

# Workshop on Draft Sacramento/Delta Updates to the Bay-Delta Water Quality Control Plan

November 22, 2024



State Water Resources Control Board

# Presentation Overview



Workshop overview



Brief background on Bay-Delta Plan\*

\*Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Watershed



Description of draft Voluntary Agreement provisions



Next steps and opportunities for public input

# Workshop Overview

## Purpose

To receive public input on the draft Sacramento/Delta updates to the Bay-Delta Plan released on October 25, 2024

## Format

Five workshop days focused on specific topics

## Agenda

Staff presentations, topic-specific panel presentations, and topic-specific individual comments

# Workshop Topics

<b>November 20</b>	Draft Sacramento/Delta Regulatory Provisions
<b>November 22</b>	Draft Sacramento/Delta Voluntary Agreement (VA)* Provisions <i>*Also referred to as the Healthy Rivers and Landscapes proposal</i>
<b>December 3</b>	VA Habitat Accounting (Half Day) and Tribal Focused Topics (Half Day)
<b>December 12</b>	VA Flow Accounting (Beginning of Day) and General Comments* (End of Day) <i>*Comments not specific to a workshop topic</i>
<b>January 23</b>	Potential Provision to Protect Base Delta Outflows During Drought Periods (Alternative 5a) and Potential Provision to Protect VA Flows and the Base They Are Added to From New Projects (Alternative 6a)

# November 22 Agenda

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## Topic: Draft VA Provisions

Panel 1: Department of Water Resources, Bureau of Reclamation, Metropolitan Water District, and State Water Contractors

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Panel 2: Department of Water Resources, East Bay Municipal Utility District, and State Water Contractors

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Panel 3: San Francisco Baykeeper, Defenders of Wildlife, Golden Gate Salmon Association, and Friends of the River

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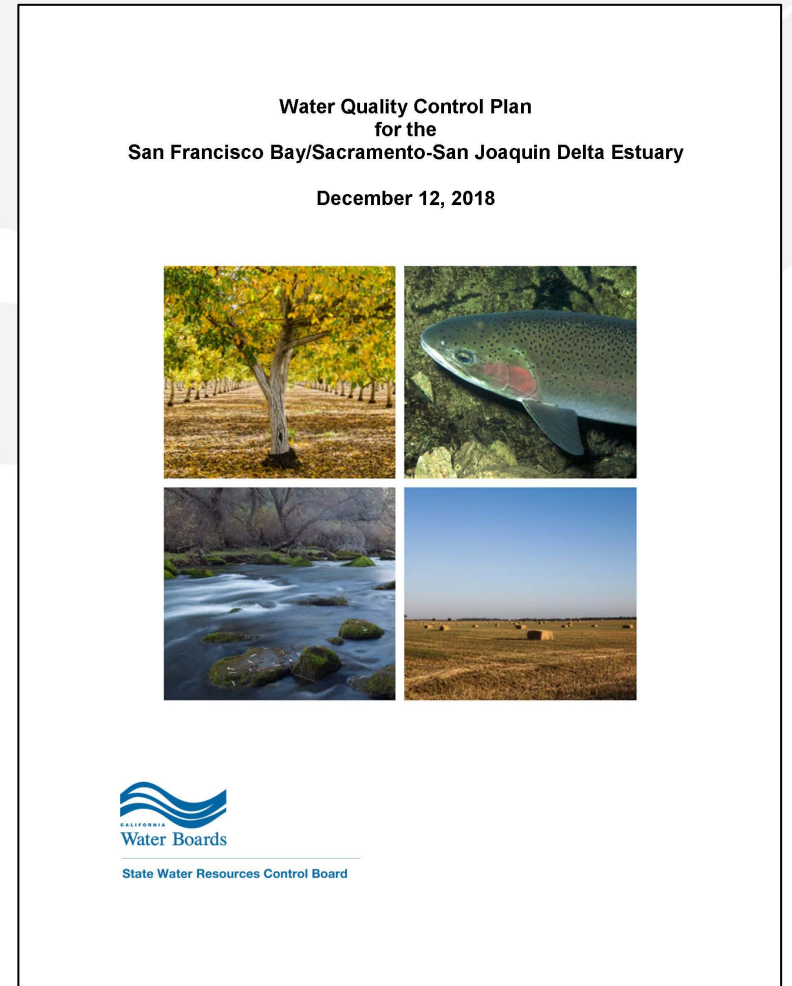
Topic-specific individual comments

