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## State Water Resources Control Board

JULY 27, 2022

**RE: Tribal Cultural Resources under the California Environmental Quality Act, AB 52 (Gatto, 2014). Formal Notification of determination that a Project Application is Complete or Decision to Undertake a Project, and Notification of Consultation Opportunity, pursuant to Public Resources Code § 21080.3.1 (hereafter PRC).**

Dear Tribal Representative:

The State Water Resources Control Board (State Water Board) has decided to undertake the following project: Bay-Delta Plan Implementation Regulation<sup>1</sup> for Lower San Joaquin River Flows (LSJR) and Southern Delta Salinity.

Below please find a description of the proposed project, a map showing the project location, and the name of our project point of contact, pursuant to PRC § 21080.3.1, subdivision (d).

### Description of the Proposed Project

The proposed project is adoption of regulations pursuant to the rulemaking procedures of the Administrative Procedure Act (Gov. Code, § 11340 et seq.) to allocate responsibility to water rights holders and claimants for implementing the Bay-Delta Plan LSJR flow and southern Delta salinity components of the 2018 Bay-Delta Plan (the proposed Project). The Bay-Delta Plan establishes water quality objectives for the protection of beneficial uses in the Bay-Delta watershed, a program of implementation to achieve those objectives, and monitoring, reporting, and study provisions. In 2018, the State Water Board amended the Bay-Delta Plan and adopted new and revised flow

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<sup>1</sup> The use of the term “regulation” encompasses both the singular and the plural as the anticipated rulemaking could result in changes to the adoption or amendment of multiple regulatory sections.

objectives for the reasonable protection of fish and wildlife beneficial uses in the LSJR and revised salinity objectives for the reasonable protection of agricultural beneficial uses in the southern Delta and associated updates to the program of implementation and monitoring, reporting, and study provisions.

The LSJR flow objectives and program of implementation require, from February through June, that at least 40 percent of the unimpaired flow be maintained in the Stanislaus, Tuolumne, and Merced Rivers, within an adaptive range of 30 to 50 percent of the unimpaired flow, inclusive. In addition, during February through June, the LSJR flow objectives and program of implementation require the maintenance of a minimum base flow of 1,000 cubic feet per second (cfs), with an adaptive range between 800 and 1,200 cfs, inclusive, as measured at Vernalis on the San Joaquin River. This means that if the percent of unimpaired flow is being met but flows are insufficient to achieve the base flow at Vernalis, then additional flows will be necessary (Table 3, Bay-Delta Plan, p. 15). During the month of October, the LSJR flow objectives and program of implementation require the maintenance of a minimum baseflow, as measured at Vernalis on the San Joaquin River, of 1,000 cfs, plus an additional 28 thousand acre-foot pulse flow or a minimum monthly average flow of 2,000 cfs, whichever is less (Table 3, Bay-Delta Plan, Footnote 13).

The 2018 adoption of amendments to the Bay-Delta Plan also revised the salinity water quality objectives and program of implementation for the reasonable protection of agricultural beneficial uses in the southern Delta. The southern Delta salinity objective, expressed as a 30-day running average of electrical conductivity, is 1.0 deciSiemens per meter (dS/m) and applies year-round in three river segments rather than specific point locations.

