

Bay-Delta & WaterFix Update

Regional Water Authority
Board of Directors
November 8, 2018

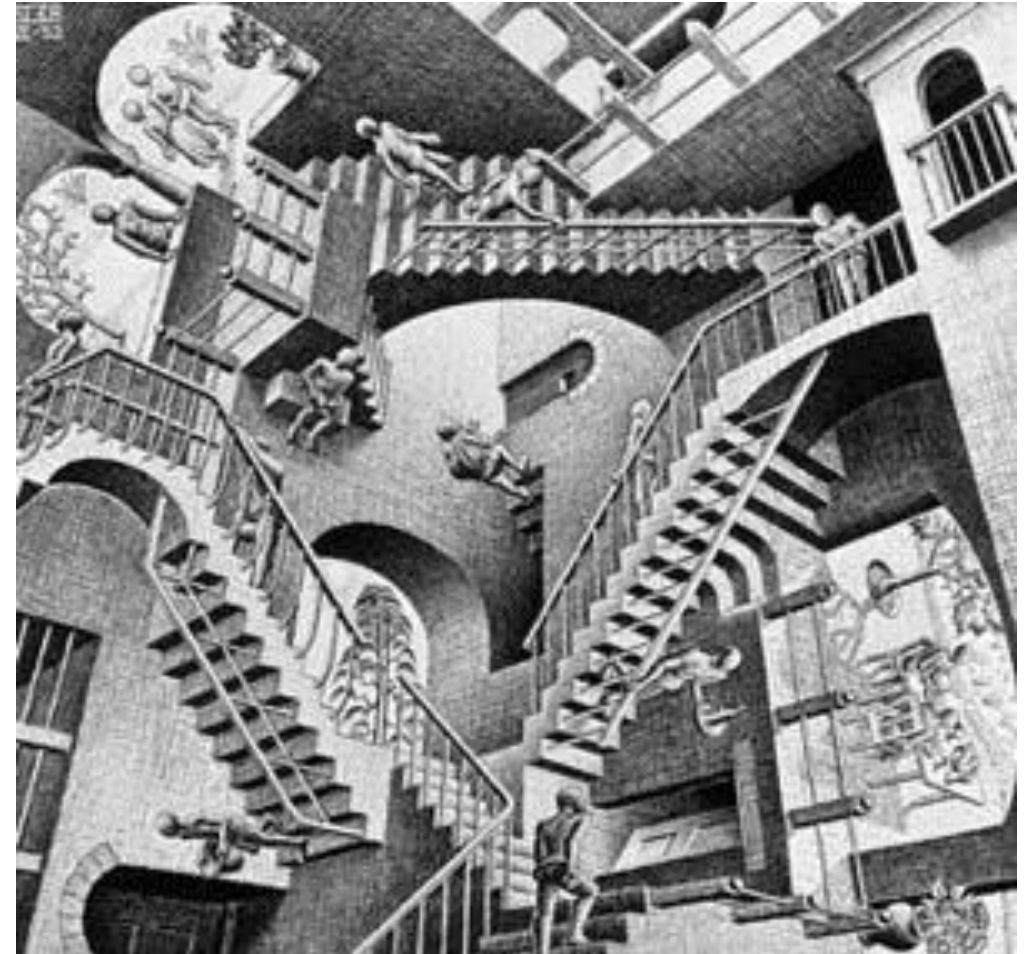
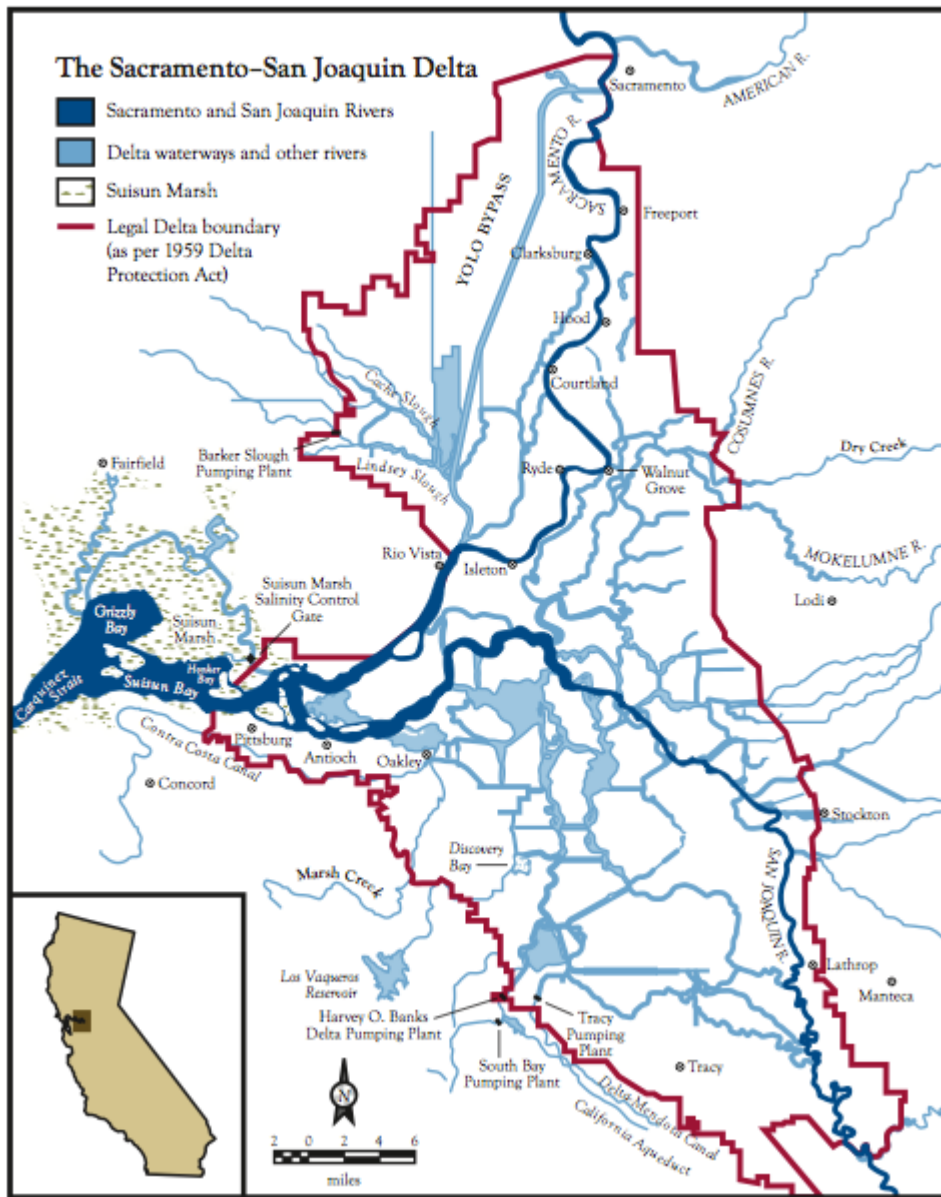
Ryan Bezerra



