b) Be implemented in lieu of proceeding with Phase 8 of the SWRCB's Bay-Delta process;
- (c) Facilitate the development of integrated water management strategies that will enhance the Upstream and Export Water Users' abilities to optimize use of their existing supplies, enable them to develop additional supplies to meet their existing and future water needs, and enhance their water management flexibility;
- (d) Facilitate the development of protections to ensure that water stored and released by the SWP and the CVP is available for meeting downstream flow-related objectives and for SWP and CVP purposes, including exports from the Delta;
- (e) Be implemented in a manner compatible with CALFED's goals;
- (f) Facilitate the development of new near- and long-term water supplies through agreements among the Parties, and through the Governor's drought contingency plan, in ways that do not detract from the ability to meet the existing and future needs of Upstream Water Users;
- (g) Avoid unmitigated impacts to Delta water quality or the environment;
- (h) Provide net water quality benefits for Upstream Water Users, Export Water Users, and the Delta;
- (i) Be implemented in a manner that provides that the comprehensive program will, among other factors, be cost effective, financially feasible, and affordable; and
- (j) Result in state-wide water resource and environmental benefits and, therefore, receive funding from state and federal sources where appropriate.

2. Initial Elements of the Cooperative Management Partnership.

It is intended that the Goals and Principles adopted with this Agreement be implemented through the development of specific programs and projects. The development of these programs and projects will be an ongoing process and may, over time, involve numerous entities not signatories to this Agreement. These may include agencies of the state or federal government including, but not limited to, the United States Fish & Wildlife Service ("USFWS"), the National Marine Fisheries Service ("NMFS"), and the California Department of Fish and Game ("CDFG"), and may also include in-Delta water users. Moreover, over time, the Parties may decide to employ a facilitator or mediator to assist them in moving forward with project development and implementation. In this light, the following specific matters are intended only as the initial scope of work under this Agreement, with future work to be developed and implemented as appropriate. Future work plans, if appropriate, can become amendments to this Agreement or can be the subject of subsequent related agreements.

- (a) *Quantifying Water Demands and Supplies.* The Parties recognize a need to develop reliable estimates of the quantities of water that are currently being used, present unmet demands and projected future demands within the watershed of the Sacramento River and its tributaries. The Parties also need to develop estimates of the quantities of new water supplies that could be made available to Upstream areas, Export areas, and to meet the 1995 WQCP standards based on the measures included in the programs and projects described below. The Parties agree to establish a technical committee to begin immediately to develop, collect and analyze this information.
- (b) *Unmet and Future Demands in the Upstream Areas.* The Parties recognize that Upstream Water User demands may vary and that the following approximates the categories of upstream demands that will be provided for:
 - (i) Urban needs and uses within the watershed of the Sacramento River and its tributaries.

- (ii) Needs and uses within the Tehama-Colusa and Corning Canal service areas.
- (iii) Needs and uses within the Sacramento River Water Rights Settlement Contractors' collective service area.
- (iv) Needs and uses within areas that obtain supply from the drains and bypasses within the Sacramento Valley.
- (v) Needs and uses within the areas tributary to the Sacramento, American, and Feather Rivers.
- (c) *Export Water Supplies.* The Parties recognize that Export Water Users have experienced water supply reductions as a result of regulatory and other actions. The programs and projects provided for in this Agreement will improve the water supplies on both a short- and long-term basis, and improve the water quality.
- (d) *Environmental Benefits.* The Parties recognize that programs and projects provided for in this Agreement will be developed and implemented not only to meet the needs of Upstream and Export Water Users and the flow-related objectives of the 1995 WQCP, but also to provide environmental benefits, including benefits to fish and wildlife, in the watershed of the Sacramento River.
- (e) *Role of Sites Reservoir.* The Parties recognize that new off-stream surface storage is an essential part of the long-term water management program, and agree that Sites Reservoir is a potentially significant off-stream surface-water storage project that could help meet the goals and objectives of this Agreement, including providing capacity to increase the reliability of water supplies for Upstream and Export Water Users, flexibility during critical fish migration periods on the Sacramento River, and storage benefits for other CALFED programs. Work being undertaken pursuant to CALFED's Sites MOU will be integrated into this Agreement and the Parties will work with CALFED to accelerate feasibility studies and completion of appropriate environmental and permitting processes for the reservoir.
- (f) *Enlarged Shasta.* The Parties agree that other significant surface water storage opportunities may exist, including the enlargement of Shasta Reservoir. The Parties shall take all appropriate efforts to advance these other opportunities and shall integrate the benefits associated with these projects into the programs provided for in this Agreement.
- (g) *Role of the Basin-Wide Management Plan.* Reclamation and certain Upstream Water Users are currently developing a Basin-Wide Management Plan for the purpose of improving water management within portions of the Sacramento Valley. The Basin-Wide Management Plan that Reclamation and certain Upstream Water Users are developing shall serve as a model for implementation of this Agreement and could be expanded to incorporate other areas of the watershed of the Sacramento River and its tributaries, as appropriate.
- (h) *Management Tools for this Agreement.* A key to accomplishing the goals of this Agreement will be the identification and implementation of a "palette" of voluntary water management measures (including cost and yield data) that could be implemented to develop increased water supply, reliability, and operational flexibility. Some of the measures that may be included in the palette are:
 - (i) Basin-Wide Water Management Plan identified above;
 - (ii) Conjunctive uses of surface water and groundwater;
 - (iii) Coordinated use of storage facilities;
 - (iv) Management and recovery of tailwater through major drains;
 - (v) Transfers and exchanges among Upstream Water Users and with the CVP and SWP water contractors, either for water from specific reservoirs, or by substituting groundwater for surface water;
 - (vi) Substitution of water from potential north of Delta reservoirs, such as Sites Reservoir, for groundwater, or river diversions, or maintaining water quality in the Delta; and
 - (vii) Water conservation.

