

**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
BOARD OF DIRECTORS MEETING**

January 11, 2019

Correspondence and media coverage of interest between December 13, 2018 and January 10, 2019

Correspondence

Date: January 10, 2019
From: San Francisco Public Utilities Commission
Subject: Press Release: San Francisco Joins Lawsuit Challenging State's Process for Bay-Delta Plan

Date: December 15, 2019
From: Restore Hetch Hetchy, Newsletter
Subject: State Water Board Adopts Landmark Bay-Delta Plan

Media Coverage

Water Supply Condition:

Date: January 10, 2019
Source: The Independent
Article: Early Winter Storms Produce Sierra Snow, But Water Content Remains Below Average

Date: January 7, 2019
Source: Mountain View Voice
Article: Statewide snowpack at 67 percent of average for this time of year

Date: January 4, 2019
Source: San Francisco Chronicle
Article: First snow survey shows water content just 'adequate.' But there's hope for improvement

Date: January 2, 2019
Source: Environmental Leader
Article: Why Overall Water Use Is Declining in US Despite Population Growth

Bay Delta:

Date: January 10, 2019
Source: San Francisco Chronicle
Article: San Francisco sues state over potentially drastic water reductions

Date: January 10, 2019
Source: Sacramento Bee
Article: San Francisco, farmers team up to fight California's 'water grab'

Date: January 10, 2019
Source: Modesto Bee
Article: Fight over water heads to court: Irrigation districts sue state board

Date: January 10, 2019
Source: Oakdale Leader
Article: Irrigation Districts Join Lawsuit

Bay Delta, cont'd.:

Date: January 6, 2019
Source: Mercury News
OPINION: State should use science to determine...

Date: January 4, 2019
Source: Los Angeles Times
Article: Will Gavin Newsom change the state's water course? Fish and farmers will soon find out

Date: December 14, 2018
Source: Maven's Notebook
Article: Reclamation, Feinstein, Costa, Gray, and MID react to voluntary agreements and State Water Board vote on San Joaquin River Tributary flow standards

Date: December 14, 2018
Source: San Francisco Chronicle
Article: SF, other cities consider lawsuits to head off water restrictions

Date: December 13, 2018
Source: Breitbart
Article: California State Board Votes to Approve Bay-Delta Plan, Restrict Water to Farmers

Date: December 12, 2018
Source: San Francisco Chronicle
Article: San Francisco, other Bay Area cities will see water supply cuts under new plan

Water Policy:

Date: January 9, 2019
Source: Sacramento Bee
Article: Newsom inherits a 'whole bunch of headaches' despite last-minute water deals by Brown

Date: January 8, 2019
Source: Circle of Blue
Article: California Water Board Outlines \$606M Bill Assistance Program

Water Infrastructure:

Date: January 10, 2019
Source: Mt. Shasta News
Article: Dam removal DEIR finds no significant long-term water quality concerns

Date: January 8, 2019
Source: Capital Press
Article: Agency analyzes impacts of removing Klamath River dams

Date: January 7, 2019
Source: Appeal Democrat
Article: Yuba Water Agency reaches milestone in relicensing effort



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NEWS RELEASE

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FOR IMMEDIATE RELEASE

January 10, 2019

San Francisco Joins Lawsuit Challenging State's Process for Bay-Delta Plan

Litigation necessary to preserve options for best outcomes for the environment and SFPUC's 2.7 million water customers

San Francisco, CA—In an effort to preserve options that will provide the best possible outcomes for the environment and the 2.7 million customers who rely on drinking water from the San Francisco Public Utilities Commission, the City and County of San Francisco today joined a lawsuit against the State's implementation of the Bay-Delta Plan.

"San Francisco is leading a collaborative effort to protect the environment and plan for our future water supply, and we need the flexibility to continue this important work," said SFPUC General Manager Harlan L. Kelly, Jr. "This legal action, while unfortunate, is needed to allow stakeholders to continue to work together on real solutions that will benefit both fish and people."

Last month, the State Water Resources Control Board started the legal clock ticking by voting to approve an update to the Bay-Delta Plan, which calls for large increases in water releases on the tributaries of the San Joaquin River above the Bay-Delta. The updated plan is part of an effort to restore the ecology of the Bay-Delta system. That includes the Tuolumne River, which provides water via Hetch Hetchy Reservoir to Bay Area customers. The SFPUC has voiced concerns with the plan, as it would dramatically reduce the agency's water supply, leaving it subject to significant rationing in droughts and potentially unprepared to deal with more extreme weather conditions brought on by climate change.

While the State Water Board approved the Bay-Delta Plan, it specifically acknowledged the progress of SFPUC and its partners for restoration and management plans for the Tuolumne River. The State Water Board has given the SFPUC and its partners until March to further develop these plans for the river. However, the legal window to contest the current version of the plan closes before March, necessitating today's legal filing.

San Francisco prepared to start restoration efforts on Tuolumne River immediately

As part of a proposed voluntary agreement, the SFPUC and its partners have offered \$76 million in funding for habitat restoration projects, such as creating more gravel areas for spawning beds and measures to reduce the effects of predation on young salmon. The SFPUC is currently evaluating which measures can be implemented immediately as a sign of good faith. Along with those measures, the SFPUC and its partners have proposed a schedule of functional water flows to produce positive environmental results for the Tuolumne River.

The SFPUC has consistently stated that these types of voluntary agreements are the best path forward for the Bay-Delta Plan, as the settlements strike the right balance between environmental stewardship and water reliability. By joining the lawsuit filed today by the San Joaquin Tributaries Authority, Turlock Irrigation District, Oakdale Irrigation District and South San Joaquin Irrigation District, the SFPUC can preserve all options moving forward to reach those voluntary agreements.

“This is an unfortunate but necessary step to preserve the rights of the 2.7 million Bay Area customers who rely on the Hetch Hetchy water system,” City Attorney’s Office spokesman John Coté said. “The state water board started the legal clock ticking and forced us to make this move. San Francisco proposed a deal that struck the right balance, but unfortunately the plan the state approved on December 12 would result in severe water rationing in drought years. We’re still optimistic that a compromise can be reached out of court that both enhances the fish population and preserves an adequate drinking water supply for millions of Bay Area residents.”

The SFPUC is taking a measured and responsible approach regarding long-term water management. California recently experienced droughts that extended beyond three years and experts say climate change will continue to impact precipitation. The State now requires water agencies to plan for a minimum 5-year drought. With more than 2.7 million customers relying on the SFPUC for clean, safe drinking water, the agency takes a conservative approach with an 8.5-year drought scenario plan, a necessary precaution in this time of climate change uncertainty.

About the San Francisco Public Utilities Commission

The San Francisco Public Utilities Commission (SFPUC) is a department of the City and County of San Francisco. It delivers drinking water to 2.7 million people in the San Francisco Bay Area, collects and treats wastewater for the City and County of San Francisco, and generates clean power for municipal buildings, residents, and businesses. The SFPUC’s mission is to provide customers with high quality, efficient and reliable water, power, and sewer services in a manner that values environmental and community interests and sustains the resources entrusted to our care. Learn more at www.sfwater.org.

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This email was sent to nsandkulla@bawsca.org

San Francisco Public Utilities Commission, 525 Golden Gate Avenue, San Francisco, CA 94102, USA

December 15, 2018



“upon the express conditions that the premises shall be held for public use, resort and recreation.”

**President Abraham Lincoln,
upon preserving Yosemite Valley
and the Mariposa Grove**

**State Water Board Adopts Landmark Bay-Delta Plan
All water diverters expected to help restore salmon,
Phase 1 includes San Francisco**

Dear Nicole,

This past Wednesday, the State Water Resources Control Board voted 4-1 to adopt Phase 1 of its Bay-Delta Plan. The historic vote, taken at the end of a 10-hour public hearing and coming after years of study, hearings and negotiations, was perhaps the boldest action ever taken by the State Water Board.

Under Phase 1, flows in the Merced, Tuolumne and Stanislaus Rivers will substantially increase. The Tuolumne River is currently required to retain about 12% of its natural flow. If the Bay-Delta Plan is fully implemented, the requirement would roughly triple to about 37%.



Most Californians rely on water diversions from the Central Valley and Bay-Delta system. San Francisco diverts about 225,000 acre-feet of water annually, about 12% of the Tuolumne River, 4% of the lower San Joaquin River, and less than 1% of the total inflow into the Bay-Delta.



San Francisco is 100% responsible for inundating Hetch Hetchy Valley.

No one disputes that salmon populations in the Central Valley have crashed. But water agencies contend that the decline is not chiefly due to lack of flow, but that loss of habitat, pollution and invasive species are primarily responsible.

The State Board acknowledges these other problems, at least to some extent, but it only has jurisdiction over water flows. It can, however, approve a plan with lesser flow requirements if the water agencies commit to addressing the other problems. The State Board has asked water agencies to develop their own "Voluntary Settlement Agreements" (VSAs), using a combination of flow and non-flow measures, and submit them for approval.

A proposed VSA for the Tuolumne River, representing agreement between San Francisco and the Turlock and Modesto Irrigation Districts, was presented at the hearing. That plan offered about one third of the additional flow that the State Board was asking for, but also included commitments to improve fish habitat, replenish spawning gravels etc. The water agencies contend their plan will produce more salmon than the State Board's flow-only plan. The agencies were also clear that if a VSA is approved, it will be implemented, whereas they are likely to challenge the State Board's Plan in court where its fate would be uncertain.

No similar proposal was presented for the Stanislaus or Merced Rivers. Also, even if VSAs for all three rivers had been announced, the State Board had no time to analyze them.

Some at the hearing opined that the Board's adoption of the Plan would stymie negotiations and simply lead to the aforementioned lawsuits. Others countered that adoption would stimulate negotiations, noting it was commonplace for parties to litigate and negotiate at the same time.

It is way too early to tell what plan will go into in effect on the Tuolumne, or other rivers for that matter, or what San Francisco will do to ensure it can deliver reliable supplies to its customers. From Restore Hetch Hetchy's perspective, it is helpful if the City is forced to look at alternatives beyond the Tuolumne watershed, which currently provides about 85% of its supply.

Restore Hetch Hetchy will engage as the Bay-Delta Plan moves forward, and encourage adoption of additional water supplies that will also make accommodate restoration of Hetch Hetchy Valley in Yosemite National Park.

Sincerely,
Spreck Rosekrans
Executive Director

The mission of Restore Hetch Hetchy is to return the Hetch Hetchy Valley in Yosemite National Park to its natural splendor while continuing to meet the water and power needs of all communities that depend on the Tuolumne River.

Early Winter Storms Produce Sierra Snow, But Water Content Remains Below Average

The Independent | January 10, 2019

On January 3rd, the Department of Water Resources (DWR) conducted the first Phillips Station snow survey of 2019. The manual survey recorded 25.5 inches of snow depth and a snow water equivalent of 9 inches, which is 80 percent of average for this location. Statewide, the Sierra snowpack is 67 percent of average. The results confirm that despite early winter storms, Sierra water content is below average for this time of year.

“The last few years have shown how variable California’s climate truly is and what a profound impact climate change has on our water resources,” said DWR Director Karla Nemeth.

“California’s significant weather variability means we can go from historic drought to record rainfall, with nothing in between. Climate change will continue to exacerbate the extremes, creating additional challenges for maintaining water supply reliability and the need for innovative solutions.”

