

JASON R. FLANDERS, SBN 238007

Email: jrf@atalawgroup.com

ERICA A. MAHARG, SBN 279396

Email: eam@atalawgroup.com

HARRISON M. BECK, SBN 341717

Email: hmb@atalawgroup.com

AQUA TERRA AERIS LAW GROUP

Attorneys for Friends of the River

JOHN BUSE, SBN 163156

Email: jbuse@biologicaldiversity.org

CENTER FOR BIOLOGICAL DIVERSITY

E. ROBERT WRIGHT, SBN 51861

Email: bwrightatty@gmail.com

SIERRA CLUB CALIFORNIA

*Attorneys for Sierra Club California, Center for
Biological Diversity, Friends of the River, North Coast Rivers Alliance,
Planning and Conservation League, and
Save California Salmon*

THE STATE OF CALIFORNIA

BEFORE THE STATE WATER RESOURCES CONTROL BOARD

ADMINISTRATIVE HEARINGS OFFICE

IN THE MATTER OF:
CALIFORNIA DEPARTMENT OF WATER
RESOURCES' PETITIONS FOR CHANGE OF
WATER RIGHTS PERMITS 16478, 16479,
16481, AND 16482

Expert Testimony of Ron Swanson

Date: July 11, 2024

1 I, Ronald M. Stork, do hereby declare:

2 **Introduction**

3 1. My name is Ronald Stork. I am on the senior policy staff at Friends of the River, where I
4 have been a staff member since 1987. Friends of the River is a statewide environmental group
5 focused on river protection, restoration, and inspiring citizen action. During my time at Friends
6 of the River, I have had various responsibilities for organizing and participating in a broad range
7 of activities in local, regional, state, and national matters of consequence to the state's rivers. I
8 have prepared a statement of qualifications for this proceeding (FOR-001).

9 2. Though this testimony deals with the instant petition regarding the Delta Conveyance
10 Project ("Delta Tunnel Project" or the "Project"), my testimony here reprises much of my expert
11 witness testimony from prior water rights proceedings.¹ For example, I provided expert witness
12 testimony as part of a case in chief before this Board on the revocation of the U.S. Bureau of
13 Reclamation's Auburn Dam permits and hearings for the change petitions for California Water
14 Fix. I also provided expert testimony before the Board's Administrative Hearings Office on the
15 cancellation of San Joaquin County's South Fork American River Application A-29657 and
16 applications for assignments and releases from priority associated with the Sites Reservoir
17 Project.

18 3. With the instant petition, the State suggests a plan that harkens back to a 1919² inchoate
19 vision of vast quantities of water being from rivers in northern California to "areas of deficiency"
20 in the San Joaquin Valley and Southern California. My testimony is intended to emphasize that
21 the Delta Tunnel Project proposal should not be considered in isolation; as its predecessors have
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25 ¹ "What has been will be again, what has been done will be done again; there is nothing new under the sun."
26 Ecclesiastes 1:9 (NIV).

27 ² The U.S. Geologic Survey's Lieutenant Robert B. Marshall's ambitious 1919 proposed California Water Plan is
described in *Aqueduct Empire, A Guide to Water in California, Its Turbulent History and Its Management Today*,
Arthur C. Clark Company, Erwin Cooper, 1968, pp. 50–52 (hereinafter "Aqueduct Empire"). Exhibit FOR-009.

1 in the past, it is likely to elicit, enable, and incentivize other, often problematic water
2 infrastructure projects and actions both upstream and south of the Delta.

3 4. The construction and operation of the facilities proposed by the California Department of
4 Water Resources (“DWR” or “Petitioner”) are intended by DWR to navigate around some
5 pumping constraints at the Delta pumps. DWR’s proposed operational standards (largely to
6 operate within the existing D-1641 and other pumping constraints) permit substantial operational
7 discretion, discretion that DWR and the State Water Project (“SWP”) and Central Valley Project
8 (“CVP”) export contractors hope, model, and expect will result in increased deliveries to south-
9 of-delta storage and uses.

10 5. In the past, such facilities were proposed with significant relevant-to-the-era
11 environmental assurances absent in the Delta Tunnel Project proposal. As a result, approving the
12 proposed petition is likely to result over time in the construction and operation of new storage
13 and diversion projects exploiting northern watersheds and increased transfers to southern
14 California users, both to the detriment of northern California fisheries and lake and river
15 ecosystems.

16 17 **Historical Background**

18 6. To understand the Delta Tunnel Project petition and its potential effects on and
19 relationship to other water infrastructure projects some history is in order.

20 7. The California legislature authorized the CVP in 1933. During the Great Depression, the
21 State turned to the activist New Deal federal government to advance the CVP. The CVP was first
22 federally authorized in 1935 and again in 1937. The initial major storage elements of the federal
23 CVP were Shasta and Friant Dams, largely constructed during World War Two. Friant Dam
24 and its canals from the San Joaquin River would serve much of the east side of the San Joaquin
25 Valley. Water in the Delta and released from Shasta Dam would be pumped from the Delta into
26 the Delta-Mendota Canal to replace (exchange for) some of the San Joaquin River water lost to
27 Friant’s diversions.

1 8. Federal planning continued, culminating in 1949 in a detailed plan by the U.S.
2 Department of the Interior for 38 major Central Valley Basin storage reservoirs with 30,269,000
3 acre-feet of storage.³ Among the more notable of the still unbuilt north state dam projects were
4 the 800,000 acre-foot Coloma Dam on the South Fork American River, three dams with 902,000
5 acre-feet of storage on the Yuba-Bear Rivers, the 550,000 acre-foot Nashville Dam on the
6 Cosumnes River, and the 5,600,000 acre-foot Table Mountain Dam on the Sacramento River
7 below Keswick Dam.⁴ As time developed, other federal mega-projects were planned or sketched
8 out on north coast rivers to deliver water into the Central Valley Basin.⁵ Many of these projects
9 were built by the U.S. Bureau of Reclamation (“Reclamation”) or others; some remain unbuilt.
10 More certainly, CVP water from Shasta and Friant Dams and water pumped from the Delta were
11 put to use irrigating large portions of the Sacramento and San Joaquin Valley and portions of the
12 Bay Area and South Bay, along with some municipal and industrial (M&I) uses.

13 9. The first comprehensive State of California water plans were in 1927 (the coordinated
14 plan in Bulletin #12) and 1931 (*State Water Plan*, Bulletin #25), each envisioning massive
15 exports from northern California. The State’s *magnum opus* was the 1957 *California Water Plan*,
16 (Bulletin #3).⁶ Its scale of damming and exporting was breathtaking. Nearly every waterway was
17 to be dammed, often multiple times, with some rivers converted almost entirely into reservoirs.⁷

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20 ³ *Total Use for Greater Wealth, Central Valley Basin: A comprehensive developmental report on the development of*
21 *the water and related resources of the central valley basin, and comments from the state of California and federal*
22 *agencies*, Senate Document 113, Eighty-First Congress, First Session, United States Department of the Interior, J.A.
23 Krug, Secretary, Bureau of Reclamation, Michael W. Strauss, Commissioner, 1949, p. 119 (hereinafter “1949
24 *Interior Plan*”), Exhibit FOR 010.

25 ⁴ 1949 *INTERIOR PLAN*, P. 120. EXHIBIT FOR-010.

26 ⁵ Notable among these proposed but unbuilt federal projects was the Reclamation’s ambitious 1951 “United Western
27 Investigation Study’s” 15-million-acre-foot Ah Pah Dam Reservoir on 70 miles of the Klamath River and 40 more
miles of the Trinity River and the U.S. Army Corps of Engineers 1967 proposal for a 730-foot-tall Dos Rios Dam on
the Eel River.

⁶ Bulletin No. 3, *The California Water Plan*, State of California, Department of Water Resources, Division of
Resources Planning, May 1957, <https://cawaterlibrary.net/document/bulletin-no-3-the-california-water-plan/>
(hereinafter “1957 *California Water Plan*”). The full document is provided for reference as Exhibit FOR-011.
Higher resolution excerpts are provided as Exhibit FOR-012 and FOR-017.

⁷ This impression is easily visualized. The 1957 *California Water Plan* is filled with wonderfully detailed maps of
subsections of the state highlighting waterways, existing dams and reservoirs, and the California Water Plan local
and export reservoirs and canals.

1 Some of these projects (“the California Aqueduct System”) would feed the export route across
2 the Delta. The route would be extraordinarily busy. Ultimately the “Trans-Delta System” was
3 expected to “transfer some 18,330,000 acre-feet of water per season, on average, across the Delta
4 for conveyance to areas of deficiency...”⁸

5 10. During this decade, the SWP was getting underway. Important considerations in moving
6 the SWP forward were the facts that potential State water came without Reclamation’s federal
7 acreage limitation and that the CVP did not serve many areas outside of the Central Valley. The
8 Legislature authorized the Feather River Project in 1951 and provided funds in 1956 and 1957.⁹
9 In 1959, the legislature passed the Burns-Porter Act with the enthusiastic support of Governor
10 Edmund G. (Pat) Brown, along with some north-south compromises such as Area of Origin and
11 some north state local water-project grants (Davis-Grunsky grants). It authorized the SWP
12 (including the Oroville Dam) and provided for the issuance of general obligation bonds to
13 finance at least the initial features of the project. It was narrowly ratified by the voters in 1960.¹⁰

14 11. The Metropolitan Water District of Southern California signed the first SWP contract for
15 1,500,000 acre-feet. Optimistic that other phases would follow, by 1962, the SWP had 4.2
16 million acre-feet of contracts, with near-term projects for 2.3 million acre-feet of supply. This
17 difference between contracts issued versus the projected supply prompted intensive interest in
18 the next increment of SWP expansion. Some guidance had already been developed. The
19 California Water Plan had envisioned conversion of much of the Klamath/Trinity and Eel Rivers
20 and their tributaries to reservoirs¹¹ and trans-Inner Coast Range tunnels to feed the “California
21

22
23 ⁸ Although the hub of nearly all of the transfer projects, the 18,330,000 million acre-feet to be annually transferred
24 through the Trans-Delta System does not include diversion, storage, and delivery projects *within* the north state (i.e.,
upstream of the Delta). For comparison with the *California Water Plan*’s planned Delta transfers, a rough average of
4,000,000 acre-feet per year make that journey in the modern era.