Bartkiewicz, Kronick & Shanahan
A Professional Corporation

It's Complicated

≈



State Board Delta Proceedings

Water Knot



- Bay-Delta Water Quality Control Plan
 - San Joaquin Basin Amendments
 - Sacramento/Delta Basin Proceeding
- California WaterFix
 - State Board Hearing

Bay-Delta – San Joaquin Basin

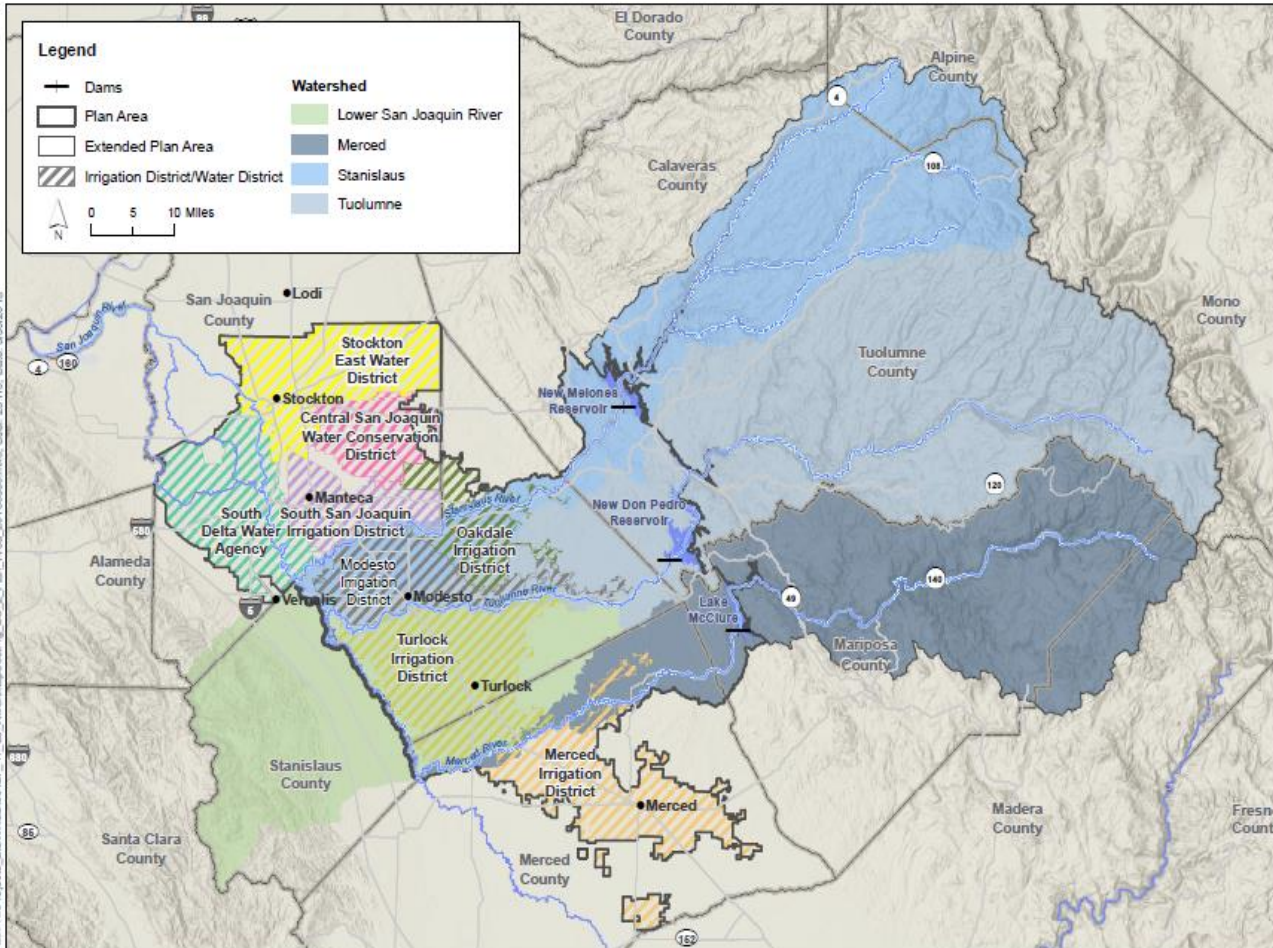
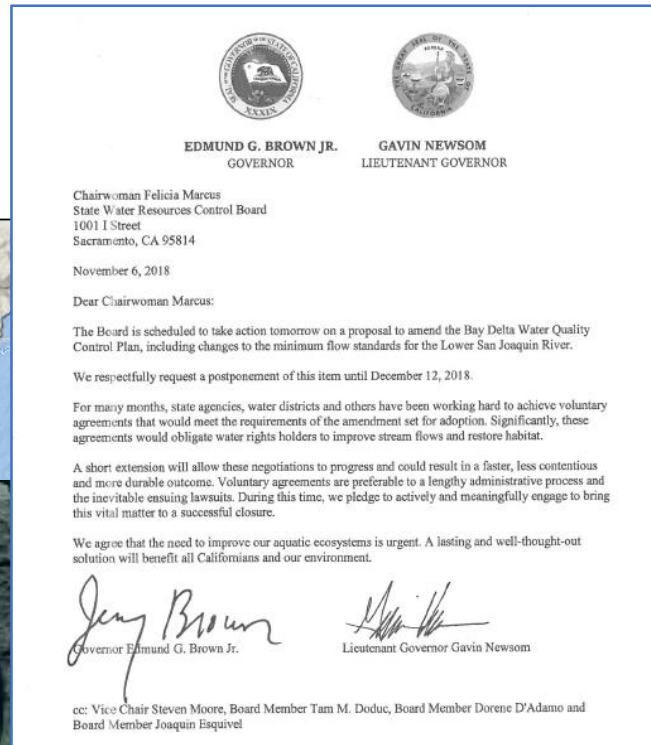
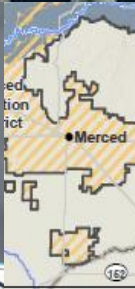


