



SANTA CLARA VALLEY WATER DISTRICT

NON-AGENDA

May 8, 2020

Board Policy EL-7 Communication and Support to the Board
The BAOs shall inform and support the Board in its work.

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19	Memo from Michele King, Clerk of the Board, to the Board of Directors, dated 05/05/20, regarding Fiscal Year 2021 Surface Water Charge Protest – NO MAJORITY PROTEST.
20	Memo from Nina Hawk, COO, Water Utility, to the Board of Directors, dated 5/6/20, regarding Status of State Water Project Contract Amendment Negotiations for Delta Conveyance.
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39	Thank you, Letter from Mayor Larry Klein, City of Sunnyvale, to Chair Hsueh, dated 05/04/20, regarding the proposed rate increases for FY 2020/21 (C-20-0058).
40	Email from Sandy Flores, to Director Estremera, dated 5/7/20, regarding Turtles in Lower Silver Creek (C-20-0059).
42	Letter from Richard McMurtry, to Chair Hsueh, dated 5/7/20, regarding Environmental Partnership with the District (C-20-0060).
	<u>OUTGOING BOARD CORRESPONDENCE</u>
	None

Board correspondence has been removed from the online posting of the Non-Agenda to protect personal contact information. Lengthy reports/attachments may also be removed due to file size limitations. Copies of board correspondence and/or reports/attachments are available by submitting a public records request to publicrecords@valleywater.org.

CEO BULLETIN

To: Board of Directors
 From: Norma J. Camacho, CEO

Weeks of April 24 – May 7, 2020

Board Executive Limitation Policy EL-7:

The Board Appointed Officers shall inform and support the Board in its work. Further, a BAO shall 1) inform the Board of relevant trends, anticipated adverse media coverage, or material external and internal changes, particularly changes in the assumptions upon which any Board policy has previously been established and 2) report in a timely manner an actual or anticipated noncompliance with any policy of the Board.

Item	IN THIS ISSUE
<u>1</u>	2016 Safe, Clean Water Program Project Completion and Closeout – Grassroots Ecology, Greening Urban Watersheds Project
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<u>9</u>	Hsueh Create a Joint Resolution from the Valley Water Board, County of Santa Clara, City of Gilroy, and the SLDMWA in Recognition of Sig Sanchez 100 Year Birthday and Service to the County. I-20-0008
<u>10</u>	Kremen Provide the following information for the 4/28/2020 water rate hearing and budget discussion: Obtain from all retailers, the percent, dollar amounts, and late and non payments of water bill accounts affected under the current COVID-19 situation versus what is their standard non-payment numbers. I-20-0009

1. 2016 Safe, Clean Water Program Project Completion and Closeout – Grassroots Ecology, Greening Urban Watersheds Project

In Fiscal Year 2016, Grassroots Ecology received a \$93,617 grant under the Safe, Clean Water and Natural Flood Protection, Program Priority B3: Pollution Prevention, to support their Greening Urban Watersheds Project. The grant funds enabled the Grassroots Ecology to capture and reuse rainwater from its rain barrel and cistern installations, reduce stormwater from entering creeks through rain gardens and removed thousands of pounds of trash through volunteer creek cleanups.

Key Outcomes:

- 12 detailed plans for 6 rain barrel installations, 2 cistern installations, and 4 bioretention/rain garden installations were created.
- 12 workshops were held where 165 participants learned about the benefits of capturing rainwater, potential rebates available and how to create and install rain barrels, cisterns and rain gardens at home.
- 6 rain barrel systems and 4 cisterns were installed at 6 sites in Palo Alto, allowing rainwater to be captured during storm events and used for irrigation.
- 4 rain gardens were installed, alleviating peak flow of local creeks, filtering nonpoint source pollution from stormwater and adding native plants to the landscape.
- 22 creek cleanups removing 23,770lbs of trash along 29 miles of creek corridor with the help of more than a thousand volunteers.
- 12 project-related articles published (1 local television news piece) and 12 signs installed.
- Worked with City of Palo Alto and other facility managers to ensure continued proper maintenance of installations.
- Total rain barrel/cistern capacity: 2,055 gallons
- Volunteer hours: 3,066
- Native plants installed: 508
- Native species planted: 36

The project started on July 1, 2016 and was completed on January 31, 2020.

For further information, please contact Rick L. Callender at (408) 630-2017.

2. 2020 International Partnering Institute Award for the San Francisquito Creek Flood Reduction, Ecosystem Restoration and Recreation Project, San Francisco Bay to Highway 101

The San Francisquito Creek Flood Reduction, Ecosystem Restoration and Recreation Project, San Francisco Bay to Highway 101 (Project) has won a 2020 International Partnering Institute (IPI) Partnered Project of the Year Award. The Project was a San Francisquito Creek Joint Powers Authority (SFCJPA) project and the construction was managed by Valley Water. The partners included most of the members of the SFCJPA (Valley Water, the Cities of East Palo Alto and Palo Alto, and the County of San Mateo), the project contractor, Teichert Construction, Valley Water's external construction management firm, Mott MacDonald, and the Project designer, HDR, Incorporated. During the various stages of construction, Caltrans, PG&E, and East Palo Alto Sanitary District were participants. The partnering effort was ably facilitated by Clare Singleton of OrgMetrics, LLC.

Partnering meetings were held to formalize individuals' communication paths and project responsibilities and to discuss and resolve concerns and problems in an open setting.

The level of the award will be revealed at the IPI Awards Ceremony to be held on Friday, August 14, 2020, from 2:00 pm – 4:00 pm PDT, as a virtual event.

The IPI consists of public and private sector owners, contractors, designers, construction management firms, facilitation firms, and academic institutions working to support collaborative construction by sharing best practices and lessons learned, and by developing tools.

For further information, please contact Ngoc Nguyen at (408) 630-2632.

3. Electronic and Digital Signatures at Valley Water

As part of Valley Water’s commitment to streamline business processes and in support of Valley Water’s efforts during the COVID-19 pandemic, the Information Technology Division and the General Services Unit have accelerated efforts to adopt electronic and digital signatures as part of every-day activities.

Valley Water e-Forms Portal

The Valley Water e-Forms Portal, powered by Seamless Gov, allows Valley Water to quickly access commonly used internal forms from Accounting, Business Support & Warehouse Services, Environmental Health and Safety, Environmental Planning, Facilities, Payroll, Records Management and Facilities. In a matter of moments these forms can be completed, signed and routed to the correct recipients, saving hours’ worth of time while eliminating dozens of paper based processes. The General Services Unit is working to move all internal FC Forms to this new tool. The portal is already available through the internal employee intranet website Aqua.gov.

DocuSign Arrives at Valley Water

To support Valley Water’s need to exchange official documents with external parties, DocuSign is now in use at Valley Water. This highly secure tool is the leader in legally defensible electronic signatures and is slated to be used by Contracts, Purchasing, Real Estate and other departments which interact with other external organizations. The Information Technology Division is currently holding trainings for over 100 staff on how to use the tool.

For further information, please contact Tina Yoke at (408) 630-2385.

4. Families First Coronavirus Response Act (FFCRA) Implementation

The federal emergency legislation Families First Coronavirus Response Act (FFCRA) went into effect on April 1, 2020. This legislation expands the family and medical leave act (FMLA+) and provides emergency paid sick leave (EPSL) for specified reasons related to COVID-19 and will be in effect through December 31, 2020. These two types of leave will be provided in coordination with Valley Water’s current COVID-19 Emergency Leave with Pay benefits.