25 ⁹ 1957 *California Water Plan*, p. 103, Exhibit FOR-012.

26 ¹⁰ *California Water Atlas*, pp. 50–53, Exhibit FOR-013.

27 ¹¹ There were, of course, big-picture planners envisioning the Columbia River and even bigger-picture planners
envisioning large exports from Canada in the North American Water and Power Alliance to the “areas of
deficiency” in the American west. Perhaps this was the basis of President Trump’s imaginary “faucet” preventing

1 Aqueduct System,” the moniker used in the California Water Plan for the dams, reservoirs,
2 tunnels, canals, and pumping facilities built and operated to feed the California Water Plan’s
3 export projects.

4 12. While the Klamath River reservoirs were envisioned to be more productive,¹² the Eel
5 River-to-reservoir conversion was expected to be the next major SWP development after the
6 Feather River and Delta-Transfer facilities and the aqueducts leading from them. The California
7 Water Plan envisioned nearly three million acre-feet of exports from the proposed dams and
8 diversions from what would be the former Eel River to the Sacramento River and the Delta.¹³
9 After the initial facilities (Oroville Dam, Delta pumps, and California Aqueduct) were on their
10 way, the Eel River would become the major focus of DWR’s planning for the SWP.¹⁴

11 13. DWR’s Eel River Plan was to begin with the proposed Dos Rios Dam on the Eel (which,
12 conveniently, after the 1964 north coast floods, would be built by the U.S. Army Corps of
13 Engineers, courtesy of the U.S. taxpayers). Dos Rios was planned to develop 900,000 acre-feet
14 annually for delivery through the proposed Grindstone Tunnel, piercing the Inner Coast Range,
15 and exported for its initial staging to the Glenn Reservoir Complex on the west side of the
16 Sacramento Valley.¹⁵ Eel watershed flows would then be released into the Sacramento River and
17 thus to the Delta-Transfer Facilities and from there on to their ultimate destinations. Dos Rios
18 would be followed by other major dams and reservoirs that could be expected to ultimately
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21 the Columbia River to flow naturally into California. [https://fox40.com/news/national-and-world-news/trumps-](https://fox40.com/news/national-and-world-news/trumps-large-faucet-that-can-divert-water-from-pacific-northwest-to-los-angeles-doesnt-exist-expert/)
22 [large-faucet-that-can-divert-water-from-pacific-northwest-to-los-angeles-doesnt-exist-expert/](https://calmatters.org/commentary/2025/01/trump-california-water-order-fires/). Exhibit FOR-014.
23 <https://calmatters.org/commentary/2025/01/trump-california-water-order-fires/>. Exhibit FOR-015 [Trump Declares](#)
24 [War on California Environment and Water Management — Headwaters Magazine](#). Exhibit FOR-016.

25 ¹² The last Bulletin #3 plate, plate 8, shows 8,182,000 acre-feet of water to be “imported to areas of deficiency” and
26 872,000 acre-feet with “present or potential transfer under existing or claimed rights” to be dammed and diverted in
27 the Trinity/Klamath River system. “Plate 8, Ultimate Development and Transfer of Water Under the California
Water Plan,” 1957 *California Water Plan*. Exhibit FOR-017.

¹³ *Id.*

¹⁴ *The River Stops Here*, Random House, Ted Simon, 1994, pp. 37–39. Exhibit FOR-018. See also “Area of Origin
Statutes—the California Experience,” Idaho Law Review, Ronald B. Robie, Russell Kletzing, 1979, p. 428. (1979
Robie-Kletzing review). Exhibit FOR-019.

¹⁵ Eel River Council Map, Exhibit FOR-020; Glenn Reservoir Complex map from Application 25514, Attachment 1.
Exhibit FOR-021.

1 develop 2,300,000 acre-feet annually for export to the SWP¹⁶ in exchange for the sacrifice of
2 nearly all of the Eel River.

3 14. However, these north coast river capture ideas were soon derailed. Inspired by the
4 creation of the National Wild & Scenic River System in 1968, the California legislature (with the
5 signature of Governor Ronald Reagan) created the California Wild & Scenic Rivers System in
6 1973. The free-flowing reaches of most of the north coast rivers, including the Eel, Trinity, and
7 Klamath Rivers were part of this system. The effect was immediate. The California Wild &
8 Scenic Rivers Act closed off the Eel River supply for the SWP — although California Water
9 Plan critics and supporters alike were more than aware that a simple majority vote of the
10 Legislature and concurrence from the Governor could undo state protection easily enough.

11 15. While the SWP boosters waited for the political winds to reverse, the SWP could focus
12 on authorizing and constructing the peripheral canal around the Delta and thus facilitating easier
13 export deliveries to the pumps and California Aqueduct.¹⁷ The SWP also continued to work on
14 completing all of the branches of the California Aqueduct with a consequent increase in
15 customers receiving or potentially receiving deliveries and the demand to serve them.

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19 ¹⁶ Internal DWR memo from DWR Northern District Planning Chief Albert Dolcini to Deputy Director Jerry Meral,
January 26, 1978 (hereinafter “Dolcini memo”). Exhibit FOR-022.

20 ¹⁷ The Legislative Analyst in his ballot summary for the Proposition 9, the SB 200 vote and bond authorization,
was able to report:

21 The Department of Water Resources has now completed the main features of the State Water Project
22 consisting of (1) a dam and reservoir at Oroville which stores water in the winter for release into the
23 Sacramento River and the Sacramento-San Joaquin River Delta in the summer and (2) a large pumping
24 plant at the southwestern edge of the delta to pump water from the delta into an aqueduct system for
delivery primarily to the San Joaquin Valley and southern California. The Bums-Porter Act also provided
construction and funding authority for additional unspecified facilities as well as a facility to transfer water
across the Sacramento-San Joaquin Delta. The Peripheral Canal would be such a transfer facility.

25 The Peripheral Canal. Construction of the Peripheral Canal has been proposed since 1965 to improve water
26 quality in the delta, to provide fishery protection and to provide additional water to central and southern
California. The canal would move Sacramento River water around the eastern and southern edge of the
delta, rather than allow it to move through the natural channels of the delta.

27 Exhibit FOR-028.

1 Reclamation, in the meantime, was building out its CVP systems to serve new demand along the
2 west side of the northern Sacramento Valley and the central San Joaquin Valley.¹⁸

3 16. The federal government also had big plans that it believed would not be directly affected
4 by the California Wild & Scenic River System.¹⁹ However, it was soon struggling to keep its
5 Auburn Dam project and its competitor to the California Aqueduct, the East-Side Canal from the
6 American River to Tulare, moving forward. The Auburn Dam project would soon encounter
7 seismic hazard difficulties and changing federal cost-sharing policies that forced its potential
8 boosters out of the project. Reclamation's East-Side Canal was tied to the success of Auburn
9 Dam and soon would lose out to competition for CVP water with Reclamation's San Luis and
10 Delta-Mendota Canal and less directly with the SWP's California Aqueduct and their powerful
11 and large new contractors.²⁰

12 17. It took until 1980 for the state legislature and governor to work out the deals for the next
13 step of the SWP. The proposed Peripheral Canal authorization embodied in the legislature's
14 vehicle, SB-200 (Ayala D-Chino), was an integrated package that included the Peripheral Canal,
15 a Sacramento Valley reservoir, and more extensive delivery facilities. However, the full
16 legislative package (with the double-joined Proposition 8²¹ that would be passed by the voters)

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19 ¹⁸ Some heavy demands on the CVP were yet to come. The Sacramento River Division of the CVP, irrigating the
20 west side of the northern Sacramento Valley (authorized in 1950, see "Sacramento River Division, Central Valley
21 Project," Eric A. Stene, U.S. Bureau of Reclamation, 1994,) (Sac River Division, USBR) Exhibit FOR-023), and the
San Luis Unit of the CVP, irrigating the west side of the central San Joaquin valley (authorized in 1960, Public Law
86-488, 86th Congress), see "San Luis Unit West San Joaquin Division Central Valley Project," Robert Autobee,
Bureau of Reclamation, undated) Exhibit FOR-024.

22 ¹⁹ Eventually, the wild & scenic river designations of the lower American River did affect Reclamation — or at least
23 one of its contractors. In 1990, Judge Richard Hodge of the Alameda County Court, constrained East Bay Municipal
Water Districts dry year deliveries of its CVP contract if using the Folsom South Canal. The constraints were
24 imposed because of Public Trust and wild & scenic river considerations. "**Error! Main Document Only.**Statement
of Decision, Richard Hodge, Judge of the Alameda Superior Court, Environmental Defense Fund et al, v. East Bay
MUD et al., Sacramento County Intervenor, No. 425955," January 2, 1990, pp. 43–46. (1990 Hodge decision)
Exhibit FOR-025.

25 ²⁰ Water Right Hearing Regarding Proposed Cancellation or Establishment of Information Schedule of San Joaquin
County's Application to Appropriate Water from the South Fork American River, Application 29657, Opening
Statement and Witness Testimony for Friends of the River by Ronald Stork Before the State Water Resources
26 Control Board Administrative Hearings Office, (A-29657 FOR witness statement) September 29, 2021, pp. 4–10.
Exhibit FOR-026.

27 ²¹ Proposition 8, Exhibit FOR-027.

1 proposed (among some other provisions) to mitigate the risks of the Peripheral Canal to
2 California's north coast rivers and the Delta by proposing supermajority legislative or ballot
3 initiative hurdles for (1) exporting water from the State's wild and scenic river system (as it
4 existed in 1980) or to change (2) certain environmental commitments in SB 200 and to the Delta
5 Protection Act. Independently, Governor Edmund G. (Jerry) Brown Jr. sweetened the Canal
6 proposal by asking Secretary of the Interior Cecil B. Andrus to add the California wild & scenic
7 rivers to the national wild & scenic river system under §2(a)(ii) of the national act. There was
8 political theater involved. On the same day (July 18, 1980) that Governor Brown signed his
9 petition to then Secretary of the Interior Cecil Andrus, in a televised event Brown also signed
10 SB-200.

