



# United States Department of the Interior

BUREAU OF RECLAMATION  
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## Electronic Mail Only

Erick Oppenhiemer  
Executive Director  
State Water Resources Control Board  
1001 I Street  
Sacramento, CA 95814

SUBJECT: The Bureau of Reclamation's Clarification and Response to the California State Water Resources Control Board June 10, 2026 Objection to Order 90 – 5 Sacramento River Temperature Management Plan

Dear Executive Director Oppenhiemer:

The U.S. Bureau of Reclamation (Reclamation) respectfully submits this response to the State Water Resources Control Board's (Board) June 10, 2026, letter (Objection Letter) objecting to Reclamation's 2026 Final Sacramento River Temperature Management Plan (TMP). We share the Board's commitment to protecting listed species on the Sacramento River and ensuring temperature management is grounded in the best available science and transparent coordination.

We must express serious concern with the Board's objection, which is inconsistent with Reclamation's analysis performed in accordance with the governing documents. In addition, the Board also appears to have concerns with the varying results of Reclamation's temperature dependent mortality (TDM) modeling and the results of the National Marine Fisheries Service's Southwest Fisheries Science Center (SWFSC) modeling. The Board has opined in its Objection Letter that:

While the TDM estimates from Reclamation and SWFSC identify a range of uncertainty, taken together with the other factors of low EOS [End of September] storage, low cold water pool volume, early side gate use, and high peak summer flows, the results support more conservative temperature management operations both for purposes of reducing concerns this year and next year.

By suggesting "more conservative temperature management operations" at this point in the season based on SWFSC modeling results and the Board's interpretation of Reclamation's Shasta Operations Framework, it appears that the Board seeks to impose operational requirements onto Reclamation that are above and beyond what is required by Water Right Order 90-5 (WRO 90-5) and by the 2024 National Marine Fisheries Service (NMFS) and United States Fish and Wildlife Service Biological Opinions. Reclamation stands behind its TDM modeling results used to inform the 2026 Final TMP and remains confident that, barring any factors beyond Reclamation's reasonable control, its TDM results provide a reliable basis for its conclusion that TDM levels are within the effects

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analyzed and anticipated take described in the 2024 NMFS BiOp.

During the May 14 Sacramento River Group (SRG), questions were raised about the biological assumptions behind this season's TDM modeling. SWFSC acknowledged its modeling presented to the SRG used aerial redd assumptions that are typically worse for accounting for winter-run Chinook salmon population TDM effects. Fish biologists undertaking adult escapement monitoring noted that aerial surveys only document a subsegment of downstream redds in the population and suggested that incorporating both datasets in modeling would be beneficial. The SWFSC agreed to include the carcass survey data into its analyses for future conversation, but neither presented these results in its May 27 package, included in the TMP, nor did it identify the bias in TDM caused by this assumption. In the TMP, Reclamation's modeling used aerial and carcass surveys for evaluating potential population-level TDM associated with the operations plan, as requested by the Board and SRG participants. In accordance with Department of the Interior's Policy on Integrity of Scientific and Scholarly Activities, Reclamation documented the positive bias in TDM caused by a lower river spatial distribution of redd represented by the aerial-based survey. Thus, Reclamation presented the carcass-based survey TDM results because these were used in the Biological Assessment to estimate effects and in the Biological Opinion to describe anticipated take. Based on the above, the Board's objection appears to be both gratuitous and unnecessary. This is especially true given that the Board's ultimate direction to Reclamation is that Reclamation operate to the very same standards required in the 2024 NMFS Biological Opinion (BiOp), which Reclamation is already doing as a matter of Federal law.

I. The Board is exceeding its authority under WRO 90-5.

Plainly stated, Reclamation asserts that WRO 90-5 does not confer upon the Board the authority to reject determinations made during formal consultation under Section 7 of the federal Endangered Species Act, pursuant to 16 U.S.C. § 1536, as not reasonably protective of listed species. WRO 90-5 simply states that—in years where factors beyond Reclamation's reasonable control prevent Reclamation from maintaining 56 degrees Fahrenheit (F) at the Red Bluff Diversion Dam—Reclamation must provide a plan to meet temperature objectives at a new location upstream.

WRO 90-5 does not give the Board authority to override Biological Opinions, nor does it give the Board authority to question the validity of Biological Opinions—or the determinations made pursuant to such Biological Opinions. WRO 90-5 merely allows the Board to object within 10 days of submission of Reclamation's plan.

