



State Water Resources Control Board

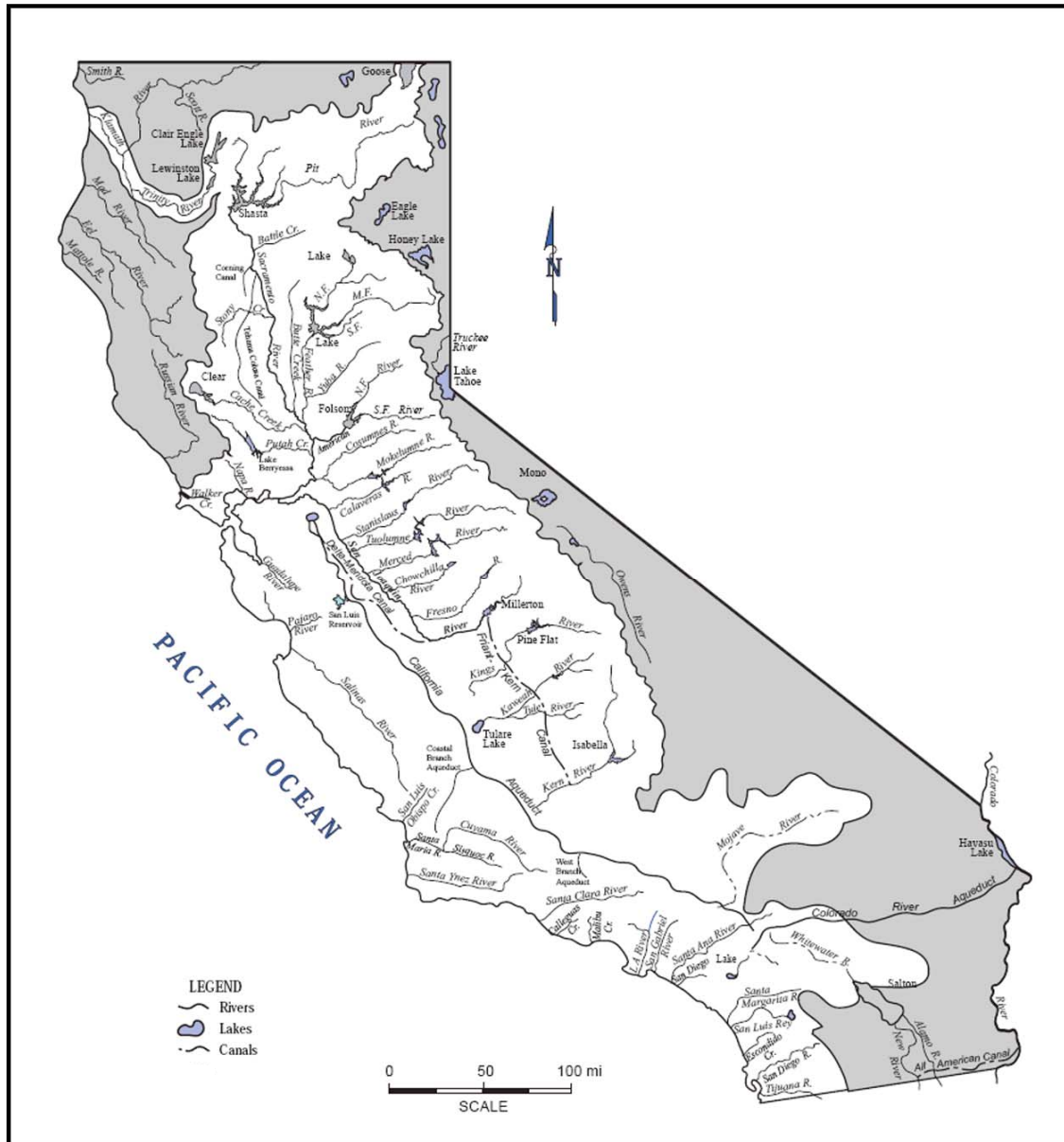


Linda S. Adams
Secretary for
Environmental Protection

Division of Water Rights
1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000
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Arnold Schwarzenegger
Governor

