

Overview of State Water Resources Control Board Efforts to Update and Implement Bay-Delta Water Quality Control Plan

May 30, 2024



State Water Resources Control Board

Presentation Outline

- Agency Overview
 - California Environmental Protection Agency (CalEPA)
 - State Water Resources Control Board (State Water Board or Board)
- Bay-Delta Plan Overview
- Bay-Delta Plan Update and Implementation Processes
 - Lower San Joaquin River flows and Southern Delta Salinity (LSJR/SD) Updates to the Bay-Delta Plan
 - Sacramento River, Delta, and Delta Eastside Tributaries (Sacramento/Delta) Updates to the Bay-Delta Plan
 - Consideration of proposed Voluntary Agreements (VAs)
- Additional Resources

CalEPA

- Mission - restore, protect and enhance the environment, to ensure public health, environmental quality and economic vitality
- Consists of the following offices, boards, and departments:
 - State Water Resources Control Board
 - Air Resources Board
 - Department of Resources Recycling and Recovery (CalRecycle)
 - Department of Pesticide Regulation
 - Department of Toxic Substances Control
 - Office of Environmental Health Hazard Assessment



State Water Resources Control Board

- Mission – To preserve, enhance, and restore the quality of California's water resources and drinking water for the protection of the environment, public health, and all beneficial uses, and to ensure proper water resource allocation and efficient use, for the benefit of present and future generations
- Responsible for allocating surface water rights and protecting water quality, while protecting the public trust and public interest and preventing the waste and unreasonable use of water
- Responsibilities converge in the Bay-Delta

Bay-Delta Plan

- Identifies beneficial uses of water, water quality objectives to protect those uses, a program of implementation to achieve the objectives, and monitoring and special studies
 - Beneficial uses: municipal and industrial, agricultural, fish and wildlife
 - Water quality objectives: narrative and numeric (primarily flow-dependent)
 - Program of implementation: flow and nonflow actions
 - Monitoring and evaluation to assess compliance and effectiveness of implementation actions
- Require periodic/triennial review

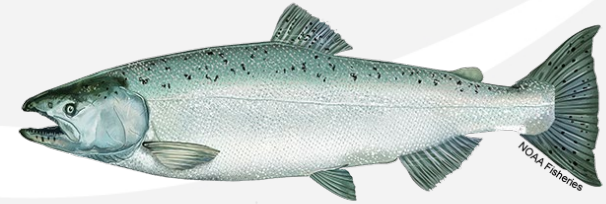
San Francisco Bay/ Sacramento-San Joaquin Delta (Bay-Delta) Watershed

