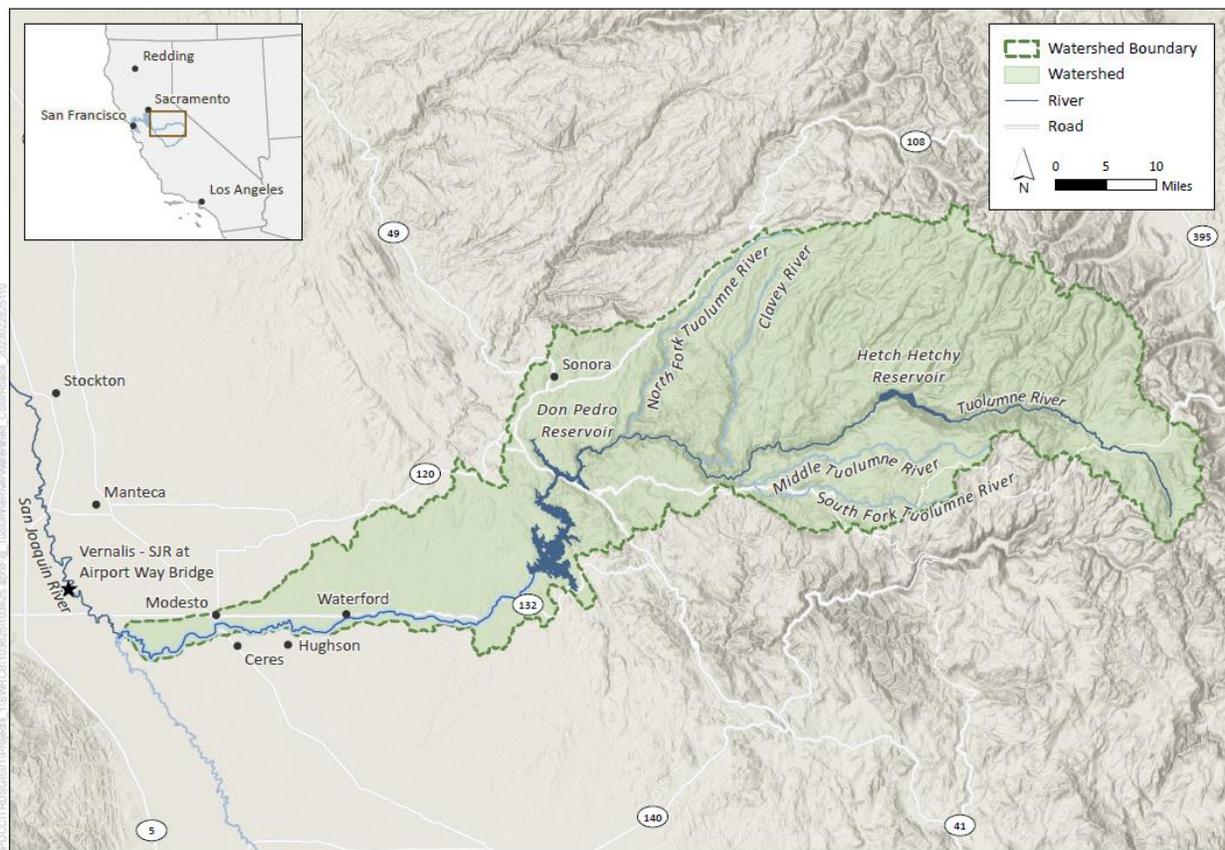


State Water Resources Control Board

NOTICE OF PREPARATION OF ENVIRONMENTAL DOCUMENTATION AND SCOPING MEETING

POSSIBLE AMENDMENT OF THE WATER QUALITY CONTROL PLAN FOR THE SAN FRANCISCO BAY/SACRAMENTO-SAN JOAQUIN DELTA ESTUARY TO INCORPORATE TUOLUMNE RIVER VOLUNTARY AGREEMENT



Project Location: Tuolumne River Watershed (green area on map) as well as the Lower San Joaquin River (LSJR) and through the Bay-Delta. The project area also covers areas receiving water exported from the Tuolumne River watershed, LSJR, and Bay-Delta that could be impacted by implementation of the Tuolumne River Voluntary Agreement.