Climate change has also shifted the balance of rain and snow, with rain falling at higher elevations than in the past. DWR’s manual snow surveys, combined with our electronic snow sensors and emerging technology, enable successful runoff forecasts and water resource management.

“About two-thirds of California’s annual rainfall occurs December through March. Total precipitation so far this water year, which began October 1, has been below average,” said DWR State Climatologist Michael Anderson. “We still have three wet season months ahead of us, so there’s time for the snowpack to build and improve before it begins to melt, which usually starts happening around April 1.”

On average, the snowpack supplies about 30 percent of California’s water needs as it melts in the spring and early summer. The greater the snowpack water content, the greater the likelihood California’s reservoirs will receive ample runoff as the snowpack melts to meet the state’s water demand in the summer and fall.

DWR has conducted manual snow surveys at Phillips Station since 1964, recording both depth and snow water equivalent. Snow water equivalent is the depth of water that theoretically would result if the entire snowpack melted instantaneously. That measurement allows for a more accurate forecast of spring runoff.

DWR conducts five snow surveys each winter – near the first of January, February, March, April and May – at Phillips Station in the Sierra Nevada just off Highway 50 near Sierra-at-Tahoe. The Phillips snow course is one of hundreds that will be surveyed manually throughout the winter. Manual measurements augment the electronic readings from about 100 snow pillows in the Sierra Nevada that provide a current snapshot of the water content in the snowpack.

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Statewide snowpack at 67 percent of average for this time of year

Mountain View Voice | January 7, 2018 | Bay City News Service

Storms have come to California early this winter, but a survey of the Sierra snowpack on Thursday (Jan. 3) shows it is only at 67 percent of average statewide for this time of year, according to the state's Department of Water Resources.

The snowpack survey was the first of 2019 in California and included a manual survey at Phillips Station just off of U.S. Highway 50 near Sierra-at-Tahoe.

The manual survey showed a snow depth of 25.5 inches and a snow water equivalent of 9 inches, roughly 80 percent of average for the location and above the 67 percent statewide number taken from electronic readings around the Sierra Nevada, state water officials said.

The department conducts the surveys at Phillips Station five times annually -- in early January, February, March, April and May. The snowpack is measured because it supplies about 30 percent of the state's water needs as it melts in the spring and summer.

Department director Karla Nemeth said in a news release that the recent years of the survey have shown the effects that climate change is having on California's water resources.

"We can go from historic drought to record rainfall, with nothing in between," Nemeth said. "Climate change will continue to exacerbate the extremes, creating additional challenges for maintaining water supply reliability and the need for innovative solutions."

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First snow survey shows water content just 'adequate.' But there's hope for improvement

San Francisco Chronicle | January 4, 2019 | Peter Fimrite

A lot more snow will have to fall if California is to have enough water this year to fill reservoirs, nourish salmon, help crops flourish and moisten the fire-prone hills long enough to avoid another catastrophic conflagration, state officials said Thursday.

California's top snow surveyors, in the Sierra on Thursday with measuring poles and electronic sensor data, concluded that the state's frozen water supply is just adequate, at best.

The water content of the snow in California's mountains is 67 percent of the long-term average for this time of year, according to the first of the official monthly measurements in 2019 taken by the California Department of Water Resources.

"If there is snow on the ground now, that is a good indicator that we should see more snow going forward," said John King, a water resources engineer and snow surveyor. "The more snow on the ground, the greater the chance of it hanging around."

Things are undoubtedly better than last year, when the snowpack was less than 30 percent of normal in January, and a storm this weekend is expected to put a new layer in the mountains.

Still, the average amount of snow in the lower elevations has declined over the past decade and climate models indicate that the trend will continue, said King, who filled in Thursday for Frank Gehrke, the now-retired chief of California's snow surveys program.

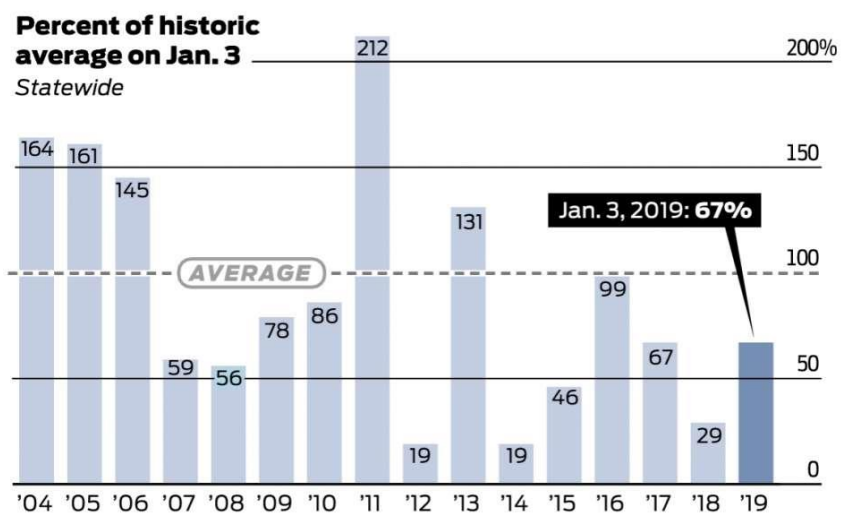
The annual snowpack measurements, updated daily from January to May, are considered a crucial gauge of how much runoff will flow this year into California's sprawling network of aqueducts, which supply water districts throughout the state. Snow in the Sierra and lower Cascades provides as much as a third of the drinking and irrigation water in the state.

The measurements are especially important in December, January and February, which are typically the wettest months of the year. Surveyors with the Department of Water Resources use metal tubes to calculate the depth and water content of the Sierra snow at 260 locations.

The real survey work is done during a 10-day window around the first of each month until May. The numbers are combined with electronic measurements from more than 100 locations to come up with the official estimate.

Sierra snow water content 'adequate'

The water content of the Sierra Nevada snow is only 67 percent of the long-term average for this time of the year but is a distinct improvement from last year's reading, when the snow water content on Jan. 3 was just 29 percent of normal.



Source: California Department of Water Resources

Todd Trumbull / The Chronicle

The central Sierra, including the Lake Tahoe region, is 68 percent of average for this time of year. The northern portion of the Sierra is at 62 percent of normal and the south is at 70 percent of the historical average for the beginning of January.

Although the amount of water held in the snowpack statewide measured only 67 percent of normal, levels were closer to average at historic Phillips Station, a field just north of the Sierra-at-Tahoe resort south of Lake Tahoe, where surveyors measured 25.5 inches of snow. The snow at the El Dorado County location, where the media is invited every month to witness measurements being taken, contained 9 inches of water, or 80 percent of the January average for that location dating back to 1941.

Michael Anderson, the state climatologist, said the numbers are below average but within reason considering California is in the midst of a major warming trend. He said the winter of 2018 was the third driest on record — only 1977 and 1991 were drier. October, November and December, when the first rains typically fall, were also unusually warm, he said.

“We are running 2 to 4 degrees warmer than our average,” Anderson said. “Those big snow years we are finding are a little harder to come by. We are chasing average.”

Concerns about water availability prompted state water regulators to cut water allocations this year to dozens of California communities, including San Francisco. The Bay Delta Plan, which could force households in the Bay Area to curb water use by 20 percent or more, is an attempt to boost flows and restore the health of the state’s struggling waterways and fish, starting with the San Joaquin River basin.

A lower-than-average snowpack is exactly what was predicted in the National Climate Assessment, released in November. The 1,656-page report forecast warmer average temperatures, shorter winters, less snow and more weather extremes in the next few decades unless governments act to reduce carbon emissions.

The good news is that the storm this weekend is coming out of the Gulf of Alaska.

“It’s a cold storm, so it will be freezing at the 5,000- to 6,000-foot level,” Anderson said. “That’s the kind of storm we like to see because then we are piling snow in the Sierra. We would like to see a parade of those kinds of storms.”

And slow starts, like this year’s, don’t necessarily mean it’s going to be a dry year. Last year at this time, the snowpack from north to south averaged just 3 inches, a dismal 29 percent of the historic average for this time of year, but the bad times didn’t last. The snow level more than tripled during a week in early March and was 52 percent of average by April — not great, but a lot better than expected given the dismal start.

The amount of water tracked by the state in the 154 California reservoirs stands at 47 percent of average for this time of year.

Lower water levels aren’t a huge concern this time of year because the state keeps its reservoirs below capacity during the winter to avoid flooding in the event of major storms, such as those that prompted Oroville Dam officials to release a torrent of water in February 2017 that caused the main spillway to partially collapse.

Oroville's spillway system has since been rebuilt and the nation's tallest dam is back in operation, but operators are apparently keeping levels down during the winter months out of an abundance of caution.

Although California is expecting less snow as global warming intensifies, King said there is no way of telling what the next few months will bring.

"The season is still early," King said. "Anything is possible from now until May."

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Why Overall Water Use Is Declining in US Despite Population Growth

Environmental Leader | January 2, 2019 | Jennifer Hermes

Water use efficiency was a hot topic among sustainability experts in 2018, as changing weather patterns, a US population increase of 4%, and aging water infrastructure continue to put a strain on our nation's water supply.

But for all the dire news about the negative impacts of climate change on weather patterns, water restrictions and storms that spilled wastewater into city streets, good news happened, as well.

Cities and municipalities are moving forward with innovative water conservation efforts. El Paso, Texas, for example, is building an advanced purification system that will treat sewage water and turn it directly into drinking water. Unlike other potable reuse facilities in the US, which return drinking water to a treatment plant or blend with other raw water sources, the facility will use a direct-to-distribution approach, with the purified water flowing directly into the drinking water distribution system, according to the city.

In the fall, New York City's Department of Environmental Protection (DEP) launched a Water Challenge to Universities. It was the fourth of New York City's sector-specific challenges and builds off the success of previous challenges to hotels, restaurants and hospitals. As part of the challenge, the six participating universities will work to reduce their campus-wide average water consumption by 5%, which would be a savings of approximately 1.3 million gallons of water per month.

California's water managers have continued to look for creative strategies for managing their water portfolios, including the development of localized sources.

And in Arizona, a consensus is emerging for approving a drought contingency plan that would save water in Lake Mead and allocate shortages of Colorado River water within the state, writes AZCentral.com. In fact, 2018 may have been a turning point for Arizona in terms of water management, according to the article.

Large companies have also continued to focus on water management strategies. Lowe's is using irrigation technology to reduce water use for store landscaping and is saving about 650 million gallons of water per year, for a total annual reduction in water costs of about \$5 million across more than 900 stores.

Target and Archer Daniels Midland both committed to improving their water stewardship. And KB Home said it has built an "industry-record number" of WaterSense labeled and Water Smart-certified homes, estimating that those homes conserve 1.4 billion gallons of water annually.

Similar efforts in the last decade have contributed to a significant drop in US water use which, in 2015, was at its lowest level in 45 years, according to the most recent study from the US Geological Survey (USGS).

The USGS conducts a study on water use throughout the US every five years. The 2015 study showed that US water use was 322 billion gallons per day (bgd), down 9% from the 354 bgd that was shown in the 2010 study.

Water withdrawal in the US grew every five years from 1950 through 1980, when it hit a peak of 430 bgd. Following a slight decline in 1985, withdrawal levels remained relatively constant through 2005, when they began to drop.