Bay-Delta Plan Updates



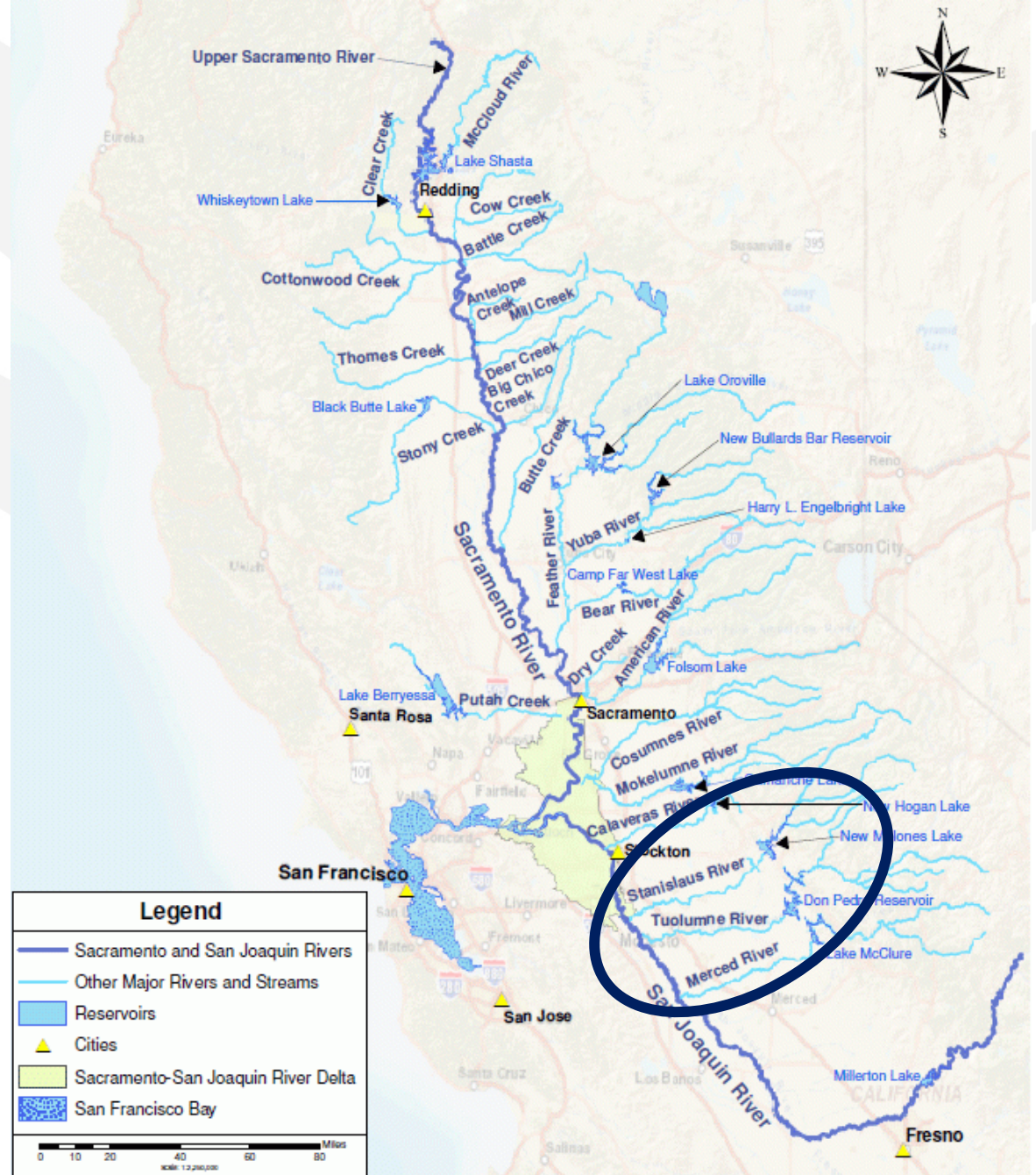
Purpose of Bay-Delta Plan Updates

- Native species have undergone substantial population declines
- Aquatic ecosystem stressors:
 - Flow alteration
 - Habitat loss
 - Water quality
- Bay-Delta Plan updates are intended to establish flow and related measures to protect native species
- Those measures are then implemented through subsequent water right/water quality actions



Bay-Delta Watershed

Lower San Joaquin
River Flow/
Southern Delta
Salinity (LSJR/SD)
Updates to the
Bay-Delta Plan