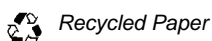
Notice of Preparation and of Scoping Meeting for Environmental Documentation for the Update and Implementation of the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary: Southern Delta Salinity and San Joaquin River Flows



PROJECT AREA

*shaded areas not included

California Environmental Protection Agency



Notice of Preparation

To: State Clearinghouse, Governor's Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812-3044

Subject: **Notice of Preparation of Environmental Documentation**

Lead Agency:

Agency Name: State Water Resources Control Board
Street Address: P.O. Box 2000
City/State/Zip: Sacramento, CA 95812-2000
Contact: Anne Short
Phone: (916) 445-5997
Email: AShort@waterboards.ca.gov

The State Water Resources Control Board (State Water Board or Board) will be the lead agency and will prepare environmental documentation for the potential update and changes to implementation of the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta) (Bay-Delta Plan). The Bay-Delta Plan identifies beneficial uses of the Bay-Delta, water quality objectives for the reasonable protection of those beneficial uses, and a program of implementation for achieving the water quality objectives. The proposed Project includes both: 1) the review and update of water quality objectives, including flow objectives, and the program of implementation in the Bay-Delta Plan; and 2) changes to water rights and water quality regulation consistent with the program of implementation. Accordingly, the environmental documentation will identify and evaluate the significant environmental impacts associated with potential changes to the Bay-Delta Plan and potential changes to water rights and other measures implementing the plan that may be needed to ensure the reasonable protection of beneficial uses in the Bay-Delta watershed. Through the environmental review process, the Board will identify possible ways to minimize the significant effects and describe a range of reasonable alternatives to the potential changes to the Bay-Delta Plan and its implementation through water rights and other measures.

The State Water Board will consult with responsible and trustee agencies and interested persons on all aspects of the update and implementation of the Bay-Delta Plan. The Board, however, has decided to begin preparing portions of the environmental documentation for this Project that pertain to southern Delta salinity and San Joaquin River flows now and will begin other portions of the environmental documentation as soon as additional information is available. Accordingly, at this time, the Board is only seeking comments from responsible and trustee agencies and interested persons concerning the scope and content of the environmental information to be included in the environmental documentation relating to these two particular components of the Bay-Delta Plan and their implementation:

- **Southern Delta salinity**
- **San Joaquin River flow objectives**

The Board will consult with public agencies and interested persons on other components of the project in the coming months, and will send out a supplemental notice requesting such consultation and providing an additional opportunity for public comment. For responsible and trustee agencies, the State Water Board needs to know the views of your agency as to the

scope and content of the environmental information that is germane to your agency's statutory responsibilities in connection with the proposed Project.

Project Title: Update and Implementation of the Water Quality Control Plan for the San Francisco Bay / Sacramento-San Joaquin Delta Estuary

Project Location: The location for this Project is the Bay-Delta watershed and its upstream tributaries and any reservoirs for which water may be used to meet the water quality objectives, including upstream reservoirs and San Luis Reservoir. The area of potential environmental effects encompasses most of the State, including: 1) the watershed of the Bay-Delta, 2) the Trinity River watershed from which water is diverted into the watershed of the Bay-Delta, and 3) areas receiving water exported from the Bay-Delta. A map of the Project area is shown on the first page of this notice.

Project Description: The proposed Project includes both: 1) the review and update of water quality objectives and the program of implementation in the Bay-Delta Plan and 2) changes to water rights and water quality regulation consistent with the program of implementation. Accordingly, the environmental documentation will identify and evaluate the significant environmental impacts associated with potential changes to the Bay-Delta Plan and potential changes to water rights and other measures implementing the plan that may be needed to ensure the reasonable protection of beneficial uses in the Bay-Delta watershed. Given the broad scope of this effort, at this point, the Board intends to stage its environmental review of the Bay-Delta Plan and water rights implementation for that plan. The State Water Board anticipates preparing substitute environmental documentation to support any water quality control plan updates, as appropriate and one or more Environmental Impact Reports (EIR) to support any water right decision(s) or order(s) that may be needed to support changes to water rights to implement any changes to the Bay-Delta Plan. The Board may alternatively choose to prepare one EIR to inform both the water quality control planning and water rights implementation described in this notice. The Board will provide additional notice once it decides on its approach.