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

NOTICE OF PREPARATION (NOP)

To: State Clearinghouse, Governor's Office of Planning and Research
1400 Tenth Street
Sacramento, CA 95814

Lead Agency: Agency Name: State Water Resources Control Board
Street Address: P.O. Box 2000
City/State/Zip: Sacramento, CA 95812-2000
Contact: Division of Water Rights, San Joaquin Unit
Email: LSJR-SD-Comments@waterboards.ca.gov

Subject: Possible Amendment of the Bay-Delta Plan to Incorporate Voluntary Agreement for the Tuolumne River

The State Water Resources Control Board (State Water Board or Board) will be the lead agency and is planning to prepare a staff report, including a substitute environmental document (SED) and a report documenting the scientific basis for consideration of potential updates to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary ([Bay-Delta Plan](#)) to incorporate a proposed voluntary agreement for the Tuolumne River (Tuolumne River Voluntary Agreement). The State Water Board's water quality control planning program is a certified regulatory program under the California Environmental Quality Act (CEQA) meaning the program is exempt from requirements for preparing environmental impact reports, negative declarations, or initial studies because the SED is recognized under CEQA and the regulations implementing CEQA as providing the functional equivalent.

On December 12, 2018, the State Water Board adopted Bay-Delta Plan amendments and a Final SED establishing updated flow objectives on the Lower San Joaquin River, including its three eastside tributaries the Stanislaus, Tuolumne, and Merced Rivers (collectively "LSJR"), revised salinity objectives for the southern Delta, and programs of implementation to achieve the revised objectives.

In November, 2022, the State Water Board received a memorandum of understanding (https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/docs/2023/revised-va-mou-swrcb-copy.pdf) for a proposed Tuolumne River Voluntary Agreement (see the background sections below for further information regarding the proposed Tuolumne River Voluntary Agreement). To consider the proposed voluntary agreement, the State Water Board will need to also consider modifications to the Bay-Delta Plan and prepare a staff report to support those possible changes because the Tuolumne River Voluntary Agreement does not fully conform to the current provisions of the Bay-Delta Plan.

The State Water Board has not yet determined whether to approve changes to the Bay-Delta Plan to incorporate the proposed Tuolumne River Voluntary Agreement, but is commencing preparation of the staff report to inform its consideration. In developing its environmental documentation in the staff report, the State Water Board will tier, as

appropriate, from the adopted December 12, 2018, Final SED for the LSJR and southern Delta update to the Bay-Delta Plan.

The State Water Board is soliciting input from public agencies, California Native American tribes, and members of the public on the range of project actions; reasonable alternatives; reasonably foreseeable methods of compliance; significant environmental issues; cumulative impacts, if any; and mitigation measures that will reduce impacts to a less than significant level that should be considered in the potential Bay-Delta Plan update to consider incorporating the Tuolumne River Voluntary Agreement. For responsible and trustee agencies, the State Water Board requests the views of your agency as to the scope and content of the environmental information related to your agency's area of statutory responsibility that must be included in the staff report.

The State Water Board will accept written and oral comments regarding scoping elements. Written responses to this NOP must be received by **12:00 p.m. PDT (noon) on Thursday, May 25, 2023**. Please see the instructions for submitting written comments in the section below entitled **"WRITTEN PUBLIC COMMENTS."**

For additional information concerning the Bay-Delta Plan related to the LSJR (including the Tuolumne River) and southern Delta, please visit the State Water Board's website at: [Bay-Delta Plan Update and Implementation: Lower San Joaquin River and Southern Delta](#).

Project Title

Possible Amendment to the Bay-Delta Plan to Incorporate Tuolumne River Voluntary Agreement

Project Location/Regulation Area

Possible updates to the Bay-Delta Plan to incorporate the Tuolumne River Voluntary Agreement would cover the geographic area of the Tuolumne River watershed as well as the LSJR and through the Bay-Delta.

The project area also covers areas receiving water exported from the Tuolumne River watershed, LSJR, and Bay-Delta that could be impacted by implementation of the Tuolumne River Voluntary Agreement.

A map of the Project area and the area of potential environmental effects is provided at the beginning of this notice.

Project Description

The project includes possible updates to the LSJR flow components of the Bay-Delta Plan to incorporate the Tuolumne River Voluntary Agreement. Currently, the LSJR flow objectives and program of implementation include a narrative objective that requires inflow conditions from the San Joaquin River watershed to the Delta at Vernalis sufficient to support and maintain the natural production of viable native San Joaquin River fish populations migrating through the Delta and a numeric objective from February through June, that requires 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 flow at Vernalis as provided by the percent of unimpaired flow objective, shall be no lower than the base flow value of 1,000 cubic feet per second (cfs) with an adaptive management range between 800 and 1,200 cfs, inclusive. 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 from each tributary will be necessary (Table 3, Bay-Delta Plan, p. 15 and p. 25). During the month of October, the LSJR flow objectives and program of implementation also 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-feet pulse flow or a minimum monthly average flow of 2,000 cfs, whichever is less (Table 3, Bay-Delta Plan, Footnote 13).

