



United States Department of the Interior

BUREAU OF RECLAMATION
Washington, DC 20240



IN REPLY REFER TO:

CGB-100

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VIA ELECTRONIC MAIL ONLY

State Water Resources Control Board
Division of Water Rights
Attn: Bay-Delta & Hearing Branch
P.O. Box 100
Sacramento, California 95812-0100

Subject: August 2026 Draft Water Quality Control Plan—Reclamation's Principal Concerns

Dear Chair Esquivel:

The Bureau of Reclamation (Reclamation) writes to express its serious concern with the State Water Resources Control Board's August 2026 Draft Water Quality Control Plan (Draft Plan) for the Bay-Delta. The Draft Plan, as written, threatens reliability of water supplies that support not only the Central Valley Project (CVP), but the entire fabric of California's agricultural economy, rural communities, urban centers, and natural vitality. Millions of people and businesses depend on the certainty and reliability of these water supplies. Federal, State, and local water projects represent generations of investment and partnership, they feed the nation and the world, supply our cities and communities, and generate the power that keeps the economy running. Deliveries from those projects are not abstract entitlements. They are the purpose of the CVP and State Water Project (SWP).

This letter states Reclamation's principal policy objections. Detailed technical comments are attached.

The standard for any Bay-Delta pathway is straightforward: water for people, gold-standard science, adaptive management, and measurable results—not process, delay, or undefined flow targets presented as progress.

The Draft Plan does not honor the 2022 Memorandum of Understanding and Term Sheet (2022 MOU). The 2022 MOU represented a collaborative, integrated approach—combining enforceable flow and habitat commitments, program certainty, and adaptive management. The Draft Plan keeps the HRL label and changes the terms of the agreement. It unilaterally redefines the baseline for additive flows and outflows increasing obligations for HRL parties beyond what was set forth in the 2022 MOU. It requires additional CVP and SWP export reductions of 125 TAF in dry and below-normal years and 175 TAF in above-normal years, and sets a regulatory default of 55 percent unimpaired flow. Neither pathway contains a durable mechanism that protects CVP contract performance – water for families, farms, communities. The backstop is more water, not the portfolio the parties negotiated in 2022.

The Draft Plan directly regulates federal reservoirs through carryover storage targets enumerated therein, and subject to Executive Director approval of temperature management strategies. The Draft also treats later lawful federal operations as a deficit to be repaid in more HRL water. State law cannot impose gatekeeping approval that conditions operations of federal reservoirs or Reclamation's temperature-management obligations under the Endangered Species Act and federal project purposes. Reclamation will continue to operate Shasta and the CVP under the governing Biological Opinion, Records of Decision, project purposes, and Executive Order 14181.

Finally, the Draft Plan centralizes decision-making authority in the Board's Executive Director, sidelining the collaborative, multi-party governance structure that was a cornerstone of 2022 MOU. Whether in the collaborative framework of the MOU or the proposed governance structure in the current Draft Plan, we want to be clear: a federal Record of Decision or biological opinion does not require State Board staff permission to be implemented.

These elements put the Board on a collision course to proscribe CVP operations that are inconsistent with and frustrate the purposes of federal directives for the project.

Reclamation and partners throughout the State recognized an opportunity to work with the State Board in this Draft Plan update that would provide certainty for water users while still ensuring protection of native fish and wildlife through integrated flow and habitat measures. The current draft plan reflects more of what has come to be expected from the State Board – executive and regulatory overreach, questionable legal authority, and continued downward pressure on water users throughout the state.

Reclamation cannot support or participate in a process that disregards federal law, undermines negotiated certainty, and threatens the viability of the CVP. If the Board proceeds on this path, Reclamation will:

- Cease any further participation or funding under HRLs or similar state pathways that do not protect CVP contract supplies and project purposes;
- Immediately begin review of outdated water right permit conditions that do not align with current conditions or science;
- Advance updated long-term operations decisions and, where warranted, reinstate Endangered Species Act consultation to secure greater operational flexibility consistent with law;
- Maximize deliveries under existing authorities and recent Records of Decision that have already shown the capacity to increase average annual supplies when operations are aligned with project purposes;
- Accelerate infrastructure that restores and expands conveyance capacity of federal, state, and local conveyance facilities to take advantage of water supply when it is available;
- Modernize and optimize critical infrastructure that increases real wet water storage; and

- Insist on science and modeling that accurately distinguish Project effects from the dominant drivers of environmental conditions throughout the CVP and that measure real species' benefits rather than assuming them from flow volumes alone.

Our objective is clear: Improve water supply outcomes for all of California while incorporating robust, measurable species protection through the best available tools and science. We will do this by keeping federal project infrastructure and contractual supplies intact, consistent with the federal purposes of the CVP and the national interest in food security, rural economic stability, and resilient water and power systems.

The Board's current approach is not sustainable. We urge the Board to restore the foundational elements of the 2022 MOU, provide the certainty and clarity necessary for effective water management, and abandon the unworkable Unimpaired Flow (UIF) pathway. Reclamation stands ready to support pathways for the reasonable protection of beneficial uses that protect and enhance water supply reliability for the CVP and California, but cannot support a plan that disregards federal law, negotiated certainty, and sound judgment.

Sincerely,

Aubrey J.D. Bettencourt
Principal Deputy Commissioner
Exercising the Delegated Authority of the Commissioner
Bureau of Reclamation

cc: Secretary, Department of the Interior
Assistant Secretary – Water and Science
Director, California Department of Water Resources
CVP contractor leadership as appropriate