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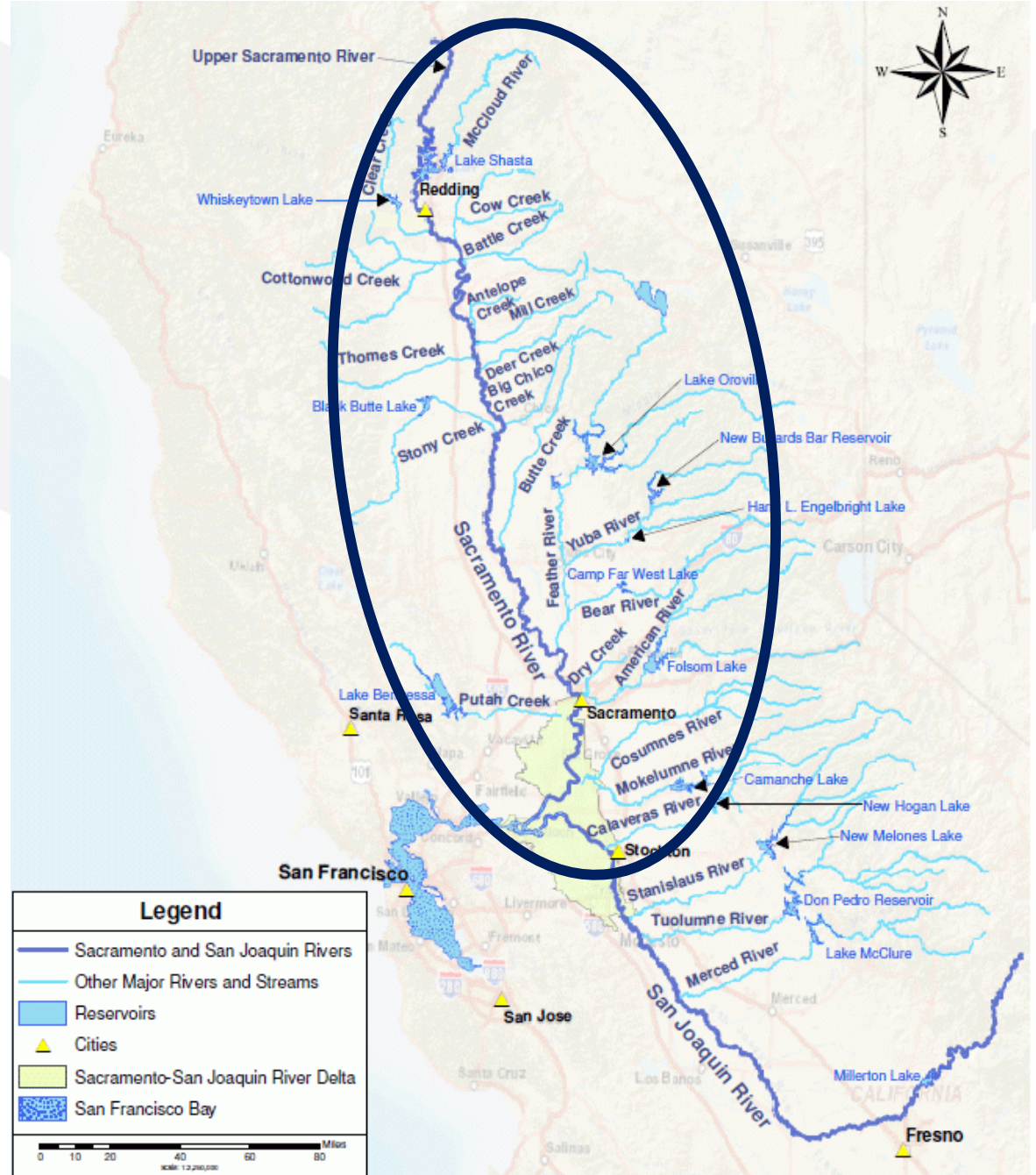
# Bay-Delta Plan