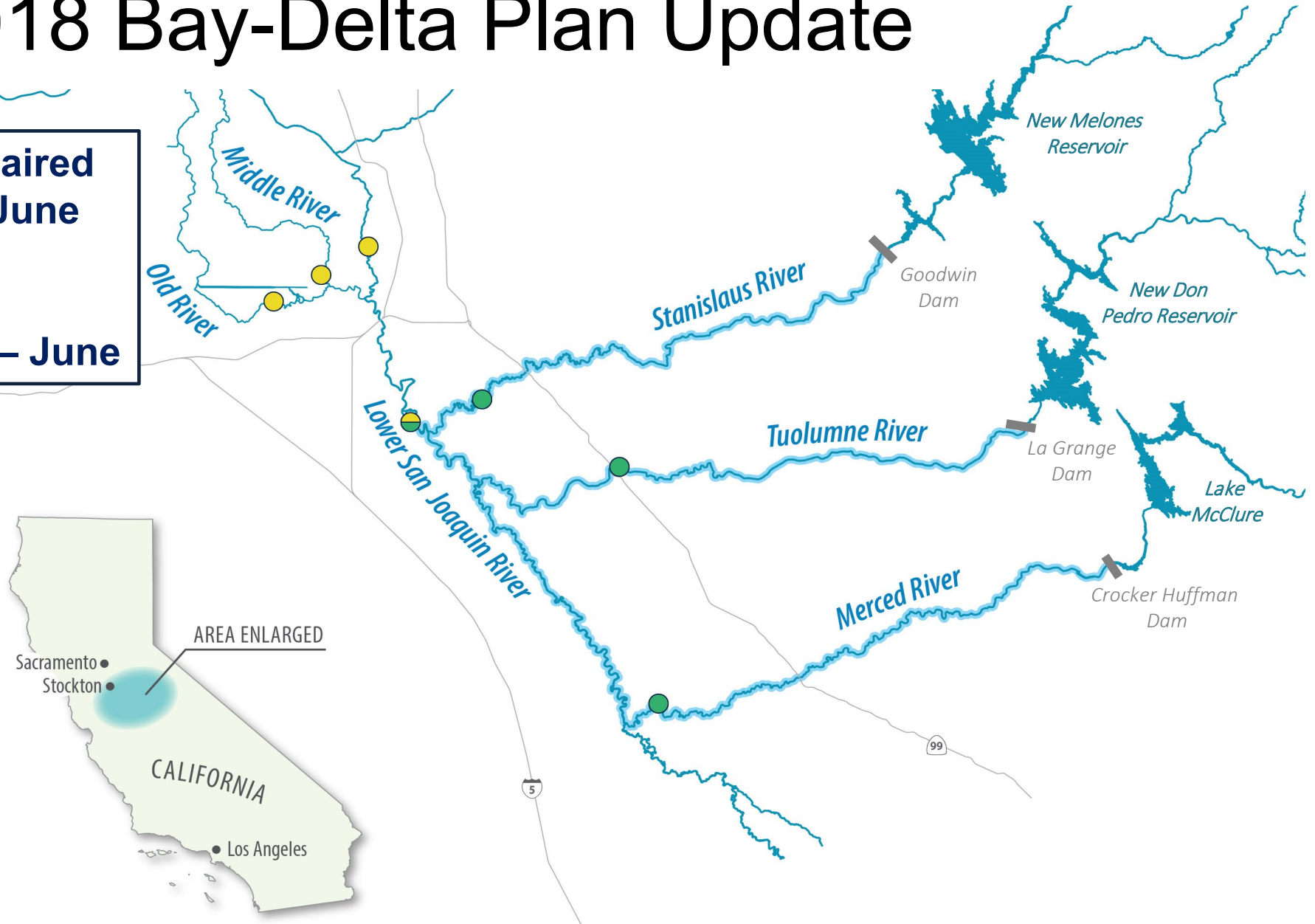


2018 Bay-Delta Plan Update

Tributary Flow: 40% unimpaired flow, 30-50% range, Feb – June

Vernalis Flow: 1,000 cfs, 800 – 1,200 cfs range, Feb – June

**Salinity: 1.0 dS/meter
Electrical Conductivity
Year-round**



Early Implementation Actions for LSJR Flows

- Stanislaus, Tuolumne, and Merced (STM) Working Group: Advisory group with expertise to help inform implementation
 - Can request to be members of this group at any time
 - Contact: stm-workinggroup@waterboards.ca.gov
- Biological Goals: Goals to inform the effectiveness of the LSJR flows and related actions and inform adaptive management and future changes to the Bay-Delta Plan
 - Approved by the Board in 2023 and re-approved in 2024
 - Expected to be modified as necessary as new information is available, including consideration of Traditional Ecological Knowledge (TEK)