11 18. SB-200 was a sprawling piece of legislation very much in the spirit of both the Governor
12 Browns. Among its more notable features were (1) an explicit authorization of the peripheral
13 canal around the Delta, (2) authorization of the Los Vaqueros unit of the CVP and other off-
14 stream reservoirs south or west of Los Vaqueros as might be determined by DWR, (3)
15 authorization for various locations for groundwater storage, (4) authorization for the Glenn
16 Reservoir/Diversion Unit of the SWP—or if not feasible, the Colusa Reservoir/Diversion Unit
17 and a contingent authorization for a Corps of Engineers project with the Sites Reservoir portion
18 to be added to the CVP to “serve the Tehama-Colusa Canal and any extension into Yolo and
19 Solano Counties,”²² and (5) and authorization for state construction of the ambitious Mid-Valley
20 Unit (expanded federal Delta pumps, expanded San Luis and Delta-Mendota Canal, Mid-Valley
21 Canal), the latter new canals from the Mendota Pool (the terminus of the federal Delta-Mendota
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25 ²² “(h) If the Glenn Reservoir-River Diversion Unit authorized in subdivision (g) is not feasible, as determined by
26 the Director of Water Resources, the Colusa Reservoir-River Diversion Unit on the west side of the Sacramento
27 Valley in the western portion of the Counties of Glenn and Colusa. This unit may be constructed in stages. The Sites
Reservoir portion of the unit may be developed at any time hereafter by the federal government as a facility of the
federal Central Valley Project to serve the Tehama-Colusa Canal and any extension thereof into Yolo and Solano
Counties.” SB 200, Proposition 9. Exhibit FOR-028

1 Canal) to kindly serve the northern part of the mostly the federal Friant Unit of the CVP with
2 non-SWP Sacramento River water pumped from the Delta.²³

3 19. Ultimately, SB-200 went to a statewide referendum as Proposition 9 in June 1982,²⁴ and
4 neither it nor the authorizations for the Glenn Reservoir Complex, Colusa, and Colusa-related
5 Sites Reservoir were approved by the state's voters. Consequently, with the failure of
6 Proposition 9, the protections embodied in the double-joined Proposition 8, previously passed by
7 the voters, were also nullified. But federal protections for at least the north coast and lower
8 American River did emerge out of the dust from these controversies. After an intense and
9 dramatic legal and Congressional battles, on January 19, 1981, the day before the Presidential
10 inauguration day, outgoing Secretary of the Interior Cecil Andrus accepted Governor Jerry
11 Brown's petition to add California's then-existing North Coast Rivers (except for unnamed
12 tributaries of the Smith River and some other minor details) to the national wild & scenic river
13 system.²⁵ After intense legal battles, on January 21, 1985, the U.S. Supreme Court declined to
14 overturn the Ninth Circuit ruling upholding Secretary Andrus's decision.²⁶

15 20. There would be no easy path back to Reclamation's 1949 comprehensive "total use for
16 greater wealth" plan or the State's 1957 comprehensive, general, ultimate, or coordinated plan
17 for the development of the State's waters.

18 21. But aspirations for more north state water from the still-mostly-unprotected Sacramento
19 River persisted (and, inexplicably, even from the fully appropriated San Joaquin River).

22 ²³ "(k) The Mid-Valley Canal Unit, which shall be constructed primarily for the purpose of alleviating the ground
23 water overdraft and providing water supplies for the state and federal water fowl management areas in the canal
24 service area; provided, that the water delivered through its facilities shall be water developed by facilities other than
25 those of the project, and provided further, that such water shall be transported through the facilities described in
26 subdivision (a) of this section and, provided further, that the full cost of the unit incurred by the state and allocated
to agricultural, municipal, and industrial contractors shall be repaid by them." "The Secretary of the Resources
Agency is authorized to indicate in writing the state's intent to agree to administer any federal multiple purpose
water project land and water areas of the Mid-Valley Canal Unit for recreation and fish and wildlife enhancement as
provided in Public Law 89-72 if constructed by the United States." *Id.*

²⁴ Proposition 9 SB 200 ballot facsimile. Exhibit FOR-028.

²⁵ Friends of the River California wild & scenic rivers compendium. Exhibit FOR-029, pp. 31-39.

²⁶ *Ibid*, pp. 33-39.

The CALFED Era and Fueling the Dam-building Fires

22. The 2000 State/federal CALFED Record of Decision (“ROD”) dangled at least the prospect of more storage projects, if not actual water, to some of the State’s water agencies. The ROD recommended further *investigations* of five Bay/Delta Basin storage projects, although not the projects themselves. The ROD stated that three projects had advanced far enough that they would be pursued with a project specific study.²⁷ Sites and Temperance Flat dams were in the second category, “Surface Water Projects Requiring Further Consideration.” For these two projects, “extensive technical work, significant additional environmental review[,] and development of cost-sharing agreements [was needed] before [there could be] a decision to implement the project as part of the CALFED Program.”²⁸ Planning for Sites would depend on a “joint planning program through an MOU with local water interests by October 2000,”²⁹ (the Sites Project Authority was formed in August of 2010).

23. Nevertheless, for some observers, the fate of these projects seemed to have been sealed by the CALFED implementation principle that these projects were to be implemented on the beneficiaries-pay principle.³⁰ Indeed, in the almost a quarter century of implementation of the CALFED programs, only two of these surface water investigations have kept these projects still alive—no doubt in part because of proponents aspirations and the generous taxpayer subsidies engineered by their political patrons³¹—although it seems that no projects truly die; they just lie

²⁷ CALFED Bay-Delta Program, Record of Decision, August 28, 2000, p. 44 (hereinafter “CALFED ROD”), pp. 44-45. FOR Exhibit FOR-030.

²⁸ *Id.*, p. 45.

²⁹ *Id.*

³⁰ Among the implementation commitments of CALFED was that “Beneficiaries Pay.” A fundamental philosophy of the CALFED Program is that costs should, to the extent possible, be paid by the beneficiaries of the program actions.” *Id.*, pp. 32, 34.

³¹ The CALFED 2000 Record of Decision storage investigation “further studies” recommendation centered on just a few projects. Without a way to finesse the “beneficiaries” pay principle, there could no guarantee that any of them would pan out. The studies were to include the following (1) expanding Reclamation’s Shasta Reservoir—championed by the first Trump Administration, although it is illegal to construct, and planning and permitting by agencies of the state, with only narrow exceptions, are illegal under the California Wild & Scenic Rivers Act

1 dormant on water agency (and Friends of the River) shelves until picked up again when
2 additional subsidies become available, paid for by other people's money.

3 24. Nevertheless, the political pressure for public subsidies eventually began to flow for
4 favored surface storage and canal projects. After a legislative coalition, including southern San
5 Joaquin Valley legislators able to deny the required 2/3rds super-majority vote, that tied their
6 votes to putting state taxpayer water-storage subsidies on the 2010 ballot, the California Water
7 Bond passed the legislature. After some strategic delays because of Great Recession voter
8 support concerns, the 2014 California Water Bond (speculating, without evidence, on the amount
9 "needed"—but largely based on the amount the voters might buy and the somewhat frugal
10 Governor Jerry Brown's tolerance) was put on the ballot and passed by the voters. It set aside
11 \$2.7 billion to be continuously appropriated to the California Water Commission to finance the
12 "public benefits" of the contemplated and hypothetical storage projects that might apply. Public
13 benefits did not include water supply benefits, but the Water Commission was able to find or
14 strain to find enough public benefits to justify substantial (in two cases, nearly 50%) taxpayer
15 subsidies for eight water storage projects, including four dams.³²

16 25. The prospect of U.S. taxpayer funds would also materialize from some major, at least
17 short term, changes in Reclamation law.³³ The five-year Water Infrastructure Improvements for
18 the Nation Act of 2016 ("WIIN") grandfathered projects with Secretarial feasibility

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21 according to the SWRCB and the Department of Fish & Wildlife. (2) The Temperance Flat Dam: This proposed
22 Reclamation dam on the San Joaquin River Gorge is now in deferred status. This dam was slated to dam and divert
23 the already fully appropriated San Joaquin River and failed to get a meaningful allocation of Proposition 1 storage
24 money. (3) an in-Delta storage project that is no longer being energetically pursued. (4) Contra Costa Water
25 District's Los Vaqueros Reservoir expansion: This project was unable to find partners to help finance the project,
26 the District is no longer working on the project, and the California Water Commission is prepared to take back its
27 allocation about half a billion dollars of state taxpayer Proposition 1 funding. (5) Sites, however, with a list of
potential partners, has an ~\$900 million Proposition 1 taxpayer funding allocation and with aspirations of similarly
generous federal funding and loans. CALFED 2000 ROD, Ibid. pp. 43–45.

³² Two additional projects ("screening projects"), including the proposed Del Puerto Canyon Dam, met the
California Bond Act potential eligibility deadline now codified in Water Code §79757.

³³ Infrastructure Investments and Jobs Act of 2021 ("IIJA"). While some of the provisions of the Water Infrastructure
Improvements for the Nation Act of 2016 ("WIIN") expired in five years, projects with feasibility determination
letters were grandfathered. It also likely would qualify for similar subsidies from the Infrastructure Investments and
Jobs Act of 2021 (IIJA) as WIIN grandfathering was one of the IIJA eligibility provisions.

determinations³⁴ , allowing them to benefit from key terms of the WIIN even after its expiration in 2021.³⁵ Among the benefits is a mechanism for Reclamation to finance up to 25% of a non-federal project for the “federal” benefits (if any) that might have been subsidized in a Reclamation project.³⁶ The WIIN promised up to 50% of total project costs for the “federal” benefits (if any) for a Reclamation project, although the non-federal sponsor would have to finance the remaining costs of the project.³⁷

26. In addition, the Title IX of the Infrastructure Investments and Jobs Act of 2021 (“IIJA”)³⁸ made available federal grants to grandfathered some WIIN water storage projects.³⁹ And from this year’s headlines, the “one big, beautiful, bill contains a billion dollars free of cost-sharing or Reclamation law reimbursability requirements for the Secretary of the Interior to spend on expanding federal reservoirs or expanding or restoring federal canals.”⁴⁰

27. But there also have been additional and subsequent successes in placing the thumb on the scales of advancing dam construction and operational decisions to prioritize water deliveries. For example, the §4001(a) of the WIIN commanded the following:

WATER SUPPLIES.—The Secretary of the Interior and Secretary of Commerce shall provide the maximum quantity of water supplies practicable to Central Valley Project agricultural, municipal and industrial contractors, water service or repayment contractors, water rights settlement contractors, exchange contractors, refuge contractors, and State Water Project contractors, by approving, in accordance with applicable Federal and State laws including regulations), operations or temporary projects to provide additional water supplies as quickly as possible, based on available information.