Valley Water Human Resources (HR) has been working on the implementation of the FFCRA in relation to Valley Water’s current policies and practices. An addendum to the FMLA Policy, forms, and helpful “job aides” have all been created to assist Valley Water employees and managers as they navigate through the requirements of these laws. HR has also distributed a poster that outlines an employee’s eligibility and their rights under the FFCRA. In addition, two new timesheet reporting codes have been created and are to be used and applied retroactively starting April 1, 2020 to properly account for time taken under EPSL and FMLA+.

Valley Water is in compliance with all Department of Labor (DOL) requirements as they relate to the FFCRA.

For further information, please contact Anna Noriega at (408) 630-3089.

5. Prop 1 Grant Awards and Upcoming Valley Water Board Item for BAIRWMP

The Proposition 1 Integrated Regional Water Management (IRWM) Grant Program, administered by the Department of Water Resources (DWR), provides funding for projects that help meet the long-term water needs of the state. On April 1, 2020, DWR announced Proposition 1 Implementation Round 1 recommending funding awards in the amount of \$22,750,000 for the San Francisco Bay Area, including three projects in Santa Clara County. Funds are slated to be awarded to two Valley Water partnership projects, as detailed below. To accept this funding, Valley Water must adopt the recently updated Bay Area Integrated Regional Water Management Plan (BAIRWMP). The BAIRWMP is anticipated to be brought to the Valley Water Board for consideration on June 9, 2020.

UPSTREAM SAN FRANCISCO CREEK FLOOD PROTECTION, ECOSYSTEM RESTORATION, AND RECREATION PROJECT (San Francisquito Creek Joint Powers Authority):

The San Francisquito Creek multi-benefit flood protection project will be awarded \$2,964,479 for Phase 2 construction, upstream of Hwy 101 from Euclid Avenue to Newell Road Bridge, within the cities of East Palo Alto and Palo Alto. The flood protection and restoration features funded include removal of a large in-channel concrete terrace and re-grading the creek bank for re-vegetation, and cutting back slopes retained by sacked concrete and replacing with retaining walls to remove constrictions and improve stream function.

REGIONAL WATER CONSERVATION PROJECT (EBMUD/Regional Project):

Valley Water will receive about \$709,300 as part of Regional Water Conservation Project, which will fund the Qualified Water Efficient Landscaper Trainings, Weather Based Irrigation Controllers, Water Efficient Landscape Rebates for turf conversions, and Home Water Use Reports.

For further information, please contact Lisa Bankosh at lbankosh@valleywater.org or Garth Hall at ghall@valleywater.org.

6. Rinconada Rehabilitation Project Pre-Start-Up Safety Review

The Rinconada Water Treatment Plant is currently in the middle of a multi-phase rehabilitation project. As part of this project, Valley Water conducted pre-start-up safety inspections of the completed work associated with phases I and II. One purpose of the inspections is to verify that the construction was built to the specified codes and to ensure it meets all contract requirements. Another purpose is to help prioritize which items are to be included in the next phase of the project, and which can be postponed to a future phase. The inspections included reviews of electrical installations, the water recovery basins, and the generator rooms. Testing of the recently completed phases, I and II, began in late April 2020 and the projected full start-up date for phases I and II is targeted for a few months after the testing is complete.

For further information, please contact Tina Yoke at (408) 630-2385.

7. Santa Teresa Water Treatment Plant Fire System Pump Replacement Successfully Completed

During routine predictive maintenance efforts, the Santa Teresa Water Treatment Plant's fire system pump was flagged as having excessive vibration. After further inspection and comprehensive testing, it was determined that the pump was operating beyond its performance capabilities and the excessive vibration was a sign of premature failure. It was also determined that the pump would not meet the fire flow requirements should there be a fire event at the plant.

In a collaborative effort between Valley Water and the Fire Marshal, a temporary fire pump was installed and permitted to temporarily provide appropriate fire flows while the permanent fire system pump was replaced.

A new 125-horsepower permanent fire system pump has been installed and all associated system modifications have been completed and tested. On April 28, 2020, Valley Water received final approval from the Fire Marshal for the new permanent fire system pump. The new fire system pump is online and ready for service ensuring that needed fire flow is available during a fire event at the Santa Teresa Water Treatment Plant.

For any questions or further information, please contact Aaron Baker at (408) 630-2135.

8. Valley Water Receives Settlement Funds for Liquid Aluminum Sulfate Antitrust Litigation

In Summer 2019, Valley Water was informed that they may be eligible to receive funds from a liquid aluminum sulfate (alum) antitrust settlement. Consequently, Valley Water opted to pursue a claim to the settlement funds as the lawsuit named the organization's leading alum supplier. The antitrust litigation claims that leading manufacturers violated antitrust laws in its sale of alum through unlawful collusion and price fixing in the United States between January 1, 1997 and February 28, 2011. The lawsuit named the following manufacturers: Chemtrade Logistics Income Fund; General Chemical Corporation; General Chemical LLC; General Chemical Performance Products, LLC; Chemtrade Chemicals Corporation; Chemtrade Chemicals US LLC; Chemtrade Solutions, LLC.

Over a one-week period, Valley Water reviewed 6,631 invoices to determine the total dollar amount and quantity of alum purchased within the settlement period. Valley Water purchased 72,955 dry tons of alum, totaling \$13,711,343, from manufacturers named in the antitrust litigation. On June 13, 2019, Valley Water submitted a claim to the settlement funds based on the purchase history of the chemical.

Valley Water received a check from the settlement administrator dated March 20, 2020, in the amount of \$527,382.02. The check represented the initial settlement payment pursuant to the terms of the settlement case. The distribution of the settlement funds represented approximately 3.8 percent of the total amount that Valley Water paid for the purchase of alum during the settlement period. The distribution is a material return on the estimated overcharges in this case.

For further information, please contact Bhavani Yerrapotu at (408) 630-2735.

9. **Hsueh**

Create a Joint Resolution from the Valley Water Board, County of Santa Clara, City of Gilroy, and the SLDMWA in Recognition of Sig Sanchez 100 Year Birthday and Service to the County.

I-20-0008

Valley Water's Office of Government Relations is in communication with the San Luis Delta-Mendota Water Authority, the County of Santa Clara, and the City of Gilroy and is working jointly with all three organizations on a resolution recognizing Sig Sanchez's upcoming 100th birthday. The joint resolution would also recognize his contributions to the community over the span of his career in public service. Valley Water anticipates that each agency would adopt the joint resolution over the next two months, given agenda scheduling and timing.

For further information, please contact Rachael Gibson at (408) 630-2884.

10. **Kremen**

Provide the following information for the 4/28/2020 water rate hearing and budget discussion: Obtain from all retailers, the percent, dollar amounts, and late and non payments of water bill accounts affected under the current COVID-19 situation versus what is their standard non-payment numbers.

I-20-0009

On Thursday, April 23, 2020, Chief Financial Officer, Darin Taylor, requested by email from all major retailers information on delinquent accounts for purposes of assisting the Valley Water Board with their discussion on a potential loan program. As mentioned during the April 28, 2020 Valley Water Board meeting, two retailers responded to the request.