Figure ES-2
Plan Area

- **New flow standards to support salmon**
 - 40% of unimpaired runoff as minimum flows in Merced, Tuolumne & Stanislaus Rivers
 - Later rules on carryover reservoir storage so no harm to salmon
 - Stakeholder groups/SWRCB involved in ongoing management
- **Basis of new standards**
 - 2010 State Board report – fish need more water on an unimpaired flow patterns – 60% in San Joaquin basin
 - Standards at 40% to “balance” fish and other needs
- **Effects of new standards**
 - More groundwater pumping in overdrafted basins
 - Reduced agricultural acreage
 - Reduced hydroelectric generation
 - Significant impacts on Bay-Area water supplies

San Joaquin Basin



• Very political

- Issue in congressional campaign
- Dueling Capitol rallies
- SFPUC opposes, SF Board of Supervisors supports, SF Mayor vetoes

• State Board

- Approval was set for Nov. 7
- Nov. 6 letter from Governor & Governor-Elect
- Nov. 7 – 3-0 vote to extend to December, 2 abstentions

• What happens next?

- Intense settlement negotiations?
- Litigation almost immediately on adoption – including by US?
- US EPA consideration?

Sacramento/Delta Basin



State Board July 6, 2018 framework's upstream proposals

Sacramento/Delta Inflow Objectives

The proposed objective is as follows:

Maintain inflow conditions from the Sacramento River/Delta tributaries sufficient to support and maintain the natural production of viable native fish populations and to contribute to Delta outflows. Inflow conditions that reasonably contribute toward maintaining viable native fish populations include, but may not be limited to, flows that more closely mimic the natural hydrographic conditions to which native fish species are adapted, including the relative magnitude, duration, timing, quality and spatial extent of flows as they would naturally occur.

Maintain inflows from the Sacramento/Delta tributaries at 55% of unimpaired flow, within an allowed adaptive range between 45 and 65% of unimpaired flow.

Cold Water Habitat Objective

The proposed narrative objective is as follows:

Maintain stream flows and reservoir storage conditions on Sacramento River/Delta tributaries to protect cold water habitat for sensitive native fish species, including Chinook salmon, steelhead, and sturgeon. Cold water habitat conditions to be protected include maintaining sufficient quantities of habitat with suitable temperatures on streams to support passage, holding, spawning, incubation, and rearing while preventing stranding and dewatering due to flow fluctuations.

Sacramento/Delta Basin



State Board July 6, 2018 framework's Delta proposals

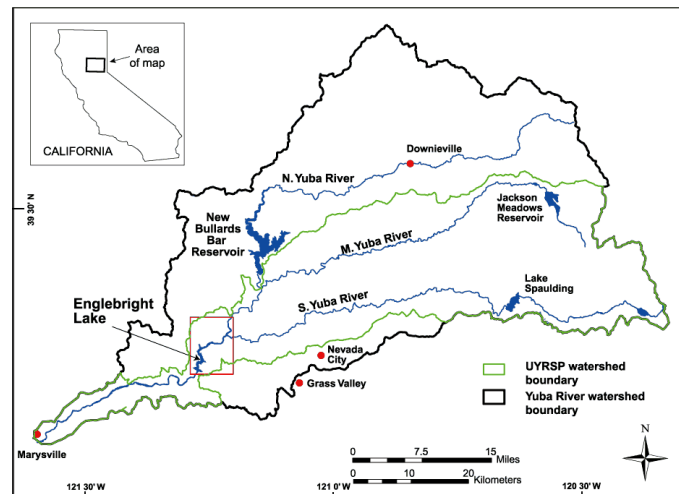
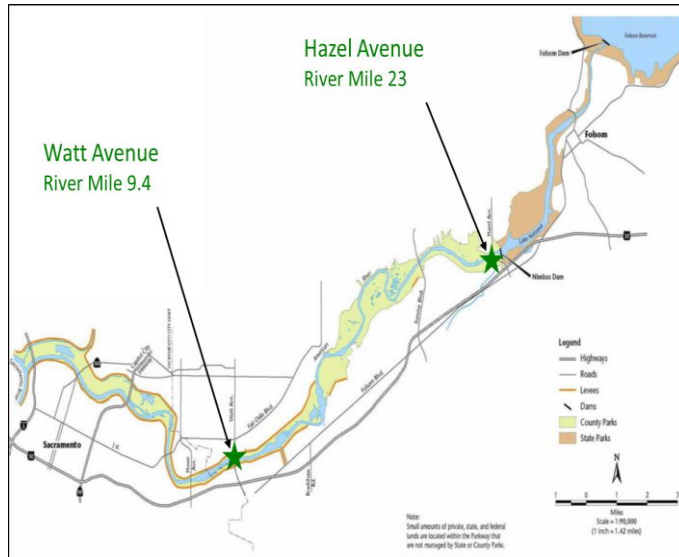
Narrative Delta Outflow Objective

Maintain Delta outflows sufficient to support and maintain the natural production of viable native anadromous fish, estuarine fish, and aquatic species populations rearing in or migrating through the Bay-Delta estuary. Delta outflows that reasonably contributes toward maintaining viable native fish and aquatic species populations include, but may not be limited to, flows that connect low salinity pelagic waters to productive tidal wetlands and flows that produce salinity distributions that more closely mimic the natural hydrographic conditions to which these species are adapted, including the relative magnitude, duration, timing, quality and spatial extent of flows as they would naturally occur. Indicators of viability include population abundance, spatial extent, distribution, productivity and genetic and life history diversity. Viability is dependent on maintaining migratory pathways, sufficient quantities of high quality spawning and rearing habitat, and a productive food web.

Inflow-Based Delta Outflow Objective

The inflows required above, including for the Sacramento/Delta tributaries and San Joaquin River are required as outflows with adjustments for downstream natural depletions and accretions.