3. Resolution of Phase 8 Issues

- (a) The Parties agree that while this Agreement remains in effect, DWR and Reclamation shall assume responsibility for meeting the Sacramento River and its tributaries' portions of flow-related objectives established in the 1995 WQCP. Upstream Water Users shall have no obligation to release stored water, extract groundwater or forego diversions in order to help implement the flow-related objectives included in the 1995 WQCP.
- (b) In conjunction with the SWRCB, the Parties shall jointly develop a program to prevent unauthorized diversions, provided that the program is consistent with this Agreement.
- (c) The Export Water Users, DWR, and Reclamation agree that while this Agreement is in effect they shall take no action before the SWRCB or elsewhere, nor shall they support any such action to insert Term 91, or its regulatory equivalent, into existing water rights permits or licenses, or modify riparian or pre-1914 water rights through the application of the regulatory equivalent of Term 91. The Parties recognize that the SWRCB will continue to implement Term 91 according to its existing terms.
- (d) Notwithstanding the foregoing, nothing herein shall be interpreted as waiving the Parties' legal positions or rights in the event that the SWRCB proceeds with the Phase 8 hearings or otherwise attempts to determine the legal obligations of water users to meet adopted water quality or flow standards in the Bay-Delta or in streams tributary to the Bay-Delta. In addition, the Parties acknowledge and agree that nothing herein shall limit their ability to initiate a new or additional water right or water supply, transfer an existing water right, or change or modify an existing water right or a contract relating to a water supply; nor shall a Party be precluded from arguing that Term 91 should be applied or not applied by the SWRCB in any of these proceedings or that a new water right, transfer, or change or modification of an existing water right will or will not cause injury to a lawful water user.

- (e) This Agreement shall become effective on the day the SWRCB enters an order that:
 - (i) Provides for a Stay of Phase 8 of the current Bay-Delta water rights proceeding pending development and approval of the Workplans described in Paragraphs 5(a) and 5(b) of this agreement;
 - (ii) Provides that, should either of the Workplans not be completed or approved, and this Agreement is therefore terminated, the Parties shall immediately notify the SWRCB and the SWRCB will lift the stay and proceed with Phase 8;
 - (iii) Under the circumstances provided for in sub-paragraph 3(e)(ii), extends the expiration of the SWP's and CVP's obligations under Conditions 1 and 2 of the Order in Revised Decision 1641 to the earlier of the completion of a resumed Phase 8 or one year from the date of a notice to the SWRCB of termination of this Agreement; and
 - (iv) Provides that, should the Workplans described in Paragraphs 5(a) and (b) both be completed and approved, Notice of the approval provided to the SWRCB (a) automatically dismisses the Phase 8 proceedings and (b) further extends the expiration of the SWP's and CVP's obligations under Conditions 1 and 2 of the Order in Revised Decision 1641 to one year after the Notice of the termination of this Agreement to the SWRCB or such sooner time as a water rights proceeding allocating the responsibilities to meet Bay-Delta standards is completed; and
 - (v) Provides that the dates set forth in sub-paragraphs 3(e)(iii) and (iv) above may be extended for up to one year if after notice and hearing the SWRCB determines that the additional time is necessary for it to fully consider and decide the matter.

4. Resolution of Related Issues

The Parties acknowledge that there are a number of administrative, regulatory, legislative and judicial actions currently ongoing or reasonably to be anticipated that could have major effects on the Parties' ability to implement the terms of this Agreement.

In this regard, the Parties acknowledge and agree that developments in any of these or other matters may have a material effect on any Party's ability to implement this Agreement and meet the Milestones set forth in Paragraph 5 below. The Parties agree that they will work together to attempt to deal with the factual/legal situation that then exists in order to allow the Parties to proceed with the programs identified in this Agreement. Nonetheless, failure to meet Milestones, for whatever reason, shall remain a cause for the termination of this Agreement.

5. Milestones

- (a) *Short-Term Projects.* Within one hundred eighty days of the Effective Date of this Agreement, the Parties shall, working together, prepare a joint work plan listing short-term projects that can be used to implement this Agreement. Such projects are defined as those which can provide benefits for the 2002 and 2003 water years.
- (b) *Medium and Long-Term Projects.* Within one year of the Effective Date of this Agreement, the Parties shall, working together, prepare a joint work plan listing medium- and long-term projects that can be used to implement this Agreement. Medium-term projects are defined as those which will be operational by December 31, 2005. Long-term projects are defined as those which are operational by December 31, 2010.
- (c) *Workplan Standards.* For each project identified in the respective Workplan, the appropriate Workplan shall:
 - (i) Briefly describe the project, including expected 10 net benefits and their proposed allocations;
 - (ii) Provide a preliminary estimate of the quantity of water or the nature of other water management benefits that can be realized by implementing the project;
 - (iii) Provide a preliminary estimate of the cost of the project;
 - (iv) Identify any major environmental issues associated with the project; and
 - (v) Describe how the project could best be implemented (including a plan for financing for the project).