Great Oaks Water Company submitted that the delinquency percentage has increased from roughly 10% as of April 2019 to roughly 19% as of April 2020, which translates to an increase in delinquent billed revenue of roughly \$110,000.

The City of Mountain View also responded with an estimate that the delinquency percentage has roughly doubled versus pre-pandemic expectation, which translates to an increase in delinquent billed revenue of roughly \$600,000.

For further information, please contact Darin Taylor at (408) 630-3068.

Outlook as of May 1, 2020

We began calendar year 2020 with groundwater storage well within Stage 1 (Normal) of the Water Shortage Contingency Plan of Valley Water. Despite well below-normal local rainfall and statewide snow pack, end of year groundwater storage for 2020 is projected to be well within Stage 1.

Weather

Rainfall in San Jose:

- Month of April, City of San Jose = 1.46 inch
- Rainfall year total = 8.70 inches or 63% of average to date (rainfall year is July 1 to June 30)
- May 1 Northern Sierra snowpack was 25% of normal for this date

Local Reservoirs

- Total May 1 storage = 67,135 acre-feet
 - » 64% of 20-year average for that date
 - » 40% of total unrestricted capacity
 - » 60% of restricted capacity (166,266 acre-feet total storage capacity limited by seismic restrictions to 111,421 acre-feet)
- Approximately 607 acre-feet of imported water delivered into local reservoirs during April 2020
- Total estimated releases to streams (local and imported water) during April was 6,530 acre-feet (based on preliminary hydrologic data)

Treated Water

- Below average demands of 6,170 acre-feet delivered in April
- This total is 95% of the five-year average for the month of April
- Year-to-date deliveries = 22,440 acre-feet or 100% of the five-year average

Groundwater

- Groundwater conditions remain very good. Total storage at the end of 2020 is projected to be in Stage 1 (Normal) of Valley Water’s Water Shortage Contingency Plan.

	Santa Clara Subbasin		Llagas Subbasin
	Santa Clara Plain	Coyote Valley	
April managed recharge estimate (AF)	4,100	1,200	1,600
January to April managed recharge estimate (AF)	14,900	3,900	5,400
January to April managed recharge, % of 5-year average	116%	86%	137%
March pumping estimate (AF)	3,350	750	2,700
January to March pumping estimate (AF)	12,800	1,900	7,900
January to March pumping, % of 5-year average	101%	90%	139%
Current index groundwater levels compared to last April	Lower	Lower	Lower

AF = acre-feet

Imported Water

- As of May 4, 2020, the Statewide Average snowpack water equivalent is 30% of the historic average for this date
- Current 2020 State Water Project (SWP) and Central Valley Project (CVP) allocations:
 - » 2020 SWP allocation of 15%, which provides 15,000 acre-feet to Valley Water
 - » 2020 South-of-Delta CVP allocations are 65% for M&I and 15% for Agriculture, which provide 89,465 acre-feet to Valley Water
- Statewide reservoir storage information, as of May 4, 2020:
 - » Shasta Reservoir at 81% of capacity (94% of average for this date)
 - » Oroville Reservoir at 70% of capacity (86% of average for this date)
 - » San Luis Reservoir at 73% of capacity (83% of average for this date)
- Valley Water's Semitropic groundwater bank reserves are at 100% of capacity, or 349,970 acre-feet, as of March 31, 2020
- Estimated SFPUC deliveries to Santa Clara County:
 - » Month of March = 3,342 acre-feet
 - » 2020 total to date = 9,367 acre-feet
 - » Five-year annual average = 48,700 acre-feet
- Board Governance Policy No. EL-5.3.3 includes keeping the Board informed of imported water management activities on an ongoing basis. No imported water agreements were executed under EL-5.3.3 since the last Water Tracker update

Conserved Water

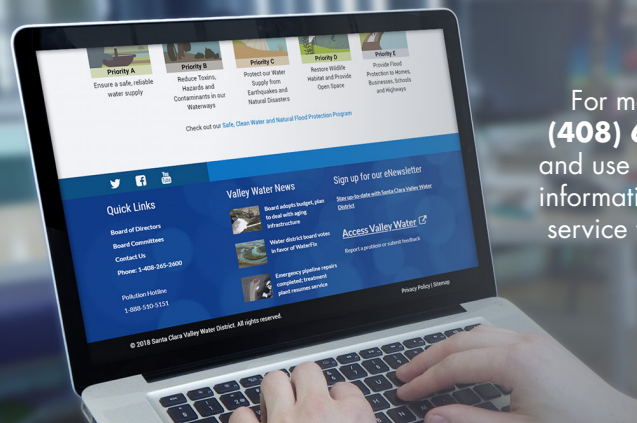
- Saved 73,531 acre-feet in FY19 from long-term program (baseline year is 1992). This will be updated in FY20
- Long-term program goal is to save nearly 100,000 acre-feet by 2030 and 110,000 acre-feet by 2040
- The Board continues its call for a 20% reduction and a limit of three days per week for irrigation of ornamental landscape with potable water
- Through March, achieved a 14% reduction in water use in calendar year 2020, compared to 2013

Recycled Water

- Estimated April 2020 production = 1,270 acre-feet
- Estimated year-to-date through April = 3,390 acre-feet or 95% of the five-year average
- Silicon Valley Advanced Water Purification Center produced an estimated 1.5 billion gallons (4,570 acre-feet) of purified water in 2019. Since the beginning of 2020, about 860 acre-feet of purified water has been produced. The purified water is blended with existing tertiary recycled water for South Bay Water Recycling Program customers

Alternative Sources

- As of December 10, 2019, Valley Water's wastewater contract right from Palo Alto/Mountain View remains at 10,000 acre-feet/year.



CONTACT US


For more information, contact **Customer Relations** at **(408) 630-2880**, or visit our website at valleywater.org and use our **Access Valley Water** customer request and information system. With three easy steps, you can use this service to find out the latest information on district projects or to submit questions, complaints or compliments directly to a district staff person.





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BOARD MEMBER REQUESTS and Informational Items

Report Name: Board Member Requests

Request	Request Date	Director	BAO/Chief	Staff	Description	20 Days Due Date	Expected Completion Date	Disposition
I-20-0008	04/06/20	Hsueh	Callender	Gibson	Create a joint resolution from Our Board, County of Santa Clara, City of Gilroy and the SLDMWA in recognition of Sig Sanchez 100 year birthday and service to the county.	04/26/20		
I-20-0009	04/22/20	Kremen	Camacho	Taylor	Provide the following information for the 4/28 water rate hearing and budget discussion: Obtain from all retailers, the percent, dollar amounts, and late and none payments of water bill accounts affected under the current COVID-19 situation versus what is their standard non-payment numbers.	05/12/20		

TO: Rick L. Callender**FROM:** Rachael Gibson**SUBJECT:** Secretary Bernhardt Letters to Senator
Feinstein, Congressional Letter to Governor
Newsom re: Coordinated Operations and
Biological Opinions**DATE:** 4/29/2020

On April 28, Secretary of the Interior David Bernhardt sent a letter (included as Attachment 1) to Senator Feinstein and Representatives Jim Costa, TJ Cox, Josh Harder, and John Garamendi in response to their April 15 letter regarding the coordinated operations of the Central Valley Project and the State Water Project. The April 15 letter urged the Trump Administration to work with the Newsom Administration to implement coordinated operations of the CVP and SWP, and a similar letter went to Governor Newsom. In the attached letter below, Secretary Bernhardt praised Senator Feinstein and the other Members for their commitment to science-based water management and State-Federal cooperation, and criticized the Newsom administration for its recent lawsuit on the Delta biological opinions, issuing its own incidental take permit, and filing for a preliminary injunction on the CVP, noting that the ensuing litigation will harm California water users.