Thermoelectric power generation, irrigation and public supply make up 90% of water use in the country. Of all categories of water use, thermoelectric power use decreased the most, down 18% from 2010.

Since 1985, industrial water use has consistently declined and 2015 estimates are about 43% less than in 1985.

As it did in the period between 2005 and 2010, withdrawals for public supply declined between 2010 and 2015, despite a 4% increase in the nation's total population, USGS says. The number of people served by public-supply systems continued to increase and the public-supply domestic per capita use declined to 82 gallons per day in 2015 from 88 gallons per day in 2010.

The USGS is the world's largest provider of water data and the premier water research agency in the federal government.

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<https://www.environmentalleader.com/2019/01/why-overall-water-use-is-declining-in-us-despite-population-growth/>

San Francisco sues state over potentially drastic water reductions

San Francisco Chronicle | January 10, 2019 | Kurtis Alexander



Water supplies at Hetch Hetchy Reservoir in Yosemite National Park, pictured on July 28, 2016, would have to be steered toward fish under a plan by the State Water Resources Control Board. The city of San Francisco is not standing down in California's latest water war, joining a lawsuit Thursday against the state for ordering more of the Photo: Michael Macor / The Chronicle

The city of San Francisco is not standing down in California's latest water war, joining a lawsuit against the state on Thursday to stop it from directing more of the Sierra Nevada's cool, crisp flows to fish instead of people.

City officials contend the State Water Resources Control Board is overreaching with a new, sweeping plan to restore California's depleted river system by limiting draws on such water supplies as San Francisco's Hetch Hetchy Reservoir in Yosemite. The plan, according to city estimates, will force Bay Area households to cut water use by 20 percent or more.

The city signed on to the lawsuit with several Central Valley farm communities, making for unlikely allies who rarely see eye to eye on water policy. But those communities also fear being hit with drastic water reductions. While the plaintiffs have been working with state officials to try to come up with a compromise, the water users don't want to forfeit their right to a legal challenge. The deadline to sue is the end of the week.

Thursday's suit, filed in Tuolumne County Superior Court, threatens to upend what so far has been a divided, but civil negotiation between water users and environmental interests over the

largest river restoration in decades. Taking the issue to the courts could not only sabotage a potential deal but delay work to improve the rivers.

“This legal action, while unfortunate, is needed to allow stakeholders to continue to work together on real solutions that will benefit both fish and people,” said Harlan Kelly, general manager of the San Francisco Public Utilities Commission, in a statement.

The updated Bay-Delta Plan, approved by the State Water Resources Control Board on Dec. 12, is an effort to shore up the health of the Sacramento-San Joaquin River Delta, the largest estuary on the West Coast and the hub of California’s water supply. Wildlife in the region, including fabled salmon runs, has long been in decline and water quality is slipping.

The state’s new plan calls for boosting flows in the rivers that feed the delta from the south. This includes the Tuolumne River, which is the site of the Hetch Hetchy Reservoir about 180 miles east of San Francisco.

While cities and farms now take about 80 percent of the water that naturally flows in these rivers during spring runoff, they will be permitted to pull only 60 percent, on average, once the plan is implemented. That means drawing about 7 to 23 percent less, depending on the year, according to the state. The water board is developing similar restrictions for rivers to the north.

The Turlock Irrigation District, Oakdale Irrigation District and South San Joaquin Irrigation District, which tap the Tuolumne and Stanislaus rivers for growing fruits, nuts and vegetables, are among the plaintiffs in the new lawsuit.

The Modesto Irrigation District filed a separate but similar suit Thursday. The Merced Irrigation District, which gets water from the Merced River, previously filed suit.

The state estimates that farmers in the region will see production fall 2.5 percent under the Bay-Delta Plan. Many of the growers of almonds, peaches, alfalfa and other crops expect greater losses.

The formidable alliance of San Francisco and some of the state’s largest irrigation districts has one other partner: the Trump administration. The Interior Department, as well as President Trump himself, have threatened to intervene on the side of water users, saying the state should not put the environment in front of human interests.

The U.S. government operates a reservoir on the Stanislaus River that will be subject to the state water restrictions. Federal officials have discussed suing.

The new, 160-page lawsuit argues that the state’s plan is unlawful for several reasons. The plaintiffs, many of whom have century-old claims to river water, say the state water board lacks justification to impinge on their water rights.

The suit also alleges that the board did not accurately evaluate the impact of its plan, often underestimating the fallout on cities and farms.

San Francisco officials have long said they don’t want to impair the runs of threatened salmon and hope to improve river conditions, but they can’t afford to risk losing water for residents and businesses. The San Francisco Public Utilities Commission serves not only the city but more than two dozen Bay Area communities.

Instead of cutting water supplies, city and agricultural officials have advocated for restoring salmon habitat on the waterways by, among other things, building flood plains and gravel beds and killing off predatory fish.

The plaintiffs still intend to try to work on a compromise with the State Water Resources Control Board that could involve some combination of water cuts and habitat improvements. The water users offered a plan in December, but state officials said it fell short. The water board has given the water users until March to come up with an alternative proposal.

The state water board declined to comment on Thursday's lawsuit, citing a policy of not discussing pending litigation.

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San Francisco, farmers team up to fight California's 'water grab'

Sacramento Bee | January 10, 2019 | Ryan Sabalow and Dale Kasler

The liberal city of San Francisco and conservative farmers in the San Joaquin Valley don't have much in common politically. But they do agree on one thing: California regulators are going to take too much of their water and give it to endangered fish.

On Thursday, San Francisco joined a cadre of irrigation districts that pull water from the tributaries that flow into the Lower San Joaquin River in filing a lawsuit against a plan by the State Water Resources Control Board to take billions of gallons of their water.

Last month, the water board voted 4-1 to go ahead with a proposal that would require that the "unimpaired flows" of the lower San Joaquin River and its tributaries increase substantially. The board shelved, for the time being, an alternative plan proposed by San Francisco and the irrigation districts that would surrender less water while making investments in spawning grounds and other habitats to help Chinook salmon and other fish populations improve.

The board's vote would reduce the amount of water available to farms and cities, including San Francisco, by 14 percent in a typical year and twice as much in a dry year. The board's leaders did pledge to re-examine the alternative plan, championed by top officials in former Gov. Jerry Brown's administration, in the coming months.

San Francisco and the agricultural districts, however, weren't willing to wait. Their lawsuit, filed in Tuolumne County Superior Court, says the state board's vote will mean "substantial adverse impacts on irrigated agriculture." As for the city of San Francisco, the suit predicted "increased rationing throughout the service area."

The litigation spells more trouble for a grand compromise plan brokered by Brown's administration in December in an effort to calm the state's longstanding water wars. Brown's successor, Gov. Gavin Newsom, said Thursday he plans to scrutinize the compromise plans as well as conduct a reassessment of the membership of the state board. The five members of the board are all gubernatorial appointees.

A water board spokesman declined comment on the litigation.

San Francisco's Public Utilities Commission has been fighting the plan and, along with farm-irrigation districts in Modesto and Turlock that have called the board's plan a blatant "water grab," arguing that their alternative proposal makes more sense for helping fish.

"The state water board started the legal clock ticking and forced us to make this move," said John Cote, spokesman for the San Francisco city attorney's office, in a prepared statement. "San Francisco proposed a deal that struck the right balance, but unfortunately the plan the state approved on December 12 would result in severe water rationing in drought years."

San Francisco and many of its suburbs get 85 percent of their water from Hetch Hetchy Reservoir, in the northwest corner of Yosemite National Park about 148 miles east of the city. The water that doesn't get piped to the Bay Area flows through the Tuolumne River, one of the San Joaquin's main tributaries and home to struggling salmon and steelhead populations. Some years as little as 11 percent of the Tuolumne's flow stays in the river, and the state water board says it must increase that figure to stave off an "ecological crisis."

State scientists say farms and cities take as much as 90 percent of the natural flows on some of the tributaries, leaving salmon, steelhead and Delta smelt on the brink of extinction. To revive the species, scientists say more water needs to follow its natural flow to the Pacific.

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Ryan Sabalow covers environment, general news and enterprise and investigative stories for McClatchy's Western newspapers. Before joining The Bee in 2015, he was a reporter at The Auburn Journal, The Redding Record Searchlight and The Indianapolis Star.

Dale Kasler covers climate change, the environment, economics and the convoluted world of California water. He also covers major enterprise stories for McClatchy's Western newspapers. He joined The Bee in 1996 from the Des Moines Register and graduated from Northwestern University.

Fight over water heads to court: Irrigation districts sue state board

Modesto Bee | January 10, 2019 | Ken Carlson

As expected, a state plan to require higher flows for salmon in the Tuolumne, Stanislaus and Merced rivers has spawned a flurry of lawsuits from irrigation districts in the Northern San Joaquin Valley, charging the plan won't help the fish but will cause extensive economic harm.

Thursday, the San Joaquin Tributaries Authority filed a detailed suit in Tuolumne County on behalf of its members, including the Turlock, Oakdale and South San Joaquin irrigation districts and the San Francisco Public Utilities Commission.

The suit challenges a Dec. 12 decision by the State Water Resources Control Board approving the Bay-Delta water quality control plan, which requires districts to leave 40 percent of watershed runoff in the rivers to increase salmon populations.

The Modesto Irrigation District filed a separate suit Thursday in Sacramento Superior Court. While MID supports the legal actions of fellow members in SJTA, a spokesperson said, the district's suit is more focused on the environmental studies for the Bay-Delta plan and the district's relationship with Modesto. The city receives drinking water from MID.

"The state water board misused its power to adopt a misguided and devastating plan," MID Board President Paul Campbell said in a news release. "Given their current plan, we're left with no choice but to pursue legal action. We must protect our more than 130-year-old water rights, our water supplies and communities we serve."

State water board officials said they do not comment on pending litigation.

MID and TID have worked with state officials on a voluntary agreement for improving Tuolumne River conditions for salmon, but faced a Friday deadline for court challenges against the Dec. 12 water board decision.

The SFTA's lawsuit in Tuolumne Superior Court contends the State Water Resources Control Board violated state and federal due process laws when it adopted the first phase of the Bay-Delta plan for tributaries on the lower San Joaquin River.

According to a TID news release, the state board adopted a "wholly different plan than it analyzed" and committed other blunders in its environmental review of the controversial flow requirements.

By putting more water in the rivers for an effort that won't likely benefit salmon, the state plan will cause substantial losses of water supplies needed for agriculture, city water customers, recreation and hydropower generation, the suit alleges.

The state plan also threatens to deplete groundwater resources and severely impact the region's economy, the districts claim. In addition, the state board is usurping the historic water rights of the irrigation districts, requiring them to release more water in the rivers that may be used by junior water rights holders downstream.

The Merced Irrigation District stressed some of the same points in a lawsuit Dec. 21 that also challenges the state board decision.

Irrigation district leaders said they preferred to collaborate with state agencies and participate in settlement discussions toward improving conditions for fish in the rivers. But the State Water Resources Control Board disregarded their request to delay the decision so additional talks could occur.

“We have an indisputable responsibility to reserve our legal rights and protect our ag and urban customers,” said SSJID

General Manager Peter Rietkerk in a statement.

OID General Manager Steve Knell said its talks with the state toward a settlement agreement are in limbo. “It’s a matter of what the new governor wants to do,” Knell said. “We just don’t know.”