SCOPING MEETING AND COMMENT PERIOD

A scoping meeting focused on potential changes to the southern Delta salinity and San Joaquin River flow objectives and their implementation, with opportunity to provide comments, will be held at the following location and time:

Joe Serna California EPA Building Sierra Hearing Room 1001 I Street Sacramento, CA 95814	March 30, 2009, 1 p.m. to 5 p.m.
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A quorum of State Water Board members may be present at the scoping meeting. In order to allow adequate time for all presenters, time limits may be imposed on presentations. The meeting will be webcast live on the California Environmental Protection Agency's website at www.calepa.ca.gov/broadcast/. The meeting will be documented with audio and visual recording.

As indicated above, once additional information is available regarding other potential changes to the Bay-Delta Plan and its implementation, the State Water Board will issue a supplemental notice of preparation (NOP) and conduct one or more additional scoping meetings.

Written comments must be received by or before **12:00 Noon on March 19, 2009**, and addressed to:

Anne Short
State Water Resources Control Board
Division of Water Rights
P.O Box 2000
Sacramento, CA 95812-2000

The State Water Board requests 15 copies of written comments. Comment letters are also requested to be submitted by email to: Bay-Delta@waterboards.ca.gov (if less than 15 megabytes in total size). Please indicate the project you are commenting upon in the subject line: "Comment Letter – Southern Delta Salinity and San Joaquin River Flow NOP".

The remainder of this notice provides the following additional information:

- Overview of the California Environmental Quality Act (CEQA) and basin planning processes
- Background regarding the Project, southern Delta salinity, and San Joaquin River flows
- Potential environmental effects of the Project

There is no initial study.

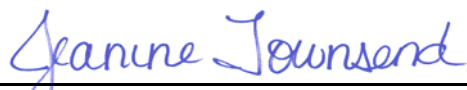
PARKING, ACCESSIBILITY, AND SECURITY

The attached maps show the location and parking for the Joe Serna Jr./Cal-EPA Building in Sacramento. The Joe Serna Jr./Cal-EPA Building is accessible to people with disabilities. Individuals who require special accommodations at the Joe Serna Jr./Cal-EPA Building are requested to contact Catherine Foreman, Office of Employee Assistance, at (916) 341-5881.

Due to enhanced security precautions at the Cal-EPA Headquarters Building, all visitors are required to register with security staff prior to attending any meeting. To sign in and receive a visitor's badge, visitors must go to the Visitor and Environmental Services Center, located just inside and to the left of the building's public entrance. Depending on their destination and the building's security level, visitors may be asked to show valid picture identification. Valid picture identification can take the form of a current driver's license, military identification card, or state or federal identification card. Depending on the size and number of meetings scheduled on any given day, the security check-in could take up to fifteen minutes. Please allow adequate time to sign in before being directed to the hearing.

February 13, 2009

Date



Jeanine Townsend
Clerk to the Board

OVERVIEW OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND BASIN PLANNING PROCESSES

The State Water Board is initiating preparation of environmental documentation, including documentation pursuant to CEQA, Public Resources Code section 21000 et seq., regarding the environmental effects associated with potential changes to the Bay-Delta Plan and its implementation through water rights and other measures to ensure the protection of beneficial uses.

Under its authority to protect beneficial uses of water, the State Water Board adopted the 2006 Bay-Delta Plan on December 13, 2006. Pursuant to requirements of state and federal law, the Board initiated its periodic review of the Bay-Delta Plan in August 2008. It expects to conclude the review process in spring of 2009. Through the periodic review process, the Board will determine which issues it should consider for potential revisions to the Bay-Delta Plan. Board staff will then prepare any needed plan amendments or revise the entire plan as directed by the Board. At present, the Board has not made any decision whether to amend or adopt any objectives or the program of implementation. The basin plan amendment process and amendment of water rights to implement the plan require preparation of environmental documentation in accordance with CEQA.¹