³⁴ WIIN **Error! Main Document Only.** § 4007(i).

³⁵ For these purposes, under WIIN **Error! Main Document Only.** §4013, the WIIN expires on January 16, 2021, except for projects under construction.

³⁶ “Water Infrastructure Improvements for the Nation Act,” Title 3, Subtitle J, §§4007(a)(2) & 4007(c). P.L. 114-322.

³⁷ “Water Infrastructure Improvements for the Nation Act,” Title 3, Subtitle J, §§4007(a)(1) & 4007(a). P.L. 114-322.

³⁸ Authorization for IIJA appropriation expires at the end of FY 2026, IIJA **Error! Main Document Only.** §40901.

³⁹ IIJA §40902.

⁴⁰ https://www.friendsoftheriver.org/wp-content/uploads/2025/06/2025-6-27-the_one_big_beautiful_bill_act-Sec-50501-Water.pdf. Exhibit FOR-056.

1 28. Outside of statutory changes, President Trump issued a memorandum in 2018 that, in
2 part, ordered the following:

3 (a) Within 30 days of the date of this memorandum, the Secretary of the Interior
4 and the Secretary of Commerce shall:

5 (i) identify major water infrastructure projects in California for which the
6 Department of the Interior and the Department of Commerce have joint
7 responsibility under the Endangered Species Act of 1973 (ESA) (Public Law
8 93-205) or individual responsibilities under the National Environmental
9 Policy Act of 1969 (NEPA) (Public Law 91-190); and

10 (ii) for each such project, work together to facilitate the designation of one
11 official to coordinate the agencies' ESA and NEPA compliance
12 responsibilities. Within the 30-day time period provided by this subsection,
13 the designated official shall also identify regulations and procedures that
14 potentially burden the project and develop a proposed plan, for consideration
15 by the Secretaries, to appropriately suspend, revise, or rescind any regulations
16 or procedures that unduly burden the project beyond the degree necessary to
17 protect the public interest or otherwise comply with the law. For purposes of
18 this memorandum, "burden" means to unnecessarily obstruct, delay, curtail,
19 impede, or otherwise impose significant costs on the permitting, utilization,
20 transmission, delivery, or supply of water resources and infrastructure.⁴¹

21 29. On Inauguration Day 2025, President Trump issued a memorandum complaining that:

22 During my first term, the State of California, at the direction of its Governor, filed
23 a lawsuit to stop my Administration from implementing improvements to
24 California's water infrastructure. My Administration's plan would have allowed
25 enormous amounts of water to flow from the snow melt and rainwater in rivers in
26 Northern California to beneficial use in the Central Valley and Southern
27 California. This catastrophic halt was allegedly in protection of the Delta smelt
28 and other species of fish. Today, this enormous water supply flows wastefully
29 into the Pacific Ocean.⁴²

30 ⁴¹ "Presidential Memorandum on Promoting the Reliable Supply and Delivery of Water in the West, Land &
31 Agriculture," October 19, 2018, §2, p. 2. [https://www.friendsoftheriver.org/wp-](https://www.friendsoftheriver.org/wp-content/uploads/2018/10/Presidential-Memorandum-on-Promoting-the-Reliable-Supply-and-Delivery-of....pdf)
32 [content/uploads/2018/10/Presidential-Memorandum-on-Promoting-the-Reliable-Supply-and-Delivery-of....pdf](https://www.friendsoftheriver.org/wp-content/uploads/2018/10/Presidential-Memorandum-on-Promoting-the-Reliable-Supply-and-Delivery-of....pdf).
33 Exhibit FOR-032.

34 ⁴² "Putting People over Fish: Stopping Radical Environmentalism to Provide Water to Southern California"
35 Presidential Memorandum, January 20, 2025, p 1. [https://www.whitehouse.gov/presidential-](https://www.whitehouse.gov/presidential-actions/2025/01/putting-people-over-fish-stopping-radical-environmentalism-to-provide-water-to-southern-california/)
36 [actions/2025/01/putting-people-over-fish-stopping-radical-environmentalism-to-provide-water-to-southern-](https://www.whitehouse.gov/presidential-actions/2025/01/putting-people-over-fish-stopping-radical-environmentalism-to-provide-water-to-southern-california/)
37 [california/](https://www.whitehouse.gov/presidential-actions/2025/01/putting-people-over-fish-stopping-radical-environmentalism-to-provide-water-to-southern-california/) Exhibit FOR-033.

1 30. And his January 20, 2025, executive order directed the Secretaries to, in part, use their
2 regulatory and operational discretion to maximize CVP water deliveries and power production:

3 Sec. 2. Overriding Disastrous California Policies. (a) The Secretary of Defense,
4 the Attorney General, the Secretary of Homeland Security, the Secretary of
5 Commerce, the Secretary of the Interior, and the Secretary of Agriculture shall
6 expeditiously take all measures, consistent with all applicable authorities, to
7 ensure adequate water resources in Southern California. Each shall report to me
8 within 15 days on all authorities, including emergency authorities, available to
9 ensure, require, maintain, or use infrastructure necessary to fight and prevent
10 massive wildfires in Southern California.

11 (b) In particular, the Secretary of the Interior and the Secretary of Commerce shall
12 immediately take actions to override existing activities that unduly burden efforts
13 to maximize water deliveries. The Secretary of the Interior and the Secretary of
14 Commerce shall consider actions including those consistent with the “No Action
15 Alternative” in the Final Environmental Impact Statement issued November 15,
16 2024, by the Bureau of Reclamation on Long-term Operation of the Central
17 Valley Project and State Water Project.

18 (c) The Secretary of the Interior, including through the Bureau of Reclamation,
19 shall utilize his discretion to operate the CVP to deliver more water and produce
20 additional hydropower, including by increasing storage and conveyance, and
21 jointly operating federal and state facilities, to high-need communities,
22 notwithstanding any contrary State or local laws. The Bureau of Reclamation
23 shall take all available measures to ensure that State agencies — including the
24 California Department of Water Resources — do not interfere with the Bureau of
25 Reclamation’s operation of the project to maximize water delivery to high-need
26 communities or otherwise, including but not limited to the issuance of a new
27 Record of Decision maximizing water deliveries and consistent with the 2020
Record of Decision.⁴³

28 **The DELTA TUNNEL PROJECT will Enable Projects that Dam, Divert, and Export 29 North-State Rivers**

30 31. The proposed peripheral canal (or at least its tunnel incarnation) — as it has in the past —
31 could see the prospect of being joined in time with reservoirs (existing, expanded, or new) north
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35 ⁴³ Emergency Measures to Provide Water Resources in California and Improve Disaster Response in Certain Areas,
36 Executive Order, January 24, 2025, §2, p. 2. [https://www.whitehouse.gov/presidential-actions/2025/01/emergency-](https://www.whitehouse.gov/presidential-actions/2025/01/emergency-measures-to-provide-water-resources-in-california-and-improve-disaster-response-in-certain-areas/)
37 [measures-to-provide-water-resources-in-california-and-improve-disaster-response-in-certain-areas/](https://www.whitehouse.gov/presidential-actions/2025/01/emergency-measures-to-provide-water-resources-in-california-and-improve-disaster-response-in-certain-areas/). Exhibit FOR-
38 034.

1 and south of the Delta to increase water supplies for the State or federal projects (including any
2 non-federal/non-state partnerships that hope to benefit). This is significant because land
3 dedicated to reservoirs becomes denuded of natural vegetation and becomes a biological desert
4 relative to historical ecology. Dams fragment ecosystems, block fish passage, and have major
5 impacts on riparian habitat. Dam operations alter flows in natural channels and can cause
6 temperature changes that negatively impact native fish species, riparian vegetation, and on-river
7 recreation. These impacts are consequential and reasonably foreseeable results of the Delta
8 Tunnel Project.

9 32. The Project, as proposed, does not include any noteworthy risk mitigation for any of the
10 following: (1) heavier tapping of existing northern California waters, (2) heavier tapping of
11 northern California reservoirs, (3) additional construction pressures for northern California dams,
12 (4) expansion of export demand by increased use or additional south-of-Delta reservoirs. Project-
13 related physical and water-right delivery capabilities routinely exceed actual project deliveries.⁴⁴
14 Yet, here, Petitioner hopes that the additional point of diversion will reduce regulatory and
15 physical constraints on Delta operations within their existing (although expired) water rights
16 permits. DWR expects that the Delta Tunnel Project will increase export deliveries by
17 approximately 500,000 acre-feet per year.⁴⁵

18 33. While this bump-up in Delta exports is not a bump-up to the 18,330,000 acre-feet-per-
19 year envisioned in Bulletin #3 (and discussed above), it does represent a loss to Delta outflows,
20 since much of the 500,000 acre-feet-per-year comes from increased diversions of Sacramento
21 and San Joaquin River flows that come from unregulated tributaries, floodwater management
22 flows, and regulated water deliveries from dams, including Oroville, upstream of the Delta.
23 Generous Delta outflows do provide a range of water-quality and fishery benefits within the
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25
26 ⁴⁴ CWIN CVP permit extension protest. Exhibit FOR-035.

27 ⁴⁵ DWR, *Department of Water Resources Approves Delta Conveyance Project* (Dec. 21, 2023), available at
[https://water.ca.gov/News/News-Releases/2023/Dec-23/Department-of-Water-Resources-Approves-Delta-
Conveyance-Project](https://water.ca.gov/News/News-Releases/2023/Dec-23/Department-of-Water-Resources-Approves-Delta-Conveyance-Project). Exhibit FOR-036.

Delta and to the water quality at the export pumps. North state dam operations can, of course, be affected by the availability of additional Delta transfer capability since some dam releases are a response to demands from contractors or customers, demands that nearly always exceed supply.

