



**County Administrative  
Office  
COUNTY OF TULARE  
AGENDA ITEM**

**BOARD OF SUPERVISORS**

KUYLER CROCKER  
District One  
PETE VANDER POEL  
District Two  
AMY SHUKLIAN  
District Three  
EDDIE VALERO  
District Four  
DENNIS TOWNSEND  
District Five

**AGENDA DATE:** April 21, 2020

Public Hearing Required	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Published Notice Required	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Advertised Published Notice	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Meet & Confer Required	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Personnel Resolution attached	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
CONTACT PERSON: Denise England    PHONE: 559-636-5000		

**SUBJECT:** Letter opposing the California Department of Fish and Wildlife’s Incidental Take Permit for Delta Pumping

**REQUEST(S):**  
That the Board of Supervisors:  
Approve a letter opposing the California Department of Fish and Wildlife’s issuance of an Incidental Take Permit impacting water exports in the San Joaquin/ Sacramento Delta and water deliveries from the Central Valley Project and State Water Project.

**SUMMARY:**  
The Central Valley Project and the State Water Project are the two largest water projects in California. The Central Valley Project, operated by the US Bureau of Reclamation (“Reclamation”), consists of 20 dams and reservoirs that deliver water to 29 of California’s 58 counties for agricultural, municipal, and industrial uses, primarily in the Central Valley and the San Francisco Bay Area. The Central Valley Project delivers approximately 5.6 million acre-feet of water a year on average to 270 water supply contractors, much of the water coming from the Sacramento/San Joaquin River Delta area.

The California Department of Water Resources (“DWR”) operates the State Water Project. The State Water Project’s main storage facilities are Oroville Dam and San Luis Reservoir, which DWR operates jointly with Reclamation. DWR operates these facilities along with pumping plants, connecting canals, and aqueducts to deliver water to the Feather River Area, North Bay Area, South Bay Area, San Joaquin Valley, Central Coast, and Southern California for agricultural, municipal, and industrial uses. The State Water Project delivers on average 2.6 million acre-feet of

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water a year to 29 public water agencies.

Because of extensive litigation, court rulings, and settlement negotiations, Reclamation and DWR have restricted the amount of water that can be exported from the Delta in order to protect certain species of fish that were deemed to be endangered by normal operations of the Central Valley Project. The restrictions were supported by expert biological opinions finding that the restrictions were scientifically necessary to protect the fish under the federal Endangered Species Act.

Recently, the Trump Administration revisited those biological opinions and reached different conclusions, finding that a more flexible approach to operations of the Delta pumping system could be taken without harming the fish species. As a result, the administration has proposed to allow more water to flow south to the Central Valley through the Central Valley Project. In response, the California Attorney General and State Natural Resources Agency have filed a lawsuit in US District Court asking for declaratory and injunctive relief to prevent the Administration from taking such actions. The lawsuit argues that the new biological opinions are scientifically flawed and so the proposed actions violate the Endangered Species Act and must be stopped until the opinions are corrected.

Despite the new science available, the California Department of Fish and Wildlife issued an Incidental Take Permit (ITP) for the Long-Term Operation of the State Water Project that the Newsom administration recently issued. This unprecedented action threatens to send the operations of the State Water Project (SWP) and the Federal Central Valley Project (CVP) into a downward spiral of conflict, confusion, and litigation. It also virtually eliminates the possibility of finding a lasting peace to California's never-ending water wars and effectively kills negotiations on Voluntary Agreements. This is especially troubling in light of SGMA implementation.

On April 7, 2020 Congressman McCarthy along with several colleagues sent a letter urging Governor Newsom to reverse the ITP. Staff recommends sending a similar letter to urge the Governor to consider the consequences to the San Joaquin Valley, especially to Tulare County residents and growers.

**FISCAL IMPACT/FINANCING:**

There is no cost to the County to approve the letter.

**LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:**

The County's Strategic Plan includes an initiative to provide for the safety and security of the public, which includes the goal of providing an adequate and safe water supply.

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**ADMINISTRATIVE SIGN-OFF:**

Denise England\_\_\_\_\_

Denise England  
Water Resources Director

cc: County Administrative Office

Attachment(s) Letter

**BEFORE THE BOARD OF SUPERVISORS  
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF LETTER OPPOSING            )  
THE CALIFORNIA DEPARTMENT OF FISH        ) Resolution No. \_\_\_\_\_  
AND WILDLIFE'S INCIDENTAL TAKE            ) Agreement No. \_\_\_\_\_  
PERMIT IMPACTING DELTA PUMPING            )

UPON MOTION OF SUPERVISOR \_\_\_\_\_,        SECONDED        BY  
SUPERVISOR \_\_\_\_\_, THE FOLLOWING WAS ADOPTED BY THE  
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD \_\_\_\_\_  
\_\_\_\_\_, BY THE FOLLOWING VOTE:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

ATTEST: JASON T. BRITT  
COUNTY ADMINISTRATIVE OFFICER/  
CLERK, BOARD OF SUPERVISORS

BY: \_\_\_\_\_  
Deputy Clerk

\* \* \* \* \*

Approved a letter opposing the California Department of Fish and Wildlife's issuance of an Incidental Take Permit impacting water exports in the San Joaquin/ Sacramento Delta and water deliveries from the Central Valley Project and State Water Project.