Implementation of LSJR Flows

- Board is developing a regulation to implement the 2018 LSJR Plan amendments. The regulation will require water right holders to bypass water that is necessary to meet minimum flow levels
 - Regulation would require 40% (with an adaptive range from 30-50%) of unimpaired flow of each LSJR tributary (Merced, Tuolumne & Stanislaus) to remain in rivers for fish & wildlife and other measures to protect cold water for salmon and steelhead, unless a voluntary agreement applies
- Notice of Preparation for the development of an Environmental Impact Report (EIR) was issued in August 2022
- Tribal consultation letters mailed in July, August, and October 2022
- Draft regulation and draft EIR currently in development

LSJR/SD Updates to Bay-Delta Plan: Next Steps

- **Early 2025:** Release of proposed draft implementation regulation and draft EIR for public review and comment
- **As early as early 2026:** State Water Board to consider adoption of final regulation and EIR
- **As early as mid-2026:** Implementation regulation to go into effect if approved by the State Water Board and California's Office of Administrative Law.

Consideration of a Proposed Tuolumne River Voluntary Agreement

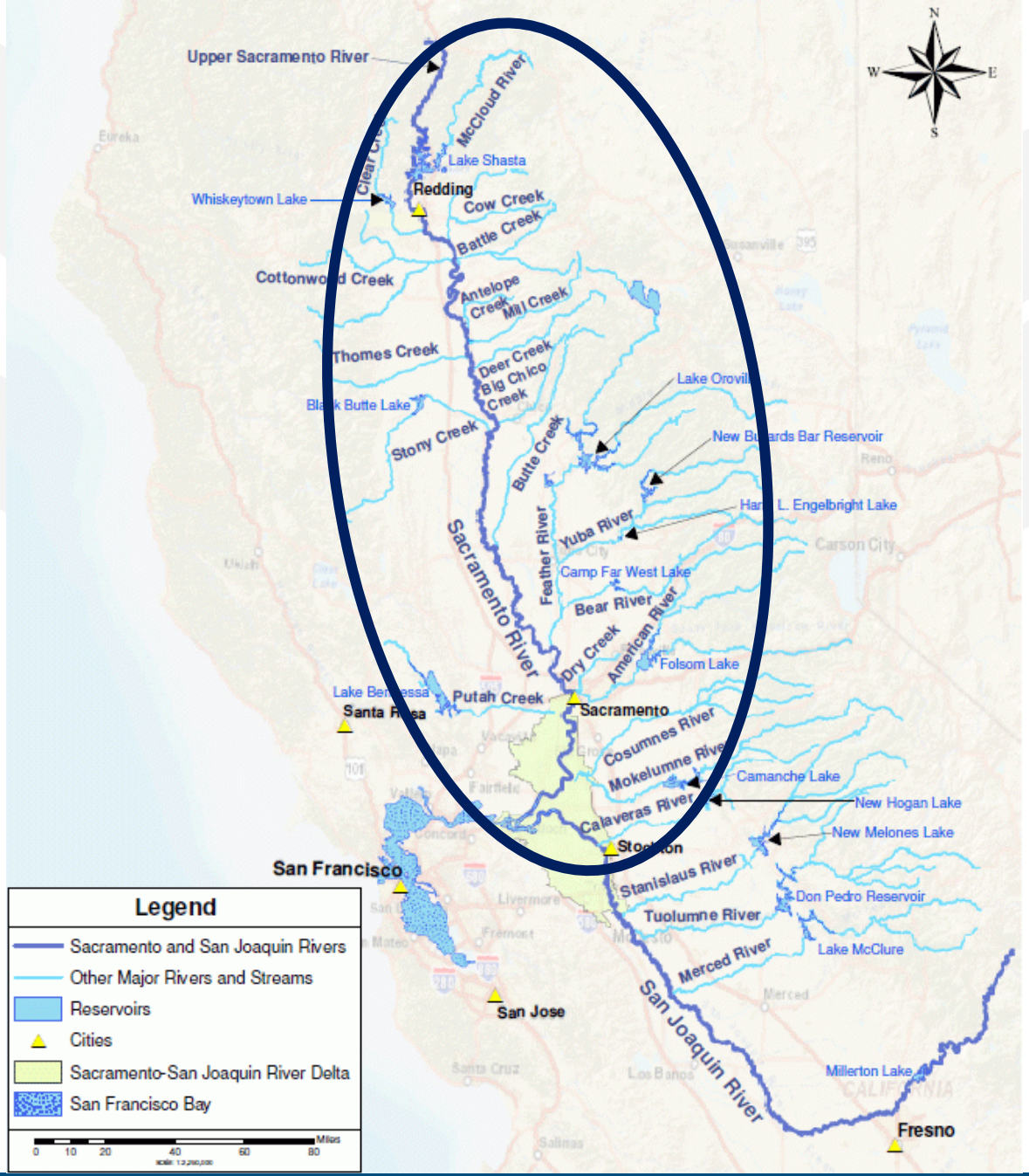
- The Board is evaluating a Tuolumne River Voluntary Agreement (TRVA) that is proposed by Modesto Irrigation District, Turlock Irrigation District, and San Francisco Public Utilities District
 - The TRVA proposal includes January-June flow commitments and other non-flow habitat restoration commitments
 - The TRVA proposal would partially implement the Bay-Delta Plan for the Tuolumne River
 - Board must adopt additional changes to Bay-Delta Plan in order to approve the TRVA because the proposal does not fully conform to the LSJR objectives, including the required percent of unimpaired flow
 - Board has not made a decision on whether to approve these amendments