Sacramento/Delta Basin



July 2018 framework's *proposed implementation program*

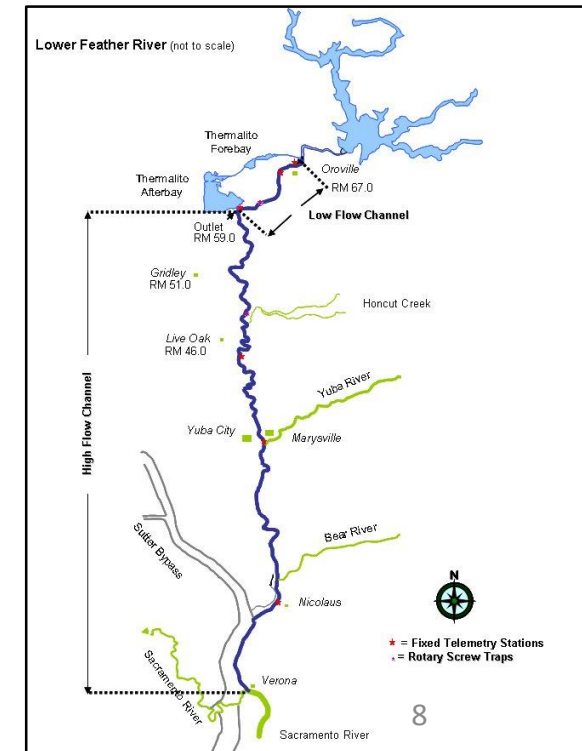
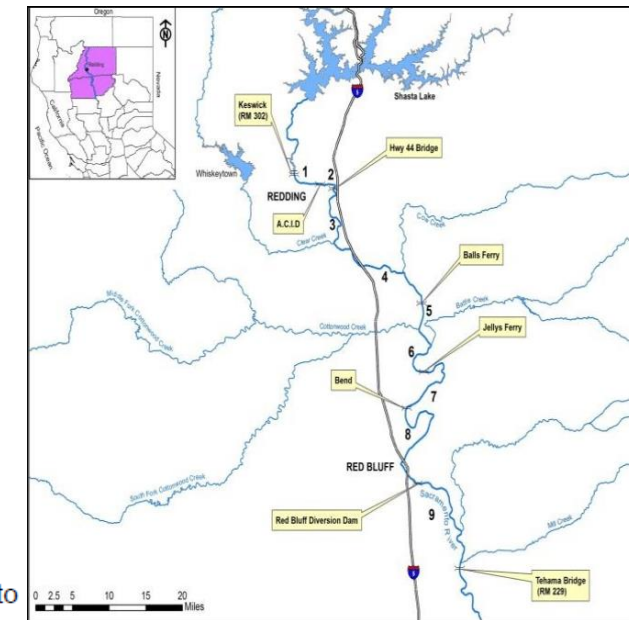
Implementation Options

Voluntary Agreements Facilitated by Other State Agencies

At a minimum, to be considered by the State Water Board, voluntary agreements would need to include provisions for transparency and accountability, monitoring and reporting, and for planning, adaptive management, and periodic evaluation. Voluntary agreements would also need to be supported by DFW. In evaluating any proposal, the Board will need to make an independent finding to determine whether the agreement will be enforceable and will contribute to achieving the water quality objectives and protection of fish and wildlife beneficial uses.

Default Implementation

The hearing for D-1641, implementing the latest major revisions to the Bay-Delta Plan, took several years to complete. Because agreements were largely reached on implementation activities, those hearings were much shorter than they would have been otherwise and implementation occurred sooner than it would have otherwise. An all-encompassing, comprehensive adjudicative hearing may not be the most effective or efficient procedure for implementation of Bay-Delta Plan updates. Alternatives exist; for example, the Board may structure a set of smaller hearings for each tributary. The Board may also consider rulemaking to impose some of the approaches listed above that are applicable across a broad group of water users (such as Term 917), or impose a regulation with the opportunity for a hearing for those who object for specific reasons or otherwise require an individual investigation into a specific water right. The State Water Board will determine specific implementation provisions at a later date and will provide opportunity for public review and comment on the proposal.



FINAL

Substitute Environmental Document in Support of
Potential Changes to the Water Quality Control Plan
for the San Francisco Bay-Sacramento San Joaquin Delta Estuary

San Joaquin River Flows and Southern Delta Water Quality



State Water Resources Control Board | California Environmental Protection Agency

Sacramento/Delta Basin – Next Steps

• November-December 2018

- Settlement negotiations with Governor/Governor-Elect combined with San Joaquin negotiations?
- State Board releases draft staff report/SED for draft Sacramento/Delta standards?
- Based on SacWAM modeling – brand-new model

• January 2019

- State Board chair Felicia Marcus's term ends – reappointed???
- New appointment to fill empty seat???

• Spring-summer 2019???

- Comments on draft staff report/SED due

• Fall 2019-winter 2020???

- State Board adopts new Sacramento/Delta standards

• Winter 2020-???