34. Indeed, DWR's SWP operations have changed operating criteria from time to time in response to different weighting of the risks and benefits to various operational outcomes.⁴⁶ They have done this while usually meeting regulatory requirements, although sometimes requiring temporary change petitions or other forms of relaxed regulatory requirements. However, operational changes would in some years and year-type sequences impact water temperatures downstream of and in project reservoirs and affect reservoir levels and downstream flows. Such changes would affect fish and wildlife and recreation based on these physical factors.

35. A consequence of the Delta Tunnel Project is that its beneficiaries (SWP and CVP contractors and perhaps unnamed others) will be more likely to invest in additional water storage in Northern California due to the perception of greater and more reliable transport capacity through the Delta. Put simply, investments in increased north-state reservoir capacity and diversions will be more attractive to export customers.

36. Indeed, during part 1 of the Water Fix hearing allowed north-state water interests potentially harmed by the petitioner's project proposal to introduce evidence that north state reservoirs could be tapped more heavily in the future if the change petitions were granted.^{47]} These same operational injuries to north-state water supplies have adverse impacts to reservoir cold-water pools, flows, the fisheries that depend on them, and river and reservoir recreation associated with fisheries, flows, and reservoir levels.

37. This operational discretion regarding differing project environmental, floodwater management, or delivery outcomes is also beginning to affect U.S. Army Corps of Engineers

⁴⁶ "Comments on BDCP/WaterFix Final EIR/EIS regarding failure to disclose or analyze reservoir operations criteria," Deirdre des Jardins, California Water Research, July 13, 2017. Exhibit FOR-037.

⁴⁷ See, e.g., "Part 1 Closing Brief of City of Folsom, Sacramento Suburban Water District and San Juan Water District." SWRCB California Water Fix Hearing, November 8, 2017. Exhibit FOR-038.

1 flood-influenced floodwater management operations (FIRO). FIRO operations can assume
2 greater flood-control risks to gain water supply benefits by allowing conditional storage into
3 traditional Corps-required flood-control (empty) spaces on the basis of near-term runoff
4 predictions rather than prompt rule-based requirements to evacuate encroached storage as
5 quickly as possible. Folsom Dam now has a FIRO-based reservoir regulation manual and plans
6 for Oroville and New Bullards Dam are ripening. While FIRO operations may have their benefits
7 for some resources, the resource impacts can be difficult to model, in part because resulting
8 reservoir actions are based on operator and NWS River Forecast Center forecast judgements
9 during flood season.⁴⁸ Based on operational experience in the 1986, 1997, and 2017 flood
10 seasons, operational priorities and judgements can result in close calls and unfortunate outcomes.

11 12 **Specific Potential Consequences on Upstream Water Systems and Infrastructure**

13 38. Many projects are currently contemplated, whether aspirational or in advanced planning
14 stages, to export more water south. The Delta Tunnel Project will make them more attractive to
15 potential builders and financiers. Such projects are a reasonably foreseeable result of building the
16 Delta Tunnel Project, projects that would rely on Delta transfer capabilities for operations.
17 Absent significant mitigation, this is an inescapable outcome that should result in analysis of the
18 potential impacts from the Delta Tunnel Project's fostering of the growth of the State's water
19 infrastructure footprint, warts and all. The following is a non-exhaustive list of such reasonably
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21
22

23 ⁴⁸ The inter-government Yuba-Feather FIRO Steering Committee has been examining the viability of forecast-
24 informed reservoir operations (FIRO) at New Bullards Bar and Oroville Dams. In December 2022, it produced a
25 Preliminary Viability Assessment with a section title considering the benefits of Yuba County Water Agency's
26 proposed ARC auxiliary spillway entitled "Adapting Infrastructure at NBB to Maximize FIRO Benefits."
27 https://cw3e.ucsd.edu/FIRO_docs/Yuba-Feather_PVA.pdf. Exhibit FOR-038. On June 23, 2023, Yuba County
Water Agency posted in the FERC e-library a notice of availability of Draft Non-Capacity License Amendment for
an Atmospheric River Control (ARC) Spillway for New Bullards Bar Dam. (FERC e-library No. 20230623-5180)
<https://www.yubawater.org/252/ARC-Spillway-at-New-Bullards-Bar-Dam>. Exhibit FOR0-040. It is also likely that
the extensive NWS staffing cuts may result in increased forecast and resulting floodwater management uncertainty
and success.

foreseeable future new reservoirs and other water export projects that the Delta Tunnel Project would incentivize and support.

39. Shasta Dam Reservoir.⁴⁹ One example of an upstream impact that the Delta Tunnel Project could have is a recent proposal to expand the Shasta Dam reservoir. A two-billion-dollar, 634-thousand-acre-foot expansion of Reclamation's 4.5-million-acre-foot reservoir was the preferred (but not recommended) alternative of Reclamation 2015 SLWRI Final Feasibility Report. However, since Governor George Deukmejian's signature of AB-1200, this project has been illegal under the California Wild & Scenic Rivers Act.⁵⁰

40. The Westlands Water District, however, had signed two agreements in principle to cost-share the reservoir expansion but encountered at least one of the Act's statutory roadblocks when the California Attorney General Becerra and environmental groups successfully sued to derail the budding Westlands EIR. In 2020, Reclamation, however, prepared a Supplemental EIR that supported the project over the objections of the State Water Resources Control Board, the Department of Fish and Wildlife, and Attorney General Becerra.

41. Importantly for this proceeding, in 2013 according to the then Deputy General Manager for the Westlands Water District, raising Shasta dam would not be a high priority until the Delta is removed as a roadblock to sending freshwater south.⁵¹ Westlands even bought expensive land along the shores of the McCloud River to reduce landowner resistance to the expanded

⁴⁹ <https://www.friendsoftheriver.org/wp-content/uploads/2025/07/2025-7-9-FOR-Shasta-Dam-raise-referenced-fact-sheet.pdf>. FOR exhibit FOR-029.

⁵⁰ "The California Wild & Scenic Rivers Act and California's State and National Wild & Scenic Rivers (Referenced)," Friends of the River and CalWild, July 9, 2025, p. 41. Exhibit FOR-029.

⁵¹ Robert Gammon, *Tunnel Vision Part Two: Rivers in Peril*, (June 19, 2013), EAST BAY EXPRESS. <http://www.friendsoftheriver.org/wp-content/uploads/2018/05/Rivers-in-Peril-Pt-2-EBay-Express-June-19-2013.pdf> Exhibit FOR-031.

1 reservoir.⁵² Likewise, Metropolitan Water District, another potential investor in the project and
2 customer thereof, has made efforts to carve a path for the Shasta Dam raise project.⁵³

3 42. Reclamation's feasibility report assumes that Reclamation will work out some financing
4 and special benefit arrangements for participating CVP and SWP contractors.⁵⁴ The Delta Tunnel
5 Project proponents offer no mitigation for this threat to the California Wild & Scenic Rivers Act
6 and the remaining free-flowing components of the McCloud River

7 43. Sites Reservoir Project: Another obvious example of the Tunnel Project and other
8 projects is the Sites Reservoir Project. The proposed 1.5-million-acre-foot Sites Reservoir is
9 another reservoir proposal that emerged in one form or another at as early by federal planners
10 since the late 1940s and state planners by the 1957 California Water Plan. It was eventually
11 conditionally authorized by the California Legislature in 1980 (SB 200), which the voters
12 rejected as Proposition 9 in the 1982 primary election. Twenty years later, it was selected as one
13 of the CALFED storage investigations, investigations to be paid for with state and federal funds.
14 DWR further developed the idea,⁵⁵ before eventually handing it off to the subsequently formed
15 Sites Project Authority. Although the Sites Project Authority is not explicitly associated with the
16 SWP or CVP, its member agencies are CVP contractors. The express intent of Sites is to export
17 water to partners or customers potentially anywhere within the SWP or CVP water rights place
18 of uses, although south-of-Delta contractors dominate, with SWP contractors constituting the

23 ⁵² Damon Arthur, *McCloud River takes central role in dam-raising proposal*, (June 19, 2013), THE RECORD
24 SEARCHLIGHT, available at <https://archive.redding.com/news/mccloud-river-takes-central-role-in-dam-raising-proposal-ep-361769009-354047221.html/>. Exhibit FOR-041.

25 ⁵³ Dan Bacher, *MWD votes to support Shasta Dam raise*, (December 13, 2012), FISH SNIFFER.
26 [E:\testimony\exhibits\FOR-39 MWD votes to take on McCloud protection\orig\MWD votes on McCloud -
Bacher.wpd](E:\testimony\exhibits\FOR-39 MWD votes to take on McCloud protection\orig\MWD votes on McCloud - Bacher.wpd). Exhibit FOR-042.

27 ⁵⁴ SLWRI unresolved issues memo - May 10 2016.pdf. Exhibit FOR-043.

⁵⁵ "Preliminary Administrative Draft EIR/EIS, North-of-the-Delta Offstream Storage Project," California
Department of Water Resources, US Department of Interior, Bureau of Reclamation, 2013, p. E-1. Exhibit FOR-
044.

majority of Sites' contemplated partners.⁵⁶ The Sites Project is in the final stages of lengthy water rights hearing of the Board's Administrative Hearing Office.

44. While the water rights proceeding may determine conditions on water rights, the bean counters in the water-agency beneficiary back rooms will also determine the fate of the project, as they often do. Sites, at least a dozen years ago, was not interesting in being a key export partner without a Delta-isolated facility according to former Metropolitan Water District of Southern California (MWD) General Manager Jeffrey Kightlinger:

Sites Reservoir from the MWD perspective looks like a good sound project. The problem is, for us, it's north of the Delta. And right now we can't move water through the Delta because we were so restricted in our ability to move water, that it wouldn't provide any real benefits to anyone south of the Delta. ... I say well, the problem is I don't know why I would fund it unless I could get some of that water and I can't actually get the water unless we build a conveyance system."⁵⁷

Subsequently, Metropolitan has been willing to roll the dice on the success of the tunnel and thus to fund a part of the costs of environmental reviews and permitting costs (and potentially construction costs) subsidized by state taxpayers from the California Water Bond. MWD and other project partners' continued funding has enabled them to preserve a spot in the line of beneficiaries in the hope that state and federally subsidized Sites storage would ultimately prove valuable to the MWD and other partners.⁵⁸ This, here, is an example of a series of semi-independent actors planning a major diversion project from the Sacramento River (with a long

⁵⁶ At this point, Sites Reservoir project partners are committing a share of the planning expenses in order to have a proportionate share of reservoir capacity, something that project partners expect will translate into a proportionate share of water that the capacity might develop. Louis Sahagun, *California drought resurrects decades-old plan for controversial Sites Reservoir*, (May 31, 2022), LOS ANGELES TIMES, available at <https://www.latimes.com/environment/story/2022-05-31/drought-resurrects-plan-for-controversial-reservoir>. Exhibit FOR-067. Table 38: Summary of Storage Partner Demands and Shortages (showing Partner storage allocation in column on the right), Sites Project Authority Water Rights Application 025517X01 etc., Appendix C, Purpose and Place of Use, January 6, 2023, p. 35. FOR-045.