Consideration of the Tuolumne River VA

- **April 2023:** Notice of Preparation
- **April 2023:** Tribal consultation letters
- **May 2023:** Scoping meeting
- **Summer/Fall 2024:** Anticipated release of draft Scientific Basis Report for public review and comment
- **Fall 2024:** Public Workshop
- **Winter 2024:** Potential initiation of revisions to the 2018 Bay-Delta Plan to incorporate the Tuolumne River VA
- **2025:** Potential public release of proposed amendments to the Bay-Delta Plan, substitute environmental document, public workshops, Board consideration of approval of amendments

Bay-Delta Watershed

Sacramento/Delta Update to the Bay-Delta Plan



Sacramento/Delta Update to the Bay-Delta Plan

- Draft Staff Report released in September 2023 that evaluates potential benefits and environmental/economic impacts of possible alternatives for updating the Sacramento/Delta components of the Bay-Delta Plan
- Assesses a range of alternatives, including the Regulatory Protection Pathway, proposed VAs, and others
- Identifies proposed incorporation of tribal and subsistence fishing beneficial uses to the Bay-Delta Plan
- State Water Board has not yet made any decisions on how to move forward, and all alternatives are available for consideration

Regulatory Protection Pathway

- Proposed Regulatory Protection Pathway identified in the Draft Staff Report
- Year-round inflows of 55% of unimpaired inflows with an adaptive range from 45-65% that would apply to Sacramento River and Delta salmon bearing tributaries (Mokelumne, Cosumnes, Calaveras)
- Narrative cold water habitat objective and implementation measures
- Year-round inflow-based Delta outflows that would provide for required inflows and outflows
- Interior Delta flows to avoid export related impacts
- Science, monitoring, evaluation, reporting, and other provisions

Proposed VAs

- Propose flow, habitat restoration, and other actions on Sacramento, Feather, American, Yuba, and Mokelumne Rivers, Putah Creek, and in Delta
- Propose: (1) a new narrative objective to achieve viability of native fish populations, and (2) to provide participating parties' share to contribute to achieving the existing narrative objective to double salmon populations by 2050
- Initial 8-year term proposed, following which VAs could be extended or modified, or regulatory pathway could apply if proposed VAs are not found to be effective
- Draft Staff Report identifies proposed regulatory backstop consistent with the inflow, outflow, and cold water habitat provisions of Regulatory Protection Pathway