- Identifies beneficial uses, water quality objectives to protect uses, program of implementation, and monitoring provisions
  - Current beneficial uses: municipal & industrial, agricultural, fish & wildlife
  - Water quality objectives: narrative and numeric (primarily flow based)
  - Program of implementation: actions by the Board and other entities to protect beneficial uses and implement objectives, including flow and nonflow actions
  - Monitoring, special study, evaluation, and reporting to assess compliance and effectiveness of implementation actions
- Requires periodic review/triennial review



# San Francisco Bay/ Sacramento-San Joaquin Delta (Bay-Delta) Watershed

## Sacramento/Delta Update to the Bay-Delta Plan



# Bay-Delta Plan Processes

- Update and implementation occurring through separate processes:
  - Sacramento/Delta Update, including consideration of associated Voluntary Agreements
  - Implementation of 2018 Lower San Joaquin River/Southern Delta Salinity Update
  - Consideration of Tuolumne River Voluntary Agreement



Refer to our FAQs for more information:

[waterboards.ca.gov/bay\\_delta/docs/2024/faq-bdplan.pdf](https://waterboards.ca.gov/bay_delta/docs/2024/faq-bdplan.pdf)



# Sacramento/Delta Update Process to Date

- 2017 – Completion of Scientific Basis Report supporting the draft Sacramento/Delta regulatory provisions of the Bay-Delta Plan
- 2018 – Framework for possible regulatory provisions
- 2022 – Voluntary Agreements (VA) Memorandum of Understanding
- 2023 – Draft VA Scientific Basis Report Supplement
- 2023 – Draft Staff Report/Substitute Environmental Document

# Draft Sacramento/Delta Updates

- On October 25, 2024, staff released for public comment draft Sacramento/Delta updates to the Bay-Delta Plan including options for:
  - VAs proposed by water users and state and federal agencies (Healthy Rivers and Landscapes proposal)
  - Regulatory provisions that could apply 1) if VAs are not approved; or 2a) if VAs are approved would apply to non-VA parties; and 2b) if VAs are approved could apply to VA parties if VAs are discontinued
  - General provisions that would apply to all water users regardless of whether VAs are approved
- Board has not yet made any decisions on these options and is seeking public input to inform its decisions

# Format of Draft Updates to Bay- Delta Plan



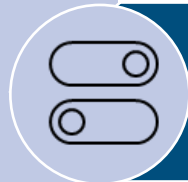
A complete draft that presents draft regulatory pathway and VA pathway provisions in a single document



Includes "notes to reader" that explain options that are under consideration or provide context



Text in boxes indicate options for specific program of implementation language



Options include text developed by staff and text developed by VA parties



Minor edits to update outdated provisions and improve clarity and readability

# Summary of Draft Updates

- Intended to address aquatic ecosystem stressors within the Board's responsibilities to provide for the reasonable protection of fish and wildlife in the Sacramento/Delta
- Includes options based on alternatives described in September 2023 draft Staff Report for Sacramento/Delta updates to the Bay-Delta Plan, which analyzes potential benefits and impacts of possible updates
- Includes specificity and refinements from the options described in draft Staff Report, informed by public comments
- No substantive changes associated with measures to protect municipal, industrial, or agricultural uses, or Lower San Joaquin River fish and wildlife flows (updated in 2018)