Earlier this week, six Democratic Members of Congress sent a letter (included as Attachment 2) to Governor Newsom and State Attorney General Xavier Becerra, expressing their support for the State's lawsuit against the Trump Administration over the biological opinions.

This is just the latest in a series of exchanges between the Trump and Newsom Administrations and Members of Congress over the coordinated operations. We will continue to monitor the situation and will keep the Board apprised of any developments.



Rachael Gibson
Deputy Administrative Officer
Office of Government Relations

Attachment 1: Secretary Bernhardt's Letter to Senator Feinstein

Attachment 2: Congressional Letter to Governor Newsom



THE SECRETARY OF THE INTERIOR
WASHINGTON

APR 28 2020

The Honorable Dianne Feinstein
United States Senate
Washington, DC 20510

Dear Senator Feinstein:

I have reviewed your letters dated April 15, 2020, addressed to me and Governor Newsom regarding California water management.

Rest assured that the Department of the Interior (Department) is continuing coordinated operations between the Central Valley Project (CVP) and State Water Project (SWP) on a minute, hourly, daily, and weekly basis with the State of California (State). Though it may seem strange, given the contentious circumstances in which we have found ourselves, we are nonetheless pleased that the State continues to participate with implementing actions associated with our 2019 biological opinions. You have the Department's full commitment that we will continue these meetings to implement the 2019 biological opinions.

I agree with your long-held view of the need to improve California water supply reliability through enhanced Central Valley Project-State Water Project (CVP-SWP) operations. It is my belief that a commitment to updated science employed in the proposed operational changes and biological opinions will lead to improved water supply reliability to millions of Californians, promote agricultural and industrial prosperity, and protect wildlife and other aquatic resources. That has been the Department's goal. Obviously, the State has chosen to move in a different direction.

In your December 19th letter to Governor Newsom and me, you urged "There is only one way to avoid this potential crisis, and that is for the federal government and California to work together." Governor Newsom responded to your call by

- filing a lawsuit on February 20th against the Department for supposed violations related to the 2019 biological opinions;
- proceeding to have the State issue its own incidental take permit (ITP) on March 30th creating separate operating rules for the SWP, a document that is in direct conflict with the Federal permits; and
- filing, by the State through Attorney General Xavier Becerra, a motion for a preliminary injunction and other pleadings on April 21st regarding the CVP.

Given the extensive collaboration between the Federal and State agencies in the development of the biological opinions, and the fact that these opinions are strongly grounded in the best available science, I believe the State's recent actions and litigation are ill-founded and potentially unlawful.

Earlier this month, the Metropolitan Water District of Southern California Board (Metropolitan) voted to initiate a lawsuit against the State regarding the ITP for long-term operation of the SWP in the Sacramento-San Joaquin Delta. In a recent letter to the California Department of Fish and Wildlife (DFW) and the California Department of Water Resources (DWR), Metropolitan stated that "[t]he permit issued by DFW does not replace or eliminate the SWP obligation to comply with federal ESA and the 2019 Biological Opinions."

I agree with this statement; there can be no "stand alone permit" apart from the Federal process to protect species under the Endangered Species Act. I also agree with Metropolitan that there is no technical or scientific justification for concluding that the State's ITP is better or more protective than the Federal biological opinions simply because it does not seek to increase SWP exports. I believe that the proposal of such limitations on water supply without legal or scientific basis is contrary to our obligation to the people and environment.

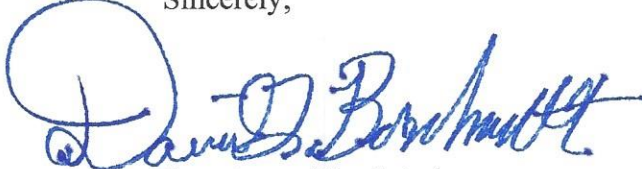
I have always appreciated your thoughtful recognition that prudent and science-based management of California's water, particularly the operations of the CVP and SWP, is critically important for the State's economy, communities, and natural environment.

Using over a decade of new scientific understanding and operational experience, the 2019 biological opinions approved new management actions. These new actions provide for the protection of endangered and threatened fish species and their habitat, as well as better management of cold-water supplies for the survival of winter-run Chinook salmon. The new actions allow for more reliable delivery of water to California farmers, families, and communities, while serving as a model for collaboration between water project operators and fisheries experts in years to come.

As the California-initiated operations and litigation proceeds, I anticipate that the State and the Department will face significant administrative and operational challenges regarding the intertwined operations of these two water projects, some of which have not been seriously contemplated for decades. The result of this, and any litigation related to this matter, will be further uncertainty for the water supplies of over 35 million people, including numerous economically disadvantaged communities, farms, groundwater sustainability and ecosystems dependent on these water sources.

I appreciate your continued communication as we move forward to better ensure water supply reliability for the benefit of the State's working families, local communities, and environment. A similar reply is being sent to the cosigners of your letter.

Sincerely,



Secretary of the Interior

April 28, 2020

The Honorable Gavin Newsom
Governor of California
State Capitol, Suite 1173
Sacramento, CA 95814

The Honorable Xavier Becerra
Attorney General
1300 "I" Street
Sacramento, CA 95814

Dear Governor Newsom and Attorney General Becerra:

We strongly support the State of California's legal challenge to the Trump Administration's scientifically unsound biological opinions for water project operations in the Bay-Delta, and we were heartened by the State's recent court filings against the administration's environmental rollbacks. The adoption of these biological opinions is unlawful, as they weaken and eliminate critically needed protections for California's fish and wildlife in the Bay-Delta watershed. They not only threaten to drive California's native fish and wildlife extinct, but also threaten thousands of fishing jobs and communities that depend on a healthy Delta. We are grateful that the State has amended its complaint to require the Trump Administration to comply with California law and has filed a motion for preliminary injunction to enjoin the Trump Administration's full implementation of their 2019 biological opinions.

We strongly agree with your Administration's determination that the Trump Administration's 2019 biological opinions "are not scientifically adequate and fall short of protecting species and the state's interests." That conclusion is consistent with the findings of independent scientific peer reviews of the biological opinions and whistleblowers from federal agencies who publicly disclosed the National Marine Fisheries Services' July 1, 2019 biological opinion, which concluded that these proposed operations jeopardize the continued existence of endangered and threatened salmon and steelhead in the Bay-Delta.

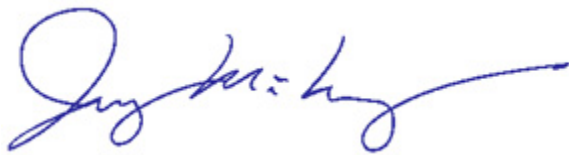
Currently, the federal Central Valley Project (CVP) is not subject to the same regulations that apply to the State Water Project (SWP), and as a result the CVP this month has pumped substantially more water from the Delta than the SWP. This not only harms fish and wildlife but also reduces water supply for State Water Contractors. Moreover, the National Marine Fisheries Service has estimated that the Bureau of Reclamation's proposed operations of Shasta Dam this year will kill between nearly half and three quarters of the endangered winter-run Chinook salmon. The State's legal challenge—and actions by State agencies like the State Water

Resources Control Board this year—are critical to prevent these inequitable and unreasonable harms to fish and wildlife and water supply for other water users.