Each Workplan shall also provide a timetable for implementation of identified projects, which shall then constitute additional Milestones for this Agreement.

- (d) *Funding.* The Parties shall immediately jointly seek funding for the development of the two Workplans identified above from general state and/or federal sources. In addition, the Parties shall also seek funding, pursuant to Proposition 204 and other possible funding sources, to cover the cost of implementing programs identified within the respective Workplans. Milestones identified within this Agreement may need to be adjusted in order to provide ample time for the Parties to secure adequate state and federal funding to allow work to proceed. Such adjustments must be accomplished pursuant to mutual agreement of all Parties. The Parties shall not seek to acquire funds that are obligated to other programs within CALFED, and shall not seek funding that may otherwise conflict with funding commitments under the Central Valley Project Improvement Act Restoration Fund.
- (e) *Workplan Updates.* The Parties shall review and update the medium/long-term Workplan annually to incorporate information learned as a result of the cooperative process contemplated by this Agreement or as a result of other efforts. The Parties may also revise the list of projects contained in the medium/long-term Workplan, the estimates of the water supply or other benefits associated with such projects, the cost estimates for such projects, the environmental issues associated with such projects, and the implementation plan for each project. The Parties may review and update the medium/long-term Workplan as necessary in the event that circumstances identified in Paragraph 4 above occur.
- (f) *Sites Reservoir Milestones.* Because of the potential significance of Sites Reservoir or other north of Delta offstream storage to achieving the

goals of this Agreement, the following additional specific Milestones shall be adhered to:

- (i) finalize a Purpose and Needs Statement for the project satisfactory to the Parties no later than March 9, 2001;
- (ii) initiate initial scoping sessions associated with appropriate environmental review by April 9, 2001;
- (iii) initiate negotiations on all relevant Planning Agreements called for within the Sites MOU, including addressing issues dealt with in Paragraphs 7.4, 7.5 and 7.6 of the Sites MOU, by January 31, 2001;
- (iv) complete all environmental and planning documentation for the project not later than August 2004;
- (v) make a final decision with respect to the implementation and construction of the project, including obtaining all relevant permits/ biological opinions, including compliance with Clean Water Act section 404(b)(1) or 404(r) by August 2005; and
- (vi) assuming a decision to proceed, initiate project construction not later than August 2006.

6. Term and Termination

- (a) *Term.* Except as may be otherwise expressly provided, the term of this Agreement shall be until December 31, 2010.
- (b) *Annual Reviews.* The Parties shall agree upon the Workplan identified in Paragraph 5(a) of this Agreement within 60 days of its completion. A failure to do so shall cause the immediate termination of this Agreement. The Parties shall agree upon the Workplans identified in Paragraph 5(b) of this Agreement within 60 days of their completion. A failure to do so shall cause the immediate termination of this Agreement. Assuming approvals of the Workplans identified in Paragraphs 5(a) and 5(b), the Parties shall thereafter, on an annual basis as scheduled by the Parties, jointly review the status of development and implementation of all Workplans, as well as the meeting of Milestones provided for herein and in the Workplans. Each annual review shall include a detailed examination of the status of Workplan and Milestone implementation including, without limitation, project feasibility and design, environmental review, permitting and funding. Except as provided for above, this Agreement may only be terminated following an annual review performed in accordance with this Paragraph 6.
- (c) *Termination for Failure to Meet Milestones.* Any Party may terminate this Agreement if, following an annual review and after the mediation provided for in Paragraph 7 of this Agreement, it determines:
 - (i) that either reasonable progress in achieving the Milestones established under this Agreement or in the Workplans cannot be made through the exercise of reasonable diligence by the Parties; or the Milestones established under this Agreement or in the Workplans have not been substantially achieved; and
 - (ii) that the Milestones established under this Agreement or in the Workplans cannot be revised to result in the reasonable achievement of the Milestones of this Agreement.
- (d) *Termination on Modification in 1995 WQCP.* In the event the flow-related objectives contained in the 1995 WQCP are increased or decreased, the Parties shall meet and, if necessary, employ the process outlined in Paragraph 7 of this Agreement, in an attempt to address the changed circumstances associated with modified flow-related objectives. A failure to reach agreement shall cause the termination of this Agreement.
- (e) *Petition on Termination.* In the event the Workplans are not completed or approved or this Agreement is terminated, the Parties shall immediately petition the SWRCB to conduct a water rights hearing to consider the issues described in the SWRCB's Revised Notice of Phase 8 Hearing dated May 6, 1998.

7. Resolution of Disputes

Resolution of disputes, and issues which a Party believes may subject this Agreement to termination shall first be submitted to a mediator, mutually selected by the Parties, with experience in water-related disputes. The Parties will use their best efforts to resolve the issues within 30 days. The costs of any such mediation will be borne equally among the Parties.