The Bay-Delta Plan provides pathways for voluntary agreements to implement the LSJR flow portions of the Bay-Delta Plan for the “[t]ributaries as a whole, an individual tributary, or some combination thereof.” The proposal for a Tuolumne River Voluntary Agreement does not fully conform to the current Bay-Delta Plan, including the required percent of unimpaired flow level. Accordingly, the Bay-Delta Plan would need to be updated to allow for the Tuolumne River Voluntary Agreement. Specifically, it is anticipated that the program of implementation would be modified to allow for the Tuolumne River Voluntary Agreement to be implemented for the proposed 8-year period, with the possibility of extension.

Potential Alternatives

The State Water Board seeks additional data and input on possible staff report alternatives from responsible and trustee agencies, California Native American tribes, and the interested public. The State Water Board will consider all comments and available and relevant information received during the scoping process.

SCOPING MEETING

State Water Board staff will hold a virtual public scoping meeting to provide information and solicit input regarding the proposed Tuolumne River Voluntary Agreement. The scoping meeting will consist of a presentation by State Water Board staff regarding possible changes to the Bay-Delta Plan to incorporate the proposed Tuolumne River Voluntary Agreement. The meeting will also include an opportunity for participants to provide oral comments regarding the scope and information to be considered in the staff report environmental documentation and potential Bay-Delta Plan updates for the proposed Tuolumne River Voluntary Agreement.

Parties may provide written comments regarding this notice as described in the **“WRITTEN PUBLIC COMMENTS”** section below. Details of the public meeting are as follows:

Thursday, May 18, 2023
Starting at 10:00 a.m. PDT
Remote Participation Only

Viewing and Registration Requirements

If you wish to view the scoping meeting only, a webcast will be available at <https://video.calepa.ca.gov/>. This option does not require registration and should be used for viewing the scoping meeting, however it does not allow oral comments to be made. **If you wish to make oral comments during the scoping meeting, you must submit a Virtual Speaker Card using the [online registration form](#) by noon on Friday, May 12, 2023.**

In order to allow adequate time for all public speakers, oral comments will be limited to no more than 5 minutes. To accommodate all speakers, additional time limits may be imposed if necessary. The meeting will be recorded and posted on the State Water Board's [Bay-Delta Plan Voluntary Agreements webpage](#) following the meeting. A quorum of State Water Board members may be present at the scoping meeting, but the State Water Board will take no action.

Accessibility and Interpretation Services

Individuals requiring special accommodations for the scoping meeting, including interpretation services, should submit a request at least 10 business days before the meeting to LanguageServices@waterboards.ca.gov. Telecommunications Device for the Hearing Impaired (TDD) users may contact the California Relay Service at (800) 735-2929 or voice line at (800) 735-2922.

WRITTEN PUBLIC COMMENTS

Written comments should be submitted by email to LSJR-SD-Comments@waterboards.ca.gov (if less than 15 megabytes in total size) with the subject "**NOP Comment Letter – Tuolumne River Voluntary Agreement**". In order to be fully considered, comments must be received by **12:00 p.m. PDT (noon) on Thursday, May 25, 2023**. Written comments may be delivered via mail or hand-delivered to the following address:

Division of Water Rights Mail Room
Attn: San Joaquin Unit
State Water Resources Control Board
P.O. Box 100, Sacramento, CA 95812-2000 (mail)
1001 I Street, 2nd Floor, Sacramento, CA 95814 (hand-delivery)

QUESTIONS AND ADDITIONAL INFORMATION

Questions concerning this notice may be directed to:
LSJR-SD-Comments@waterboards.ca.gov

April 11, 2023
Date



Courtney Tyler
Clerk to the Board

Background

This section provides background information on the Bay-Delta Plan, proposed Tuolumne River Voluntary Agreement, and required environmental documentation for this project.

The State Water Board is initiating preparation of a staff report, including a draft SED, for consideration of potential updates to the Bay-Delta Plan to incorporate a proposed Tuolumne River Voluntary Agreement. The draft SED meets the environmental review requirements of CEQA, Public Resources Code section 21000 et seq., for this project.

Bay-Delta Plan

The State Water Board protects water quality that affects beneficial uses of water in the Bay-Delta watershed in part through its Bay-Delta Plan. The Bay-Delta Plan identifies beneficial uses of water, water quality objectives to protect those beneficial uses, a program of implementation to achieve the water quality objectives, and monitoring and evaluation provisions to assess the effectiveness of those measures. In December 2018, the State Water Board added and updated the LSJR flow and southern Delta salinity components of the Bay-Delta Plan. The program of implementation in the Bay-Delta Plan provides pathways for voluntary agreements to serve as an implementation mechanism for the LSJR flow objectives for the “[t]ributaries as a whole, an individual tributary, or some combination thereof.” This notice is focused on a proposal for a Tuolumne River voluntary agreement to partially implement the Bay-Delta Plan. Board approval of the Tuolumne River Voluntary Agreement proposal would require amendments to the Bay-Delta Plan.