As detailed below, the Board has already acknowledged factors beyond Reclamation's control are present in this water year. It was upon this basis, and in compliance with the 2024 NMFS BiOp, that Reclamation developed its 2026 Final TMP.

II. The Objection Letter appears to direct Reclamation to do what it is already doing under Federal law.

As noted in the Objection Letter, WRO 90-5 “requires Reclamation to achieve an average daily water temperature of 56 degrees [F] on the Sacramento River at Red Bluff Diversion Dam (RBDD) . . . to protect aquatic habitat conditions for spawning, rearing, and migration needs of salmon (including both winter-run and fall-run Chinook salmon) and other native fish populations during periods when higher temperatures would adversely affect the fishery.” Further, the Objection Letter acknowledges WRO 90-5 requires Reclamation “to identify an alternative compliance location and prepare an

associated TMP if there are factors beyond Reclamation’s reasonable control that prevent Reclamation from meeting 56 degrees F at RBDD.” *Id.* In its submission of its Final 2026 TMP, Reclamation has done just that, and the Board acknowledges the challenges outside of Reclamation’s reasonable control which Reclamation faces this year (i.e., the “Board understands that this has been a challenging hydrologic year due to the early snow melt and acknowledges that temperature management conditions remain somewhat uncertain given hydrology, meteorology, and fisheries conditions.”). *Id.* at 1.

The Board’s objection to Reclamation’s 2026 Final TMP is no more than a suggestion that Reclamation do exactly what the 2024 NMFS BiOp already requires Reclamation to do in a Bin 2A Year. More specifically, the Board’s letter states, “[i]n the absence of an approved TMP, Reclamation should continue to meet a temperature target of 53.5 degrees F at the Clear Creek gage (CCR) during the temperature management season[.]” *Id.* at 4. This is the same standard contemplated under the 2024 NMFS BiOp, which describes Bin 2A years in pertinent part: “Bin 2A – The amount and extent of anticipated take is framed around the Bin 2A objective of meeting a daily average water temperature of 53.5°F from May 15 through October 31 at the CCR gage, which is expected to result in a [Temperature Dependent Mortality (TDM)] of ≤3 percent with up to a 10-percent deviation if it is incorporated through consensus into an annual [TMP.]” 2024 NMFS BiOp at 891.

### III. The Board Misunderstands the Effects of This Year’s Hydrology on Reclamation’s Bin Year Determination.

Reclamation recently had the opportunity to explain its Bin Year determination vis-à-vis this year’s hydrology. (*See* Attachment A.) Reclamation offers this technical analysis for the Board’s review in order to assist the Board with understanding the year’s hydrology and Reclamation’s operations. Put very simply, Reclamation evaluated the April 2026 CVP operations outlook (90% exceedance), with a projected Shasta Reservoir end-of-April storage of 4.09 MAF and projected end-of-September storage of 2.205 MAF, and determined these numbers corresponded with a Bin 2A Year.

Beyond the Board’s apparent misunderstanding of Reclamation’s Shasta Operations Framework, Reclamation disputes the Board’s view that Reclamation’s 2026 Final TMP is not sufficiently protective of listed species. Reclamation’s modeling estimates TDM within the range of exempted take in the 2024 NMFS BiOp and the 2026 Final TMP included similar spatial and temporal winter-run Chinook salmon redd distributions; an estimated TDM to range from 1.1 to 2.8%, depending on the temperature mortality model, which is within the extent of anticipated take exempted in the 2024 NMFS BiOp (1-3.6%). Reclamation notes the Board’s “concerns for winter-run and fall-run Chinook salmon” but is not clear what standards the Board is using to develop such concerns, if not the 2024 NMFS BiOp.

### IV. Conclusion.

Reclamation’s 2026 Final TMP adheres to WRO 90-5 and Reclamation finds that the Board must reconsider its objection. Further, the TMP incorporates feedback provided from the Board on the Draft TMP that was circulated via the SRG, which includes active participation from Board staff. Reclamation looks forward to continued work with the Board to address its concerns. In the meantime, Reclamation will continue implementation of its Temperature Management Plan to meet a temperature target of 53.5 degrees F at CCR during the temperature management season. We appreciate the Board’s partnership and remain committed to continued cooperation, data

transparency, utilizing the best available science, and alignment on a workable path forward.

Sincerely,

Adam M. Nickels  
Regional Director (Acting)

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