In both its water quality and environmental review processes, the State Water Board will consider information developed to inform other Bay-Delta related processes. The Bay Delta Conservation Plan (BDCP) is being developed through a voluntary collaboration of State, federal, and local agencies and Delta power plant owners under the State and federal endangered species acts and other laws. The purpose of the BDCP process is to develop near-term and long-term measures to recover and restore at-risk species, primarily fisheries, in the Delta, while improving water supply reliability. The Department of Water Resources (DWR) and the federal lead agencies are preparing a joint Environmental Impact Statement (EIS)/EIR for the BDCP. The BDCP EIS/EIR will include analysis of the environmental impacts of improved water conveyance infrastructure for the State Water Project (SWP) and the Central Valley Project (CVP) and other habitat conservation measures that will be developed to advance the goals and objectives of the BDCP. Implementation of the BDCP will likely require changes to the 2006 Bay-Delta Plan and water rights implementing that plan. The State Water Board's review of the Bay-Delta Plan and its implementation and preparation of environmental documentation for this project will proceed concurrently with preparation of the BDCP EIS/EIR.

The State Water Board's review of the Bay-Delta Plan and its implementation and preparation of environmental documentation for that project will also proceed concurrently with the Central Valley Regional Water Quality Control Board's (Central Valley Water Board) environmental review for establishment of salinity standards and a Total Maximum Daily Load (TMDL) in the San Joaquin River upstream of Vernalis. The Central Valley Water Board's environmental document will include an analysis of the environmental impacts of establishing salinity standards to protect beneficial uses in the San Joaquin River from the Merced River confluence to Vernalis. These efforts may inform the State Water Board's Project and environmental review, depending on how the Central Valley Water Board's establishment of salinity standards results in changes that affect operations to meet Delta salinity objectives. To facilitate stakeholder participation in these concurrent projects, the scoping meeting for the Central

¹ This NOP initiates the CEQA consultation process, and should not be construed as the initiation of an adjudicative proceeding under the Administrative Procedure Act. (Cal. Code Regs., tit. 23, § 648.)

Valley Water Board's project to establish salinity objectives and a TMDL for the San Joaquin River upstream of Vernalis will be held immediately before the scoping meeting for this Project.

The State Water Board proposes to refer to information developed during preparation of both the BDCP EIS/EIR and the Central Valley Water Board's environmental document, to the extent that those documents provide sufficient analysis and adequately disclose impacts associated with alternative objectives and implementation methodologies of carrying out the State Water Board's Project. If the documents are not adequate for this purpose, the State Water Board will determine whether additional analyses are appropriate, and if so, will prepare such analyses. Any final environmental document will reflect the independent judgment of the State Water Board.

As discussed above, at this point, the State Water Board may prepare one EIR for the update and implementation of the Bay-Delta Plan. However, given the broad scope of this effort and the interrelationship with other planning processes, the State Water Board anticipates it will stage components of its environmental review of the Bay-Delta Plan and the environmental review for potential changes to water rights and other measures needed to implement any revisions to the Bay-Delta Plan by preparing more than one environmental document. For example, work could be completed in four stages:

- 1) Bay-Delta Plan review and update of the San Joaquin River flow and southern Delta salinity objectives and their program of implementation
- 2) Amendment of water rights and other measures to implement the San Joaquin River flow and southern Delta salinity objectives
- 3) Review and update of other components of the Bay-Delta Plan and their program of implementation
- 4) Amendment of water rights and other measures to implement other components of the Bay-Delta Plan

This approach will provide the State Water Board with the flexibility to complete stages of the effort in a timely manner.

Section 21080.5 of the Public Resources Code provides that a regulatory program of a State agency shall be certified by the Secretary for Resources as being exempt from the requirements for preparing EIRs, negative declarations, and initial studies if the Secretary finds that the program meets the criteria contained in that code section. Pursuant to California Code of Regulations, title 14, section 15251, subd. (d), water quality control planning programs of the State Water Board and the Regional Water Quality Control Boards are Certified State Regulatory Programs. Accordingly, if the State Water Board decides to stage its environmental review, it may decide to prepare a substitute environmental document for changes to the Bay-Delta Plan, rather than including that review as part of an EIR in combination with potential changes to water rights and other measures implementing the Bay-Delta Plan.