OID and SSJID provide irrigation water for a combined 117,000 acres in Stanislaus and San Joaquin counties. For more than 10 years, SSJID has supplied treated Stanislaus River water for domestic use in Manteca, Tracy and Lathrop.

The SJTA lawsuit cites a state board analysis estimating the flow requirements will impact more than a million acres of farmland in the valley. About 65 percent of the cropland is highly productive or designated as “farmland of statewide importance,” said the districts representing by SJTA.

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Irrigation Districts Join Lawsuit

Oakdale Leader | January 10, 2019

Officials at the Oakdale and South San Joaquin irrigation districts on Thursday announced they have joined with other members of the San Joaquin Tributaries Authority, SJTA, in a lawsuit that challenges the state's right to arbitrarily increase flows in the Stanislaus and two other rivers.

Plaintiffs are OID, SSJID, the Turlock Irrigation District and the City and County of San Francisco.

At the heart of the lawsuit is the damage plaintiffs believe will be caused through the state water board's plan to require 40 percent of unimpaired flows, with a range of 30 to 50 percent, between February and June.

The plan, according to the lawsuit, "will cause substantial losses to the surface water supply relied upon by the SJTA member agencies for agricultural production, municipal supply, recreational use, hydropower generation, and other things."

The suit was filed in Tuolumne County Superior Court against the State Water Resources Control Board over the unimpaired flow proposal, adopted in mid-December.

"It's the decimation of a large portion of agriculture in the middle of the nation's most productive food belt that should concern everyone," said OID General Manager Steve Knell.

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Opinion: State should use science to determine...

Priority must be given to protecting water quality, ecosystem health and public fisheries

Mercury News | January 6, 2018 | Jon Rosenfield

How low our expectations of government have sunk. Federal agencies now regularly deny science that explains the warming of our planet and rising seas. Back-room deals and obstruction of the public's will have become so commonplace that we notice when one of our state government's agencies takes action to protect the environment, even if it falls well short of the mark.

So it was last month when the State Water Resources Control Board finally required increased flows from three San Joaquin River tributaries, as the first step in a process to update water quality standards for the San Francisco Bay estuary. After almost 10 years of work, board members withstood tremendous political pressure to delay, or abandon, new protections that, for the first time, will require those who divert water upstream to share responsibility for the San Francisco Bay estuary ecosystem with agencies that export water from the Sacramento-San Joaquin River Delta.

Lost in the celebration is the fact that the new standards will require only two of every five drops of water to remain in the rivers during just five months of the year – not enough to protect water quality, ecosystem health, or the public fisheries that are the water board's charge. Less than a decade ago, the board determined that 60 percent of the San Joaquin valley's winter-spring runoff was necessary to protect public benefits. In 2013, the California Department of Fish and Wildlife (DFW) concluded that "substantial evidence demonstrates that 50 percent-60 percent (of the San Joaquin's) unimpaired flow is necessary" to meet state and federal requirements for protection of fall-run Chinook salmon – and more flow might be necessary to protect other resources.

The board opted for weaker environmental protections in order to reduce impacts to agribusiness and San Francisco, ignoring the potential for changed agricultural practices and investment in sustainable water use to ease or eliminate the impact of reduced water diversions. But at least the board heard extensive public comments and conducted technical reviews that acknowledged the wealth of existing science, which reveals that our rivers and fisheries need more flow.

In contrast, DFW and the Department of Water Resources negotiated in secret with the Trump Administration and powerful water districts to develop a set of "voluntary settlement agreements" for the board to adopt instead. Because the negotiators rejected meaningful input from biologists, their agreements include paltry river flows that are sometimes lower than the catastrophic status quo and, in most cases, less than one-third of what the board and DFW had said was necessary only a few years ago. Some of this water would be purchased at taxpayer expense or provided only if other environmental protections are eliminated. Instead of the river flows scientists say are necessary, the negotiators offered habitat projects that are already required or under construction, will not work without adequate additional flows, or that lack any scientific justification at all.

Fully developed and analyzed voluntary agreements that protect public health and the environment should be encouraged. Faced with proposals that were anything but, the board did the right thing in not delaying further. Nevertheless, the standards it adopted must be improved.

The next phase of updates to the board's water quality objectives will address flow from the Sacramento River valley and total flow from the Central Valley into San Francisco Bay. These new safeguards will affect numerous imperiled species, public fisheries, and aspects of water quality. The board in the days ahead will provide opportunities for public comment; Bay Area residents who want to see their government agencies protect our Bay need to speak loudly in favor of science-based proposals rather than those based on fear and expedience.

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Jon Rosenfield is the lead scientist for The Bay Institute, a non-profit conservation organization.

Will Gavin Newsom change the state's water course? Fish and farmers will soon find out

Los Angeles Times | January 4, 2019 | Bettina Boxall

In the final weeks of Gov. Jerry Brown's administration, his appointees on a state board ordered some powerful water districts to cut their historic river diversions to protect endangered salmon populations.

It was a major move by a panel that in the past has often been leery of flexing its regulatory muscles.

But while the State Water Resources Control Board was demanding more water for fish, other Brown appointees were busy crafting deals that could ultimately mean less water for the environment.

Despite a flurry of activity, Brown is leaving plenty of unfinished water business as he heads to his ranch in the Sacramento Valley.

Brown-backed plans to build two giant water tunnels still need key state permits. The water board is in the midst of adopting new flow standards for the Sacramento-San Joaquin Delta and the rivers that feed it. Federal agencies are revising Endangered Species Act protections in the delta, the center of California's vast water system.

After Gavin Newsom moves into the governor's office, the state's position could change on all of those initiatives.

Newsom has previously said he favors a scaled-down tunnel project. Whether he reappoints state water board chair Felicia Marcus will signal whether he wants the board to stand firm or back down on the flow requirements. His picks for top posts in the Natural Resources Agency will determine whether his administration goes along with a potential weakening of delta protections by the Trump administration — or fights it.

"I'm sure we're going to get a different view and philosophy from the Newsom administration. But I also expect they will respect decisions made under the Brown administration," said Jeffrey Kightlinger, general manager of the Metropolitan Water District of Southern California, which has played a key role in those decisions.

Metropolitan gets roughly a third of the Southland's water supply from the delta in the form of State Water Project deliveries. That means that flow requirements and endangered species protections in the delta and its huge watershed influence how much water goes into the California Aqueduct for the 444-mile trip south.

So even though Metropolitan is not directly affected by the state board's December order to leave more water for migrating salmon in three tributaries of the San Joaquin River, MWD is advocating settlements that would pare those requirements, as well as avert tougher ones in the offing for the Sacramento River basin and the delta itself.

"We've been throwing flow at the fish for a couple of decades and they've gotten worse every year," Kightlinger argued. "What we really need to do are non-flow measures, such as acquiring habitat, restoring marshlands, setting back levees, creating better food supply for the fish ... more predation control measures."

The state board would have to approve any settlements. But it is not involved in the negotiations with diverters, which have been conducted by directors of the state Water Resources and Fish and Wildlife departments.

The state is also consulting with federal agencies in a periodic review of environmental limits on the delta pumping operations that are part of the State Water Project and the federal Central Valley Project.

The projects will “basically be making the case for different types of outflow at different times of year based on the science we’ve been conducting,” Kightlinger said.

Department of Water Resources Director Karla Nemeth said proposed changes in the pumping operations could involve fewer restrictions and more exports. “But I want to be really clear that DWR has not made any commitments on that front. I want to be really, really clear about that.”

Combine the potential for settlements and relaxed pumping limits in the delta, and environmental flows through the delta and out to sea could actually wind up lower than they are today.

“There was the big effort to present this grand bargain, in part to stop the water board from adopting these new standards, but in part to try to build political momentum for what appears to be a bait and switch,” said Doug Obegi, an attorney with the Natural Resources Defense Council, an environmental group.

The settlement framework “does not appear to be addressing the most fundamental part of restoring the health of the delta, which is increased water flowing through the delta to Suisun Bay and San Francisco Bay,” he added.

Nemeth defended the proposed settlement, saying proponents will have to show that habitat improvements tied to some additional river flows will provide enough environmental benefits to satisfy the water board.

“I think [the system] needs water and physical restoration,” she said. “What is the right combination that ... provides comparable or better benefits,” to the board’s flow standards.

So much water is diverted by farms and cities upstream of the delta and pumped from the delta itself that the average volume of flows out to the bay is about half of what it once was.

That has distorted hydrological patterns and altered salinity levels, making the delta more hospitable to a host of invasive aquatic species than native fish. Diversions have so depleted the San Joaquin River and its tributaries that once-abundant salmon runs have all but disappeared.

New flow standards — part of a long overdue update of a water quality control plan for the delta watershed — are intended to halt that decline.

Whether they are implemented or diluted by accords will ultimately be up to the board, whose members are appointed by the governor to four-year terms.

Newsom will have only one board opening to fill soon after he takes office. Marcus’ term expires in January.

Marcus has said she is open to voluntary agreements, but also led the panel's 4-1 adoption of the first round of flow requirements in the face of threatened lawsuits and loud protests by river users.

In coming weeks, the water world will be watching to see if Newsom steers a new course. His spokesman declined to discuss Newsom's positions, saying Brown was still the governor.

"It remains to be seen," Kightlinger said. "But you can't do long-term things if each administration starts from scratch."

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Reclamation, Feinstein, Costa, Gray, and MID react to voluntary agreements and State Water Board vote on San Joaquin River tributary flow standards

Maven's Notebook | December 14, 2018

From the Bureau of Reclamation:

Statement from Brenda Burman, Commissioner of the Bureau of Reclamation:

I am very proud of the accomplishments we have made with the state and with our partners on the framework for voluntary agreements to address water flow issues in the Sacramento-San Joaquin River Basins. I am also extremely pleased that we were able to reach agreement with the state on an addendum to the Coordinated Operation Agreement that lays the groundwork for improved water management in California for the next generation.

Unfortunately, the State Water Resources Control Board chose to move forward with Phase I of its water quality control plan update. We have consistently opposed this approach. It appears the State Board has left room for future consideration of the voluntary agreements, and we are working to fully analyze the impact the State Board action has on our federal projects.

I am optimistic about the future, and we will continue to work with our partners at the California Department of Water Resources as well as the State Board and our stakeholders to advance reasonable water management solutions for our contractors that meet the needs of California's farms, families, industries and environmental resources.

From Congressman Jim Costa:

Congressman Jim Costa (CA-16) issued the following statement after the California State Water Resources Control Board voted to adopt amendments to the Bay-Delta plan that will direct more water from the Merced, Tuolumne, and Stanislaus Rivers to the ocean:

"It is my fear that the vote by the State Water Resources Control Board (SWRCB) will only further inflame the conflict over California's most precious natural resource: its water. I will use every tool at my disposal to protect the communities I represent from this water grab.

"The action taken by the SWRCB is incredibly frustrating. This was a missed opportunity to reset the water wars of the past and to find a better path forward by delaying adoption of the staff proposal to allow continued negotiations to occur on the Merced and Stanislaus rivers.

"Instead of adopting the staff proposal, I believe that a negotiated solution for both the San Joaquin and the Sacramento watersheds would have been reached – one that would lead to real improvements for California's fisheries, such as improved habitat, better predator control, and functional flows. Instead, the Board refused to provide additional time and chose to adopt the staff's proposal – a proposal that doubles down on the failed policies of the past and brings harm to San Joaquin Valley communities and to California's agricultural economy.