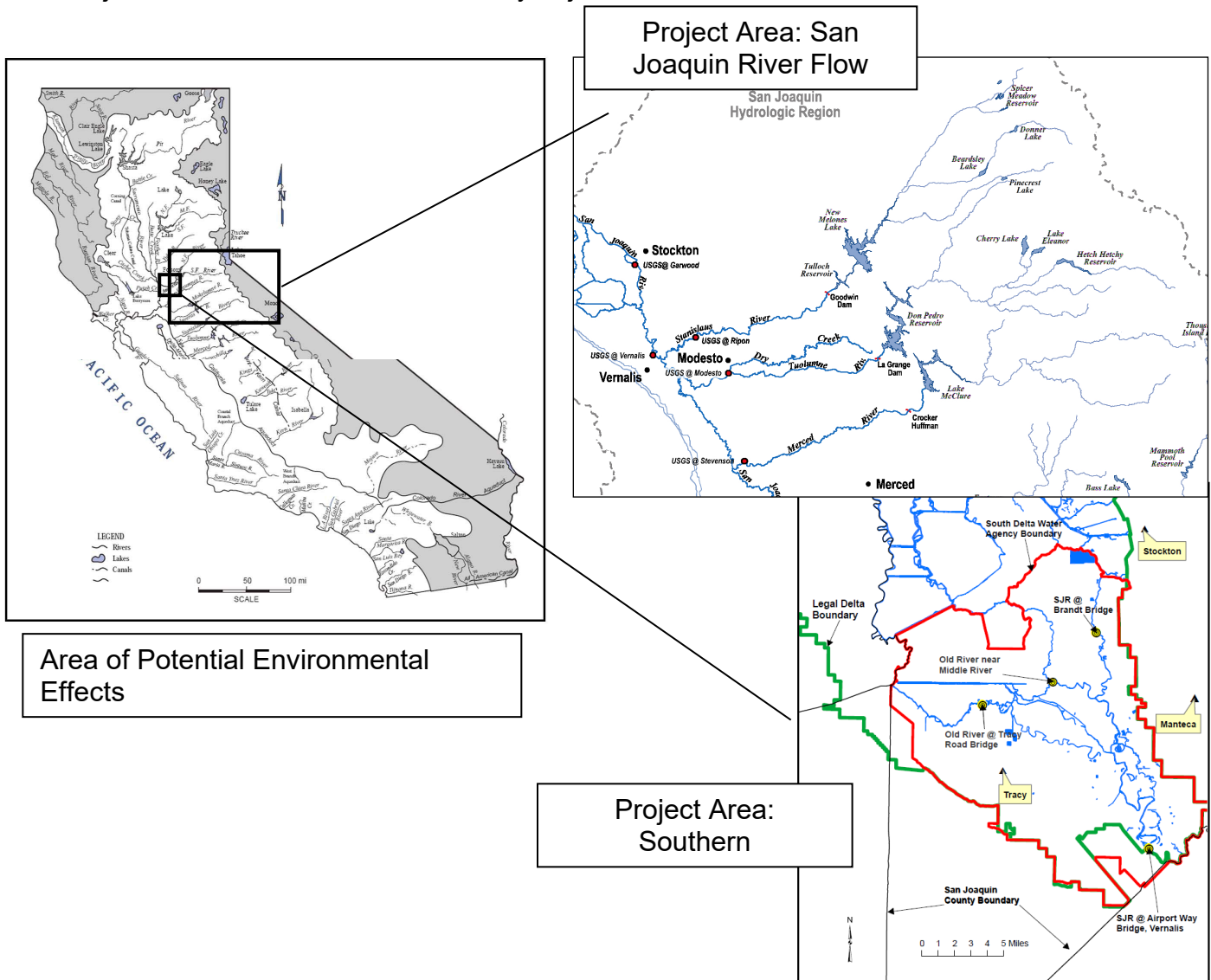
On December 12, 2018, the State Water Board adopted a substitute environmental document (SED) analyzing the potentially significant impacts of adopting the new and revised LSJR flow objectives, the southern delta salinity objective, and the programs of implementation for both. The State Water Board will evaluate and identify any potentially significant direct or indirect physical effects on the environment from implementing the LSJR flows and southern Delta salinity components of the Bay-Delta Plan including: assigning responsibility for achieving the LSJR flow and southern Delta salinity objectives; requiring the development and implementation of reservoir carryover storage targets, reservoir refill, or other requirements to help ensure that providing flows to meet the flow objectives will not have significant adverse temperature or other impacts on fish and wildlife or, if feasible, on other beneficial uses; implementation through a voluntary agreement, if proposed; and, other related components of the Bay-Delta Plan. As described in more detail below, the Environmental Impact Report (EIR) will tier from the SED supporting the 2018 update to the Bay-Delta Plan and provide the analysis to support a State Water Board decision regarding adoption of regulations that allocate responsibility for implementing the LSJR flow and southern Delta salinity components of the Bay-Delta Plan.

### Project Location

The Implementation Regulation will cover the geographic area of the LSJR flow objectives including the watersheds of the three salmon bearing tributaries to the San Joaquin River: the Stanislaus, Tuolumne, and Merced Rivers to the San Joaquin River near Vernalis, and through the Delta.

The Implementation Regulation will also cover the geographic area for the southern Delta salinity objective, which encompasses the lands and channels from Vernalis north to Stockton, the bulk of which are within the boundary of the South Delta Water Agency including: the San Joaquin River from Vernalis to Brandt Bridge, Middle River from Old River to Victoria Canal, and Old River/Grant Line Canal from the Head of Old River to West Canal.

The Implementation Regulation will also cover areas receiving water exported from the LSJR and Bay-Delta that could be impacted by implementation of the LSJR flow objectives and southern Delta salinity objective.



Project Area: San Joaquin River Flow

Area of Potential Environmental Effects

Project Area: Southern

### **Lead Agency Point of Contact**

Chris Carr, Environmental Scientist  
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### **Requesting Consultation**

Pursuant to PRC § 21080.3.1, subdivision (b), you have 30 days from the receipt of this letter to request consultation, in writing, with the State Water Resources Control Board.

If you have any questions regarding this letter or would like additional information, please do not hesitate to contact Chris Carr at (916) 341-5305 or [chris.carr@waterboards.ca.gov](mailto:chris.carr@waterboards.ca.gov).

Very Respectfully,

ORIGINAL SIGNED BY:

Diane Riddle, Assistant Deputy Director for:  
Erik Ekdahl, Deputy Director  
Division of Water Rights

Attachment: 20220715-implementation-nop-and-scoping-dwr-baydelta.pdf

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