8. Effect of this Agreement on Other Matters

Nothing in this Agreement, and nothing incorporated by reference into the terms of this Agreement, is intended or shall be construed as a precedent or other basis for any argument that the Parties to this Agreement have waived or compromised their rights which may be available under State or Federal law except as to the matters addressed in this Agreement, nor shall it be construed as an admission or determination of any Party's responsibility for meeting the requirements of the 1995 WQCP.

9. Contingent Upon Appropriations

The expenditure or advance of any money or the performance of any obligation of the United States under this Agreement shall be contingent upon appropriation or allotment of funds. No liability shall accrue to the United States in case funds are not appropriated or allotted.

10. Technical and Management Committees

The Parties shall form two committees. The first shall be a technical committee which shall have the initial responsibility to develop the Workplans and related Milestones. The second shall be a management committee which shall provide policy direction to the technical committee and review and approve Workplans and Milestones. The committees shall together, in a manner that they determine, be responsible for the implementation of the Workplans. Each Party to this Agreement shall appoint one or more representatives to each of these committees.

11. Public Participation

The Parties shall hold periodic public meetings to provide an opportunity for nonparticipating individuals and entities to have input into the planning process.

12. Other Agreements

The Parties recognize that as program development progresses there will be a need to either amend this Agreement or to enter into additional agreements. In this regard, the Parties acknowledge that this Agreement will complement other relevant local partnerships and/or CALFED agreements and shall, as a consequence, be flexible enough to accommodate those other partnerships and agreements.

13. Environmental Compliance

In carrying out actions which may ultimately result from this Agreement, its amendments or subsequent agreements, the Parties hereto are committed to completing all required environmental review including all procedures and documents required by the National Environmental Policy Act and the California Environmental Quality Act, and to complying with all applicable statutes, including the federal and state Endangered Species Act. The costs of funding this environmental work and compliance shall be among the funding issues dealt with herein. Nothing contained herein is intended to affect DWR's and USBR's compliance with regulatory constraints that are imposed under the Federal Endangered Species Act, the Central Valley Project Improvement Act, the Federal Clean Water Act, or any other applicable state or federal law or regulation, including those incorporated into Tier 1 in the CALFED Record of Decision dated August 28, 2000.

14. Counterparts

This Agreement may be executed simultaneously or in one or more counterparts, each of which shall be an original but all of which together shall constitute one and the same document.

15. Notices

All notices shall be sent to the following: DWR: Thomas R. Hannigan Director Department of Water Resources P.O. Box 942836 Sacramento, CA 94236-0001 Reclamation; Lester Snow Regional Director United States Department of the Interior Bureau of Reclamation, MP-100 2800 Cottage Way Sacramento, CA 95825; Export Water Users: John Coburn, General Manager, State Water Contractors, 455 Capitol Mall, Sacramento, CA 95814; Daniel Nelson, General Manager, San Luis & Delta-Mendota Water Authority, 842 – 6th Street, Suite 7, P.O. Box 2135, Los Banos, CA 93635, Walter J. Bishop, General Manager, Contra Costa Water District, 1331 Concord Avenue, P.O. Box H2O, Concord, CA 94524; Upstream Water Users: David J. Guy Executive Director Northern California Water Association, 455 Capitol Mall, Suite 335, Sacramento, CA 95814.

16. Cooperation

The Parties shall cooperate in carrying out the Mutual Goals and Principles contained herein and the provisions and intent of this Agreement.

17. Effective Date

This Agreement shall become effective upon its full execution by all of the Parties hereto and the satisfaction of the conditions set forth in Paragraph 3(e) of this Agreement.

DEPARTMENT OF WATER RESOURCES	STATE WATER CONTRACTORS	CONTRA COSTA WATER DISTRICT
DATED: <u>3/23/01</u>	DATED: <u>4/3/01</u>	DATED: <u>4/3/01</u>
By: <u>Thomas M. Hannigan</u> Director	By: <u>John C. Coburn</u> General Manager	By: <u>Walter J. Bishop</u> General Manager
UNITED STATES BUREAU OF RECLAMATION MID-PACIFIC REGION	SAN LUIS & DELTA-MENDOTA WATER AUTHORITY	NORTHERN CALIFORNIA WATER ASSOCIATION
DATED: <u>3/16/01</u>	DATED: <u>3/30/01</u>	DATED: <u>4/4/01</u>
By: <u>Lester A. Snow</u> Regional Director	By: <u>David G. Nelson</u> Executive Director	By: <u>David J. Guy</u> Executive Director



Appendix B



IN REPLY
REFER TO:
MP-100
WTR-4.00

United States Department of the Interior

BUREAU OF RECLAMATION
Mid-Pacific Regional Office
2800 Cottage Way
Sacramento, California 95825-1898

APR 25 2001

Mr. Harry M. Schueller
Chief, Division of Water Rights
State Water Resources Control Board
PO Box 2000
Sacramento CA 95812-2000

Dear Mr. Schueller:

In a separate letter dated April 20, 2001, the United States Bureau of Reclamation (USBR) and the California Department of Water Resources (DWR) submitted comments to the Draft Order for the San Francisco Bay/Sacramento-San Joaquin Estuary, dated April 11, 2001, by the State Water Resources Control Board (SWRCB). On March 16, 2001, and March 23, 2001, respectively, the USBR and the DWR executed the "Agreement Regarding Resolution of Phase 8 Issues, Development and Management of Water Supplies, and a Binding Commitment to Proceed Pursuant to Specified Terms." The Agreement was later executed by the remaining settlement parties.

