



CVCWA

CENTRAL VALLEY CLEAN WATER ASSOCIATION

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September 18, 2026

Via Email Only

State Water Resources Control Board
Attention: Courtney Tyler, Clerk to the Board
1001 I Street, 24th Fl.
Sacramento, CA 95814
SacDeltaComments@waterboards.ca.gov

Re: CVCWA Comment Letter – Final Draft Bay-Delta Plan

To the State Water Resources Control Board:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to provide comments on the final draft of the updates to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin (Final Draft Plan). CVCWA is a nonprofit association of public agencies located within the Central Valley region that provide wastewater collection, treatment, and water recycling services to millions of Central Valley residents and businesses. We approach these matters from the perspective of balancing environmental and economic interests consistent with state and federal law.

CVCWA previously submitted comments on the September 2023 Draft Staff Report and the October 2024 Draft Bay-Delta Plan. CVCWA appreciates State Water Resources Control Board (State Board) staff's responses to comments from CVCWA and Sacramento Area Sewer District. Specifically, response to comment 289-1 confirms that "[i]mplementation of the proposed Plan amendments do not rely on discharges of treated wastewater." CVCWA had previously expressed concern that implementation of the proposed unimpaired flow objectives for the Sacramento River and Delta tributaries would prevent further development of recycled water supplies by requiring wastewater discharges to be maintained for instream flows rather than diverted for recycled water uses. Response to comment 289-1 states that:

Implementation of the numeric inflow and outflow requirements is accomplished by water diversion curtailment of the natural inflow in order of water right priority. Similar to released stored water, discharges of treated wastewater are not assigned responsibility to meet the flow requirements. If less water is available instream because wastewater is treated and not

discharged to a water body, the responsibility would fall to the next water right in order of priority. Accordingly, there would be no conflict with water recycling.

This is a very helpful clarification on implementation of the final flow objectives. CVCWA looks forward to the upcoming process for developing any curtailment methodology to ensure that responsibility for meeting inflow and outflow requirements remains with the water users that divert natural flow, rather than wastewater dischargers.

CVCWA also provided comments on the consideration of designation of tribal beneficial uses (TBU). CVCWA understands that as the Bay Delta Plan process developed, the State Board moved in the direction of designating Tribal Tradition and Culture (CUL) for the Bay-Delta watershed based on importance of salmon populations and the ecosystems that support salmon populations to California tribes. The Final Draft Plan and Chapter 11 of the final staff report explain the State Board's reasoning for this designation and the extensive tribal engagement and outreach that has taken place during this three-year process. This is a significant regulatory precedent.

When the State Board first adopted the TBU as part of the 2017 Mercury Provisions in the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California, the understanding at that time was that individual tribes would request that waterbodies significant to their culture and history be considered for TBU designation and that the tribes would submit information to support that designation to the regional water quality control boards. Further, there would be a process at the regional board level on the designation and implementation in the specific basin plan. Now, in the Final Draft Plan, State Board staff proposes the CUL designation for the entire Bay-Delta watershed.

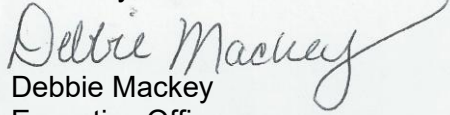
This is a sweeping designation that affects the Delta, the Sacramento River and all its tributaries, and the San Joaquin River and all its tributaries. Given the geographic scope of this designation and the potential effect on water quality permitting in the Central Valley region, there is little explanation on how the CUL designation will interact with other broad state water quality control policies. There is also very little detail on how the CUL beneficial use will be implemented or considered in future permitting actions.

Chapter 11 of the final draft staff report explains that "[a]lthough the CUL beneficial use does not itself authorize implementation actions aimed at protecting fish populations," there is an overlap between the flow-based actions to protect aquatic life beneficial uses, and that these flow-based actions also support fish populations on which tribal cultural uses depend and that are encompassed within the CUL use. Final Staff Report at pp. 11-25 to 11-26. However, Chapter 11 also acknowledges that all NPDES permits, waste discharge requirements, and conditional waivers issued within the Bay-Delta watershed by the State Board, the Central Valley Regional Board, and the San Francisco Bay Regional Board require compliance with applicable water quality standards and the protection of beneficial uses in the basin plans. Chapter 11 also recognizes that the State Board and regional boards will use their authority to protect all the TBUs on a case-by-case basis, including discharge permitting. *Id.* at p. 11-25.

These broad statements on future, but unspecified, case-by-case actions for permitting leave dischargers with a lot of uncertainty as to how the CUL designation and TBU incorporation will work in practice at the individual permit level. CVCWA would appreciate the consideration of additional language in the Final Draft Plan, final staff report, or adopting resolution that confirms that individual wastewater permits are not an implementation action expected to directly support or protect the CUL beneficial use and that flow-based actions remain the primary implementation pathway for protection of the CUL beneficial use in the Bay-Delta watershed.

We appreciate your consideration of these comments. If you have any questions or if CVCWA can be of any further assistance, please contact me at (530) 268-1338 or eoofficer@cvcwa.org.

Sincerely,

A handwritten signature in cursive script that reads "Debbie Mackey". The signature is written in dark ink on a light-colored background.

Debbie Mackey
Executive Officer

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