"I commend the U.S. Department of the Interior, the California Department of Water Resources, the California Department of Fish and Wildlife, and the many water users for their herculean efforts to negotiate a balanced solution. If allowed to take place, in my opinion, it would improve

fishery outcomes without unnecessarily harming Valley communities. Sadly, the Board failed to provide time to finalize this balanced compromise.

“In light of the voluntary agreements that were reached which increase outflow standards, it is essential that Congress act now to extend the WIIN Act with authorization for the Secretary of the Interior to collect funds to implement these voluntary agreements.”

From Senator Dianne Feinstein:

Senator Dianne Feinstein (D-Calif.) released the following statement on the voluntary settlement agreement for the Tuolumne River:

“The California water board has before it a Tuolumne River voluntary settlement agreement. I urge the board to take the time necessary to fully evaluate this agreement’s potential advantages. The combination of additional flows with more habitat restoration is very attractive. If it’s a way to restore salmon on the Tuolumne River, then it needs to be carefully studied.

“Environmental flows alone cannot solve the problem. We’re still seeing nearly 100 percent mortality for salmon smolts migrating out of the San Joaquin River through the Delta. So it’s time to evaluate all approaches and pick the one that best serves all purposes.

“The voluntary settlement avoids severe cuts in Bay Area water—up to 50 percent—that could have triggered during a lengthy drought under the water board’s original proposal. It appears this agreement strikes the right balance between competing uses, and I look forward to its further evaluation.”

From Assemblyman Adam Gray:

Assemblymember Adam C. Gray (D-Merced) released the following statement after the State Water Resources Control Board voted to adopt proposed amendments to the Bay-Delta Plan:

“This plan is dangerous. It fails to protect people, it fails to protect the environment, and it fails to justify destroying thousands of jobs in one of the highest unemployment areas of the state. Despite the legitimate and comprehensive alternatives put forward by our local irrigation districts, the Water Board shoved their fingers in their ears and adopted their plan as is. Board Member D’Adamo did a yeoman’s job breaking down the issue and offered up real solutions. But her efforts were in vain. The Water Board had a clear choice to make tonight. They could have embraced settlement agreements and secured real tangible improvements for fish and habitat within less than a year. Instead they chose to adopt their disastrous plan and guaranteed a decade’s worth of litigation. We will see you in court.”

From Merced Irrigation District:

Merced Irrigation District has vowed to take any and all action necessary to protect the region’s water supply after the State Water Board adopted the Bay Delta SED Plan Wednesday evening.

“Every resident in California should be concerned. If the state succeeds in setting this legal precedent on our backs in the disadvantaged San Joaquin Valley, this can happen to any community in the State of California,” said John Sweigard, General Manager of Merced Irrigation District.

The long-expected vote Wednesday by the State Water Resources Control Board solidifies the state’s intent to take up to 50 percent of eastern Merced County’s water supply and send it north to the Bay Delta. The Bay Delta serves as the state’s water hub providing vast amounts of water to communities throughout the Bay Area, and Central and Southern California.

“The State has ignored thousands of pages of science and data that counter the Bay Delta SED plan. The state’s plan will fail to meet its own objectives of improving salmon numbers. And in its failing, it will cause irreversible devastation to our local water supply, water quality and economy,” said MID’s Sweigard.

The State Water Board is comprised of five members appointed by the Governor of California and its staff. The State Water Board staff proposed the Bay Delta SED several years ago for the purported benefit of improving salmon populations.

Merced Irrigation District owns and operates Lake McClure. The reservoir is located in the Sierra Nevada foothills: it provides local water supply, flood control, hydroelectric generation and water for the local environment and wildlife preserves.

Backed by scientific and biological studies, MID has repeatedly stated that simply diverting more water away from eastern Merced County will not support salmon.

Most of the historical, natural floodplain habitat around the Bay Delta and Merced River has been reclaimed and converted to farms and cities. Significant parts of the waterways flowing to the Bay Delta have also been altered by human activity causing loss of floodplain habitat for salmon rearing. At the same time, juvenile salmon are subject to predation in the rivers and in the Delta by non-native predatory bass: in fact, juvenile salmon from the Merced River hatchery are currently transported in trucks around the Merced and San Joaquin Rivers, and most of the Delta, to avoid predation.

For years, Merced Irrigation District has sought to support the state’s objectives of improving salmon populations on the Merced River through a reasonable settlement proposal. In 2016, the Merced River S.A.F.E. Plan (Salmon, Agriculture, Flows, and Environment) was unveiled by MID. This would have:

- Provided immediate increased flows on the Merced River during key salmon lifecycle times.
- Restored 5.5 miles of salmon-rearing habitat – destroyed decades ago by dredge mining – on the Merced River, near Snelling.
- Addressed predation from non-native bass.
- Made investments in the Merced River Salmon Hatchery to increase production.

“MID staff, our biologists, and our community have supported efforts to address the salmon lifecycle locally on the Merced River within our region. However, it is absolutely unreasonable to demand our community’s water supply be diverted for the benefit of others as part of a

misguided attempt to mitigate environmental problems created by others three counties away,” said MID’s Sweigard.

“MID is willing to participate in a reasonable comprehensive salmon improvement program – which includes additional, logical amounts of water in the Merced River. However, our District and our community are prepared to fight as long and as hard as is necessary to protect our community’s water supply.”

The State Water Board has held one local, public meeting in Merced to discuss the Bay Delta SED. That was a one-day hearing less than a week before Christmas in 2016.

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SF, other cities consider lawsuits to head off water restrictions

San Francisco Chronicle | December 14, 2018 | Kurtis Alexander

The cities and towns hit this week with stiff demands to reduce water use, including San Francisco, say they'll work with state regulators to meet the charge, but they're also looking at the possibility of lawsuits.

The State Water Resources Control Board approved a far-reaching plan Wednesday to improve the health of California's rivers and fish by limiting the amount of water that dozens of communities take from four major waterways.

While the plan leaves room for negotiating the extent of the water reductions, the agencies that draw from the San Joaquin River and its tributaries say legal action may be a necessary backstop in case they're forced to cut more than they can afford.

"At the end of the day, we do serve our customers and we have to do what's best for the community," said Samantha Wookey, spokeswoman for the Modesto Irrigation District, one of the state's biggest water suppliers and now subject to restrictions on the Tuolumne River.

San Francisco, which also relies on the Tuolumne River and faces cutbacks, has begun evaluating whether a lawsuit is appropriate, according to the city attorney's office.

Under the state plan, San Francisco residents and businesses could face reductions of 40 percent or more during prolonged dry periods, according to estimates from the San Francisco Public Utilities Commission.

The aim of the state water board is to prevent the collapse of the Sacramento-San Joaquin River Delta. The sprawling estuary, which serves as a hub of state water supplies and is a vital conduit for threatened salmon, has suffered from too little water and too much contamination amid heavy pumping.

While the water board's plan would saddle water users with restrictions to boost flows into the delta, regulators introduced leniency Wednesday in an effort to head off litigation, which would result in years of delay in the plan's implementation. The board stipulated that it will attempt to integrate proposals by water agencies to trade habitat restoration for smaller water reductions.

It appears, though, the board's strategy may not have worked.

Ever since the water board began updating its plan a decade ago, it has had to maneuver a path between water users who don't want limits on their draws and fishermen and environmentalists who want substantial caps.

The conservation community also presents a threat for legal action, with many having committed to suing if the environmental safeguards approved Wednesday are weakened.

The Bay Delta Plan calls for maintaining an average of 40 percent of the natural flow of the San Joaquin River and its tributaries during peak spring runoff. Currently, the flows average 20 percent or less because of diversions. Sometimes the waterways dry up entirely.

The plan could change as the state looks at amendments pitched by water agencies.

For years, the state board has been urging suppliers to come up with their own ideas for fixing California's declining river system. At Wednesday's meeting, more than a dozen water departments, with help from the state Natural Resources Agency, laid out a framework for restoration that included money for habitat improvements and a commitment to less pumping. The board asked the agencies to flesh out their initiative by March.

Officials at the SFPUC, who are working on amendments, say they won't be able to hit the state's 40 percent flow target. But they say they're looking to leave more water in the Tuolumne River and restore salmon habitat in a plan they believe will meet the water board's conservation goal.

"There are other areas we can explore on how we do long-term management," said Michael Carlin, deputy general manager of the SFPUC. "That's where we're going to be spending our time over the next several months: to get something more detailed."

Still, the compromise plan probably would mean significant water cuts for San Francisco households. During a drought, customers may have to reduce water use by 30 percent, Carlin said.

The agency serves about two dozen other Bay Area cities that would face the likelihood of similar reductions and rate hikes.

The state water board is expected to begin determining the exact restrictions for water agencies once the suppliers submit their alternative ideas. Next, the board will have to enshrine those limits in regulation. The water rights of many suppliers may have to be adjusted, which will require additional proceedings.

Much of the expected legal action will probably revolve around these water rights.

The Trump administration, which is pushing to free up more water for farms, has also threatened to sue over the Bay Delta Plan. On Thursday, Bureau of Reclamation Commissioner Brenda Burman said her agency is analyzing what impact the state's action might have on federally managed water.

In addition to the San Joaquin River basin, the state has begun a similar process of limiting draws on the Sacramento River and its tributaries.

Peter Drekmeier, policy director for the Tuolumne River Trust and an advocate of higher water flows, said he's pleased with what the state has come up with, at least so far.

"We see this as a big step forward, but it's a long process and we're not going to rest on our laurels," he said. "The lawsuits are going to be a big thing in the next couple months."

There's still a lot that could happen, he said.

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California State Board Votes to Approve Bay-Delta Plan, Restrict Water to Farmers

Breitbart | December 13, 2018 | Joel Pollak

California's State Water Resources Control Board (SWRCB) voted Wednesday to approve the Bay-Delta plan, which will re-allocate water from farms and cities to the environment in an effort to restore dwindling fish numbers.

The plan will require tributary rivers within the San Joaquin watershed to maintain an average water level of 40% of "unimpeded flow" — that is, the flow that would exist without human activity — during the spring season.

The result is that less water — "billions of gallons," according to the Fresno Bee — will be available to the farming communities of the Central Valley, as well as to San Francisco and its suburbs, which rely on water from the area.

Last month, outgoing Gov. Jerry Brown and incoming Gov. Gavin Newsom asked the SWRCB to delay its vote by a month to allow time for local water authorities to reach voluntary settlement agreements (VSAs) as an alternative to the new plan. In the interim, several local irrigation districts did, in fact, commit to investing in conservation and environmental projects that would theoretically help restore fish populations without giving up quite so much water.

But as the Bee reports, the SWRCB — all of whose members were appointed by Brown, and who are thought to be partial to environmental groups — passed the plan anyway "to put pressure on a group of holdout water agencies."

The Trump administration has promised to take legal action to block the plan, which may be moot as a result. Some environmental groups have criticized the Bay-Delta plan for not going far enough.

