



October 9, 2020

The Honorable Jared Huffman
United States Congress
Chairman, House Natural Resources Subcommittee
Water, Oceans, and Wildlife
1324 Longworth House Office Building
Washington, DC 20515

Dear Chairman Huffman:

Thank you for the opportunity to submit our reply to these Questions for the Record. Our Agency looks forward to continuing to work with your Subcommittee, Congress and the federal government to improve conditions for communities around the Salton Sea, as well as for the environment.

Sincerely,

A handwritten signature in black ink that reads "Wade Crowfoot".

Wade Crowfoot
Secretary for California Natural Resources

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Questions from Rep. Jared Huffman (Q. 1-7)

- 1. The Bureau of Reclamation's (Reclamation) FY2021 budget justification estimates that "significant air quality mitigation costs" may arise as the Salton Sea continues to recede from Reclamation-owned lands. Reclamation further estimates that "approximately 8.75 square miles of Reclamation-owned lands will be emergent from the Sea as it recedes over the next 10 years" and that "the most similar Clean Air act compliance program in proximity to the Sea" costs "approximately \$38 million per square mile...and [requires] annual maintenance costs of approximately \$500,000 per square mile." Reclamation's estimates suggest that Clean Air Act compliance obligations alone could exceed \$300 million at the Salton Sea. Has Reclamation communicated a plan to the state on how it is preparing to meet potential compliance cost obligations associated with the Clean Air Act or any other significant compliance obligations at the Salton Sea?**

The California Natural Resources Agency (CNRA) is not aware of any federal agency plan to meet potential compliance obligations associated with the Clean Air Act or other compliance obligations at the Salton Sea. CNRA continues to work with our federal counterparts, and anticipates that the work of this committee and Congressional leaders, including Congressmembers Raul Ruiz and Juan Vargas, will elevate the Salton Sea as a federal priority and advance federal funding to meet federal obligations at the Sea.

Enhanced federal interagency coordination and related efforts, such as the Salton Sea Management Council proposed by Congressman Ruiz, will advance our shared goals at the Sea. This coordination would enable implementation of joint federal-state projects on federal lands at the Sea that would help the Bureau of Reclamation meet its obligations under the Clean Air Act and help the State of California to meet its acreage commitments under the Salton Sea Management Program 10-Year Plan. These shared projects also further commitments in the 2016 MOU, which cite the restoration targets identified by the State as a common goal. CNRA looks forward to coordinating with federal partners on these efforts.

- 2. On August 6, 2020, the Bureau of Reclamation proposed revisions to the Central Valley Project Improvement Act 1993 Interim Guidelines for Restoration Fund Payments and Charges (guidelines). A September 11, 2020 letter from the California Department of Fish and Wildlife (CDFW) stated that "CDFW is opposed to reductions in the [Central Valley Project Improvement Act] Restoration Fund." What is the State of California's position on Reclamation's proposed revision to the guidelines?**

The California Natural Resources Agency supports the letter submitted by the California Department of Fish and Wildlife (CDFW) and remains concerned about the Bureau of

Reclamation's proposed guideline revision. As described in CDFW's September 11, 2020 letter, a copy of which is attached for your convenience, the threatened reductions in the Restoration Fund and use of the Fund to comply with Central Valley Project mitigation obligations, rather than as true restoration funding, will significantly reduce California's ability to restore and recover anadromous fish populations and provide much needed water supplies to Central Valley refuges.

3. What is the State of California's position on Reclamation's estimated \$10 million reduction in average annual mitigation and restoration payments into the Restoration Fund established under the Central Valley Project Improvement Act (CVPIA)?

The California Natural Resources Agency is opposed to the Bureau of Reclamation's proposed reduction of average annual mitigation and restoration payments into the Central Valley Project Improvement Act (CVPIA) Restoration Fund. As the California Department of Fish and Wildlife (CDFW) stated in its September 11, 2020 comment letter (copy attached), the proposed reduction of payments into the CVPIA Restoration Fund will significantly reduce the ability to restore and recover anadromous fish populations and meet the Refuge Water Supply Program water supply goals (Level 2 and Incremental Level 4) in California. Without any offsetting funds, the impacts from these reductions will impact the State's concurrent efforts to identify matching funds and resources to meet CVPIA goals of anadromous fish population restoration and recovery.