If the State Water Board determines as part of or after its review of the Bay-Delta Plan that amendments to water rights or other measures are necessary, the State Water Board would then be required to prepare an EIR pursuant to CEQA prior to issuing a water right decision or order if it determines that the decision or order may have significant environmental effects that cannot be mitigated. The State Water Board anticipates that an EIR will be required to assign responsibility for implementation of any changes made to flow and flow-related water quality objectives.

Concurrent with the environmental review process, the State Water Board intends to hold water quality control planning staff workshops to receive information and discuss technical issues associated with southern Delta salinity and San Joaquin River flows. The first workshop to receive and discuss information on potential changes to the southern Delta salinity and San Joaquin River flow objectives and the program of implementation for those objectives will be held April 22, 2009. Additional information concerning this workshop is provided in the enclosed notice of public workshop. The State Water Board will also evaluate whether to hold an evidentiary hearing as part of this water quality control planning effort after preparation of environmental documentation. Additional information concerning this issue will be forthcoming.

BACKGROUND

The 2006 Bay-Delta Plan was adopted in December of 2006 following a review of the 1995 Plan. While numerous potential issues were identified related to the 1995 Bay-Delta Plan, the State Water Board was concerned about the adequacy of scientific information available on which to base substantive changes to the water quality objectives or the program of implementation for those objectives. As a result, the State Water Board made minimal changes to the 1995 Bay-Delta Plan in the 2006 Bay-Delta Plan and identified a number of emerging issues associated with ecosystem health and other concerns to beneficial uses in the Bay-Delta. Those emerging issues include: 1) the pelagic organism decline; 2) climate change; 3) Delta and Central Valley salinity; and 4) San Joaquin River flows.

Since adoption of the 2006 Bay-Delta Plan, concerns related to protection of beneficial uses in the Bay-Delta have escalated. Central Valley salmonids have experienced significant declines at the same time various pelagic species continue to decline. These declines have led to litigation, court-imposed requirements, and additional endangered species act restrictions. In December of 2008, the U.S. Fish and Wildlife Service (USFWS) issued a revised biological opinion for delta smelt for operations of the CVP and SWP in the Delta. A revised biological opinion for listed chinook salmon, steelhead, and green sturgeon is expected to be issued by the National Marine Fisheries Service (NOAA Fisheries) by June of 2009. In February 2008, the California Fish and Game Commission (CFGF) accepted a petition to consider listing the longfin smelt as threatened or endangered. In November of 2008, CFGF re-adopted interim protection regulations to protect longfin smelt as a candidate for listing under the California Endangered Species Act. A final decision on the listing is expected in March of 2009.

The cumulative effects of these activities have restricted and will likely continue to significantly restrict diversions from the Delta by the CVP and SWP. At the same time, the State is also currently experiencing a deepening drought which is placing additional strain on water supplies and many species in the Bay-Delta.

Several efforts are currently underway to attempt to address concerns related to protection of beneficial uses in the Bay-Delta, water supply needs, and other issues. In 2006, Governor Schwarzenegger established the Delta Vision process to develop a durable vision for sustainable management of the Delta. The Delta Vision Committee submitted its final implementation plan to the Governor on recommended actions to how the Delta should be managed to fulfill its co-equal goals of water supply reliability and ecosystem restoration. As indicated above, the BDCP is being prepared to develop measures to recover and restore at-risk species in the Delta and improve SWP and CVP and other water supplies. A first draft of the BDCP is expected to be completed by the third quarter of 2009, with a draft EIS/EIR by the end of 2009 and completion of the BDCP planning process by 2010.