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*Joel B. Pollak is Senior Editor-at-Large at Breitbart News. He is a winner of the 2018 Robert Novak Journalism Alumni Fellowship. He is also the co-author of *How Trump Won: The Inside Story of a Revolution*, which is available from Regnery. Follow him on Twitter at @joelpollak.*

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San Francisco, other Bay Area cities will see water supply cuts under new plan

San Francisco Chronicle | December 12, 2018 | Kurtis Alexander

Dozens of California communities dependent on the cool, clear water of the High Sierra, from Central Valley farm towns to San Francisco, will see cuts to their water supplies under a plan approved Wednesday by state water regulators.

The reductions, which could force households in the Bay Area to curb water use by 20 percent or more, are the product of a decade-long effort to restore the health of the state's struggling rivers and fish.

But the move by the state water board to boost flows in the waterways by limiting draws, starting with the San Joaquin River basin, is not as strict as initially proposed. The plan leaves open the door for water agencies to trade other improvements to the rivers, such as enhancing salmon habitat, for smaller water cuts. The water agencies have until March to flesh out alternative proposals.

"We've gone out of our way to give multiple opportunities," said Felicia Marcus, chair of the State Water Resources Control Board, which met in Sacramento for 10 hours Wednesday. But "we're not just going to walk away."

At the heart of the water board's Bay Delta Plan is protecting the Sacramento-San Joaquin River Delta. The West Coast's largest estuary and the hub of California's water supplies has seen its waters choked and dirtied amid relentless pumping by cities and farms. The salmon population has collapsed, and the harm has rippled up the food chain to bears, birds and whales.

While San Francisco has long been removed from California's vicious water wars, having coveted rights to supplies in Yosemite, the city's primary source has not escaped this battle. The first phase of the Bay Delta Plan calls for limiting pumping on the San Joaquin River and its three major tributaries, which include the Tuolumne River that feeds San Francisco's Hetchy Hetchy Reservoir. The water board is in the process of developing similar measures for the Sacramento River basin.

The apparent softening of the Bay Delta Plan on Wednesday comes after fierce opposition from an unlikely alliance between San Francisco and thirsty agricultural districts, with support from the Trump administration. The powerful bloc has argued that the fallout from water cuts would bring undo hardship to residents and businesses.

The water suppliers, joined by the state Natural Resources Agency, introduced their own last-minute proposal that downplayed the need for water cuts on rivers while emphasizing the importance of timing their water draws with fish runs and restoring habitat.

“This (plan) provides us more flexibility, more tools to address the issues that are facing you,” Michael Carlin, deputy general manager of the San Francisco Public Utilities Commission, told the water board. The SFPUC provides water to San Francisco and about two dozen other Bay Area communities.

Gov. Jerry Brown and Gov.-elect Gavin Newsom had been advocating for such a compromise plan to head off a prolonged legal fight. Sen. Dianne Feinstein this month even introduced federal water legislation that, while controversial, included a provision for restoration funding in the event of a deal.

The plan put forth by the water agencies and the state Natural Resources Agency not only included the San Joaquin River basin, the first target of the water board, but the Sacramento River watershed.

It offered up about \$1.8 billion for habitat fixes, coming from fees on water agency customers across the state, and state government money. It also conceded to some water reductions, giving up as much as 1 million acre feet of water statewide. That’s nearly three times what Hetch Hetchy holds.

State water board members praised the alternative plan as a good start and said it represented a commitment to working toward the goal of improving the health of the delta. The board instructed its staff to look more closely at the document before the issue returns in March.

Environmental groups and the fishing industry, which have advocated for stronger protections for rivers and wildlife, flatly criticized the plan from the water agencies.

“Many elements of their proposal have already been tried and failed or represent no change from the status quo,” said Jon Rosenfield, lead scientist at the Bay Institute.

As it stands, as much as 80 percent of the flow in the San Joaquin River basin is tapped by cities and farms during peak spring runoff. Environmentalists and fishermen have wanted to limit draws to 50 percent, saying salmon won’t survive without the reduction, while cities and farms have opposed any major cuts.

State water officials split the difference, approving a plan that allows no more than 60 percent of flows to be diverted, on average.

The decision means urban and agricultural water users in the San Joaquin River watershed will generally have to draw 7 to 23 percent less water, depending on the year, according to state estimates.

The SFPUC believes its customers could be forced to reduce water use 40 percent during prolonged dry spells. The city’s water rights are inferior to those of other water agencies on the Tuolumne River.

City officials say they'll develop other sources of water, such as groundwater reserves and perhaps desalination, to make up for lost water. But that will take time and money. Building out supplies, according to city estimates, could trigger rate hikes of 17 percent over 15 years, on top of already scheduled increases.

The loss of water to agriculture is estimated to result in a 2.5 percent drop in produce output in the San Joaquin River basin, according to the state. The area is a hotbed of almonds, alfalfa and peaches.

Farm groups say during drought years, crop production could fall even more.

The Trump administration has joined the agricultural industry in trying to scale back the Bay Delta Plan. President Trump has accused California of "foolishly" leaving water in the rivers while the U.S. Bureau of Reclamation has threatened to take legal action if its supplies on the Stanislaus River are curtailed, which the plan calls for.

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Newsom inherits a ‘whole bunch of headaches’ despite last-minute water deals by Brown

Sacramento Bee | January 9, 2019 | Dale Kasler and Ryan Sabalow

As his term as governor drew to a close last month, Jerry Brown brokered a historic agreement among farms and cities to surrender billions of gallons of water to help ailing fish species. He also made two big water deals with the Trump administration — one to shore up support for his struggling Delta tunnels project, the other to transfer some of urban California’s water to Central Valley farmers whom the White House supports.

It added up to a dizzying display of deal-making over an issue that confounded Brown during much of his four terms in Sacramento. His top aides said the agreements represented a bold attempt to calm California’s notorious water wars and inject a dose of common sense into a system traditionally ruled by strife and paralysis.

“We rise together, we fall together,” Fish and Wildlife Director Chuck Bonham said in rolling out Brown’s plan for the fish. “I see a future that can help us bring all parties together.”

Yet as Gavin Newsom takes over as governor, the state of water in California seems as unsettled as ever.

The centerpiece agreement Brown made — a giant compromise on reallocating water to help the fish — ran into immediate trouble. The State Water Resources Control Board, a powerful agency governed by Brown appointees, essentially shelved the plan hours after it was unveiled Dec. 12.

The board agreed to reconsider the compromise in the coming months, but opposition to Brown’s plan was instantaneous. Environmental groups — always a powerful voice in California water — say they’ll do what’s necessary to kill the compromise for good. They say the Brown plan is a sham, part of a broader sellout of environmental concerns to appease Donald Trump.

Environmental attorney Doug Obegi, of the Natural Resources Defense Council, said Brown’s various deals are likely to produce “a whole bunch of headaches rather than a grand bargain.”

On the other side of the spectrum, the Merced Irrigation District, representing 2,000 Valley farmers who haven’t agreed to surrender any water, sued the state board to block what it called an illegal “water grab.” The district is one of several in the San Joaquin Valley that so far have refused to sign on to Brown’s water-sharing compromise. The Trump administration, which has been aggressively pushing for more water for agriculture, also has threatened to sue — even as it made peace with California officials on other water issues.

Newsom has talked about scaling back the Delta tunnels project but otherwise has said little about water. He barely mentioned the topic in his inaugural speech Monday.

All about the Delta

Like practically everything in California water, the agreements revolve around the rivers that flow into the Sacramento-San Joaquin Delta. The estuary is the hub of the state’s network of dams and canals that supply water to the farms and cities that belong to the State Water Project, built by Brown’s father Gov. Pat Brown in the 1960s, and the U.S. government’s Central Valley Project, begun by Franklin Roosevelt during the New Deal.

Water users and environmentalists have fought over the Delta for decades — how much flows in, how much reaches the ocean and how much gets pumped south.

State scientists say farms and cities take as much as 90 percent of the natural flows on some of the tributaries, leaving salmon, steelhead and Delta smelt on the brink of extinction. To revive the species, scientists say more water needs to follow its natural flow to the Pacific.

Since 2009 the state water board has been working on a proposal to re-divide the Sacramento and San Joaquin rivers and their tributaries and allow more water to rush through the Delta. The state proposed leaving almost 300,000 extra acre-feet of water in the San Joaquin watershed, plus anywhere from 1.1 million to 3.1 million acre-feet in the Sacramento and its tributaries. By comparison, Folsom Lake can hold around 1 million acre-feet.

The plan would mean substantially less water for farms and cities that draw from those rivers — including the city of San Francisco and several Bay Area suburbs, which rely heavily on the Tuolumne River, a tributary of the San Joaquin, to serve 2.6 million people.

The state board's proposal would also spell trouble for numerous water agencies that don't feed directly from those rivers but count on lots of water being available for pumping out of the Delta. Among them: the giant irrigation districts controlled by San Joaquin Valley farmers, and the 19 million customers of the Metropolitan Water District of Southern California.

Already struggling with frequent shortages, water agencies began negotiating with environmental groups over alternatives to the state board's proposal.

The talks intensified last summer. That's when the board's staff finalized its proposal for the San Joaquin watershed — and Ryan Zinke, who was then Trump's Interior secretary, jumped into the fray.

The U.S. Bureau of Reclamation, which runs the Central Valley Project, threatened to sue the state if it took water from farmers. Zinke and his deputy David Bernhardt, a former water lobbyist for Valley farmers, began pressuring California to find more water for agriculture, not less.

Environmentalists say Zinke's team also threatened to fight the Delta tunnels project, Brown's controversial plan to re-route the estuary's water flows in an effort to improve conditions for fish. Losing the feds would send the project back to square one after ten years and \$200 million worth of planning.

Zinke's initiatives "really changed the dynamic," said Rachel Zwillinger of Defenders of Wildlife, one of the environmental groups at the negotiating table. "There were more pieces of the puzzle being negotiated."

The puzzle began taking shape in early December. First Brown endorsed a proposal in Congress to extend a 2016 law signed by former President Barack Obama that relaxes some of the environmental restrictions on Delta pumping. The proposed extension, backed by Democratic Sen. Dianne Feinstein and House Minority Leader Kevin McCarthy, R-Bakersfield, is still pending.

Then came a series of agreements unveiled Dec. 12.

Two deals with Trump

In one deal, the Trump administration pledged to continue working on Brown's Delta tunnels project. In return, the state guaranteed that Valley farmers wouldn't lose any water to the project. Farmers had feared they could wind up with less water because they've refused to contribute money to the tunnels project.

Brown also agreed to renegotiate the "coordinated operating agreement," an arcane rulebook that governs the Delta pumps.

The rewrite is a concession to the Trump administration. It allows the feds' Central Valley Project and its mostly agricultural customers to take a bigger share of the Delta's waters — as much as 200,000 acre-feet a year — from the mainly urban customers of the State Water Project. An acre-foot is 326,000 gallons, a year's supply for one to two households.

The extra water proved critical to securing agriculture's support for the biggest deal revealed that day: Brown's settlement plans for the rivers. Jeff Kightlinger, whose Metropolitan Water District of Southern California is the State Water Project's biggest customer, said the state had to give farmers additional water from the Delta so they'd be willing to surrender a portion of their supplies to help Brown's plan for the fish.

"You have to have the Central Valley part of it," he said last month.

Brown's people described the compromise as a breakthrough. San Francisco would take less from the Tuolumne. Water agencies from greater Sacramento would take less from the American. Many of the Central Valley's farming districts kicked in water, too, with some agreeing to idle land.