The USBR and DWR hereby agree to an extension of Conditions 1 and 2 of the Water Right Decision 1641, provided that the SWRCB adopts a final order in accordance with its Draft Order of April 11, 2001, including the proposed modifications to the Draft Order contained in the April 20, 2001, comments of USBR and DWR. A copy of the April 20, 2001, comments is attached hereto and incorporated herein by reference.

Concur:

For Lowell F. Ross
Kirk C. Rodgers
Acting Regional Director
Mid-Pacific Region
U.S. Bureau of Reclamation

Thomas M. Hannigan
Thomas M. Hannigan
Director
California Department of Water Resources

Attachment



Appendix C

STATE OF CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

ORDER WR 2001 - 05

In the Matter of
Implementation of Water Quality Objectives
for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary,
Amending License 1986 (Application 23) and Permits 11315, 11316, 11885, 11886, 11887, 11967, 11968, 11969, 11970, 11971, 11972, 11973, 12364, 12721, 12722, 12723, 12725, 12726, 12727, 12860, 15735, 16597, 16600, and 20245 (Applications 13370, 13371, 234, 1465, 5638, 5628, 15374, 15375, 15376, 16767, 16768, 17374, 17376, 5626, 9363, 9364, 9366, 9367, 9368, 15764, 22316, 14858A, 19304, and 14858B, respectively) of the United States Bureau of Reclamation and Permits 16478, 16479, 16481, 16482, and 16483 (Applications 5630, 14443, 14445A, 17512, and 17514A, respectively) of the Department of Water Resources.

Sources: Sacramento and San Joaquin Rivers and their tributaries, and the Sacramento-San Joaquin Delta Estuary

ORDER STAYING AND DISMISSING PHASE 8 OF THE BAY-DELTA WATER RIGHTS HEARING AND AMENDING REVISED DECISION 1641

By The Board:

1.0 Introduction

By this order, the State Water Resources Control Board (SWRCB) takes actions to facilitate negotiations that may lead to a settlement of the potential responsibilities of numerous water users to implement the objectives in the *Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary*, adopted May 22, 1995 (1995 BayDelta Plan).[1]

In the absence of this order, the SWRCB would promptly convene the remainder of Phase 8 of the Bay-Delta Water Rights Hearing to consider the water users' potential responsibilities that have not yet been determined.

This order stays the resumption of Phase 8 for eighteen months from the date of this order. This order automatically dismisses Phase 8 at the end of eighteen months, unless the SWRCB receives notice from the Department of Water Resources (DWR) or the United States Bureau of Reclamation (USBR), within eighteen months, requesting resumption of Phase 8. This order extends the responsibilities of the DWR and the USBR under Conditions 1 and 2 to meet the water quality objectives in the 1995 Bay-Delta Plan. Unless the SWRCB issues a further order after notice and an opportunity for a hearing, the extension of their responsibilities will expire no later than one year after the DWR or the USBR requests a hearing. Upon request of the DWR or USBR, the SWRCB will resume Phase 8, or, after dismissal, will commence a new hearing. The SWRCB will expedite any hearing conducted pursuant to this order, to issue a decision within two years after receiving a request from the DWR or the USBR.

The SWRCB will, at least every six months, commencing not later than October 1, 2001, conduct a public informational workshop. The purpose of these workshops will be to provide the public and the SWRCB with information regarding the then-current status of negotiations and plans to implement the flow-dependent objectives, including information about the opportunities for non-parties to the negotiations to provide input.

2.0 Background

2.1 Procedural History

This order is part of a series of actions by the SWRCB to protect the beneficial uses of water in the Bay-Delta Estuary against the adverse effects of water diversions. In the BayDelta proceedings, the SWRCB adopts water quality objectives that, when implemented, will protect the beneficial uses. The SWRCB implements the objectives through water right orders and by requesting or directing that other agencies take appropriate actions including water quality control measures to be implemented by the Regional Water Quality Control Boards.

The 1995 Bay-Delta Plan contains the current water quality objectives. D-1641 and Order WR 2000-10 contain the current water right requirements to implement the BayDelta flowdependent objectives. D-1641 includes both long-term and temporary implementation requirements. Order WR 2000-10 requires partial implementation that will remain in effect up to thirtyfive years. In D-1641 and in Order WR 2000-10, the SWRCB assigned responsibilities, for specified periods, to water users (including the USBR and the DWR in D-1641, and the DWR in Order

WR 2000-10) in the watersheds of the San Joaquin River upstream of Vernalis, the Mokelumne River, Putah Creek, Cache Creek, within the boundaries of the North Delta Water Agency, and within the Bear River watershed. These responsibilities need not be revisited in the near future. These responsibilities require that the water users in these watersheds will contribute specified amounts of water, and that the DWR and/or the USBR will ensure that the objectives are met in the Delta.