⁵⁷ Chris Austin (Maven), "A conversation about water" with Jeffrey Kightlinger, (July 31, 2016), MAVEN'S NOTEBOOK, available at <https://mavensnotebook.com/2016/07/31/a-conversation-about-water-with-jeffrey-kightlinger/>. Exhibit FOR-046.

⁵⁸ Dale Kasler, *Big L.A. water agency antes up for a share of Valley's Sites Reservoir*, (April 11, 2017), SACRAMENTO BEE, available at <https://www.sacbee.com/news/california/water-and-drought/article143994694.html>. Exhibit FOR-047.

1 but so-far unsuccessful pedigree) contingent on greater export capacity and facilities through and
2 under the Delta.

3 45. Presuming that these projects are unrelated is naïve; SWP contractors and DWR are listed
4 as a customer and/or beneficiary in the water rights application and associated exhibits for the
5 Sites Reservoir project.⁵⁹

6 46. Water Blueprint for the San Joaquin Valley (Blueprint): The Blueprint is a plan concept
7 developed and advocated for largely by the Friant Water Authority,⁶⁰ growers associations, water
8 districts (including Westlands and the San Luis and Delta-Mendota Water Authority) and a
9 variety of local governments and interests in the southern San Joaquin Valley — mostly in areas
10 not currently served by Delta facilities. Its original organizing principle was to provide a Delta-
11 pumping-based supply-side solution to the persistent groundwater mining in the southern San
12 Joaquin Valley. That’s about an annual average of two-million acre-feet.

13 47. With its larger membership, its vision for increased pumping from the Delta has
14 expanded, along with more south-of-Delta lands to be served. In general, the Blueprint envisions
15 Reclamation’s 1980-era proposed facilities (increased Delta export capacity via an expanded
16 Jones pumping plant, an enlarged Delta-Mendota Canal, and the Mid-Valley Canal⁶¹) to deliver
17 Delta water to the Friant Unit and environs. Among its additional capacity expansion ideas are
18 for the Friant-Madera and Friant-Kern Canals to increase diversions from the San Joaquin River.
19 Additional canals could journey east from the California Aqueduct to east-side customers and the
20 Cross Canal might be enlarged. The Blueprint’s current idea is to capture an additional 9 million
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25 ⁵⁹ Storage Partner Allocations, p. 35. Exhibit FOR-045.

26 ⁶⁰ <https://friantwater.org/what-is-friant>. Exhibit FOR-048.

27 ⁶¹ Notably, for purposes here, as described by Reclamation, the Mid-Valley Unit, which would take water delivered
from the Delta via expanded federal pumps and Delta-Mendota Canal, was to be authorized along with the
Peripheral Canal in SB 200/Proposition 9. (§11255(k)). Exhibit FOR-028.

acre-feet with Delta pumping⁶² — a dramatic expansion of Delta water transfers that no doubt would have to be conveyed with expanded Delta facilities.

48. In 1981, Reclamation was explicit that the Mid-Valley Canal required the Peripheral Canal:

The Mid-Valley Canal Plan assumes that the Peripheral Canal *or equivalent* was already constructed. The Peripheral Canal would reduce the amount of the CVP's yield needed to maintain Delta salinity standards, thereby increasing the amount available to the Mid-Valley Canal...Because of these water supply, water quality, and environmental constraints, *the Mid-Valley Canal plan is assumed to be unacceptable without a Peripheral Canal.*⁶³ *Emphasis added.*

49. Reclamation's report also assumed that the success of another CVP dam would be required for the Mid-Valley Canal viability: the Auburn Dam:

The Mid-Valley Canal plan was formulated on the assumption that the following facilities either exist or would exist before canal features could be constructed.

1. CVP storage reservoirs and power generation facilities
2. Peripheral Canal or equivalent cross-Delta facility.⁶⁴

50. Construction of Reclamation's Auburn Dam was authorized in 1965, construction started by 1968, and was paused in 1975 after the Oroville Earthquake. Controversially, the Secretary of the Interior approved a seismic redesign of the dam in 1979.⁶⁵ By the time Reclamation issued its Mid-Valley Canal January 1981 report, Auburn Dam was a project already underway and thus *would exist* in the minds of Reclamation planners.

⁶² "Water Blueprint for the San Joaquin Valley," Scott Hamilton, Power Point Presentation given to the California Water Commission, November 2020, available at <https://www.friendsoftheriver.org/wp-content/uploads/2022/12/November-2020-Water-Blueprint-for-the-San-Joaquin-Valley-PowerPoint-to-CWC-excerpts.pdf>. Exhibit FOR-049. Water Blueprint for the San Joaquin Valley Takes Bold Steps to Address California's Water Crisis – Water Blueprint CA. Exhibit FOR-050. <https://waterblueprintca.com/wp-content/uploads/2025/06/Blueprint-Memo-on-Stakeholder-Priorities-for-Cal-Water-Executive-Order.pdf>. Exhibit FOR-051.

⁶³ *Mid-Valley Canal, East Side Division, Central Valley Project, California, "A Report on the Mid-Valley Canal Feasibility Investigation,"* January 1981, U.S. Department of the Interior, Water and Power Resources Service [U.S. Bureau of Reclamation] (1981 *Reclamation Mid-Valley Canal Report*), pp. v and 90. Exhibit FOR-052.

⁶⁴ *Ibid*, p. 89.

⁶⁵ A-29657 FOR witness statement, pp. 7, 11. Exhibit FOR-026.

1 51. The Mid-Valley Canal “plan of development” studied by Reclamation in 1980, included
2 the following key additional components: (1) a Tracy pumping capacity increase of 2,000 cfs,⁶⁶
3 (2) a 2,000 cfs enlargement of the Delta-Mendota Canal from the Delta to the O’Neil Forebay,⁶⁷
4 (3) a 2,000 cfs enlargement of the expanded Delta-Mendota Canal from the O’Neil Forebay to
5 Mendota Pool,⁶⁸ (4) the Mid-Valley Canal 500 cfs North Branch,⁶⁹ (5) the Mid-Valley Canal
6 1,500 cfs South Branch,⁷⁰ and ultimately drainage service for the Mid-Valley service area
7 anticipated to be part of the master drainage plan for the San Joaquin Valley.⁷¹

8 52. While Reclamation considered the Mid-Valley Canal infeasible, the legislature obligingly
9 included a Mid-Valley Canal authorization using CVP water with the SB-200/Proposition 9
10 Peripheral Canal ballot measure rejected in the 1982 Primary ballot. Here’s what Reclamation
11 said in their January 1981 report:

12 The plans for the Mid-Valley Canal described in this report are based on a Central
13 Valley Project water supply which, for the following reasons, is no longer
14 available. [1] The Delta outflow required to meet exchange contract standards for
15 water quality at [the] Tracy Pumping Plant was increased. The Secretary of the
16 Interior agreed to voluntarily meet on an interim basis the standards for Delta
17 water quality imposed by the California State Water Resources Control Board. [2]
18 Water supply operation studies are now based on existing facilities of the Central
19 Valley Project. This eliminated the yield which could be provided by the
20 proposed Peripheral Canal and Auburn Reservoir...No Federal action for
21 congressional authorization is contemplated, however, until a feasible supply is
22 located.⁷²

19 53. The 1980 legislature’s attempt to authorize the Mid-Valley Canal in spite of the federal
20 analysis is just one more example of political pressure to move projects forward in spite of
21 dubious feasibility. It will not have been the last time. That the proponents of the Blueprint have
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24 ⁶⁶ 1981 Reclamation Mid-Valley Canal Report, p. 91. Exhibit FOR-052.

25 ⁶⁷ Ibid, p 7.

26 ⁶⁸ Ibid, p. 94.

27 ⁶⁹ Ibid, p. 95.

⁷⁰ Ibid.

⁷¹ Ibid, pp. 102, 103.

⁷² Ibid, p. v.

made an ordinarily infeasible project with unacceptable water supply consequences is no surprise. While the rain does not follow the plow, unused or underutilized plumbing helps to create the political pressure to find a way to serve those for whom the plumbing was supposed to serve.

54. Longstanding SWP service areas, of course, would be competing with many Blueprint areas, so it is unclear how the competition would play out. Nevertheless, the parallel is unmistakable: with the potential permitting of the Delta Tunnel Project, Blueprint ideas to dramatically expand export service are being assembled and the political might to authorize and seek taxpayer subsidies are also being developed and deployed. The theme is the same: by reducing obstacles to export water, the Delta Tunnel Project is likely to facilitate interest in construction of other water export projects to tap the Delta and the north state rivers that serve it. However, unlike in 1980, as might be expected, there is no package of mitigation measures to address the impacts of, in the Blueprint's case, a massive increase in Delta Diversions, via the Canal and across the Delta. That cannot be an oversight. Indeed, they cannot be mitigated.

55. San Luis Reservoir Expansion, the B.F. Sisk Dam raise: The 2-million-acre-foot capacity San Luis Reservoir water behind the B.F. Sisk Dam sits in the seismically active inner Coast Range west of Los Banos in Merced County. The dam has some seismic issues and is undergoing a \$1.1-billion seismic retrofit, largely funded by federal taxpayers.

56. Potentially, taking advantage of all that heavy equipment mobilized at the dam, the Santa Clara Valley Water District (Valley Water) and some of its nearby colleagues in the San Luis and Delta-Mendota Water Authority have reached a "consensus agreement" to pursue a \$900 million 130,000 acre-feet reservoir expansion project as part of the seismic project.⁷³

57. The U.S. Bureau of Reclamation has agreed to pay 30% of the project costs with non-reimbursable WIIN taxpayer subsidies (the reservoir expansion project just squeezed by the

⁷³ <https://www.usbr.gov/newsroom/news-release/5012>. Exhibit FOR-053.