- Implementation negotiations and measures

• Winter 2020-∞

- Litigation



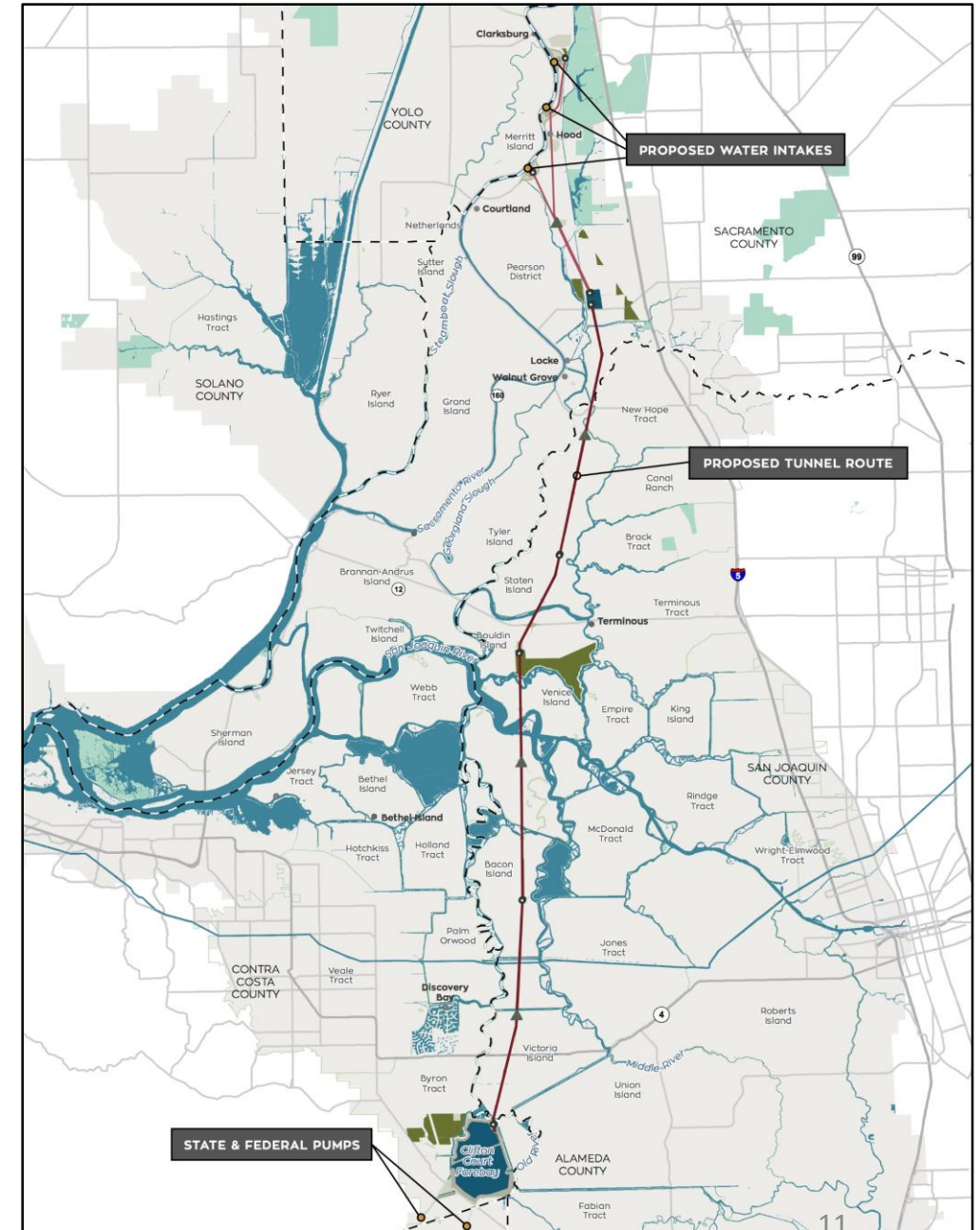
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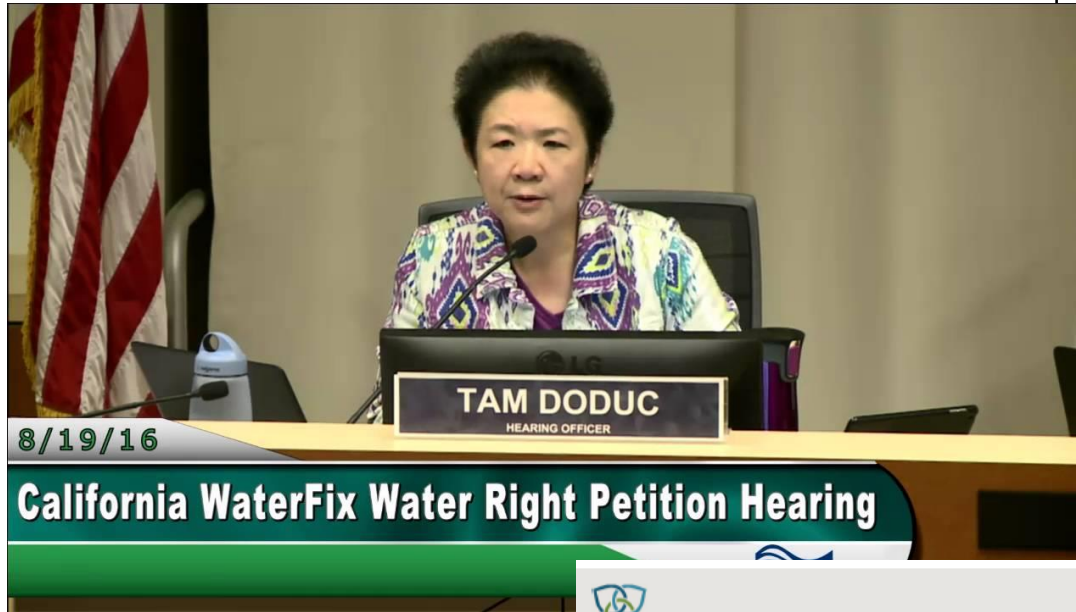
California WaterFix

California WaterFix - Generally

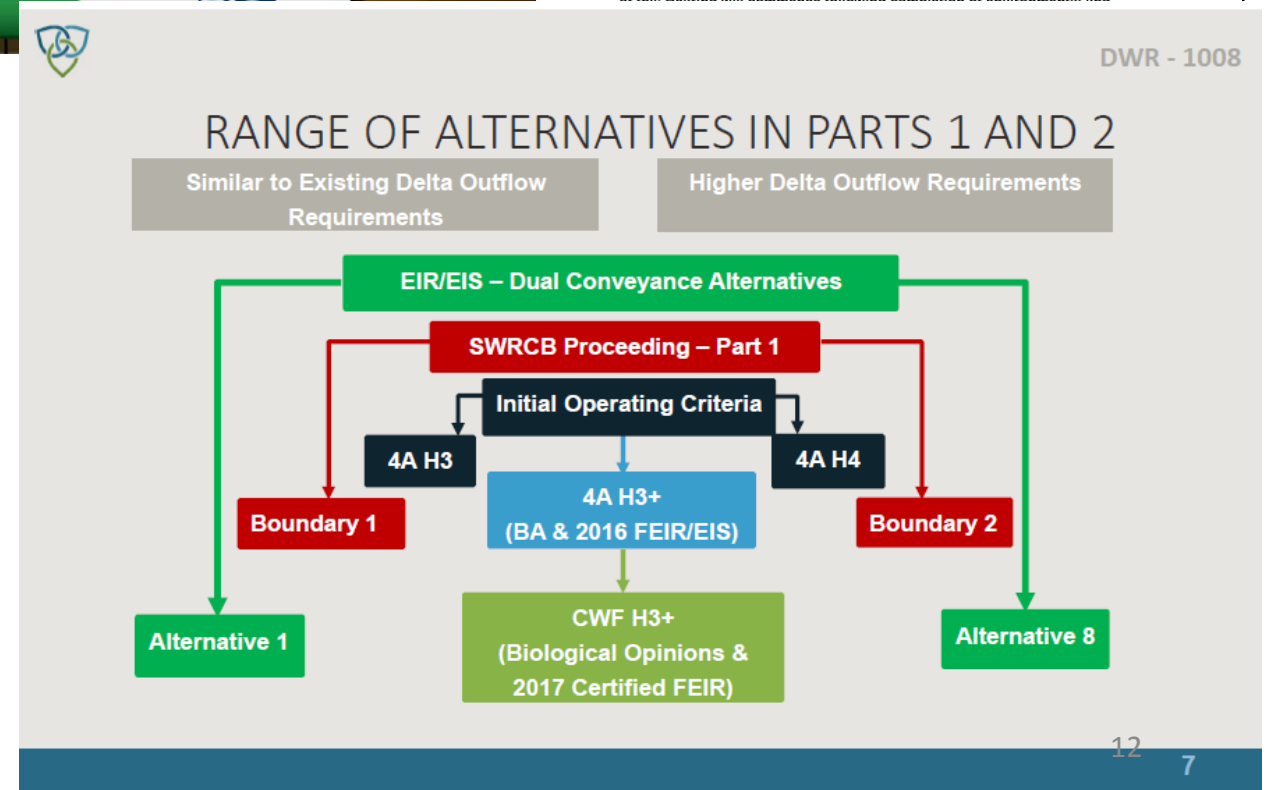
- **Delta tunnels to convey water from Sac. River water to south Delta export pumps**
 - 3 diversions
 - 2 35-foot tunnels
 - 9,000-cfs total capacity
- **Goals**
 - Restore SWP/CVP capacity to divert winter flows
 - Move more water from upstream storage?
 - More natural flow pattern through Delta
- **Status aside from State Board hearing**
 - EIR certified, supplemental EIR this fall – litigation ongoing
 - Most state/federal permits granted
 - Uncertain capacity allocation and cost split between SWP and CVP