Comprehensive Review of the Bay-Delta Plan

In response to the ecosystem and water supply concerns in the Bay-Delta, in July of 2008, the State Water Board adopted a Strategic Workplan for activities by the State Water Board, Central Valley Water Board, and San Francisco Bay Water Board to protect beneficial uses in the Bay-Delta. Among other activities, the Strategic Workplan calls for a comprehensive review of the 2006 Bay-Delta Plan, water rights, and other requirements to protect fish and wildlife beneficial uses, including any changes to the Bay-Delta Plan or water rights that may be needed to accomplish the BDCP. The Workplan also calls for review of the southern Delta salinity and San Joaquin River flow objectives included in the 2006 Bay-Delta Plan.

On August 29, 2008, the State Water Board issued a public notice initiating periodic review of the 2006 Bay-Delta Plan and soliciting comments on elements of the 2006 Bay-Delta Plan that may need amendment (other than southern Delta salinity and San Joaquin River flows since the State Water Board had already decided to undertake a review of these objectives), or new elements that should be added, or whether the entire plan should be revised. The State Water Board held a workshop in October 2008, to receive additional public comments. State Water Board staff is currently preparing a draft periodic review staff report for public review and comment recommending which elements of the 2006 Bay-Delta Plan should be reviewed further to determine what, if any, changes should be made to the plan. The draft periodic review staff report will be released during the first quarter of 2009. Following public comment, the State Water Board will provide direction on what, if any, changes should be made to the periodic review staff report. The State Water Board then will consider adoption of the periodic review staff report in late spring or early summer of 2009. Following adoption, a supplemental NOP will be issued for any additional elements of the Bay-Delta Plan that will be considered for potential amendment and State Water Board staff will begin preparing any needed draft basin plan amendments or a new Bay-Delta Plan concurrent with any needed water rights decision or other measures needed to implement any changes to the Bay-Delta Plan.

Southern Delta Salinity

Salinity concerns in the southern Delta have existed since the 1940s as a result of the following factors: upstream depletions of water; salts imported to the San Joaquin Basin in irrigation water; municipal discharges; subsurface accretions from groundwater; tidal actions; diversions of water by the SWP, CVP, and local water users; channel capacity; and discharges of land-derived salts, primarily from agricultural drainage. The factors listed above affect salinity in various areas of the southern Delta to different degrees depending on location, flow conditions, and other factors. The southern Delta salinity objectives (measured as electrical conductivity or EC) are intended to protect southern Delta agricultural uses from the adverse effects of salinity. The Bay-Delta Plan includes salinity objectives for the protection of agriculture in the southern Delta at four compliance locations including: the San Joaquin River at Vernalis; the San Joaquin River at Brandt Bridge; Old River near Middle River; and Old River at Tracy Road Bridge (the last three locations are known as the interior southern Delta compliance locations).

The State Water Board established the current southern Delta salinity objectives in the 1978 Water Quality Control Plan for the Delta and Suisun Marsh (1978 Delta Plan). The approach used in developing the objectives involved an initial determination of the water quality needs of significant crops grown in the area, the predominant soil type, and irrigation practices in the area. In addition, the extent to which these water quality needs would be satisfied under "without project" (without the SWP and CVP) conditions was also considered. The State Water Board based the southern Delta EC objectives on the calculated maximum salinity of applied water which sustains 100 percent yields of two important salt sensitive crops grown in the southern Delta (beans and alfalfa) in conditions typical of the southern Delta. The State Water

Board set an objective of 0.7 millimhos per centimeter (mmhos/cm) EC during the summer irrigation season (April 1 through August 31) based on the salt sensitivity and growing season of beans and an objective of 1.0 mmhos/cm EC during the winter irrigation season (September 1 through March 31) based on the growing season and salt sensitivity of alfalfa during the seedling stage.

In the 1978 Delta Plan, the State Water Board found that the most practical solution for long-term protection of southern Delta agriculture was construction of physical facilities to provide adequate circulation and substitute supplies. The facilities have not been constructed to date, and the likelihood of their construction is uncertain due to endangered species concerns. The southern Delta salinity objectives were not substantively changed in the 2006 Bay-Delta Plan due to the fact that adequate scientific information was not available on which to base changes. However, as mentioned above, the State Water Board identified Delta and Central Valley salinity as an emerging issue and cited its pending effort to evaluate the southern Delta salinity objectives and their implementation as part of its larger salinity planning endeavor. Accordingly, in January 2007, the State Water Board held a workshop on the southern Delta salinity objectives and discussed whether and how to study sources and effects of salinity, and methods for its control in the southern Delta. The State Water Board and its staff held several follow-up meetings related to this issue. The State Water Board has also contracted through DWR to have an agricultural water management consultant review the existing science regarding irrigation salinity needs in the southern Delta and make recommendations regarding whether the science on which the objectives were based is accurate, or if additional studies should be conducted related to this issue. In addition, State Water Board staff is working with DWR modelers to analyze water supplies needed to meet the current objectives with dilution flows.