Congress has previously empowered the State of California to require the operations of the CVP to comply with State law, which includes the requirements of the California Endangered Species Act. No one should be above the law. Exempting the CVP from these requirements is unfair to other water users and harms the environment – and the many California communities and thousands of jobs that depend on it. We are pleased that the State’s amended complaint seeks to remedy this inequitable result.

Californians overwhelmingly reject the Trump Administration’s efforts to weaken environmental protections and subvert science. We applaud the State’s recent court filings to protect the environment and hold the Trump Administration accountable, and we urge the State to use its full authority to prevent further harm to the Bay-Delta environment this year.

Sincerely,



JERRY MCNERNEY
Member of Congress



JARED HUFFMAN
Member of Congress



RAÚL M. GRIJALVA
Member of Congress



ALAN LOWENTHAL
Member of Congress



MIKE THOMPSON
Member of Congress



DORIS MATSUI
Member of Congress



MEMORANDUM

FC 14 (02-08-19)

TO: Board of Directors

FROM: Michele King,
Clerk of the Board

SUBJECT: Fiscal Year 2021 Surface Water Charge
Protest – NO MAJORITY PROTEST

DATE: May 5, 2020

On February 28, 2020 surface water account holders in Zone 5 (South County) and Zone 2 (North County) were mailed a Notice of Public Hearing on the Groundwater Production and Surface Water Charges for Fiscal Year 2020-2021 (FY 2021). The notice provided dates and times of the public hearings and open houses for the public to receive information and provide input.

Additionally, in accordance with District Resolution No. 12-10, the notice included details on how owners with surface water use facilities were eligible to protest the proposed surface water charge increases for FY 2021.

Protests were accepted at the District offices (prior to closure due to COVID-19) and via US mail between Friday, February 28, 2020, and Tuesday, April 28, 2020, until the close of the public hearing at approximately 7:20 p.m.

The District received no surface water protests.

TO: Board of Directors**FROM:** Nina Hawk**SUBJECT:** Status of State Water Project Contract
Amendment Negotiations for Delta
Conveyance**DATE:** May 6, 2020

Since July 24, 2019, the Department of Water Resources (DWR) and public water agencies (PWAs) that hold State Water Project (SWP) contracts have been engaged in negotiations to amend the SWP contract for inclusion of the Delta Conveyance Facility. An important milestone was reached on April 30, 2020 when PWAs and DWR agreed upon a draft Final Agreement in Principle (AIP) memorializing terms to include a new Delta Conveyance Facility (DCF) in the SWP contract, and an attachment in the form of a white paper detailing the current understanding of how DWR would allocate water and administer operations after the DCF becomes operational. The draft Final AIP and white paper are provided as Attachment 1.

With this milestone reached, negotiations are now on hold until additional information regarding DCF costs and benefits are developed. Once sufficient information is provided for each PWA to determine their anticipated participation level in the project, a final public negotiation session will be held to document in the AIP each PWA's level of support.

Detailed meeting minutes and agendas for the public negotiation sessions are provided at the following link:

<https://cadwr.box.com/s/irusyewojv4nwzmxzfzngzhmgli9sswcw>

Background

Public negotiations to include new Delta Conveyance in the SWP contract began on July 24, 2019 and were halted in mid-November of 2019 when it became clear that a number of PWAs did not support the AIP that was submitted to DWR. DWR subsequently proposed an alternative framework for participation that did not require all PWAs to sign a contract amendment. PWA's discussed the proposed approach and evaluated alternatives before public negotiations were initiated again on March 4, 2020.

The resulting draft Final AIP retains DWR's framework that allows the SWP contract to be amended by only a subset of PWAs. It defines new charges for the DCF and how those charges will be allocated to PWAs, and it specifies rights that non-participants will forego, while also clarifying costs and benefits that participants will assume. Forecasting and accounting provisions are more clearly described in the attached white paper and are anticipated to be incorporated into a Notice to Contractors. These provisions may be modified over time in consultation with PWAs in response to changing conditions.

Staff have been heavily engaged in the public negotiations for almost a year, including those from the Water Supply Division and General Counsel office. Throughout the negotiations, staff utilized the guiding principles approved by the board to reach a draft Final AIP and white paper.



Nina Hawk
Chief Operating Officer
Water Utility Enterprise

Attachment 1: Final draft Agreement in Principal and Attachment 1 (Final White Paper)

AGREEMENT IN PRINCIPLE
April 30, 2020

This Agreement in Principle has been developed from the State Water Contractor Public Water Agencies' offers presented from July 24, 2019 to present, Department of Water Resources' offers presented from July 31, 2019 to present, and information discussed and presented by the technical and legal work groups.

Agreement in Principle for the State Water Project Water Supply Contract Amendment
on a
Delta Conveyance Project

This Agreement in Principle (**AIP**) is by and between certain State Water Project Public Water Agencies (**PWAs**) and the State of California through the Department of Water Resources (**DWR**) for the purpose of amending the State Water Project Water Supply Contracts.

AIP Objective:

1. Develop an agreement between the State Water Project Contractor Public Water Agencies and Department of Water Resources to equitably allocate costs and benefits of a potential Delta Conveyance Facility that preserves operational flexibility such that the Department of Water Resources can manage the State Water Project to meet regulatory requirements, contractual responsibilities, and State Water Project purposes.

AIP Outline:

- I. Definitions
- II. Objective 1 - Availability of an option to opt out of costs and benefits of Delta Conveyance Facilities of the State Water Project
- III. Objective 2 - Availability of an option to assume, or partially assume, costs and benefits of Delta Conveyance Facilities of the State Water Project
- IV. Objective 3 - Pursuit of State Water Project Delta Conveyance Facilities under the State Water Project Water Supply Contracts
- V. Objective 4 - Delta Conveyance Facility billing
- VI. Objective 5 - Delta Conveyance Facility benefits allocation
- VII. Objective 6 - Affect upon other Water Supply Contract provisions
- VIII. Other Provisions
- IX. Environmental Review Process
- X. Authorized Representative Signatures

I. Definitions

- a. **Clifton Court Forebay** shall mean the existing State Water Project diversion at Clifton Court Forebay facility through its intake located on Old River in the southern Delta and the associated Skinner Fish Facility.
- b. **Delta** shall mean the Sacramento-San Joaquin Delta as defined in Section 12220 of the California Water Code on the date of approval of the Bond Act by the votes of the State of California.
- c. **Delta Conveyance Facility (DCF)** shall mean those facilities of the State Water Project consisting of a water diversion intake structure, or structures, located on the Sacramento River and connected by facilities to Banks Pumping Plant in the southern Delta with a single tunnel that will serve the water supply purposes of the State Water Project.
- d. **DCF Benefits** shall mean those water supply and capacity benefits attributable to the DCF including but not limited to: (1) Table A water supplies; (2) Article 21 water supplies; (3) carriage water savings; (4) reliable water supply and use of DCF available capacity in the event of a temporary or permanent physical, regulatory, or contractual disruption of southern Delta diversions; and (5) use of DCF available capacity to move non-project water through the proposed DCF.
- e. **Fair Compensation** shall include but is not limited to capital recovery, operations and maintenance, replacement, and variable charges associated with the use of the DCF capacity.
- f. **State Water Project (SWP)** shall mean the State Water Resources Development System as described in California Water Code section 12931.
- g. **State Water Project Contractor Public Water Agencies (PWAs)** shall include the 29 entities holding State Water Project Water Supply Contracts with the Department of Water Resources.