State Board Hearing

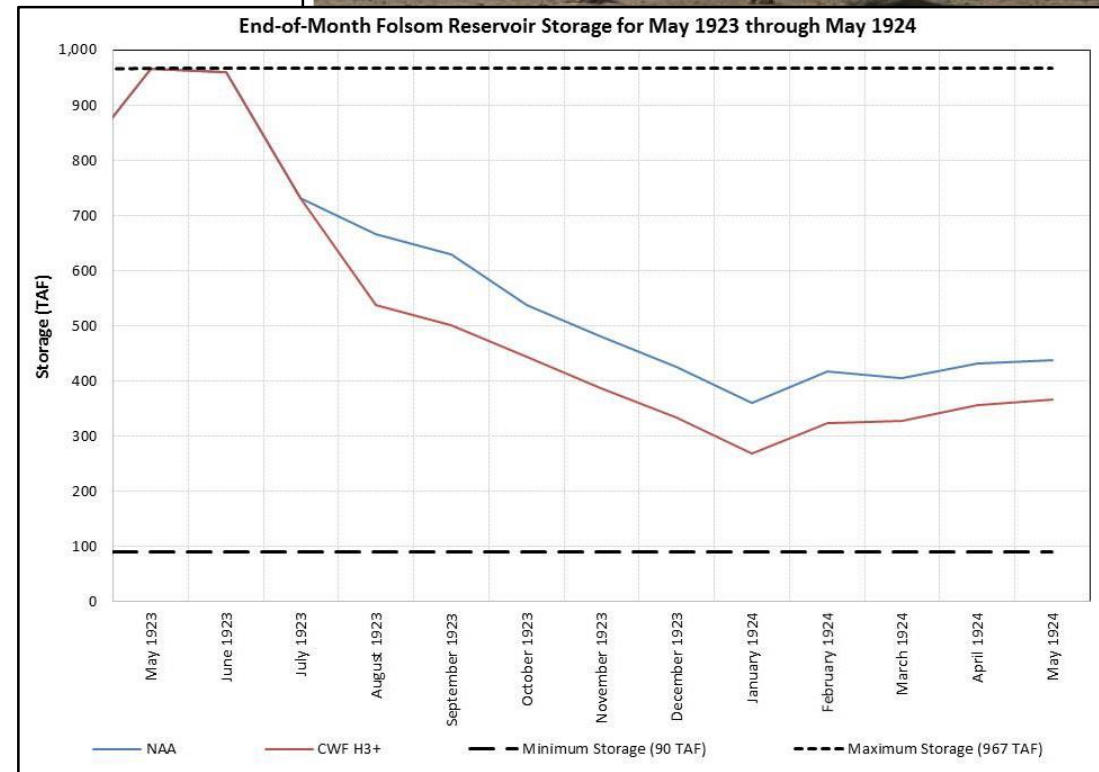
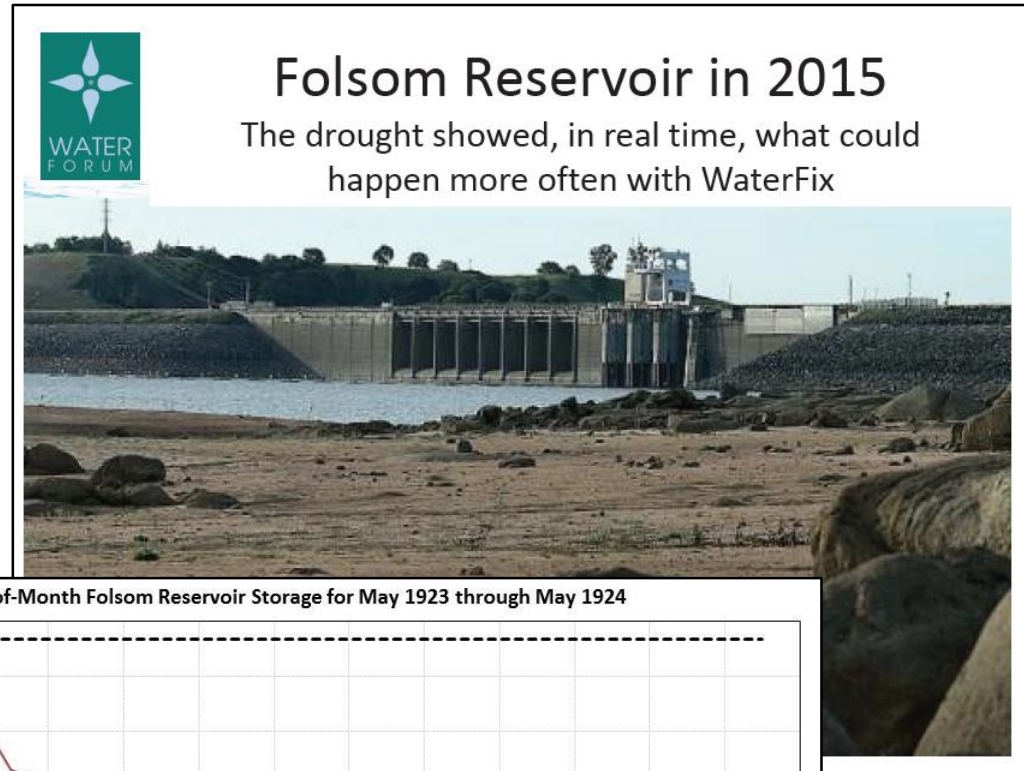