To meet the potential responsibilities that are not yet assigned, but may be assigned to water users in areas not yet addressed, D-1641, in Conditions 1 and 2 on page 146 thereof, requires that the DWR and the USBR temporarily implement the objectives. Conditions 1 and 2 also require that the DWR and USBR meet certain objectives that the SWRCB does not contemplate assigning to other parties, such as export limits and gate closure requirements. D1641 provides that Conditions 1 and 2 will remain in effect only until the SWRCB makes further decisions establishing the responsibilities of water right holders in the areas where the potential responsibilities have not yet been determined. D-1641 sets these conditions to expire no later than November 30, 2001.

The SWRCB considered and heard comments on earlier drafts of this order at a Board meeting on March 7, 2001 and at a Board meeting on April 4, 2001.

2.2 Physical Setting

The Bay-Delta Estuary includes the Sacramento-San Joaquin Delta, Suisun Marsh, and the embayments upstream of the Golden Gate. The Delta and Suisun Marsh are located at the confluence of the Sacramento and San Joaquin rivers, which converge to flow westward through San Francisco Bay. The watershed of the Bay-Delta Estuary produces water that is used in much of the state for municipal, industrial, agricultural, and environmental purposes. The watershed is a source of drinking water for two-thirds of the state's population. The State Water Project, operated by the DWR, and the Central Valley Project, operated by the USBR, store water upstream of the Delta, release the stored water into the Delta, and export both the stored water and uncontrolled flows[2] from the Delta. The two projects export water from the Delta to areas south and west of the Delta through a system of water conveyance facilities.

Fish, wildlife, and other public trust resources also use the waterways of the Bay-Delta Estuary and its tributaries. Some of the fish that reside in the estuary or migrate through it are protected under the state or federal Endangered Species Act. Additionally, migratory birds and other animals use the marshlands of the estuary for food and habitat.

3.0 Discussion

It is the policy of the SWRCB in the Bay-Delta proceedings to encourage the parties to resolve among themselves the responsibilities for meeting the objectives in the 1995 Bay-Delta Plan, and to bring their joint proposals for establishing responsibilities to the SWRCB for approval.

The DWR, the USBR, some of their water supply contractors, and the members of the Northern California Water Association approached the SWRCB at a workshop on January 11, 2001, with a draft of an agreement among these parties. The parties proposed that the SWRCB adopt an order staying Phase 8 of the Bay-Delta Water Rights Hearing and automatically dismissing Phase 8 after the parties to the agreement complete and approve work plans for developing water supply projects. The parties presented an executed agreement to the SWRCB on April 4, 2001. The agreement includes a commitment by the DWR and the USBR to meet the objectives implemented under Conditions 1 and 2 in D-1641 so long as the agreement remains in effect, and for a period thereafter. This order is not based on the commitment in the agreement.

At the April 4, 2001, meeting, the SWRCB informed the parties to the agreement that, to be able to dismiss Phase 8 as requested, the SWRCB would need an independent commitment from the DWR and the USBR to meet the flow-dependent objectives for an interim period, and that the commitment could not be dependent on the agreement or on progress in implementing water supply projects pursuant to the agreement. The SWRCB further informed the parties that if it received the two projects' independent commitment to meet the objectives for an indefinite interim period and accept an indefinite extension of Conditions 1 and 2, it would (1) stay Phase 8 of the Bay-Delta Water Rights Hearing for up to eighteen months, (2) automatically dismiss Phase 8 after eighteen months had passed, (3) upon request of the DWR or the USBR at any time during the stay or after dismissal of Phase 8, convene a hearing to consider allocating responsibilities to meet the flow-dependent objectives to other parties, (4) set Conditions 1 and 2 to expire no later than two years after the request for hearing unless the SWRCB issues a further order after notice and opportunity for hearing, and (5) expedite the hearing to issue a decision within two years after the request for hearing.

The SWRCB has received the necessary commitment from the DWR and the USBR, by letter dated April 25, 2001. This order is based on that commitment. During the interim period, the SWRCB assumes that the DWR, the USBR, and other parties will conduct further negotiations. The SWRCB will take no part in the negotiations, and takes no position with respect to the direction of such negotiations.

After the DWR or the USBR requests a hearing to determine the responsibilities of the parties to meet the flow-dependent objectives, a hearing is likely to require two years or more. Therefore, an extension of Conditions 1 and 2 after the request for a hearing will help ensure that any necessary additional environmental documentation can be prepared and will ensure that the implementation of the objectives does not lapse. During any further hearing, the objectives in the 1995 Bay-Delta Plan must be met. A lapse in implementation could have serious consequences for the beneficial uses the objectives are intended to protect.[3] In the absence of a hearing, the SWRCB could not place responsibility for meeting

the objectives on a party or parties other than the DWR and the USBR.[4] Accordingly, the most reasonable approach is to retain the existing responsibilities to meet the objectives until the SWRCB is able to complete a hearing and make a decision after the hearing.[5]

A stay is appropriate for eighteen months, with the DWR and the USBR meeting the objectives. A dismissal after the stay is appropriate only if the objectives will be met for a reasonable, albeit interim, period. The DWR and the USBR will meet the objectives for an adequate period. Therefore, this order stays and dismisses Phase 8, effective eighteen months after the date of this order, unless either the DWR or the USBR requests, within eighteen months, that the SWRCB resume Phase 8. The stay and subsequent dismissal apply to proceedings to determine the responsibilities of the water right holders and water users within the watersheds of the Sacramento, Calaveras and Cosumnes Rivers to meet the flow-dependent objectives in the 1995 Bay-Delta Plan.