1 WIIN grandfathering deadlines before the WIIN expired). The aspiring non-federal sponsors are
2 also seeking subsidies in the California legislature,⁷⁴ and the dam raise water supply features
3 could receive funds from the billion-dollar FY2025 Reconciliation bill appropriation for
4 expansions of federal reservoirs. These appropriations would be non-reimbursable and exempt
5 from WIIN cost-sharing requirements.⁷⁵

6 58. The expansion project may not be that controversial, but the B.F. Sisk Dam sits in the
7 middle of the spider web of the Delta, SWP, CVP, San Luis and Delta-Mendota Actions and
8 Blueprint existing and contemplated facilities and actions to increase Delta diversions from the
9 Delta Tunnel Project's identified 500,000 acre-feet annually to the Blueprint's 9 million acre-
10 feet.

11 59. Pacheco Dam: Somewhat unnoticed in this Delta diversion expansion frenzy⁷⁶ is the
12 Santa Clara Valley Water District's proposed \$3-billion-dollar 140,000-acre-foot Pacheco Dam
13 located on Pacheco Creek north of San Luis Reservoir. It would receive SWP and CVP water
14 from the Delta through San Luis Reservoir (whether expanded or not). Santa Clara is still
15 holding on to its \$504-million-dollar California Water Bond allocation from the Water
16 Commission California Water Bond.

20 ⁷⁴ [https://www.friendsoftheriver.org/wp-content/uploads/2025/04/2025-4-1-San-Luis-Raise-boosters-want-](https://www.friendsoftheriver.org/wp-content/uploads/2025/04/2025-4-1-San-Luis-Raise-boosters-want-subsidies-SF-Chron.pdf)
21 [subsidiaries-SF-Chron.pdf](https://www.friendsoftheriver.org/wp-content/uploads/2025/04/2025-4-1-San-Luis-Raise-boosters-want-subsidies-SF-Chron.pdf), Exhibit FOR-054. [https://a27.asmdc.org/press-releases/20250214-assemblywoman-soria-](https://a27.asmdc.org/press-releases/20250214-assemblywoman-soria-introduces-ab-707-fund-hwy-152-improvements-needed)
[introduces-ab-707-fund-hwy-152-improvements-needed](https://a27.asmdc.org/press-releases/20250214-assemblywoman-soria-introduces-ab-707-fund-hwy-152-improvements-needed). Exhibit FOR-055.

⁷⁵Exhibit FOR-056.

22 ⁷⁶ In 2007, the Environmental Defense Fund documented the addition of six new reservoir or groundwater storage
23 projects with more than 6,000,000 acre-feet of new south-of-Delta groundwater and surface water storage capacity,
24 all representing new demand on Delta deliveries and constructed or developed after 1990. "Recently Developed
25 Water Storage Capacity in California.pdf" Exhibit FOR-057 The EDF and my witness statement catalogsome of the
26 proposed and underway projects in the Sacramento-San Joaquin Basin. This basin does not stand alone. Since 2001,
the Corps of Engineers has expanded two of its Tulare Basin reservoirs (Terminus on the Kaweah River and Shafer
on the Tule River and reconstructed another (Isabella Dam on the Kern). The Corps now has a modest reservoir
expansion WRDA 2024 study authorization for Pine Flat Dam on the Kings River (protected just upstream by the
Congress in 1987). This river enters the San Joaquin River Basin during certain wet-year hydrologies. And back in
the San Joaquin/Sacramento Rivers Basin, the Corps also has a WRDA 2024 study authorization for a 200,000 -acre-
foot expansion of Eastman "Lake" behind its 150,000-acre-foot Buchanan Dam on the Chowchilla River, a tributary
to the San Joaquin River.

1 60. Noteworthy, in part because of its planned occupation of Henry Coe State Park in conflict
2 with the Public Resources Code, the success of the project may, in part, rely on the increased San
3 Luis Reservoir refill frequency associated with the Delta Tunnel Project.

4 61. Del Puerto Dam: A project in the waiting room for a California Water Bond allocation
5 and WIIN grandfathered, this \$750-million-dollar 84,000-acre-foot reservoir would be located
6 west of Patterson. Owned by the Del Puerto Water District, with the San Joaquin River
7 Exchange Contractors as a partner, this dam would receive Del Puerto and Exchange contractor
8 CVP water for their use or later resale via the San Luis and Delta-Mendota Canal and potentially
9 the San Luis Reservoir. With its two proposed new neighbors (San Luis expansion and Pacheco
10 Dam), the three projects would add 354,000 acre-feet of storage capacity for Delta water storage
11 in and around San Luis Reservoir, a hub of SWP and CVP export activity.

12 62. Los Banos Grandes: The State Water Project itself is incomplete. Just south of the San
13 Luis Reservoir is the authorized⁷⁷ but never constructed 1,730,000-acre-foot Los Banos Grandes
14 reservoir site. Never constructed because Delta water quality, pumping and conveyance capacity,
15 and competition with San Luis Reservoir made it struggle for viability, presumably the tunnel
16 and expansion of the San Luis and Delta-Mendota Canal or California Aqueduct may change
17 export opportunities — although the Blueprint proponents might prefer to expand cross-valley
18 deliveries rather than deliveries to SWP customers along the California Aqueduct. Conflict
19 among California water districts does arise from time to time.

20 63. Again, the Delta Tunnel Project is not accompanied by mitigation proposals to prevent
21 the impacts of projects that have accompanied increased pumping and Delta deliveries
22 represented by the Peripheral Canal, Water Fix, or the Delta Tunnel Project. Indeed, there may
23 be little motivation to not construct these new storage projects; the Delta Tunnel Project
24

25
26 ⁷⁷ 2013 California Code Water Code - Division 6. Conservation, Development, and Utilization of State Water
27 Resources Part 3. Central Valley Project, Chapter 2. Description of the Project, Article 9.2. Los Banos Grandes Reservoir.

proponents or those who hope to benefit from it are proponents of these additional storage and delivery projects.

64. Temperance Flat Dam: The Temperance Flat Dam (TFD) would be located in the upper part of Millerton Reservoir (“Lake”) astride the San Joaquin River. It would add 1,261,000 acre-feet of storage behind a 665-foot-tall dam, which would be the second highest dam in California. Reclamation’s preferred TFD alternative was modeled to result in 70,000 acre-feet of new deliveries. The river, however, is fully appropriated, making water rights difficult to obtain. The San Joaquin Valley Water Infrastructure Authority failed to demonstrate enough environmental benefits to the California Water Commission sufficient to move forward with the project. The application for this California Water Bond funding was withdrawn. Reclamation placed the project in deferred status.⁷⁸

65. However, MBK modelers in the process of modelling Temperance Flat Dam yields in the background for the Water Commission application process,⁷⁹ believed that an integrated operation with Delta water export operations could more fully exploit the water supply benefits of the Temperance Flat Dam. Presumably that would be facilitated by the construction of the Mid-Valley Canal, other cross channel export facilities, and expansion of Delta-Mendota Canal, expansion of San Luis Reservoir, and expanded Delta pumping options and consequent deliveries from north state reservoirs.

66. Against that background, in 2014 the U.S. Bureau of Land Management completed an EIS and Record of Decision recommending wild & scenic river status for most of the San Joaquin River Gorge that would be inundated by the proposed reservoir behind the dam.⁸⁰ The Delta Tunnel Project does not contain any river-protecting mitigating measures for reactivation

⁷⁸ “The Temperance Flat Dam Is Costly and Produces Little Water, Reclamation’s Upper San Joaquin River Basin Storage Investigation (USJBRSI),” Friends of the River, October 30, 2024. (FOR TFD referenced fact sheet) <https://www.friendsoftheriver.org/wp-content/uploads/2024/10/2024-10-30-TFD-referenced-fact-sheet-with-maps.pdf>. Exhibit FOR-058.

⁷⁹ Personal communication with Walter Bourez, MBK.

⁸⁰ FOR TFD Referenced fact sheet, pp. 2, 3, & 6. Exhibit FOR-058.

1 of the dam and reservoir project that would affect the Gorge or increases in Delta and diversions
2 and downstream deliveries.

3 67. Projects on the Eel River and other North Coast Wild and Scenic Rivers: Likewise,
4 although the California Wild and Scenic Rivers Act should have laid to rest any aspirations of
5 damming and exporting North Coast rivers, at least some Central Valley water interests still have
6 hope. For example, although forty-three years has passed since the SB 200 referendum, Tulare
7 County has still not forgotten that the California Wild and Scenic Rivers Act constrains
8 opportunities to increase SWP exports via Delta transfer operations envisioned in the 1957
9 California Water Plan. The Tulare County Board of Supervisors wrote the following to the
10 legislature in 2013:

11 “The legislature should revisit Wild and Scenic Rivers status of the North Coast
12 waters, where nearly one-third of California's water supply flows to the ocean,
13 when there is such a demonstrated need to put available resources to their highest
and best use.”⁸¹

14 Here, Tulare County is suggesting that the north coast wild and scenic rivers should be, in
15 essence, unprotected. The lack of conveyance through the Delta, if only through carriage
16 losses,⁸² has historically made the Eel River projects less feasible and less attractive. The Delta
17 Tunnel Project facilities could minimize Delta carriage losses. A Sacramento River point of
18 diversion was part of the SWP’s planned gateway to the north coast rivers a half century ago. In
19 the water world, memories are long, and political champions are not beyond recruitment to return
20 to the world of the 1960s. And unlike the 1980, the Delta Tunnel Project is not accompanied by
21 the same institutional protections for the north coast rivers and other features of the 1982
22 California Primary’s Proposition 8, however modest they might be to meet the prevailing winds
23 from our nation’s capital and other challenges of our time.

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25
26 ⁸¹ Kelli Ballard, *Sups: Without storage, no on bond, Board says more water storage needed to*
protect agriculture, (July 24, 2014), PORTERVILLE RECORDER. Exhibit FOR-059.

27 ⁸² Dolcini memo. Exhibit FOR-022.