4. Did Reclamation adequately consult with the State of California on proposed updates to the accounting treatment of CVPIA expenditures?

The Bureau of Reclamation has not directly engaged with California to our knowledge about proposed updates to the accounting treatment of CVPIA expenditures. However, as noted previously, the California Department of Fish and Wildlife (CDFW) expressed opposition to the Bureau of Reclamation's proposal in its September 11, 2020 comment letter (copy attached).

5. How would a decrease in annual payments to the Restoration Fund affect state and federal efforts to meet legal obligations under the CVPIA and state and federal environmental protection efforts more generally?

The California Natural Resources Agency (CNRA) is concerned that the reduction in average annual mitigation and restoration payments into the Restoration Fund will result in a tangible reduction in financial assistance within California's Central Valley. This financial assistance helps to restore and recover anadromous fish populations and provides financial resources to meet the Refuge Water Supply Program goals (Level 2 and Incremental Level 4) in California. As the California Department of Fish

and Wildlife (CDFW) is a cost share partner to these important projects, the impacts of the reduction are compounded. Additionally, the Restoration Fund provides for CDFW staff time to coordinate and engage in the planning, prioritization, and implementation of projects within the Central Valley, along with staff from the United States Fish and Wildlife Service and the U.S. Bureau of Reclamation. Reductions to the Restoration Fund will therefore reduce staff capacity for these important collaborative activities.

Some CVPIA goals were to be met ten years after the enactment of CVPIA in 1992. To date, these goals have not been met and a decrease in annual payments may not only delay the achievement of these goals, but also result in loss of progress towards achieving these goals. The Bureau of Reclamation has not specified which program cuts would be made as a result of annual payment decreases or what program impacts would be expected in consequence. Though Reclamation has not reached out to California on this matter yet, CNRA looks forward to working together to avoid or address any shortfalls.

6. Has Reclamation shared with the State of California any analysis regarding the impacts that its proposed revisions will have on efforts to meet legal obligations under the CVPIA and state and federal environmental protection efforts more generally?

To date, the Bureau of Reclamation has not shared an analysis with California to our knowledge regarding the impacts that its proposed revisions will have on efforts to meet legal obligations under the CVPIA.

7. Does the State of California agree that fish, wildlife, and habitat mitigation and restoration actions mandated under section 3406 of the CVPIA have not been met?

The CVPIA amends the previous authorizations of the Central Valley Project to include fish and wildlife protection, restoration, and mitigation as project purposes; these are intended to have equal priority with irrigation and domestic uses, and fish and wildlife enhancement as a project purpose equal to power generation. In addition to stipulating the development of a plan to achieve objectives in consultation with other State and Federal agencies, tribes, and affected interests, Section 3406 of the act specifies standards for naturally produced anadromous fish populations as a component of achieving the intended benefits derived from the mitigation and restoration actions. As also stated in the California Department of Fish and Wildlife's September 11, 2020 comment letter, CNRA does not believe that the actions mandated under CVPIA section 3406 have been met.

Questions from Rep. Mike Levin (Q.1-6)

- 1. Secretary Crowfoot, in August 2016, the Department of Interior and the California Natural Resources Agency signed a memorandum of understanding to work together on the Salton Sea that included several key elements. I'd like to ask you about the status of certain tenets under the MOU. What is the status of the \$30 million in funding that DOI committed to pursue for restoration efforts?**

The Department of the Interior committed to provide \$10 million for managed monitoring of Salton Sea Management Program (SSMP) projects and \$20 million for operations and maintenance of SSMP projects. California has not yet received these funds. Funding for managed monitoring could be used now to help implement monitoring that informs the current status of resources at the Sea in preparation for development of SSMP projects; additionally, operations and maintenance funding will be needed as California brings more habitat and dust suppression acreage online. The California Natural Resources Agency anticipates that the work of this committee and Congressional leaders, including Congressmembers Raul Ruiz and Juan Vargas, will clarify the Salton Sea as a federal priority and advance federal funding to effectively partner with the State of California to address urgent needs at the Salton Sea.