Tribal and Subsistence Fishing Beneficial Uses (TBUUs)

- Established and defined by the Board in 2017 in collaboration with California Native American Tribes and the public
- Tribal Tradition and Culture (CUL) – uses of water that support the cultural, spiritual, ceremonial, or traditional rights or lifeways of California Native American Tribes
- Tribal Subsistence Fishing (T-SUB) – uses of water involving the noncommercial catching or gathering of natural aquatic resources for consumption by individuals, households, or communities of California Native American Tribes to meet needs for sustenance
- Subsistence Fishing (SUB) – uses of water involving the non-commercial catching or gathering of natural aquatic resources, including fish and shellfish, for consumption by individuals, households, or communities, to meet needs for sustenance

Consideration of Incorporation of TBUs

- Incorporation of TBUs would provide for explicit recognition of these beneficial uses as they relate to reasonable protection of fish and wildlife within the context and purview of the Bay - Delta Plan
- Incorporation of the TBU definitions into the Bay - Delta Plan is not proposed as a formal “designation” of the uses as applying to specific waterbodies or waterbody segments within the Bay - Delta
- Additional work and collaboration being initiated among tribes, State Water Board, and Regional Water Boards to define the proper scope and identify the effects of formal designations in the geographical area of the Bay-Delta watershed
- See Chapter 11 of Draft Staff Report, *Tribal Engagement*

TEK and Bay-Delta Plan Update and Implementation

- Tribes and culturally significant aquatic resources have been impacted by aquatic ecosystem stressors
- Clean water, functional flows, and healthy fish and wildlife populations are critical to sustaining tribal communities
- Draft Staff Report describes how tribal knowledge and resource management practices may inform possible components of the Bay-Delta Plan:
 - Adaptive implementation of flows
 - Habitat restoration
 - Monitoring activities
 - Future changes to the Bay-Delta Plan and its implementation

Sacramento/Delta Process Timeline

- **Summer/Fall 2024:** Release specific draft Sacramento/Delta updates to Bay-Delta Plan (including program of implementation language) for public review and comment, and hold public workshop
- **As early as First Quarter 2025:** Release for public review final draft Sacramento/Delta updates to Bay-Delta Plan with final draft Staff Report, including response to comments on draft Staff Report
- **As early as Second Quarter 2025:** Board meeting to consider adoption of Sacramento/Delta updates to Bay-Delta Plan and final Staff Report

Bay-Delta Plan Tribal Engagement Process

Goals

1. Foster and develop positive relationships and trust with Tribes
2. Identify, establish, and refine communication methods with Tribes
3. Establish procedures to foster collaboration with Tribes
4. Assist Tribes with understanding water quality control planning and other water rights processes in the Bay-Delta watershed
5. Identify existing and emerging water quality concerns from Tribes
6. Ensure tribal perspectives are brought to the Board for equitable consideration during water quality control planning and other decision-making

Bay-Delta Plan Tribal Engagement Process

- Formal government-to-government consultation
- Tribal engagement meetings on Bay-Delta Plan updates
- Possible development of a tribal working group to facilitate incorporation of TEK and tribal feedback on Bay-Delta Plan documents and updates
- Maintain tribal engagement plan

Resources and Contact Information

Rob McCarthy, Tribal Coordinator for Bay-Delta Plan Update and Implementation Processes:

Robert.McCarthy@waterboards.ca.gov

Webpages:

Bay-Delta Watershed:

https://www.waterboards.ca.gov/bay_delta/

Bay-Delta Tribal Coordination:

https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/tribal_coordination.html

Lower San Joaquin River and Southern Delta Update:

https://waterboards.ca.gov/bay_delta/bay_delta_plan/water_quality_control_planning/

Sacramento/Delta Update:

https://waterboards.ca.gov/bay_delta/comp_review.html

Bay-Delta Notices

Email Subscription List:

www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/



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Question and Answer Session



State Water Resources Control Board