The administrative record of this order includes the entire evidentiary hearing record of the BayDelta Water Rights Hearing, from July 1, 1998, through April 12, 2000, and the notices and correspondence sent or received by the SWRCB regarding Phase 8 through the date of this order.

4.0 Environmental Considerations

Under the California Environmental Quality Act (CEQA) (Pub. Resources Code §§ 21000, et seq.), the SWRCB is the lead agency for preparation of environmental documentation for this order. The SWRCB has prepared and certified a final *Environmental Impact Report for the Implementation of the 1995 Bay-Delta Water Quality Control Plan* (BayDelta EIR). The BayDelta EIR fully analyzes the effects of several alternatives for assigning responsibility to water right holders in the watershed of the Bay-Delta Estuary, including Flow Alternative 2, under which the DWR and the USBR are jointly responsible for meeting all of the flowdependent objectives in the 1995 Bay-Delta Plan. D-1641 adopts Flow Alternative 2 as an interim measure, by including Conditions 1 and 2 in the water rights of the DWR and the USBR. This order amends Conditions 1 and 2 of D-1641 by extending the periods for which the requirements set forth in those conditions are effective.

CEQA contemplates that agencies may make serial decisions relying on a single EIR. (Cal. Code Regs., tit. 14, §§ 15165, 15168.) This order is one in a series of orders relying on the Bay-Delta EIR.

Except as applied to the Joint Point of Diversion and the San Joaquin River Agreement, the findings set forth in D-1641 in sections 14.3.1, 14.3.4, 14.3.5, 14.3.6, 14.3.7, 14.3.8, and 14.4 are applicable to the inclusion of Conditions 1 and 2 in the permits of the DWR and the USBR for an extended period. Those findings are incorporated herein by reference to the extent that they are applicable to this order. The SWRCB will file a Notice of Determination under CEQA after it adopts this order, and the Notice of Determination will state that this order relies on the BayDelta EIR.

ORDER

- A. IT IS HEREBY ORDERED that Phase 8 of the Bay-Delta Water Rights Hearing is stayed for a period of eighteen months from the date of this order. Phase 8 will be automatically dismissed at the end of eighteen months from the date of this order unless the DWR or the USBR notifies the SWRCB in writing, before the end of the eighteen month period, that it is requesting the SWRCB to resume Phase 8.[6] The purpose of the stay and dismissal is to allow water right holders whose rights might be amended after Phase 8 to negotiate toward a mutual settlement of their responsibilities to meet the flow-dependent objectives in the 1995 Bay-Delta Plan. If the DWR or the USBR requests in writing a hearing to allocate responsibilities to meet the flow-dependent objectives to other parties, the SWRCB expeditiously will convene a water right hearing, will determine whether the water right holders in the watersheds of the Sacramento, Cosumnes, and Calaveras Rivers have responsibility to meet the flow-dependent objectives in the 1995 Bay-Delta Plan, and will determine the amount of such responsibility in a decision or order.
- B. IT IS HEREBY ORDERED that License 1986 (Application 23) and Permits 11315, 11316, 11885, 11886, 11887, 11967, 11968, 11969, 11970, 11971, 11972, 11973, 12364, 12721, 12722, 12723, 12725, 12726, 12727, 12860, 15735, 16597, 16600, and 20245 (Applications 13370, 13371, 234, 1465, 5638, 5628, 15374, 15375, 15376, 16767, 16768, 17374, 17376, 5626, 9363, 9364, 9366, 9367, 9368, 15764, 22316, 14858A, 19304, and 14858B, respectively) of the United States Bureau of Reclamation and Permits 16478, 16479, 16481, 16482, and 16483 (Applications 5630, 14443, 14445A, 17512, and 17514A, respectively) of the Department of Water Resources shall be amended by revising Conditions 1 and 2 in SWRCB Decision 1641 as follows.
 1. Licensee/Permittee shall ensure that the water quality objectives for municipal and industrial beneficial uses and agricultural beneficial uses for the western Delta, interior Delta, and export area as set forth in Tables 1 and 2, attached, are met on an interim basis until the Board adopts a further decision assigning responsibility for meeting these objectives. Unless it is renewed pursuant to a further order after notice and an opportunity for hearing, this condition shall expire no later than one year after the DWR or the USBR requests in writing that the SWRCB convene a water right proceeding to determine whether to replace this condition with another condition that meets the objectives in Tables 1 and 2. Any extension hearing shall be for the limited purpose of determining whether additional time is necessary, and shall not include consideration of changes in allocation of responsibility. The SWRCB shall expedite any proceeding it conducts to assign long term responsibility to meet the objectives in Tables 1 and 2, in an effort to keep the proceeding under two years. This condition does not mandate that the Licensee/Permittee use water under this license/permit if it uses other sources of water or other means to meet this condition.