- 2. What is the status of developing multi-year partnerships with the U.S. Department of Agriculture, Natural Resources Conservation Service, local governments, and tribal governments to advance projects to protect air quality and improve water quality while furthering habitat projects?**

California is working with the U.S. Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS) to develop a watershed plan for the Salton Sea under the Watershed Flood Prevention Operations Program, which will enable the State to apply for additional NRCS funding for implementation of projects included in the watershed plan. California Natural Resources Agency (CNRA) is also working with the USDA Farm Service Agency to secure other potential federal funding. In addition to NRCS and the Farm Service Agency, CNRA is working with other federal agencies to develop long term partnerships toward implementation of projects at the Salton Sea. The Army Corps of Engineers is providing accelerated review of Salton Sea Management Program (SSMP) projects under a Water Resources Development Agreement with the State of California and will be the National Environmental Policy Act lead agency for the upcoming Environmental Assessment for the SSMP 10-Year Plan. Further, the State has worked closely with the U.S. Fish and Wildlife Service and the Imperial Irrigation District (IID) to help coordinate implementation of IID's mitigation obligations required by the Quantification Settlement Agreement Water Transfer.

In addition to these efforts, earlier this year CNRA executed a Memorandum of Understanding (MOU) with the Salton Sea Authority (SSA) to advance our local partnerships at the Sea in order to more effectively implement projects. CNRA is currently in discussions regarding development of additional agreements with the IID and with Imperial County towards those same ends.

The State is also utilizing project-specific agreements to advance work at the Sea. Earlier this year, CNRA entered into an MOU with the Imperial County Air Pollution Control District to advance a potential project that may improve community air quality in the disadvantaged community of Desert Shores. Currently, CNRA is developing a funding agreement with the SSA to fund implementation of the North Lake Pilot Project.

The State is also working to enhance our partnership with tribal governments. At a basic level, CNRA will continue to implement its Tribal Consultation Policy, which requires us to provide tribes with an opportunity for government to government consultation early in project development to ensure tribal input is considered and cultural resources are protected. This policy was implemented most recently during development of the SSMP Dust Suppression Action Plan, for which CNRA contacted 25 Tribal Nations to seek input. CNRA has also included a portion of the Torres-Martinez Desert Cahuilla Indian Tribe lands in the planning area for its SSMP 10-Year Plan and will coordinate and consult with the Tribe on development of SSMP projects.

3. What is the status of joint efforts to expand the science related to the sea in order to aid with adaptive management, and to look into the cost benefit of sharing a facility to further science-driven activities?

Simultaneous to our efforts to advance projects on the ground, California is collaborating and coordinating with federal, state, and local partners to collect and assess biological, hydrology and water-quality, geography and geology, and air-quality data to inform status and trends of environmental conditions at the Sea. The California Natural Resources Agency (CNRA) is in the process of developing a comprehensive and integrated science program that will prioritize, coordinate and oversee monitoring, data collection, data analysis, and an adaptive management strategy to support restoration actions at the Salton Sea. Variables to be monitored will include biological resources (avian, fish, plankton and macroinvertebrate), hydrology and water quality, geography and geology, air quality, and socioeconomics. The success of restoration actions at the Salton Sea to provide or create conditions suitable to support sustainable fish and bird populations and improve air quality will depend on current and reliable information collected in partnership with federal, state and local partners. With the additional positions provided in Governor Newsom's most recent budget, CNRA will be able to further

develop these efforts, but a strong federal presence joining the partnership is key for establishing a successful comprehensive Salton Sea science program.