The new water for fish would total at least 740,000 acre-feet a year, for 15 years. It could grow to 1 million if scientific studies proved more was needed for the fish.

While this was less than the volume sought by the state board, the offer included a sweetener. The water districts promised \$800 million over 15 years, and the Brown administration pledged \$900 million in bond funds, to revive fish populations through other means: spawning grounds, nutrient-rich floodplains and other habitat projects. Some of the cash would compensate water districts for coughing up water, particularly the agricultural districts where farmers have agreed to fallow land.

Brown's administration saluted the willingness to surrender water.

"There's a touch of courage here," Karla Nemeth, director of the Department of Water Resources, told the state water board.

'Smoke and mirrors'

But as Nemeth spoke, environmentalists and fishing groups were fuming. They said the water wasn't nearly enough, and the habitat projects were inadequate.

Zwillinger of Defenders of Wildlife said environmentalists were essentially frozen out of the negotiations in recent weeks, and the deal "really did not reflect input from the conservation community."

And, as environmental groups went through the details of the settlements, they were troubled by what they saw: Many of the habitat projects have been on the drawing board for years and would likely get completed anyway, they said. Some are already underway.

For instance, almost all of the habitat projects proposed for the Tuolumne had already been promised by regional water districts to secure a new federal license for New Don Pedro Dam. An official with the dam's part-owner, the Turlock Irrigation District, acknowledged as much in an interview with the Sacramento Bee, though he said the proposed deal would speed up the process to getting them done.

"We hope we can start making progress on the river sooner rather than later," said Steve Boyd, the Turlock district's water resources director.

In the Glenn County community of Hamilton City, a \$90 million floodplain restoration project has been under construction since 2015, yet it's listed under the proposed agreements. The project consists of

moving a levee further back from the Sacramento River to create more habitat on a wider floodplain. When a Bee reporter visited the site in December, a worker was driving an ATV between rows of freshly planted native trees.

About 30 miles east of Hamilton City, crews in hard hats were wrapping up work for the winter season last month on another project on Brown's list. This one involves cutting a notch into a levee on the Feather River to allow more water to flow into seasonal marshlands south of Oroville.

John McManus of the Golden Gate Salmon Association, which represents fishermen, said it's "smoke and mirrors" to count "required habitat restoration that's already built or been in the works for years" as something new.

State officials counter by saying that that many of these projects — even ones that may be underway — need funding to get finished, and the proposals provide that certainty.

Michael Bessette of the Sutter Butte Flood Protection Agency, which is overseeing the Oroville levee work, said \$12 million has been spent on the project, but another \$7 million is needed to finish the job.

He was thrilled Brown's proposal appeared to make it a priority.

For now, though, the Brown settlements haven't convinced the state board. It voted 4-1 to go ahead with its original plan to reallocate water to the fish — more water than Brown's compromise offered. The vote only covered the San Joaquin River watershed; a vote on the rivers of the Sacramento Valley hasn't yet been scheduled.

Board members promised to continue studying the settlement plans in the meantime. Chairwoman Felicia Marcus called them "intriguing" but also hinted she was disappointed that environmentalists had been cut out of the talks.

"I would encourage ... that the process become more open, and more players be involved," she said in a reference to environmentalists.

Whatever the state board decides, however, the courts will probably have the last word.

There's "going to be litigation anyway, right? It's a given," said water policy expert Jeff Mount of the Public Policy Institute of California. "Hardly anything happens in water without litigation; that's just what we do here in California."

This story was updated to reflect that the state water board has been working on river allocations since 2009, and that the board hasn't yet scheduled a vote on the Sacramento Valley's rivers.

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California Water Board Outlines \$606M Bill Assistance Program

Circle of Blue | January 8, 2019 | Brett Walton

The state looks for ways to help poor households with the increasing cost of drinking water.

To subsidize drinking water bills for poor households, California regulators recommend new taxes on bottled water and incomes above \$1 million a year, according to a draft proposal released by the State Water Resources Control Board.

If the \$606 million proposal, or an alternate version, is accepted by the Legislature, California would be the first state in the country to run a water bill assistance program. With the affordability of water and sewer service a hot topic nationally and utility aid programs either underfunded, non-existent, or handcuffed by state laws, other states will be watching the outcome.

“It’s quite complex,” Max Gomberg, a water board staff member involved in drafting the proposal, told Circle of Blue.

The proposal for new revenue to address drinking water access follows a failed attempt in the Legislature last year to fund water infrastructure upgrades in poor communities by increasing fertilizer taxes and imposing a \$0.95 per month fee on residential water bills. Utilities objected to the fee.

It’s quite complex.” — Max Gomberg, California Water Board

Across the country, the cost of drinking water is rising faster than inflation as utilities replace worn-out distribution pipes, invest in new sources of supply, and respond to stricter state and federal water treatment requirements. That trend is expected to continue for the foreseeable future, utility analysts say.

California’s proposal, prompted by legislation passed in 2015 but also informed by its landmark human-right-to-water law from 2012, aims to bridge the gap between utility resources and customer needs. A U.S. Environmental Protection Agency survey of 795 utilities nationwide found that more than seven out of 10 did not have a bill assistance program for poor customers. California, meanwhile, has the nation’s highest poverty rate when taking into account housing, food, and other costs of living.

Few of the trade groups that represent the state’s water utilities wanted to discuss the board’s proposal before they had a chance to review it in depth. Both the Association of California Water Agencies and the California Urban Water Agencies are still assessing the document, they told Circle of Blue.

Those organizations represent public water agencies. The California Water Association speaks for the state’s regulated water companies, which serve about 6 million people in the state.

Jack Hawks, the association’s executive director, told Circle of Blue that his group will be interested in how existing assistance programs will be handled. About a decade ago, state regulators required the largest water companies, those with more than 10,000 customer accounts, to establish assistance programs, which are funded by ratepayer dollars.

Laura Feinstein, a researcher at the Pacific Institute who tracks state drinking water policy, said the proposal is an important step for California, but it needs to be enacted in tandem with other

reforms, such as funding for small systems with frequent water quality violations. Many families served by these systems turn to bottled water instead, which is far more expensive per unit than tap water.

“If a serious proposal gets off the ground to reform and support the underperforming small systems, then bottled water become a luxury for everyone, rather than a necessity for some,” Feinstein wrote in an email.

Delving into the Details

California lawmakers have to answer four main questions when designing the aid program: Who is eligible? How large will the benefits be? How will benefits be distributed? How will the program be funded?

The water board’s draft proposal answers each.

On the first question, households whose income is less than 200 percent of the federal poverty level are eligible. The water board estimates that 5.8 million households — a third of the state’s 40 million people — are below that threshold.

Fewer than half of Californians get water from a utility that offers a bill subsidy for poor residents or another program to lower the cost of water. The programs that do exist are often limited by available funding and constrained by state statutes that prohibit public utilities from using ratepayer funds to reduce customer bills. Only one in five low-income households in the state are part of a utility aid program, the water board estimates.

For a small utility in a poor region, running an aid program could be financially untenable: nearly all of its customers might qualify for assistance. For instance, if the eligibility threshold was set at 200 percent of the federal poverty level, five out of six households in Mendota, a San Joaquin Valley farm town of 11,000 people, would qualify for aid. Few, if any, utilities could afford to subsidize that many of their own customers.

Unlike for energy bills, there is no federal water bill assistance program. Recent attempts to pass legislation in Congress have failed.

“Really the hard part is finding the political will to fund a program like this when we fund programs for everything else,” Gomberg said, referring to state and federal welfare for food, energy, and healthcare.

The second question is the size of the benefits, which determines the cost of the program. The water board’s proposal divides the benefit into three tiers.

The first tier, corresponding to bills below \$90 per month, is a 20 percent discount. The second tier, for bills between \$90 and \$120 per month, is a 35 percent discount. Tier 3 — bills above \$120 per month — is a 50 percent discount. The discount is specific to each utility and is derived from the monthly cost of 12 CCFs of water, roughly 9,000 gallons.

How does the calculation work? Customers of a utility where 12 CCFs cost \$60 per month would have bills reduced by \$12 per month, regardless of consumption. That means a household using 8 CCFs gets the same \$12 discount as one using 13 CCFs.

Customers of a utility where 12 CCFs cost \$100 per month would have bills reduced by \$35 per month, regardless of consumption.

More than 93 percent of eligible households would fall into Tier 1, the water board reckons.

The board chose 12 CCFs as the benchmark because it allowed for sufficient indoor use, a little bit of outdoor use, and it accounted for larger-than-average households. There was also already self-reported utility data on customer costs at that level.

Distribution of benefits is complicated by the fact that three-quarters of eligible households do not directly receive a water bill. Many of these households are served by a single meter, as in an apartment complex, or the landlord receives the water bill.

The proposal lists the pros and cons of a half dozen different distribution methods, from a credit applied to electric or gas bills to a tax credit or a debit card similar to food stamp payments. Each option comes with different data needs, administrative costs, and coordination with other state agencies.

“We want to minimize customer confusion,” Hawks said.

The final, and perhaps most visible, question is funding. The water board suggests two sources to cover the estimated \$619 million cost: a bottled water sales tax (\$153 million) and a quarter-percent tax increase on income above \$1 million (\$466 million).

There are obstacles to funding: allowing state sales tax to apply to bottled water requires a ballot referendum, while raising taxes requires a two-thirds vote in the Legislature.

The board is taking public comments on the draft that will be incorporated into the final report to the Legislature later this year.

Comments are due February 1. Submit them, in pdf format, to commentletters@waterboards.ca.gov with the subject line, Comment Letter — Options for Implementation of a Statewide Low-Income Water Rate Assistance Program.

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Brett Walton

Brett writes about agriculture, energy, infrastructure, and the politics and economics of water in the United States. He also writes the Federal Water Tap, Circle of Blue's weekly digest of U.S. government water news. He is the winner of two Society of Environmental Journalists reporting awards, one of the top honors in American environmental journalism: first place for explanatory reporting for a series on septic system pollution in the United States(2016) and third place for beat reporting in a small market (2014). Brett lives in Seattle, where he hikes the mountains and bakes pies. Contact Brett Walton

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Dam removal DEIR finds no significant long-term water quality concerns

Mt. Shasta News | January 9, 2019 | Barry Kaye

Plans for the removal of three dams on the Klamath River in California cleared another regulatory hurdle when state officials released a draft environmental impact report that found no significant long-term water quality concerns.

The proposed EIR will be available for public comment through Feb. 26.

The 1,800-page report completed by the state Water Resources Control Board covered everything from water quality to wildfires to whether the Coho salmon – a critical part of the restoration process that spawned the dam demolition plan in the first place – are even native to the project area.

Officials with the nonprofit Klamath River Renewal Corp, the entity that would take control of the dams from PacifiCorp during the decommissioning process, stated in a press release that they were pleased with the “favorable” report.

“This draft report is a key step to completing this critical project and rehabilitating one of the great rivers of the American west,” said Mark Bransom, chief executive officer with KRRC. “It’s a sign of meaningful progress and I look forward to a thorough review of the report and its proposals.”

Approval from state water officials is required for the removal of the Iron Gate, Copco No. 1 and Copco No. 2 dams. If the draft EIR becomes final, KRRC would be granted a Clean Water Act Sec. 401 permit, one of several regulatory requirements.