Tuolumne River Voluntary Agreement

In March 2022, the State Water Board received a document dated March 29, 2022 and titled **Memorandum of Understanding Advancing a Term Sheet for the Voluntary Agreements to Update and Implement the Bay-Delta Water Quality Control Plan, and Other Related Actions** (MOU). Subsequently, in November 2022, the State Water Board received a **Revised MOU** (Revised MOU or MOU used interchangeably from here on), also dated March 29, 2022, that included additional signatures dated as late as November 9, 2022. The MOU includes voluntary agreement proposals for the Sacramento River and Delta watersheds (Sacramento/Delta), including the American and Mokelumne Rivers, and a voluntary agreement proposal for the Tuolumne River.

The State Water Board determined as early as 2012 that the distinct hydrologic, geographic, and biological conditions and attributes of the Sacramento/Delta and LSJR watersheds warranted two separate water quality planning efforts to update provisions for the protection of fish and wildlife beneficial uses, including on the salmon-bearing tributaries to each watershed. Salmonids, a sensitive indicator species, are finely attuned to return to their natal streams and, for this reason, the Sacramento/Delta and LSJR watershed vary significantly in terms of the number and size of salmon runs, as well as migration timing, residence times, and habitat needs of their differing life stages. As the LSJR watershed is more highly degraded and fish populations are generally in worse condition in that area, the State Water Board prioritized updating the LSJR portions of the Bay-Delta Plan.

As described in this notice, the State Water Board will begin a process to evaluate the Tuolumne River Voluntary Agreement in order to consider incorporating it into the Bay-Delta Plan. As proposed in the MOU, the Tuolumne River Voluntary Agreement includes flows that are additive to average January-June minimum instream flow requirements on the Lower Tuolumne River, as set-forth in the current Federal Energy Regulatory Commission license for the Don Pedro Project and measured at the USGS gage downstream of La Grange Dam. The MOU also includes other habitat restoration commitments including but not limited to spawning and rearing habitat improvements (see [MOU](#)). Because the Tuolumne River Voluntary Agreement, as proposed, does not meet the current numeric flow requirement at the current compliance point in the LSJR and does not meet other requirements in the program of implementation, the State Water Board would need to amend the Bay-Delta Plan if it were to incorporate the proposed Tuolumne River Voluntary Agreement. State Water Board staff will develop environmental documentation including but not limited to a staff report and SED to evaluate the Tuolumne River Voluntary Agreement. As described above, a Scoping Meeting will be held on May 18, 2023, to seek early public input on the possible incorporation of the Tuolumne River Voluntary Agreement into the Bay-Delta Plan.

California Environmental Quality Act (CEQA) Requirements

As noted above, the State Water Board through this NOP is initiating preparation of a staff report and draft SED (the latter pursuant to CEQA, Public Resources Code section 21000 et seq.) in order to consider possible updates to include the proposed Tuolumne River Voluntary Agreement, as described in the Revised MOU, in the Bay-Delta Plan.

A SED was adopted in 2018 ([2018 SED](#)) to support the State Water Board's decision regarding adoption of LSJR flow and southern Delta salinity amendments to the Bay-Delta Plan. The SED was prepared pursuant to the State Water Board's certified regulatory program and is a program-level, not project-level evaluation. Information also was included within the SED to assist the State Water Board in its water quality planning process and its decision-making as part of that process. Accordingly, the State Water Board anticipates tiering the SED analysis for the proposed Tuolumne River Voluntary Agreement from the 2018 SED. This tiering allows the State Water Board to avoid redundancy and focus on project-specific impacts. Moreover, the analysis of general matters in the program level SED can help inform the project-level initial study for determining whether later activities may have any significant effects on the environment. (Cal. Code Regs., tit. 14, § 15168, subd. (d).)

Potential Environmental Effects:

Following is a list of potential environmental effects that are planned to be evaluated in the draft SED for the Project. The State Water Board seeks input on specific issues within these areas, or others if applicable, that should be evaluated, alternatives that avoid significant impacts, and appropriate mitigation measures:

- Aesthetics
- Agriculture and Forestry Resources
- Air Quality
- Biological Resources
- Cultural Resources

- Energy
- Geology / Soils
- Greenhouse Gas Emissions
- Hazard and Hazardous Materials
- Hydrology / Water Quality
- Land Use / Planning
- Mineral Resources
- Noise
- Population / Housing
- Public Services
- Recreation
- Transportation / Traffic
- Tribal Cultural Resources
- Utilities / Service Systems
- Wildfire
- Mandatory Findings of Significance