# VA Proposal

- Propose to provide flow and habitat to contribute to:
  - New narrative objective to achieve viability of native fish populations
  - Existing narrative objective to double salmon populations (which the VA parties propose to do by 2050)
- Initial 8-year term with possibility for extension



Photo provided by Xavier Mascareñas, CA Dept. of Water Resources

# VA Documents

- 2022 Memorandum of Understanding (MOU)
- Subsequent VA documents
  - Strategic Plan; Governance Program; Science Plan; Global, Implementing, and Enforcement Agreements; Funding Plan; Science Committee Charter; Flow Accounting Procedures; and Non-flow Accounting Procedures

## Sacramento/Delta Proposed VAs

### Draft VA Documents

- New and Updated Documents Received October 2024
  - Cover Memo (New)
  - Strategic Plan (Updated)
    - Governance Program (New)
    - Science Plan (Updated)
    - Early Implementation Project List (Updated)
    - Flow Accounting (Updated)
    - Non-Flow Measure Accounting (Updated)
    - Funding Plan (New)
  - Science Committee Charter (New)
- New Documents Received March/April 2024
  - Cover Memo
  - Global, Implementing, and Enforcement Agreements
  - Flow Accounting (Delta flow accounting procedures available on FTP)
  - Non-Flow Measure Accounting
- September 2023 Documents Included as Appendix G1 to Draft Staff Report
  - 2022 Memorandum of Understanding
  - Strategic Plan
  - Governance Program
  - Science Plan
  - Early Implementation Project List



VA documents can be found at:

[waterboards.ca.gov/bay\\_delta/proposed\\_voluntary\\_agreements.html](https://waterboards.ca.gov/bay_delta/proposed_voluntary_agreements.html)

# VA Program of Implementation

- Board staff drafted program of implementation language text based on the 2022 VA MOU
- Where appropriate, provisions of subsequent VA documents were incorporated into the program of implementation text
- Language from VA documents was condensed into operable regulatory provisions
- Also included in Box 3 are proposed program of implementation provisions from the VA parties

# VA Provisions

- Flow, habitat restoration, monitoring, and science on the Sacramento, Feather, American, Yuba, and Mokelumne Rivers, Putah Creek, and in the Delta
- In lieu of responsibility to contribute to the new inflow, cold water habitat, and inflow-based Delta outflow objectives during term of VAs



Photo provided by the State Water Resources Control Board



# VA Water Rights

- Water rights covered by VAs would need to be identified in Table 8 of draft Bay-Delta Plan updates
- These water rights would be exempted from the new inflow, cold water habitat, and inflow-based Delta outflow objectives for the term of the VAs
- Water rights under which VA flows are provided must be identified at least 90 days in advance to ensure water is available for instream flow dedication consistent with water right priorities
- VA flow commitments must not be provided from a water right that is duplicative of another right still being used for consumptive purposes

# VA Flow and Non-Flow Commitments from MOU

Location	Additive Delta Outflows (TAF) by Water Year Type					Restoration (acres)		
	Critical (C)	Dry (D)	Below Normal (BN)	Above Normal (AN)	Wet (W)	Spawning	Instream Rearing	Floodplain
Sacramento	-	100	100	100	-	113.5	137.5	40,000 <sup>1</sup>
American	30	40	10	10	-	25	75	-
Yuba	-	60	60	60	-	-	50	100
Feather	-	60	60	60	-	15	5.25	1,655
Putah	7	6	6	6	-	1.4	-	-
Mokelumne	-	5	5	7	-	-	1	25
Delta foregone exports	-	125	125	175	-	-	-	5227.5 <sup>2</sup>
Friant	-	50	50	50	-			
PWA Water purchases	3	113.4	144.5	182.5	27			
Permanent State Water Purchases	65	108	9	52	123			

<sup>1</sup> 20,000 acres of floodplain habitat will be restored, and 20,000 additional acres will be used for fish food production.  
<sup>2</sup> Includes tidal wetland habitat.