The project has already received a similar 401 permit certification from the Oregon Department of Environmental Quality for the removal of the John C. Boyle dam in southern Oregon.

Among the key issues addressed by the draft EIR are what happens when 15.1 million cubic yards of sediment stored in reservoirs behind the dams is released during the breaching process. The state estimate is significantly lower than other studies that peg the sediment deposits behind the dams in excess of 20 million cubic yards.

Additionally, none of the sediment is considered toxic or having excessive levels of contaminants such as heavy metals, according to the draft EIR. Pressure sprayers mounted on barges would begin the process of drawing down the reservoirs during the winter rainy season in a process called “sediment jetting.” Copco 1 would be the first reservoir drained if the project is approved by federal regulatory officials.

“In the long term there would be no significant impact due to ... the release of sediments currently trapped behind the dams,” the report stated. Long-term is defined as a period of 24 months, at the end of which the project is expected to meet federal water quality standards.

Frank Shrier, a fisheries biologist with SWCA, an environmental consulting firm hired by the Siskiyou County Board of Supervisors to further efforts in opposition to the dam removal, said he was surprised that the draft EIR “glossed” over critical elements of the sediment release.

“There are some prime spawning and holding areas for fish that are going to be filled in,” he said. “If all the sediment makes it down the delta – which it will eventually – it is going to be even harder for fish to get in because it will block off access when there is low flow in the Klamath.”

At a special public meeting of the Siskiyou County Board of Supervisors last summer when SWCA was first introduced, in addition to the sediment release, many longtime Klamath River residents insisted that few Coho salmon ever made it further upstream than the site of the existing Iron Gate

Reservoir, which is the first dam that fish encounter on the river. The earthen dam was built in the 1960s.

The draft EIR, while acknowledging that historical data is “inconclusive,” stated that, in addition to mining tailings compromising historic fish runs, the science from 100 years ago is incomplete, failing to recognize that there were actually nine different species of salmon found in the Klamath River Basin, which also includes the Trinity, Scott, Shasta, and Salmon rivers.

“Although Coho salmon are native to the Klamath River, documentation of Coho salmon is scarce prior to the early 1900s due, in part, to the apparent difficulty of those providing written records in recognizing that there were different species of salmon inhabiting the rivers of the area,” the report stated. “Available data suggests that Coho salmon were in both mainstem and tributary reaches of the Klamath River upstream and including Spencer Creek.”

Spencer Creek comes in above the JC Boyle dam in Oregon, above all four dams proposed for removal.

The draft EIR also addressed other water quality issues, including water temperature, dissolved oxygen and the formation of blue-green algae, which makes much of the Klamath River unsafe for swimming during the summer months.

The return to a “free-flowing” river is expected to mitigate many of these issues, according to the report, which also noted the complex nature of river ecology.

Water released from the reservoirs in late spring, for example, is typically cooler than what would naturally occur because the reservoirs retain some of the cold water received in winter. Conversely, water released from the reservoirs in the early fall is typically warmer than what naturally occur because the reservoirs still contain water that was heated during the summer months.

That can affect everything from insect life cycles to fish migration.

The reservoirs also provide critical fire suppression support as the Klamathon fire last year clearly demonstrated. The draft EIR acknowledged the seriousness of the problem.

“Response and travel times between water fills for helicopter crews would be expected to increase with the loss of the reservoirs,” the report stated. “Wildfires can spread at a rapid speed and involve high risks.”

The draft EIR suggests alternatives that include using pools along the river that are at least three feet deep that could be accessed by helicopter crews as well as the use of “dry hydrants” where firefighters use truck-mounted pumps and fire hoses to connect the hydrants to the river, creating a system that can supply an estimated 1,500 gallons per minute.

The use of dry hydrants is hotly contested by Klamath River residents who insist that the hydrants are a poor alternative to the existing reservoirs. Several recent studies have suggested that wildfires are only expected to worsen in Siskiyou County in the future.

A copy of the draft EIR can be found online and at several other locations, including the Mt. Shasta library. See related article for more details and information about upcoming public meetings.

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Agency analyzes impacts of removing Klamath River dams

Capital Press | January 8, 2019 | George Plaven

When it comes to removing four hydroelectric dams on the lower Klamath River, the long-term benefits for fish and water quality would far outweigh any short-term negative impacts, according to a draft environmental report by the California State Water Resources Control Board.

The nonprofit Klamath River Renewal Corp., or KRRC, has proposed taking out the Copco No. 1, Copco No. 2 and Iron Gate dams in California, as well as the J.C. Boyle Dam in Oregon. Owned by PacifiCorp, the dams have a combined generating capacity of about 160 megawatts, but also block access to 400 miles of upstream habitat for salmon and steelhead in the Klamath River and its tributaries.

The KRRC submitted plans to remove the dams with federal energy regulators in June 2018, but first the organization must secure a Section 401 permit under the Clean Water Act in both states, requiring extensive review in California under the state's Environmental Quality Act.

Mark Bransom, CEO of the KRRC, said the 1,800-page draft Environmental Impact Report released Dec. 27 is a key step to moving the project forward in California.

"It's a sign of meaningful progress, and I look forward to a thorough KRRC review of the report and its proposals," Bransom said.

The project already secured Section 401 water quality certification from the Oregon Department of Environmental Quality in September 2018, which Bransom said was a significant milestone.

By removing the lower Klamath River dams, the KRRC expects to open fish passage for migrating salmon and steelhead listed under the federal Endangered Species Act. The California State Water Resources Control Board's draft report analyzes the impacts on all natural resources, including air quality, water quality, recreation and agriculture.

While breaching the dams would cause short-term increases of sediment in the river, it would ultimately result in long-term benefits in water temperature, quality and wildlife habitat, the report states. Overall, the board determined the project "would result in significantly more identified benefits for environmental resources," versus leaving one or more of the dams in place.

"We're very encouraged by the analysis that supports that conclusion," Bransom said.

As for impacts on agriculture, Bransom said water releases for farms and fish would still be controlled by the Bureau of Reclamation out of Upper Klamath Lake in Oregon. Removing the dams should not have any direct effect on river flows or irrigation, he added.

In fact, Bransom said removing the dams may help farmers in the long haul. The Bureau of Reclamation currently is responsible for releasing additional water to flush away a deadly fish-killing parasite, known as C. shasta, in the Klamath River. But if river conditions improve, it could lessen or eliminate the need for so-called "flushing flows," and potentially make more water available for irrigation.

"If we can improve the fishery, we can do things that are positive for agriculture. I think this is one example," Bransom said.

Tracey Liskey, owner of Liskey Farms in Klamath Falls, Ore. and a former member of the Oregon Board of Agriculture, said he and other farmers in the Klamath Project are anxious to see dam removal go forward, so the ESA might loosen its grip on the region.

"Agriculture is behind trying to save the fish, so we can get more water," Liskey said. "Hopefully we'll have more salmon than we know what to do with."

Bransom said full dam removal will cost approximately \$400 million, according to current estimates, though that total is subject to change. The KRRC budget is \$450 million, with \$200 million from PacifiCorp ratepayers between the two states, and up to \$250 million from California Proposition 1 — a massive \$7.5 billion statewide water bond that passed in 2014.

If all goes to schedule, Bransom said they hope to start deconstruction by 2021. However, Bransom added they still have multiple regulatory hurdles left to clear.

California's draft Environmental Impact Report is available for public review and comment until Feb. 26. A final report is expected later during the summer. The Federal Energy Regulatory Commission must also decide whether to transfer the dams' operating license to the KRRC. That review is ongoing.

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Yuba Water Agency reaches milestone in relicensing effort

Appeal Democrat | January 7, 2019 | Jake Abbott

It might not be the last check-off needed before relicensing, but it's significant for the Yuba Water Agency – it's one step closer to its overall goal of maintaining operations of the Yuba River Development Project.

The agency owns and operates facilities that are part of the Yuba River Development Project, including New Bullards Bar Reservoir and dam, two diversion dams, three powerhouses and various recreation facilities. In order to continue operating those facilities into the foreseeable future, the agency needs a new license from the Federal Energy Regulatory Commission.

Last week, the relicensing effort reached a milestone when FERC issued its Final Environmental Impact Statement. The environmental document essentially looks at what changes a licensee has proposed for a specific project, the impacts of those changes and provides conditions they must meet if awarded a new license.

“There are a few key milestones in relicensing, and this is one of them,” said Geoff Rabone, relicensing manager for the agency.

For the most part, Rabone said, FERC staff supported the agency's proposed conditions for operating the project into the future.

“Once they issue a new license, we will probably have two to five years to do most of the major construction,” Rabone said.

License conditions

The agency has a few major projects planned, including a new secondary spillway at New Bullards Bar Dam, expected to cost upwards of \$160 million.

“We've learned some lessons from the Oroville situation and from Folsom Dam, that it comes in handy to have a secondary spillway, so if something happens to the main spillway you will have another way to move that water,” Rabone said.

Another proposed condition for future operation was to construct a new tailwater depression system at New Colgate Powerhouse to enhance power generation capability. Rabone said the improvement would allow the agency another way to manage water levels during flood conditions and spills.

Rabone said the proposed conditions also called for the agency to change its ramping rates a bit, which would result in slightly higher flows from the agency's diversion dams. In terms of the instream flow requirements in the lower Yuba River, FERC largely endorsed the agency's Yuba Accord, which was established 10 years ago and outlines instream fisheries flows, with a few small negotiated changes.

Other key license conditions include the development of new plans to plant riparian vegetation and to place large woody material along the lower Yuba River to benefit fish and wildlife; and

enhancement of existing recreational facilities around New Bullards Bar Reservoir and at Our House Dam.

“We’ve negotiated with the U.S. Forest Service over many meetings to come up with a new recreation plan for the new license, which will involve rebuilding almost all of the campgrounds, water distribution system, and building two new campgrounds,” Rabone said.

In the document, FERC highlighted a number of primary issues associated with relicensing the project. Some of the issues included controlling erosion and sedimentation; restoring floodplains; managing flows for aquatic resources and recreational opportunities; protection of plant and wildlife resources; effects on threatened and endangered species; and protection of cultural resources.

The relicensing process has been ongoing for the agency since 2010 and cost more than \$30 million so far. The agency’s initial license with FERC – which was issued in 1966 – to use public waters for energy generation and other purposes expired in April 2016. FERC has issued annual licenses since to allow the agency to continue to operate the project while a longer agreement is worked out.

Next steps

FERC’s issuance of the Final Environmental Impact Statement means there are two things left to accomplish for the agency.

One involves being certified by the State Water Resources Control Board for being in compliance with its Clean Water Act. There’s no timeline as to when the state water board would take up the matter, though Rabone hopes it can be accomplished within the next few years.

FERC also needs to complete consultation with the National Marine Fisheries Service regarding the Yuba River’s fish species before awarding the agency a new license.

“Once those steps are completed, FERC generally moves quickly through the process,” Rabone said.

The agency is hoping to obtain a 50-year license to operate the project, which would be the maximum. It’s not a matter of if, but when, Rabone said.

“Yes, we will get a new license. It looks like it will be favorable toward the Yuba Water Agency continuing to implement the conditions associated with the Accord. So, hopefully we are in a good position to continue on, get a new license, and hopefully be in good shape financially and operationally to continue benefiting the people of Yuba County,” Rabone said.

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