- **Three years so far**
 - 106 hearing days
 - 1000's of exhibits
 - At least 1 production baby
- **DWR/Reclamation position**
 - No possibility of injury to other water users – will use “real time operations” to avoid that
 - No possibility of unreasonable impacts to fish and wildlife – will develop measures to avoid between now and operation and also adaptively manage
- **DWR/Reclamation modeling of operations**
 - EIR certified, supplemental EIR this fall
 - Most state/federal permits granted
 - Uncertain capacity allocation between SWP and CVP



State Board Hearing – American River Agencies/Water Forum

- **WaterFix would worsen existing dry-year risks at Folsom and in the river**
 - More drawdown in modeled dry years
 - Modeling shows severe temperatures in river
 - DWR/Reclamation modeling underestimates impacts
- **Proposal – Modified Flow Management Standard as conditions on project**
 - Minimum carryover storage requirement – 300,000 AF in most years; 230,000 AF in very dry years
 - Minimum river flows
 - Temperature management program



*State Board Hearing –
American River/Water
Forum Position*

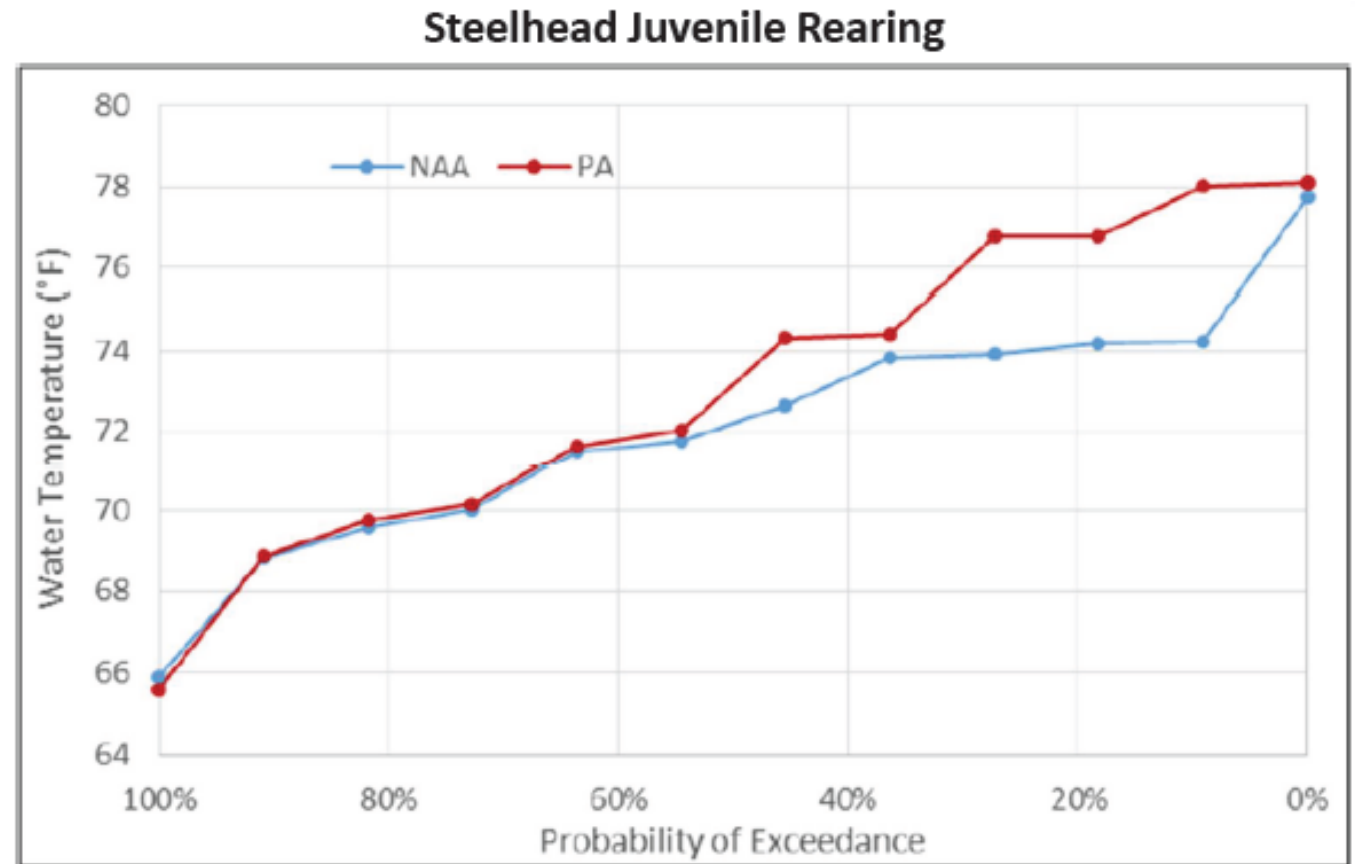
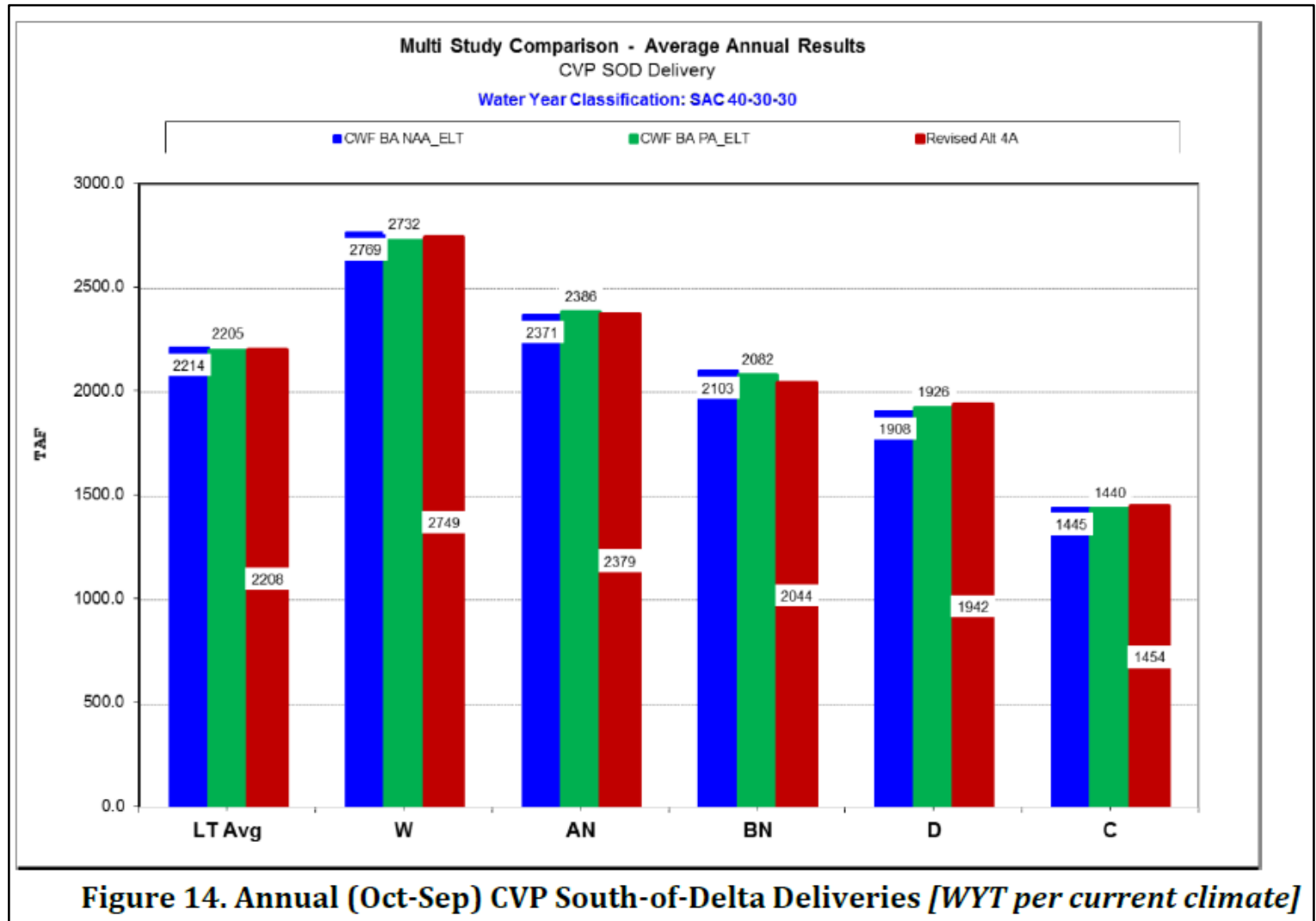
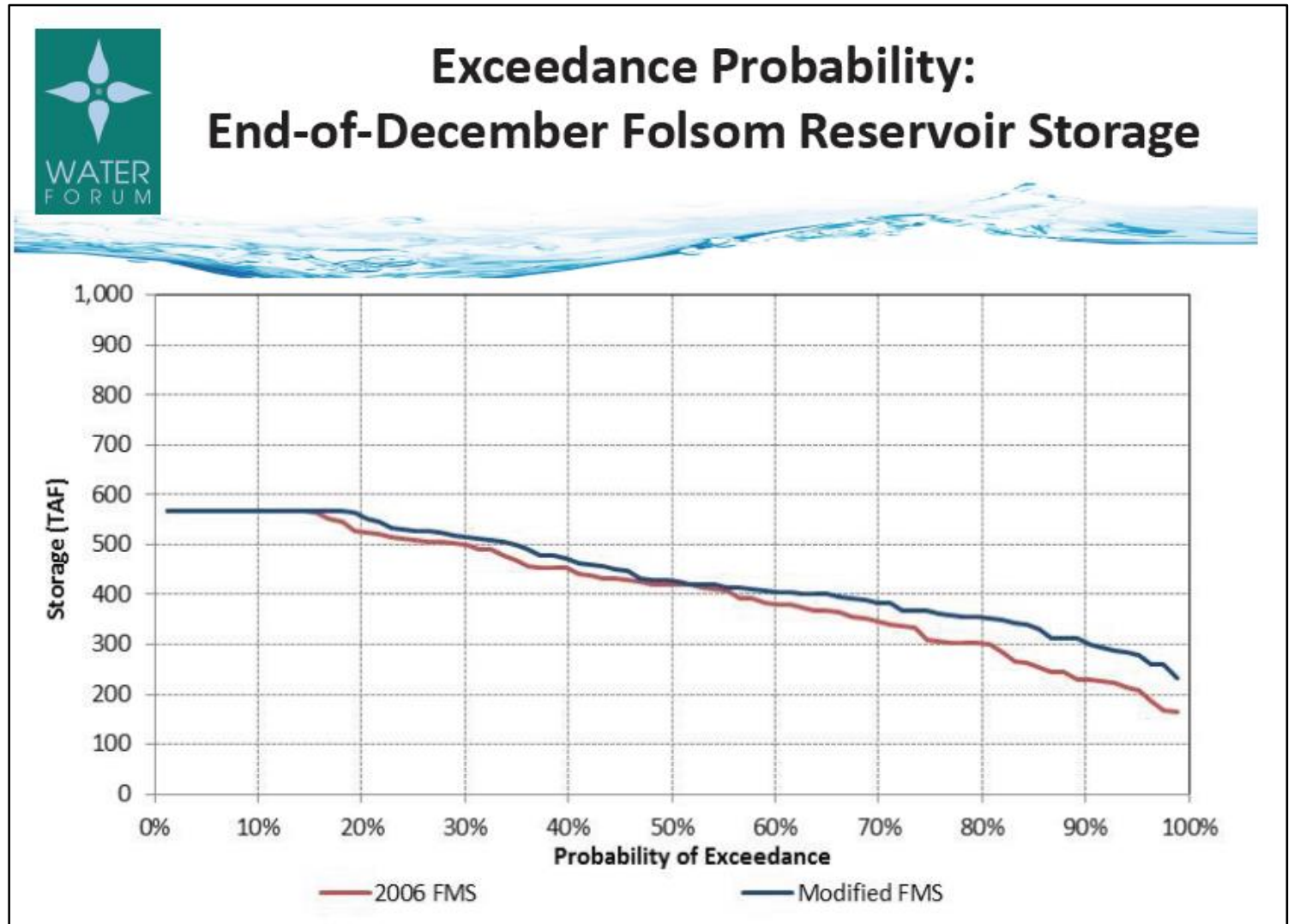


Exhibit ARWA-703. Figure 2-35. Exceedance Plot of Mean Monthly Water Temperatures (°F) in the American River at Watt Avenue in August of Critical Water Years. (Source: NMFS 2017 BO)

State Board Hearing – American River/Water Forum Position



*State Board
Hearing – American
River/Water Forum
Position*



State Board Hearing – Next Steps

- **Hearing itself**
 - Testimony is finished
 - Closing briefs/draft order?
- **Effect of politics**
 - A legacy project for Governor Brown – SWRCB decision before he leaves office?
 - Governor-elect Newsom – one tunnel?
 - Federal actions?
- **Further litigation certain**
 - Water users – possible
 - County of Sacramento – probable
 - Environmental group/Delta interests – certain