II. Objective 1 - Availability of an option to opt out of costs and DCF Benefits

- a. This AIP makes available to each PWA an option to opt out of the costs and benefits of the DCF through a contract amendment that establishes a Statement of Charges (SOC) percentage of DCF Benefits based on the percentages in the Delta Conveyance Allocation Factors table to water attributable to the DCF, as described in Section VI of this AIP.
- b. PWAs indicating an intent to opt out of costs and benefits of the DCF shall be described in Section VI(a) of this AIP.
- c. An option to opt out of DCF costs and benefits are limited such that a PWA must opt out of at least a minimum 100% of its Municipal and Industrial Table A or 100% of its Agricultural Table A. This provision doesn't prohibit a PWA from taking more than their Table A share, if available, in the Delta Facilities Allocation Factor table.

- III. Objective 2 - Availability of an option to assume additional costs and benefits of the DCF
- a. This AIP makes available to each PWA an option to assume additional costs and benefits of the DCF through a contract amendment that establishes additional costs on the SOC in exchange for DCF Benefits based on the percentages in the Delta Conveyance Allocation Factors table to water attributable to the DCF, as described in Section VI of this AIP.
 - b. PWAs indicating an intent to assume DCF costs and benefits shall be described in Section VI(b) of this AIP.
- IV. Objective 3 - Pursuit of State Water Project Delta Conveyance Facilities under the State Water Project Water Supply Contracts
- a. The DCF shall be constructed and operated as an integrated component of the State Water Project, and DWR will continue to operate the State Water Project at its sole discretion.
 - b. The DCF is an authorized component of the State Water Project pursuant to California Water Code sections 11100 et seq. and 12930 et seq.
 - c. Effective Date: A contract amendment pursuant to this AIP shall have an effective date no sooner than the billing transition date set forth in State Water Project Water Supply Contract Amendment known as The Contract Extension Amendment.
 - d. Administration of DCF: DWR will forecast and account for Project Water attributable to the DCF and DWR will determine whether or not that Project Water would not have been available at Clifton Court Forebay. A whitepaper describing the DWR's and the PWAs' current understanding of the approach on forecasting, administration, and accounting is contained in Attachment 1. Attachment 1 will not be incorporated into contract language.
- V. Objective 4 - Delta Conveyance Facility billing
- a. These costs would be billed to and collected from SWP PWAs consistent with the Delta Facilities Allocation Factor table below through their annual SOC.
 - b. **Delta Conveyance Facilities Charge Components:** All capital and minimum operations, maintenance, power and replacement (OMP&R) costs associated with the DCF are 100% reimbursable and shall be recovered by DWR from PWAs through their annual SOCs consistent with the Delta Facilities Allocation Factor table. These costs shall be allocated to and billed under two new charges as follows:
 - (1) Delta Conveyance Facilities Capital Charge Component.

(2) Delta Conveyance Facilities Minimum OMP&R Component.

- c. Delta Conveyance Facilities Capital Charge Component Method of Computation**
1. This computation will recover actual annual debt service created by financing activities (Financing Method) for DCF.
 2. Each Financing Method shall provide an annual repayment schedule, which includes all Financing Costs.
 3. Financing Costs shall mean the following: Principal of and interest on Revenue Bonds, debt service coverage required by the applicable bond resolution or indenture in relation to such principal and interest, deposits to reserves required by the bond resolution or indenture in relation to such Revenue Bonds, and premiums for insurance or other security obtained in relation to such Revenue Bonds.
- d.** Financing Method shall be divided into four categories: DCF Capital Costs paid with the proceeds of Revenue Bonds; DCF Capital Costs paid with amounts in the State Water Resources Development System Reinvestment Account; DCF Capital Costs paid annually for assets that will have a short Economic Useful Life or the costs of which are not substantial, and DCF Capital Costs prepaid by the PWAs consistent with the Delta Facilities Allocation table.
- e.** DCF Capital Charge Component should be allocated to the PWAs in proportion to the Delta Conveyance Facilities Allocation Factors for each calendar year and consistent with the Delta Facilities Allocation Factor table.
- f. Delta Conveyance Facilities Minimum OMP&R Charge Component Method of Computation**
1. Recovery will be estimated and/or actual annual OMP&R costs determined for the DCF each year.
 2. DCF Minimum OMP&R Charge Component shall be allocated to the PWAs in proportion to the Delta Conveyance Facilities Allocation Factors for each calendar year.
- g. Delta Conveyance Facilities Energy Charges:** The DCF energy costs are 100% reimbursable by the PWAs and the methodology will be determined by DWR, reviewed in the SWRDS Finance Committee, and approved by the Director.

- h. **Redetermination:** These charges shall be subject to redetermination.
- i. **Step-up:** PWAs that execute a contract amendment to opt out will not be allocated any portion of a step-up required in the event of a default on a DCF Capital Charge.
- j. **Delta Conveyance Facilities Allocation Factors:** The following table is a preliminary allocation of DCF participation percentages. Only PWAs with a greater than 0 percentage would be billed for DCF Charge Components through their annual SOC, using the Delta Conveyance Facility Allocation Factors described in the table. PWAs with a zero allocation factor would not be billed for repayment of costs for construction, operation and maintenance of facilities associated with DCF, except to the extent there is a permanent transfer of Table A which would increase a PWA from a greater than zero allocation factor through a subsequent contract amendment.

Public Water Agency	Delta Conveyance Facilities Allocation Factors
City of Yuba City	0
County of Butte	0
Plumas County FC&WCD	0
Napa County FC&WCD	0
Solano County Water Agency	0
Alameda County FC&WCD, Zone 7	
Alameda County Water District	
Santa Clara Valley Water District	
Dudley Ridge Water District	
Empire-West Side Irrigation District	0
Kern County Water Agency-Total	
County of Kings	0
Oak Flat Water District	0
Tulare Lake Basin Water Storage District	0
San Luis Obispo County FC&WCD	
Santa Barbara County FC&WCD	0
Antelope Valley-East Kern Water Agency	
Santa Clarita Valley Water Agency	
Coachella Valley Water District	
Crestline-Lake Arrowhead Water Agency	
Desert Water Agency	
Littlerock Creek Irrigation District	0
Mojave Water Agency	
Palmdale Water District	

San Bernardino Valley Municipal Water District	
San Gabriel Valley Municipal Water District	
San Geronio Pass Water Agency	
The Metropolitan Water District of Southern California	
Ventura County Watershed Protection District	
Total	100.000%