- 4. The state is behind on meeting its obligations to address restoration at the sea, but the state did recently create a Dust Suppression Action Plan under its Salton Sea Management Program to help prioritize and facilitate projects and is moving forward on key habitat projects. Can the state achieve the 30,000 acres by the deadline of year 2028? How can the federal government help it to do so?**

California can achieve the 30,000-acre milestone in accordance with the timeline, but federal assistance is essential. The State is not a landowner in the SSMP project area, and California needs access to federal land at the Sea in order to implement projects. Further, California needs prompt issuance of permits from federal agencies to move forward with projects, and federal partnerships in funding, designing, monitoring and maintaining projects as they are implemented. This is consistent with the type of assistance contemplated by the 2016 MOU, and would help expedite project implementation and create a strong SSMP for long-term management of these important projects. The federal government's role is critical to the efforts at the Salton Sea.

- 5. Governor Newsom approved \$20 million in the current state budget for the sea, which is helpful, but I understand the total cost of the Salton Sea Management Program is much more than that. How much funding is currently available for the state's Salton Sea Management Program and how close do those funds come to completing the Phase 1, 10-Year Plan, which calls for addressing some 30,000 acres of exposed playa?**

With the 2020-21 Budget Act, California has appropriated approximately \$345 million in state funding, primarily from General Obligation Bonds. California also has approximately \$29 million in bonds, which the State anticipates will be appropriated in future years, along with some minimal payments California receives under a 2003 settlement agreement (less than \$2 million/year).

California estimates that the approximately \$345 million of existing State appropriations will provide roughly one-third of the funding needed to meet acreage implementation commitments identified in the 10-Year Plan. Beyond funding to implement the 10-Year Plan projects, investments will be needed for operation and maintenance of 10-Year Plan projects and any long-term solution at the Sea. Final costs will depend on multiple factors including project types, locations, and regulatory compliance obligations.

6. What is the plan for funding post construction for operation and maintenance of the dust suppression and habitat projects?

Funding for operations and ongoing maintenance of Salton Sea Management Program projects is a challenge for which the California Natural Resources Agency continues to seek solutions. Absent secure sources of funding for this work, CNRA continues to explore potential solutions such as leveraging financing strategies involving additional local stakeholders and potentially ongoing funding from various alternate projects, such as Geothermal and lithium projects at the Sea.

Questions from Rep. TJ Cox (Q.1-2)

- 1. The conditions at the Salton Sea are localized to an extent, but some of the air quality problems affecting surrounding communities are unfortunately problems that are more widespread, particularly in disadvantaged communities who lack environmental justice. In my district, just a couple hundred miles north in the San Joaquin Valley of California, we have some of the worst air quality in the nation. Over 20% of people in my district live with asthma. One of the five asthma-related bills that I have introduced is the *Elijah E. Cummings Family Asthma Act*, which expands the Centers for Disease Control and Prevention's National Asthma Control Program to serve all 50 states and directs the CDC to collaborate with state and local health departments to provide information and education to the public about asthma. It also requires the development of state plans to address asthma, particularly for disproportionately affected communities, and requires the collection and coordination of data on the impact of asthma. This kind of legislation is essential, as wildfires and climate change are continuing to worsen air pollution and causing high rates of asthma and other negative public health impacts. Secretary Crowfoot, how does the shrinking Salton Sea harm the air quality and human health throughout the region surrounding the Salton Sea, and what can we expect to see long-term without action?**

The shrinking Salton Sea threatens to exacerbate existing significant air quality challenges in the communities that surround the Salton Sea, many of which are disadvantaged communities, with resulting human health impacts. As the Sea recedes, more lakebed is exposed, creating the potential for emissions of fine particulate matter 10 microns or smaller in diameter (PM10). Exposure to PM10 increases the risks of developing long-term respiratory issues and diseases, like asthma, especially for children and the elderly. Without action, the Sea's potential to exacerbate those challenges will only increase, and combined with climate change the result will be continuing worsening air quality problems and even more severe public health problems. While not all areas of the lakebed will be emissive, CNRA cannot know with certainty which areas will be emissive until they are exposed. This is why it is so urgent for the State and federal governments to work together to implement the State's 10-Year Plan to proactively restore lakebed as it is exposed, preventing any potential public health impacts from becoming a reality and protecting the disadvantaged communities at the Salton Sea from further degradation of the existing air quality.

