



August 3, 2021

Dear Member:

We are writing to express our opposition to the so-called voluntary agreements for the Bay-Delta, and to urge Legislators not to endorse this deeply flawed backroom process and to oppose the Governor's request for state funding to implement these proposed voluntary agreements.

By way of background, there is broad scientific consensus that existing flow and water quality standards for the Bay-Delta – most of which have not been meaningfully updated since 1995 – are woefully inadequate and are causing native fish and wildlife to go extinct, threatening thousands of salmon fishing jobs that depend on healthy salmon runs through the Bay-Delta, harming native American tribes, and contributing to increasing harmful algal blooms in the Delta that threaten human health and safety. The primary cause of these impacts is that the current standards allow far too much water to be diverted, leaving far too little water flowing in our rivers and through the Delta. For instance, on the Tuolumne River, nearly 80% of the water that would naturally flow downstream in the winter and spring months is diverted on average, leaving only 20% for fish and wildlife (and water quality downstream) – and even more is diverted in drier years.

In 2008 the State Water Resources Control Board began the process of updating the outdated Bay-Delta Water Quality Control Plan, which sets water quality and flow standards for this watershed and balances the competing uses of water. In 2018, after a more than ten year public process that included numerous public hearings, workshops, and independent scientific peer

review, the State Water Resources Control Board adopted new instream flow and water quality standards for the Tuolumne, Stanislaus, Merced, and Lower San Joaquin Rivers, requiring that 40% of the water that would naturally flow downstream remain in these rivers during the winter and spring months, allowing farms and cities to store and divert 60% of the water. This was significantly less water flowing in these rivers than state and federal agencies, independent scientists, and fishing groups and conservation organizations recommended. This December 2018 decision was the first phase of updating the water quality control plan, and the State Water Resources Control Board has committed to update the rest of the Bay-Delta Water Quality Control Plan, including instream flows for the Sacramento River, Delta outflow, and export limits by the state and federal water projects. In the summer of 2018 the Board issued its Framework for completing this critical process, having already completed independent scientific peer review and numerous public workshops for this phase of the proceeding. However, under political pressure the Board has not been allowed to complete this work.

In place of completing the update of the woefully outdated water quality plan, numerous water districts instead have engaged for years in a process of negotiating so-called voluntary agreements, which are proposed as an alternative to the Board's plan. These endless negotiations are a big reason why the State Water Board is not allowed to complete the update of the Bay-Delta plan and implementation of the updated standards to protect water quality for fish and wildlife, farms, and communities. This status quo of inadequate flows, which is perpetuated by this endless voluntary agreements process, benefit no one other than the water districts who continue to divert water under the outdated water quality rules. The process of negotiating the voluntary agreements is deeply flawed and inequitable. For the past several years State officials have been negotiating with water districts in a backroom process that excludes conservation and fishing groups, Tribes, and other stakeholders. This exclusionary process also lacks scientific evaluation and rigor, and it has focused exclusively on reducing how much water would flow in the Tuolumne River and other rivers and into the Bay-Delta, excluding any discussion of State investments in local and regional water supply projects to help agencies adapt to diverting less water.

The substance of proposed voluntary agreements that have been publicly released are also woefully inadequate, as explained in the attached fact sheet from Defenders of Wildlife. In particular, the San Francisco Public Utilities Commission and its wholesale customers in the South Bay have proposed a woefully inadequate voluntary agreement that would not protect and restore salmon and the health of the Tuolumne River, would not protect water quality for farms and communities in the Bay-Delta, and which failed independent scientific peer review. Yet these water agencies continue to pressure the State to substitute their inadequate voluntary agreement for the standards that were adopted by the State Water Board through an open, transparent, and science-based process.

Rather than advancing scientifically sound water management, negotiations over voluntary agreements are stalling much needed water quality protections for the Bay-Delta, the Tuolumne River, our native salmon runs and the Tribes and thousands of fishing jobs that depend on their

health. Moreover, the continued expenditure of public funding misdirects public money away from solutions that could benefit local communities seeking to secure clean drinking water and important habitat restoration and protection in the face of climate change, and it instead just props up a process that is being used to avoid making the critical changes California needs to make in updating water quality standards. Instead of pushing for further backroom negotiations over voluntary agreements (which were supposed to be concluded years ago), we believe that it is imperative for the State Water Resources Control Board to finish its job of updating the Bay-Delta Water Quality Control Plan and implementing these updated standards, through a public and transparent process.

We therefore urge Legislators to reject the Governor's requests for additional funding for these flawed and inequitable voluntary agreements, including the \$466M proposed in the May Revise for the Resources Agency and DWR.

Sincerely,



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