# VA Flow Commitments

- Flows would be required to be additive Delta outflow subject to accounting (December 12 workshop)
- Each VA flow commitment has a default schedule that would be the long-term average flow schedule
- Each VA flow commitment includes allowable flexibility brackets
- Flow schedules that deviate from the flexibility brackets or January through June period would require approval by the Executive Director after public comment



Photo provided by CA Department of Fish and Wildlife

# VA Flow Sources

- VA flow provided from fallowing; groundwater substitution; reservoir reoperations; limits on export (compared to 2019 Biological Opinions); limits on recapture of restoration flows; new water projects; and purchases from these sources including permanent, fixed price, and market price purchases
- Additional information is expected before any consideration of approval of VAs to identify the sources of permanent and fixed price water purchases and for the “New Water Projects (Before Year 8)” flow category from the VA MOU
- Sources for market priced water purchases would also be required to be identified in advance of providing those flows to ensure flows are provided consistent with water right priorities



# VA Accounting

- Board approval of flow and non-flow habitat accounting procedures in Appendix B
- VA flow accounting procedures are under development and will be the subject of the December 12 workshop
- VA non-flow habitat accounting procedures are developed in Appendix B and will be the subject of the December 3 workshop (before lunch)
- Options for a provision to protect the base that VA flows are added to from new water projects will be the subject of the January 23 workshop



Photo provided by Scott Ligare,  
State Water Resources Control Board

# Supplemental Science and Monitoring

- VA parties would be required to conduct supplemental science and monitoring to assess compliance and effectiveness of VAs
- Required to develop hypotheses, metrics, targets, and monitoring, subject to Board approval after plan amendments
- Minimum required components:
  - Abundance, condition, habitat, and habitat utilization of salmon, steelhead, and estuarine fishes
  - Effects of VA flow and non-flow habitat on salmon, steelhead, sturgeon, native estuarine fishes, and the food web
  - Habitat suitability assessments
  - Effects of the VAs on pesticide in water, prey, and native fishes
  - Harmful algal bloom monitoring and support for the Delta Cyanobacterial Harmful Algal Blooms Monitoring Strategy

# Integration of VA Monitoring with Bay-Delta Monitoring and Evaluation Program (BDMEP)

- BDMEP is broader than the VAs and encompasses monitoring necessary to implement and consider possible needed changes to the full Bay-Delta Plan
- VA supplemental science and monitoring would be integrated into the BDMEP and subject to requirements of BDMEP
- The BDMEP will be regularly reviewed and updated in a public process through annual and periodic reviews
- Provisions for BDMEP and supplemental VA science and monitoring set minimum requirements
  - They do not prohibit ability of VA parties to organize collaborative science groups or develop more specific internal guidelines

# Integration of VA Metrics and Targets with Biological Goals

- Biological Goals are proposed to assess the overall effectiveness of the Bay-Delta Plan, including the regulatory provisions, any VA provisions, and actions by other entities
  - Will be developed through a public process with opportunity for public comment and approved by State Water Board
- VA targets focused on the VAs only and the expected outcomes of VA hypotheses resulting from implementation of the VAs
  - Developed by VA parties, subject to public review and comment and Executive Director approval
  - Expected to adhere to general description of Biological Goals, such as SMART guidelines and VSP parameters



# VA Reporting Provisions

- VA parties would be required to submit annual and periodic reports to the Board that include:
  - Data and accounting of all flow and non-flow actions in the prior year
  - Ecological monitoring data, including status and trends of native fish species compared to prior years
  - Summary of scientific data and findings generated by the VAs
  - Summary of expected VA activities for the next water year
  - Analysis demonstrating no impacts to Trinity River watershed
  - Assessment of water temperature management in each VA tributary
  - Summary of tribal outreach and engagement (Dec 3 workshop)
- An ecological outcomes analysis report submitted after year 6