VI. Objective 5 - Delta Conveyance Facility Benefits Allocation

- a. PWAs that execute a contract amendment to opt out of DCF costs and benefits will agree, within that amendment, to the following:
 - i. Charges as set forth in Section V of this AIP will not appear on its SOC.
 - ii. Forego and waive any contractual rights to the following:
 - a. Right to or delivery of Project Water attributable to the DCF, provided that DWR determines that such water would not have been available for diversion at Clifton Court Forebay. This AIP will not modify the amounts within Table A but will memorialize this limited reduction for DCF Benefits by adding a footnote to the PWA's Table A to reflect their zero allocation for DCF Benefits.
 - b. Any contractual rights to or delivery of Article 21 Interruptible Water prior to the point(s) in time each year DWR determines that a volume of water equal to the volume of current year Project Water for Table A in San Luis Reservoir attributable to DCF in the SWP share of San Luis Reservoir storage will be displaced or evacuated by a quantity of exports equal to the quantity of exports from Clifton Court Forebay that would have been stored in San Luis Reservoir absent the DCF. Provided that, when Article 21 Interruptible Water supply is greater than demand from PWAs with a greater than zero Delta Conveyance Facility Allocation factor, Article 21 Interruptible Water will be made available to all PWAs based on Table A percentage.
 - c. Any contractual rights to or delivery of Article 21 Interruptible Water attributable to the DCF after a volume of water equal to the volume of current year Project Water for Table A in San Luis Reservoir attributable to DCF has been evacuated or displaced by the exports from Clifton Court Forebay that would have been stored in San Luis Reservoir absent DCF. Provided that, when Article 21 Interruptible Water supply is greater than demand from PWAs with a greater than zero Delta

- Conveyance Facility Allocation Factor, Article 21 Interruptible Water will be made available to all PWAs based on Table A percentage.
- d. Right to use DCF conveyance capacity unused by DWR for SWP purposes to convey non-project water, except as provided in subsection h.
 - e. Right to use available DCF conveyance capacity to convey Project Water in the event that pumping directly from the south Delta is prevented or impaired by a physical, regulatory or contractual disruption, including but not limited to sea level rise, seismic events, flooding, or other uncontrollable event.
 - f. Right to carriage water savings that DWR determines are realized during its operation of any DCF for purposes of conveying Project Water.
 - g. Right to any credit from Fair Compensation collected by DWR for use of available DCF conveyance capacity.
 - h. Rights to use of the DCF, unless a subsequent contract with DWR is entered that provides for payment of Fair Compensation associated with such use.
- iii. For the North of Delta PWAs, DWR will not change the current administrative process for determining the availability of Article 21 due to the DCF. This process will be documented in the Article 21 administration that is distributed via a Notice to Contractors.
- b. PWAs that execute a contract amendment to assume costs and benefits of the DCF will agree, within that amendment, to the following:
 - i. Charges will appear on the SOC as set forth in the table in the percentages shown in Section V of this AIP.
 - ii. DCF Benefits in proportion to the percentage table in Section V of this AIP, including but not limited to:
 - a) Delivery of Table A amounts diverted at and conveyed through the DCF. This AIP will not modify the amounts within Table A but will memorialize this DCF Benefits by amending the PWA's Table A with a footnote. The footnote will recognize each PWA's DCF Benefits consistent with the Delta Conveyance Facilities Allocation Factors.
 - b) Article 21 Interruptible Water attributable to DCF.
 - c) Available DCF conveyance capacity unused by DWR for SWP purposes, to convey non-project water for ultimate use within that PWA's service area.
 - d) Carriage water savings that DWR determines are realized during its operation of any DCF for purposes of conveying Project Water.
 - e) Available DCF conveyance capacity to convey Project Water in the event that pumping in the south Delta is prevented or impaired by a physical, regulatory or contractual disruption, including but not limited to sea level rise, seismic events, flooding, or other uncontrollable event.

- f) A credit from Fair Compensation collected by DWR for use of available DCF conveyance capacity.
- c. Nothing in this AIP changes Article 18(a) in the existing State Water Project Water Supply Contracts.

VII. Objective 6 - Affect Upon Other Water Supply Contract Provisions

- a. Unless specifically stated in this AIP and incorporated into a subsequent contract amendment, there are no changes to the PWAs' rights and obligations under the existing State Water Project Water Supply Contracts.
- b. Transfers and exchanges are not intended to be modified under this AIP and shall be subject to the provisions of the then existing State Water Project Water Supply Contracts.

VIII. Other Provisions

- a. Clifton Court Forebay Diversion Priority: In the event that DWR uses its discretion to move Project Water through the DCF that could have been moved through Clifton Court Forebay Intake, PWAs with a greater than zero Delta Conveyance Facilities Allocation Factor will be given a first priority of available capacity, as determined by DWR, based on their percentage in section V to move up to that same amount of non-project water at Clifton Court Forebay Intake.

IX. Environmental Review Process

DWR and the PWAs agree that this AIP is intended to be used during the environmental review process for the California Environmental Quality Act (CEQA), to define the proposed project description for the purposes of CEQA, and to permit the next steps of the SWP water supply contract amendment process, including scoping and the preparation of the EIR. The AIP principles are not final contract language and do not represent a contractual commitment by either DWR or the PWAs to approve any proposed project or to sign contract amendments. By concurring with the AIP, DWR and the PWAs express their intent to move forward with the CEQA process with DWR as lead agency and the PWAs as responsible agencies, and ultimately develop a proposed project consisting of contractual amendments consistent with the AIP principles and prepare the EIR for consideration by DWR and the PWAs.

At the end of the CEQA process and in compliance with CEQA, DWR and the PWAs will each individually evaluate the EIR and Contract Amendment, exercise their independent judgment, and determine whether or not to certify the EIR, approve the proposed project and sign the contract amendment or to approve an alternative project. Consequently, even though DWR and the PWAs have agreed to the AIP

for the purposes described in the preceding paragraphs, DWR and each PWA retain their full discretion under CEQA to consider and adopt mitigation measures and alternatives, including the alternative of not going forward with the proposed project.

Attachment 1: Final White Paper

I. Background

This white paper describes current understanding of how the Department of Water Resources (DWR) would account for and administer the Delta Conveyance Facility (DCF) Benefits. DWR will include information regarding the accounting and administration of water attributable to DCF in relevant Notice(s) to State Water Project Contractors consistent with prior practice. No legally binding obligations are created by this white paper. This white paper may be updated from time to time by DWR, in consultation with the Public Water Agencies (PWAs), in response to factors including, but not limited to, changes in laws, regulations or permits applicable to DWR and/or the State Water Project (SWP). Capitalized terms not defined herein shall have the meanings ascribed to them in the DCF Agreement in Principle (AIP).

II. Draft Delta Conveyance Accounting and Administration Concepts

The DCF will be integrated into the State Water Project and operated to provide maximum flexibility to meet water supply, regulatory requirements and contractual obligations. There are some PWAs that may opt out of the DCF Benefits and charges. For this reason, it will be necessary to account for DCF Benefits. DCF Benefits are described in the AIP and are “those water supply and capacity benefits attributable to the DCF including but not limited to: (1) Table A water supplies; (2) Article 21 water supplies; (3) carriage water savings; (4) reliable water supply and use of DCF available capacity in the event of a temporary or permanent physical, regulatory, or contractual disruption of southern Delta diversions; and (5) use of DCF available capacity to move non-Project Water through the proposed DCF.” To account for DCF Benefits, DWR will need to determine the amount of water attributable to the DCF. DWR will primarily use two tools: 1) **forecasting** Project Water attributable to the DCF for the coming year; and, 2) **accounting** for Project Water attributable to the DCF in a timely manner. Both are described below.