San Joaquin River Flows

The State Water Board first established the flow objectives for the San Joaquin River at Vernalis in the 1995 Bay-Delta Plan to protect fish and wildlife beneficial uses. The State Water Board set different objectives for three time periods: February through June, excluding April 15 through May 15 (spring flows); April 15 through May 15 (pulse flows); and October (fall flows). The spring flows are intended to provide minimum net downstream freshwater flows in the San Joaquin River to address habitat concerns from reduced flows and water quality degradation. The pulse flows were principally developed to aid in cueing chinook salmon smolt outmigration from the San Joaquin River. The fall flows were developed to provide attraction flows for adult salmon returning to the watershed to spawn. These objectives were based on the limited scientific information available at the time. The spring flow and pulse flow objectives include two levels for each time period. The trigger for the higher flow is based, in part, on hydrological conditions in the Sacramento River watershed that may be very different than those in the San Joaquin River watershed.

In State Water Board Decision 1641 (D-1641), the State Water Board implemented the spring flow objectives and fall flow objectives by requiring the U.S. Bureau of Reclamation to meet the objectives. In order to obtain additional scientific information on which to base the objectives, in D-1641 the State Water Board also approved conducting the Vernalis Adaptive Management Plan (VAMP) experiment proposed in the San Joaquin River Agreement (SJRA), in lieu of meeting the pulse flow objectives included in the 1995 Bay-Delta Plan, until 2012. Since implementation of the San Joaquin River flow objectives (beginning prior to the recent decline in Central Valley salmon), salmonid runs in the watershed have declined. Conditions related to the pelagic organism decline, fish availability for study purposes, hydrology, and other issues

have also complicated conduct of the VAMP and required major modifications to the study design that compromise the comparability of the study data.

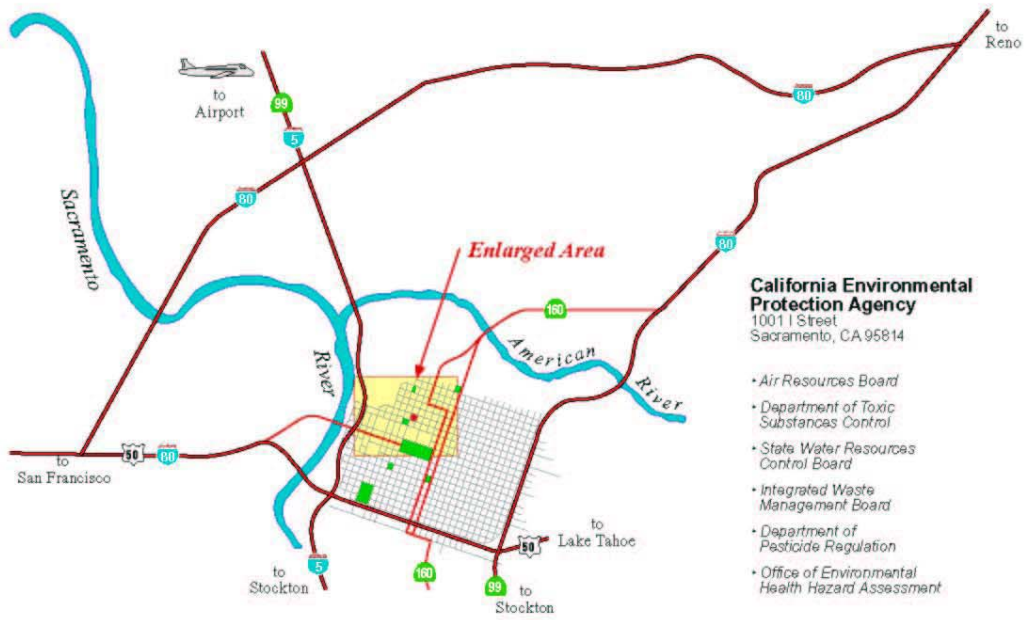
In the 2006 Bay-Delta Plan, the program of implementation was changed to allow for the ongoing staged implementation of the pulse flow objectives through the VAMP until the end of 2011. As mentioned previously, the State Water Board also identified San Joaquin River flows as an emerging issue requiring additional consideration. In addition to concerns regarding the protection of salmonids, the 2006 Bay-Delta Plan identifies the effect of San Joaquin River flows on pelagic organisms as an issue warranting further consideration. In September of 2008, the State Water Board held a workshop to consider a salmon escapement model prepared by DFG to assist in determining flow needs on the San Joaquin River and other pertinent information. DFG is currently working on additional refinements to the model. In addition, a technical review of the VAMP is expected later this year.