2. Licensee/Permittee shall ensure that the water quality objectives for Delta outflow and for Sacramento River flow at Rio Vista for fish and wildlife beneficial uses as set forth in Table 3, attached, are met on an interim basis until the Board adopts a further decision in the BayDelta Water Rights Hearing assigning responsibility for meeting these objectives. Any extension hearing shall be for the limited purpose of determining whether additional time is necessary, and shall not include consideration of changes in allocation of responsibility. Unless it is renewed pursuant to a further order after notice and an opportunity for hearing, this condition shall expire no later than one year after the DWR or the USBR requests in writing that the SWRCB convene a water right proceeding to determine whether to replace this condition with another condition that meets the objectives in Table 3. The SWRCB shall expedite any proceeding it conducts to assign long term responsibility to meet the objectives in Table 3, in an effort to keep the proceeding under two years. This condition does not mandate that the Licensee/Permittee use water under this license/permit if it uses other sources of water or other means to meet this condition.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on April 26, 2001.

AYES: Art G. Baggett
Pete S. Silva
Richard Katz

NOS: None

ABSTAIN: None

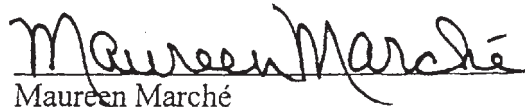
ORIGINAL SIGNED BY Maureen Marché
Clerk to the Board

Footnotes:

- [1] From July 1, 1998 through December 21, 1999, the SWRCB conducted Phases 1 through 7 of the BayDelta Water Rights Hearing. On December 29, 1999, the SWRCB adopted Decision 1641, determining some of the responsibilities for meeting the objectives in the 1995 Bay-Delta Plan and resolving other related issues. On April 11 and 12, 2000, the SWRCB conducted a session of Phase 8 of the Bay-Delta Water Rights Hearing to consider a petition for change filed by South Sutter Water District in connection with a settlement agreement to resolve the responsibilities of water right holders on the Bear River. The SWRCB approved the petition on July 20, 2000, in Order WR 2000-10.
- [2] Uncontrolled flows include both natural flow and abandoned flow.
- [3] Conditions 1 and 2 require full implementation of the objectives for municipal, industrial, and agricultural beneficial uses, and require full implementation of the flow-dependent objectives for fish and wildlife beneficial uses for an interim period. The objectives protect the public interest.
- [4] The hearing record for D-1641 supports continuing the implementation by the DWR and the USBR of the objectives in the 1995 BayDelta Plan as provided by this order. See, for example, the Bay-Delta EIR, which analyzes the effects of imposing Conditions 1 and 2 on the DWR and the USBR.
- [5] This conclusion addresses the need to extend the responsibilities of the DWR and the USBR for an adequate interim period. This conclusion does not predetermine the allocation of responsibility after completion of any further proceedings before the SWRCB, should further proceedings become necessary. The DWR and the USBR historically have been responsible for meeting Bay-Delta objectives. SWRCB Decision 1641 continues the responsibility of the DWR and the USBR to meet the municipal, industrial, and agricultural objectives, and the flowdependent fish and wildlife objectives on an interim basis. To stay or dismiss of Phase 8, it is necessary to continue the interim requirements imposed on the DWR and the USBR. If it did not extend the responsibility of the DWR and the USBR for at least two years beyond the date when the DWR or the USBR requests resumption or initiation of a hearing, the SWRCB would have to conduct a hearing to determine whether to require a party or parties to meet the objectives pending completion of the hearing. Considering their historical involvement, the public interest in continuously implementing the objectives, their role as public entities managing vast quantities of the state's water supply, and the lack of any other means for setting interim requirements, it is reasonable to continue the responsibility of the DWR and the USBR until the SWRCB establishes other responsibilities to meet the objectives.
- [6] The stay and dismissal do not apply to the following proceedings related to the Bay-Delta Proceedings:
 - (a) Any proceedings necessary to respond to a writ of mandate or other court order, decision or opinion issued in connection with litigation to which the SWRCB is a party.
 - (b) An order necessary to implement new water quality objectives or amendments to the 1995 Bay-Delta Plan.
 - (c) A proceeding on an issue that is sufficiently unrelated [e.g. carriage water] to the subject of long term responsibility to meet the

flow-dependent objectives in the 1995 Bay-Delta Plan that the proceeding will not adversely affect any negotiations among the parties seeking to settle their responsibilities to meet the BayDelta objectives. The SWRCB shall hold a workshop to obtain input from the parties before initiating any such proceedings.

- (d) A proceeding relating to the implementation of the narrative salmon doubling objective set forth in Table 3 of the objectives in the 1995 Bay-Delta Plan. The existing D-1641 terms and conditions for fish and wildlife protection provide reasonable protection for a range of aquatic species in the Bay-Delta Estuary and help implement all of the objectives, including the narrative salmon doubling objective. Compliance with the existing flow objectives and other objectives in the 1995 Bay-Delta Plan may be sufficient to implement the salmon objective. Moreover, statutorily mandated non-flow fish restoration programs currently being implemented in other forums (e.g., CVPIA implementation and CALFED) will help implement the salmon objective. As other programs are implemented and monitored, the SWRCB will review the progress toward meeting the objective and may take additional action if needed.


Maureen Marché
Administrative Assistant to the Board.

Sacramento Valley Water Management Agreement Signatories

California Department of Water Resources

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P.O. Box 942836
Sacramento, CA 94236-0001

U.S. Bureau of Reclamation Mid-Pacific Region

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