A. Forecasting- DWR will forecast, as shown below, to quantify the amount of Project Water attributable to DCF.

1. DWR anticipates that it will provide three water supply allocation forecasts:
 - a. North of Delta allocation that includes water attributable to the south Delta diversions (similar to current practice).
 - b. South of Delta allocation that includes water attributable to the south Delta diversions (similar to current practice).
 - c. Allocation of water attributable to the DCF.
2. The allocation forecasts will continue to be updated monthly and each forecast will include updated information on hydrology including runoff projections, SWP storage conditions, PWA demands, regulatory requirements, and actual exports attributable to the south Delta diversions and the DCF.

3. DWR will continue to include in the allocation forecasts any potential DCF capacity available for conveyance of non-Project Water.
4. Seasonal Forecast: Should conditions warrant additional forecasts, (i.e. wet hydrological conditions and/or DWR determines that San Luis Reservoir is likely to fill) DWR will provide more frequent forecasts on one or more of the following:
 - a. San Luis Reservoir fill projection.
 - b. Potential Article 21 availability.

B. Accounting

1. DWR will continue to create operational schedules for the south Delta and the DCF which will include any operational constraints and in accordance with applicable regulatory requirements and contractual obligations in order to account for water attributable to the DCF.
2. DWR will reconcile water exports attributable to DCF and the south Delta facilities in a timely manner.
3. If there is a difference in the amount of water conveyed through the south Delta facilities between the planned operations and actual operations there will be a determination about the cause of any identified differences. If the difference is due to a physical, regulatory, or contractual disruption of south Delta diversions or other south Delta restrictions, then water conveyed through the DCF will be considered water attributable to DCF. If the difference is the result of DWR's discretionary decision to convey Table A water through the DCF instead of south Delta, no charge/credit will occur. However, DWR will estimate the carriage water savings associated with the discretionary use of DCF and carriage water savings will be considered water attributable to DCF.
4. Carriage water savings that DWR determines are realized by conveying Project Water through the DCF that would have otherwise been moved through the south Delta facilities, will be credited to Participants. PWAs with a zero Delta Conveyance Allocation Factor that make arrangements with DWR to pay for use of available capacity in the DCF for non-Project Water may be credited carriage water savings associated with this use.
5. Available DCF capacity, as determined by DWR, to convey transfers and exchanges of Project Water between PWAs with a Delta Conveyance Facility Allocation Factor of zero and PWAs with a greater than zero Delta Conveyance Facility Allocation Factor is interpreted as capacity in the DCF attributed to the PWAs with a greater than zero Delta Conveyance Facility Allocation Factor and no additional capital or minimum operations, maintenance, power and replacement (OMP&R) charges for use of DCF capacity will apply notwithstanding any PWA's interpretation of existing contract language to the contrary. Nothing in this provision shall be construed as altering any party's position regarding the application for use of facility charges in other contexts.
6. **Article 21 attributable to DCF for South of Delta PWAs:** As set forth in the AIP, PWAs opting out of the DCF will influence the administration of water made available pursuant to Article 21. To determine the quantity of Article 21 water that PWAs with a zero Delta Conveyance Facilities

Allocation Factor will initially forego and the quantity of Article 21 water those PWAs with a Delta Conveyance Facilities Allocation Factor greater than zero will receive, it is necessary to determine the amount of water attributable to the DCF in the San Luis Reservoir at Point A. Determining this water quantity will provide the basis upon which DWR can administer the DCF Benefits contained in the contract amendment that results from the AIP.

- a. Process (See Table 1):
 - i. **Point A:** The point at which DWR determines Article 21 water attributable to DCF will be available. DWR will determine volume of Project Water for Table A attributable to the DCF in San Luis Reservoir.
 - ii. DWR will work with PWAs to develop an accounting methodology that considers exports attributed to DCF, exports from south Delta facilities, deliveries to PWAs, San Luis Reservoir fill point and the PWAs DCF allocation factors to determine the volume of Project Water for Table A in San Luis Reservoir attributable to DCF at Point A.
 - iii. **Point B:** The point at which DWR determines Article 21 water would have been made available absent Project Water for Table A attributable to DCF in San Luis Reservoir, and/or DWR determines through the accounting process that San Luis Reservoir would have filled absent current year Project Water attributable to DCF. This point is reached when a volume of water equal to the volume of current year Project Water for Table A in San Luis Reservoir attributable to DCF at Point A has been displaced or evacuated by the quantity that would have been exported from Clifton Court Forebay and stored in San Luis Reservoir absent the DCF.
- b. Deliveries of Article 21 water attributable to DCF Between Point A and Point B:
 - i. PWAs may submit Article 21 requests to DWR prior to point A. DWR will satisfy those requests according to the following priority:
 1. PWAs up to their Delta Conveyance Facility Allocation Factor;
 2. All PWAs based on Table A percentage. Only Variable and DCF Energy charges will apply for those PWAs with a greater than zero Delta Conveyance Facility Allocation Factor. For those PWAs with a zero Delta Conveyance Facility Allocation Factor, Article 21 water will be made available at the following charges:
 - a. the Variable and DCF Energy charges for the amount up to Article 56(c)(1) and Article 56(c)(2) water spilled within the PWAs proportionate share of San Luis Reservoir storage at Point A;
 - b. Fair Compensation for any additional amounts.
- c. Deliveries of Article 21 water attributable to DCF After Point B:
 - i. PWAs may submit requests to DWR. DWR will satisfy those requests according to the following priority:

1. PWAs' proportion based upon the Delta Conveyance Facility Allocation Factors;
2. All PWAs based on Table A percentage. Only Variable and DCF Energy charges will apply for those PWAs with a greater than zero Delta Conveyance Allocation Factor. For those PWAs with a zero Delta Conveyance Facility Allocation Factor, this water will be provided at Fair Compensation.

TABLE 1: Article 21 Interruptible Water Attributable to the Delta Conveyance Facilities		
PWA	Point A - Point B	At/After Point B
FIRST PRIORITY: PWAs participating in DCF (PWAs with a greater than zero DCF Allocation Factor %)	<ul style="list-style-type: none"> • Quantity (AF): Up to DCF Allocation Factor % • Charge (\$): Variable and DCF Energy Charges 	<ul style="list-style-type: none"> • Quantity (AF): Up to DCF Allocation Factor % • Charge (\$): Variable and DCF Energy Charges
SECOND PRIORITY: All PWAs	<ul style="list-style-type: none"> • Quantity (AF): Based on Table A % • Charge to DCF Participant (\$): Variable and DCF Energy Charges • Charge to DCF Non-Participant for AF <= to spilled carryover water (\$): Variable and DCF Energy Charges • Charge to DCF Non-Participant for AF > spilled carryover water (\$): Fair Compensation 	<ul style="list-style-type: none"> • Quantity (AF): Based on Table A % • Charge to DCF Participant (\$): Variable and DCF Energy Charges • Charge to DCF Non-Participant (\$): Fair Compensation

C. Collaborative Development of Administrative Procedures

As a subset to the Water Operations Committee, a DCF workgroup will be created similar to the current San Luis Reservoir Workgroup. This group will meet and confer as needed, and may discuss items such as forecasting, operations, accounting, and administration of the DCF. Members may include representatives from DWR (SWPAO and OCO) and PWAs and will report back to the PWA Water Operations Committee.