# County of Tulare

April 21, 2020

## **BOARD OF SUPERVISORS**

**Kuyler Crocker**  
*District One*

**Pete Vander Poel**  
*District Two*

**Amy Shuklian**  
*District Three*

**Eddie Valero**  
*District Four*

**Dennis Townsend**  
*District Five*

✱

## **BOARD STAFF**

*Julieta Martinez  
Carrie Monteiro  
Samantha Ferrer  
Alicia Balderas*

✱

## **CLERK OF THE BOARD**

*Melinda Benton  
Chief Clerk*

✱

*Administration Bldg.  
2800 West Burrel  
Visalia, CA 93291*

*TEL: (559) 636-5000  
FAX: (559) 733-6898*

The Honorable Gavin Newsom Governor State of California  
1303 10th Street, Suite 1173  
Sacramento, California 95814

Dear Governor Newsom:

We write to express our disappointment and serious concerns with the new Incidental Take Permit (ITP) for the Long-Term Operation of the State Water Project that your administration recently issued. This unprecedented action threatens to send the operations of the State Water Project (SWP) and the Federal Central Valley Project (CVP) into a downward spiral of conflict, confusion, and litigation. It also virtually eliminates the possibility of finding a lasting peace to California's never-ending water wars and effectively kills negotiations on Voluntary Agreements

We need cooperative and coordinated operations of the SWP and CVP to ensure that the cities, communities, and farms that depend on a reliable water supply receive the water they need and can grow the food that feeds our nation and the world. During the current COVID-19 pandemic, urban water districts are working hard to make sure Californians know their water supplies are plentiful and safe to drink, and agricultural producers are doing the same to ensure people know their food supply is safe and available at their local grocery store. Your decision to reduce water supplies through the State's new ITP for urban water providers and agricultural producers in the Central Valley, southern California, and the Silicon Valley undercuts those efforts.

For decades the State of California agreed to operate the SWP consistent with the CVP based on Federal operations plans and environmental protections issued by the U.S. Department of the Interior and the U.S. Department of Commerce. Given the serious health, safety, and economic concerns our constituents are facing due to the pandemic, and the fact that the 2019 Federal Biological Opinions were developed using the best available science and latest data to ensure both the CVP and SWP could be adaptively managed to meet the needs of people and the environment, the timing and judgement of the State's decision on the new ITP is even more baffling.

We believe State Water Contractors summarized the concerns well in their statement of opposition to the ITP. Among other things, they stated the ITP "fails to incorporate the best available science, burdens ratepayers with obligations far exceeding the impacts of water operations and will make compliance with the Sustainable Groundwater Management Act and climate change adaptation more difficult." The burdens they described mirror our constituents' concerns and fears about the State's new ITP.

We strongly believe that actions taken to protect both State and Federally listed species in the Sacramento-San Joaquin River Delta and surrounding ecosystem must be based on the best science. However, on November 21, 2019, the California Department of Water Resources (DWR) stated its intent to refrain from seeking "to increase SWP exports" in its application to the California Department of Fish and Wildlife (DFW) for an incidental take permit. This demonstrates that DWR, DFW, and your administration never intended to

follow the best science if it ultimately allowed increased exports on the SWP. Notably, the State's new ITP goes even further than the status quo by limiting SWP exports to an arbitrary amount of water.

To ensure the State's long-term water resilience and ecosystem health and with the best interests of our constituents in mind, we request that the State of California drop its recently filed litigation against the 2019 Federal Biological Opinions and issue a consistency determination under the California Endangered Species Act so the SWP and CVP can operate in a coordinated manner, as they have for decades. Without these actions, finalizing the Voluntary Agreements will likely be impossible and precludes the coordinated operation of the SWP and CVP in a way that would ensure the people of California have access to the water they need.

Thank you for your attention to this important issue. We look forward to your response.

Sincerely,

Pete Vander Poel, Chair  
Tulare County Board of Supervisors

Amy Shuklian, Vice Chair  
Tulare County Board of Supervisors

Kuyler Crocker, District One  
Tulare County Board of Supervisors

Eddie Valero, District Four  
Tulare County Board of Supervisors

Dennis Townsend, District Five  
Tulare County Board of Supervisors