POTENTIAL ENVIRONMENTAL EFFECTS

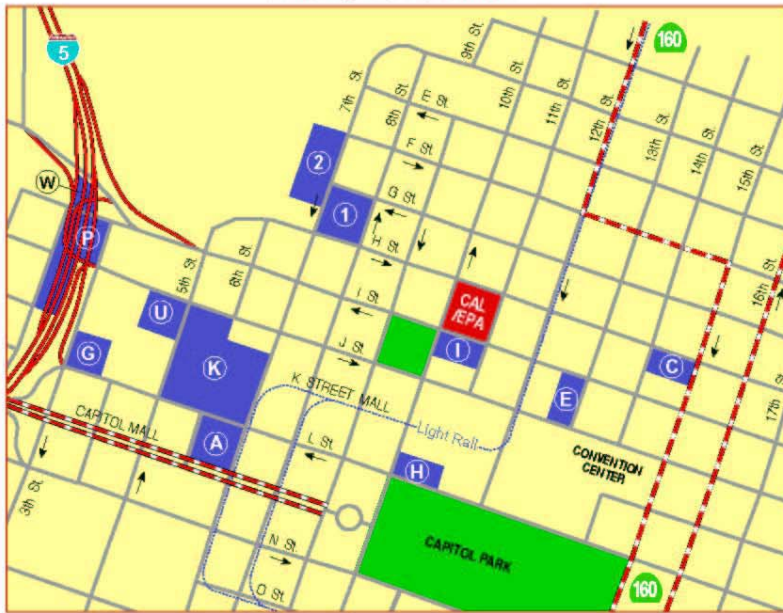
The State Water Board will evaluate the Project's potential environmental effects on the following areas:

- Species listed pursuant to the State and Federal Endangered Species Acts
- Aquatic Biological Resources
- Wetlands and Terrestrial Habitat
- Surface Hydrology including Water Rights
- Groundwater Hydrology
- Geology and Soils
- Water Quality
- Seismic Stability
- Aesthetics
- Air Quality, Including Greenhouse Gas Emissions
- Land Use (e.g. Urban, Agricultural and Industrial Uses)
- Historic and Cultural Resources
- Environmental Health and Safety
- Public Services and Utilities
- Energy and Natural Resources
- Recreation
- Population/Housing
- Transportation/Traffic

Comments on the NOP, comments from the scoping meetings, and ensuing analyses may identify additional environmental resources to be evaluated. At present, sufficient information is not available to enable the State Water Board to determine the detailed scope and significance of the effects related to this Project.



Parking Lot Locations



Parking Lot Locations

- Lot 1 (7th & G St.)
- Lot 2 (7th & G St.)
- Lot A (7th & Capitol)
- Lot C (14th & H St.)
- Lot G (3rd & L)
- Lot H (10th & L)
- Lot I (10th & I, 11th & I)
- Lot K (6th & J/L, 7th & K)
- Lot P (2nd & I)
- Lot U (5th & J)
- Lot W (2nd & I St.)