1 68. Auburn Dam: The Auburn Dam is another project that would likely become more
2 attractive to Southern California water interests if operational constraints to transport through the
3 Delta were minimized. The dam was federally authorized in 1965 and has never been federally
4 deauthorized, although it did lose its state water rights in 2009. The proposed 2-million-acre-foot
5 capacity Auburn reservoir would be upstream of the lower American River, which is a state and
6 federal wild and scenic river. The U.S. Bureau of Land Management has found the Auburn Dam
7 Project lands to be eligible for a National Recreation Area designation,⁸³ and that most Project
8 lands are eligible for federal wild and scenic river designation.⁸⁴

9 69. It is true that this dam's proposed yields have declined over time — from 390,000 acre-
10 feet in 1963 to 318,00 in planned new deliveries in 1974 and 208,000 acre-feet in yield in 2006.⁸⁵
11 Although Reclamation's 2006 construction estimate of 6- to 10-billion dollars exceeds the
12 4-billion-dollar Sites Reservoir Project estimated costs, the yields are similar. Appetites to tap
13 the canal that Auburn Dam was meant to serve, the Folsom-South Canal remain, of course.

14 70. Indeed, they are quite fresh. On September 6, 2024, the House Water, Wildlife, and
15 Fisheries Subcommittee of the House Natural Resources Committee held a field hearing in Santa
16 Nella, California. Among the subjects discussed was Rep. John Duarte's (R-Modesto) idea to
17 extend the Folsom-South Canal from its present terminus at the closed nuclear power plant in
18 Sacramento County to the Stanislaus River or the state and federal pumps. The point of diversion
19 would be just upstream of the state and federally designated lower American River.⁸⁶ The
20 extension had stopped fifty years earlier because of an incompletely resolved lawsuit against the
21

22
23 ⁸³ Final NRA Study, American River Feasibility Study, USDO, BLM, September 1990, available at
24 https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/exhibits/docs/FOIA/for_45.pdf. Exhibit FOR-060.

25 ⁸⁴ Determination of Wild and Scenic Eligibility of Segments of the American River (General Investigation
26 Program), U.S. Bureau of Land Management, March 23, 1993. Exhibit FOR-061.

27 ⁸⁵ A-29657 FOR witness statement, pp. 8, 29. Exhibit FOR-026.

⁸⁶ For a map and description of Rep. John Duarte's (R-Modesto) Folsom-South Canal expansion idea, see the House
Natural Resources Committee staff memo for the hearing:
https://naturalresources.house.gov/uploadedfiles/hearing_memo_-_sub_on_wwf_ov_field_hrg_on_ca_water_09.06.24.pdf, p. 9. Exhibit FOR-64.

1 extension of the canal (and the Auburn dam).⁸⁷ The extension of the canal to outside the
2 watershed is contrary to the wild & scenic river management plan for the lower American
3 River.⁸⁸

4 71. Congressional boosters for the dam have not gone far away either. Moreover, it should
5 not go unnoted that the author of SB 200, State Senator Ruben Ayala (D, Chino), in addition to
6 his authorship of the bill and ballot measure to authorize the Peripheral Canal, regularly authored
7 bills in the legislature to authorize the Auburn Dam. Today, the Auburn Dam is just one more
8 proposed north state project waiting for customers in the south state to find it worth their while to
9 finance. And once again, the Delta bottleneck is an obstacle, just as it was in Senator Ayala's
10 day, forty-five years ago.

11 72. The Delta Tunnel Project has no proposed measures to mitigate this risk to the American
12 River.

13 73. Marysville Dam: The Auburn had a twin: the 2-million-acre-foot dam and reservoir
14 project downstream of Englebright Dam on the Yuba River. It was federally authorized in the
15 same era, but as a Corps of Engineers facility. It met its first demise when the California
16 Department of Water Resources declined to continue as a partner or backer of the project due to
17 unacceptable impacts on the Yuba River fishery. It or its various incarnations appear as
18 resurrectable ideas from local water agencies from time to time. As near as I can determine, it
19 has yet to be automatically deauthorized (dormant Corps projects can be deauthorized after a
20 period of inactivity). As with many proposed northern California water projects, its feasibility is
21 dependent on export marketability and the degree of environmental damage that policy and
22

23
24 ⁸⁷ For a discussion of the history of the Folsom-South Canal, see <https://www.friendsoftheriver.org/wp-content/uploads/2022/01/FOR-witness-statement-SJ-County-Appl-29657-FOR-2021-x-1.pdf>, pp. 5–13, especially
25 pp. 12–13. Exhibit FOR-026.

26 ⁸⁸ Policy 4.3 of the American River Parkway/wild & scenic river plan says the following: “New surface water
27 diversions that deplete flows in the lower American River, whether by execution of a new contract or new water
right, to serve entities in counties outside the American River Watershed are inconsistent with this American River
Parkway Plan.” Friends of the River files; (“ARPP08 Water-Flood elements.pdf”). Exhibit FOR-065.

1 decision-makers are willing to sustain. The Delta Tunnel Project, with its hungry south-of-Delta
2 water user customers, may affect export marketability as it did in its mid-twentieth-century
3 incarnations, and there are indications that avoidance of environmental damage may not be a
4 priority with current federal decision makers.

5 74. Again, the Delta Tunnel Project has no proposed measures to prevent the reactivation of
6 this giant dam and reservoir on the Yuba River.

7 75. CVP expansion: Although Reclamation's CVP would appear to be a complete project,
8 Reclamation does not take that position. While Reclamation is not a Delta Tunnel Project
9 applicant, it shares the same Delta with DWR and conducts its operations with the Department in
10 this proceeding according to the Coordinated Operating Agreement. With the shared San Luis
11 Reservoir, the Sacramento River and Delta, and parallel Delta pumps and export canals, these
12 two projects are inextricably linked, or at least a challenge for the CVP and SWP operators and
13 bean counters to disentangle. The Water Board would be naïve if it did not at least suspect that
14 Reclamation and its contractors would attempt to benefit as free riders on Delta Tunnel Project
15 facilities.

16 76. Reclamation cautioned the Board in 2009 when applying for a permit extension of time to
17 complete its project and fully develop project demand that it was not yet ready for such a step
18 preparatory to licensing its water rights:

19 Reclamation has further determined that it is not possible at this time to accurately
20 predict future operations and diversion levels at specific times during the
21 extension period. Major uncertainties that include possible future State Water
22 Board actions involving additional conditions to CVP permits, outcome of the
23 Bay Delta Conservation Program (BDCP) process, as well as any other future
24 actions necessary for compliance with the Federal Endangered Species Act,
25 frustrate any attempt to make such predictions at this time. As a result,
26 Reclamation is unable to determine what the ultimate diversions under its CVP
27 permits will be. Reclamation will continue to put water diverted under its CVP
permits to beneficial use, including consumptive uses, as well as for
environmental and fisheries purposes. Reclamation will also continue to divert to
storage in CVP reservoirs in accordance with its permits. However, Reclamation

1 is unable at this time to provide any recommendations on permits that are ready
2 for licensing, but may do so in the future.⁸⁹

3 77. Reclamation also noted the following:

4 Reclamation envisions that prior to 2030, it may be necessary to request the State
5 Water Board for adjustments in order to conform the authorized CVP places of
6 use to match water use demands anticipated to exist at time of build-out, but that
7 would be met with no changes in permitted diversion quantities, permitted
8 diversion rates, or contract totals. Reclamation would prefer having any necessary
9 place-of-use adjustments completed prior to licensing, and to have been serving
10 water accordingly, rather than going to license sooner and for authorized places of
11 use that may not reflect demands existing under the CVP contractors' future built-
12 out conditions.⁹⁰

13 78. With the troubled expansion of Shasta Reservoir still an apparent priority and the perhaps
14 more sanguine chances for expansion of San Luis Reservoir, the unrealized aspirations to
15 construct the Temperance Flat Dam, and the still-authorized but troubled Auburn Dam, along
16 with the suite of Mid-Valley Canal actions, all made more valuable, feasible, and perhaps
17 financeable with the construction of the Delta Tunnel Project, Reclamation may have more than
18 just service area and water-use tweaks in front of its water rights staff.

19 79. The aspirations within Reclamation and its contractors are not done. The Delta Tunnel
20 Project just may pop that cork.

21 **Turning "Paper" Water into Actual, "Wet" Water**

22 80. The SWP and CVP each have some proportion of paper water — rights to water that
23 cannot actually be delivered due to operational constraints or drought conditions. Project
24 beneficiaries hope, at minimum, that the Delta Tunnel Project can reduce regulatory constraints
25 on project operations within their existing water rights permits. Their contractors have made

26 ⁸⁹ "Protest of the California Sportfishing Protection Alliance, Extension of Time of Bureau of Reclamation's CVP
27 permits," October 31, 2009, p. 2. Exhibit FOR-062.

⁹⁰ "Reclamation's Response to Protest," USBR Mid Pacific Region, May 10, 2010, p. 2–3 Exhibit 063.

1 clear their hope that this will increase diversions from SWP and CVP reservoirs. Without
2 anything but a change in conveyance, paper water in the system would become “wet” water.
3 Since additional contemplated exports can be releases from storage, SWP and CVP project
4 operators will have more discretion and political encouragement to draw down north-state
5 reservoir storage — again with adverse implications on cold-water pools, downstream fisheries,
6 and recreation both in and below reservoirs.

7
8 **Summing it up**

9 81. Delta transfers have been a key part of capturing north state water from the northern
10 California rivers, north state reservoirs, and the Delta. The CVP and the SWP and even the
11 peripheral canal attempted authorization were accompanied by political compromises, that no
12 matter how imperfect, attempted to mitigate the undesirable north state impacts of the Canal.
13 This has not been apparent with the Water Fix and the Delta Tunnel Project. The list of impacts
14 to north state river resources, environmental management goals of north state reservoirs, and
15 north state water availability is long. Mitigation is not particularly apparent.

16 82. Indeed, plans for greatly expanded transfers and new north state water storage facilities
17 were part of the original California Water Plan and its huge Delta transfer ideas. New and
18 expanded storage projects are imminent or in advanced planning or remain available from
19 previous plans, often with expanded export facilities within or leading to or from the Delta. That
20 they are not formally part of the Delta Tunnel Project does mean that the historic relationship has
21 been permanently or even temporarily severed.

22
23 DATED: July 11, 2025

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27 Ron Stork