- 2. In your mind what is the responsibility of government at the state and federal level in addressing these public health impacts?**

California and the federal government must work closely together and with tribal and local government partners, as well as with local communities, to address the sources

and impacts on public health at the Salton Sea. The State of California remains committed to making significant, visible progress in implementing the Salton Sea Management Program (SSMP) 10-Year Plan, which proposes to implement approximately 30,000 acres of habitat and dust suppression projects around the perimeter of the Salton Sea by 2028. To do this, the State is focused on building the capacity of the SSMP team to significantly improve the State's ability to deliver projects and strengthening partnerships with local leaders and communities to facilitate timely project implementation.

As part of the 10-Year Plan, the State has developed the Dust Suppression Action Plan (DSAP). The DSAP is a proactive plan to prevent up to 9,800 acres of specified areas of currently exposed lakebed from exacerbating poor air quality conditions in the region. It uses best available science to target areas of exposed lakebed with a high potential for emissivity for project development. By implementing projects in these areas, the State will ensure that these areas do not contribute to worsening air quality in the region. Additionally, the DSAP targets some areas based on community input, allowing the state to provide projects focused on community needs. The SSMP is also implementing the Species Conservation Habitat Project, which will construct 3,770 acres of habitat ponds on the south end of the Salton Sea, providing both ecological benefits and dust suppression. While the State advances these key projects, CNRA is expeditiously completing comprehensive National Environmental Policy Act (NEPA) compliance required to facilitate permitting and implementation of all 10-Year Plan projects.

The federal government can assist the State in reaching these important ecological and dust suppression goals by providing funding, expediting permitting and environmental review of SSMP projects, and granting access to federal lands for SSMP project implementation. Further, the federal government could partner with the State to implement SSMP projects on federal lands, helping the federal government to meet its own obligations as a landowner and preventing the exacerbation of existing public health impacts by helping to expedite implementation of the proactive 10-Year Plan.



State of California – Natural Resources Agency
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



September 11, 2020

Heather Casillas, Division Chief
Program Management BDO-300
CVPIA Program Manager
Bureau of Reclamation
2800 Cottage Way
Sacramento, CA 95825

**RECLAMATION'S PROPOSED REVISIONS TO THE CENTRAL VALLEY PROJECT
IMPROVEMENT ACT'S 1993 INTERIM GUIDELINES**

Dear Ms. Casillas:

The California Department of Fish and Wildlife (CDFW) appreciates the opportunity to comment on the Bureau of Reclamation's (Reclamation) proposed revisions to the Central Valley Project Improvement Act's 1993 Interim Guidelines. CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Cal. Fish & G. Code, § 1802.).

In response to the environmental impacts caused by the Central Valley Project (CVP), in 1992 Congress passed the Central Valley Project Improvement Act (CVPIA), Title 34 of Public Law 102-575, to change water management practices in the CVP and undertake restoration actions in order to mitigate the ecological impacts on the San Joaquin and Sacramento Rivers. CVPIA amends the previous authorizations of the CVP to include fish and wildlife protection, restoration, and mitigation as project purposes having equal priority with irrigation and domestic uses, and fish and wildlife enhancement as a project purpose equal to power generation.

CDFW is identified within the CVPIA, not only as it relates to its responsibilities for the State's natural resources, but also as a cost share partner. Some of the actions mandated by CVPIA include the release of more water to supply rivers and wetlands, funding for habitat restoration work (especially for anadromous fish spawning gravels), water temperature control, water conservation, fish passage, and making all reasonable efforts to double the production of naturally reproducing anadromous fish in Central Valley rivers. A Restoration Fund was established under CVPIA to collect revenue from the CVP water and power customers for carrying out the provisions of CVPIA.