# VA Governance

- VA parties would be required to implement flow and non-flow measures consistent with the Bay-Delta Plan
- Board staff would provide advice and oversight on compliance and participate in decision-making
- Annual and periodic review will involve public input
- Board is seeking input on additional ways other non-VA parties should be involved in governance
- Role of tribes will be covered at workshop on December 3 (after lunch)



Photo provided by the CA Department of Water Resources

# Continuation, Modification, or Termination of the VAs

- Prior to a decision, Board staff would prepare draft recommendations for public review and comment, followed by Delta Independent Science Board review and input, before consideration at a public Board meeting
- If VA parties request an extension at year 6, the Board would solicit public comments and hold a public workshop to inform the potential extension or modification of the VAs beyond 8 years
- Continuation, modification, or termination of the VAs would be based on the green-, yellow-, and red-light criteria

# Green, Yellow, and Red Light Criteria

- Green light (continuation)
  - Flow and non-flow commitments provided substantially consistent with Board approved accounting protocols and other requirements fulfilled
  - VAs substantially achieving VA metrics and targets and information indicates continuing VAs will contribute to attaining objectives by 2050
- Yellow light (modification)
  - Flow and non-flow commitments provided substantially consistent with approved accounting protocols and other requirements fulfilled
  - VAs achieving significant number of VA metrics and targets and information indicates continuing VAs with modifications will contribute to attaining objectives by 2050
- Red light (termination)
  - VAs are not achieving conditions for green or yellow light
  - Board may determine VA water rights are subject to regulatory pathway, or that modifications to the regulatory provisions are needed and pursue a process to update the Bay-Delta Plan

# Continuation, Modification, or Termination of the VAs Before Year 8

- VA parties' failure or inability to implement VA commitments
  - Failure to implement the VA flow, habitat, funding, monitoring, science, or other provisions consistent with the program of implementation
  - Withdrawal of a party or parties from the VAs
  - Board would conduct a public workshop and may allow additional time for VAs to come into compliance before deciding whether to modify or terminate the VAs
- Significant evidence that continuing implementation of the VAs will not provide reasonable protection of beneficial uses or will jeopardize the continued survival of native fishes
  - During periodic review process, Board staff would prepare an assessment for public review and comment, and Delta Independent Science Board review and input before consideration at Board meeting
  - Board may decide to modify or terminate VAs through a Bay-Delta Plan amendment



# Considerations for Continuation, Modification, or Termination of the VAs

- The Board would consider:
  - Whether VA commitments were timely and fully provided consistent with approved accounting and flows were adequately protected
  - Whether monitoring, science, and reporting requirements were met
  - VA parties' synthesis of current science and the VA effectiveness
  - Public comment and analyses on VA effectiveness
  - Status and trends of native fishes and other aquatic organisms
  - Whether reliable information indicates that factors outside of the VAs are impairing the ability to achieve the VA objectives by 2050
  - Whether funding was available and will be available for continuation
  - Porter-Cologne considerations (Wat. Code, § 13241)

# Major Next Steps



Receive public comments in writing and orally at multiday workshop



Develop a revised draft of proposed updates to Bay-Delta Plan based on public comments



Continue to review comments on draft Staff Report and develop final Staff Report



Board meeting to consider adoption of Sacramento/Delta updates to Bay-Delta Plan and final Staff Report

# Resources and Contact Information

- Sacramento/Delta Update to Bay-Delta Plan: [waterboards.ca.gov/bay\\_delta/comp\\_review.html](http://waterboards.ca.gov/bay_delta/comp_review.html)
- Proposed VAs: [waterboards.ca.gov/bay\\_delta/proposed\\_voluntary\\_agreements.html](http://waterboards.ca.gov/bay_delta/proposed_voluntary_agreements.html)
- Bay-Delta Watershed: [waterboards.ca.gov/bay\\_delta/](http://waterboards.ca.gov/bay_delta/)
- Email: [SacDeltaComments@waterboards.ca.gov](mailto:SacDeltaComments@waterboards.ca.gov)



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