On August 6, 2020, Reclamation proposed revisions to the CVPIA 1993 Interim Guidelines that govern the accounting requirements and rates paid by water and power customers. The stated objective of the proposed revisions was to update the guidelines consistent with the provisions of CVPIA and implement a recent court ruling on proportionality as it relates to Restoration Fund payments. Reclamation has been working with stakeholders on updates to the accounting treatment of expenditures for more than five years; however, CDFW has not been included in these discussions and was not made aware of the proposed changes to the accounting guidelines until the public news release. The limited coordination and lack of detailed information on changes to the guidelines has hampered CDFW's ability to provide a thorough review of these changes. The review and comments from CDFW are therefore based solely on the content of the 1993 Revised Interim Guidelines red-lined version Public-Comment 08.06.20.

As a cost share partner under CVPIA and a trustee agency over California's natural resources, CDFW offers the following comments and recommendations on the proposed revisions to the 1993 Interim Guidelines:

- CDFW is opposed to reductions in the Restoration Fund. Reductions in the Restoration Fund will significantly reduce the ability to restore and recover anadromous fish populations and meet the Refuge Water Supply Program water supply goals (Level 2 and Incremental level 4) in California. The proposed revisions to the guidelines significantly reduce the maximum amount of payments into the Restoration Fund, from \$50 million annually (October 1992 price levels) to \$35 million annually. Historically, the Friant Surcharge and M&R Payments have been the only substantial source of revenue to the Restoration Fund. CDFW's understanding is that Reclamation estimates that the proposed revisions, based on the proportionality ruling, would on average reduce M&R collections by \$10 million annually. This represents a substantial reduction in annual restoration spending in the Central Valley and limits the ability to pay for water acquisitions, conveyance to refuges, and construction of refuge water supply infrastructure. It is important to note that the benefits of federal spending from CVPIA in California can be amplified by matching this spending with state money through programs such as Proposition 1 and Proposition 68. In recognition of the ongoing influence the CVP has on California's fish and wildlife resources and in trying to achieve the goals of CVPIA, CDFW recommends that Reclamation identifies additional sources of funding that are not constrained by the proportionality ruling to supplement the proposed loss of revenue into the Restoration Fund.
- As part of the proposed reduction, Part H, section 3(d) of the redline changes also include language that implies a reduction in the M&R maximum

contributions from \$30 million to \$15 million. CVPIA section 3407(d)(2)(A) states that this reduction cannot take place until “the completion of the fish, wildlife, and habitat mitigation and restoration actions mandated under section 3406” has occurred. CDFW does not think that these mandated actions have been completed and it is unclear what metrics, if any, were used to draw this conclusion. The doubling goal of naturally produced fish under CVPIA section 3406(b)(1) has not been met, with populations lower than when it was enacted. This uncertainty is troubling and CDFW urges close coordination and thoughtful deliberation with CDFW staff in evaluating current status and trends in species and habitat quality before drawing any conclusions.

- Including CVP mitigation obligations, as identified in the new Biological Opinion (National Marine Fisheries Service 2019), as potential actions to be funded out of the existing Restoration Fund further reduces the ability to meet CVPIA goals. There is a need to distinguish between CVPIA-related activities and actionable CVP mitigation obligations. Reclamation should use funds outside of the Restoration Fund to meet Biological Opinion requirements and allow the Restoration Fund to better meet the fish and wildlife restoration goals of CVPIA. CVP mitigation is reimbursable and should be a fully funded obligation that Reclamation fulfills regardless of Restoration Fund levels.

As a trustee agency and partner on habitat restoration and water supply in California, CDFW appreciates the opportunity to comment on the proposed revisions and would like to highlight our intention to foster a collaborative and productive relationship. If there are questions on this letter or interest in meeting to discuss our comments please contact Stafford Lehr, Deputy Director, at Stafford.Lehr@wildlife.ca.gov

Sincerely,

A handwritten signature in blue ink, appearing to read 'Stafford Lehr', is positioned above the typed name.

Stafford Lehr, Deputy Director
Wildlife and Fisheries Division

Heather Casillas, Division Chief
Program Management BDO-300
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September 11, 2020
Page 4

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CITATIONS

National Marine Fisheries Service. 2019. Biological Opinion for the Reinitiation of Consultation on the Coordinated Operations of the Central Valley Project and State Water Project.

U.S. Fish and Wildlife Service. 2001. Final Restoration Plan for the Anadromous Fish Restoration Program.