

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS-Supervisors](#); [BOS-Legislative Aides](#); [BOS-Administrative Aides](#)
Cc: [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [Laxamana, Junko \(BOS\)](#); [Ng, Wilson \(BOS\)](#); [Mchugh, Eileen \(BOS\)](#); [BOS Legislation, \(BOS\)](#)
Subject: FW: SFBOS 5/25 Regular Meeting Agenda Item #40 Public Comment
Date: Tuesday, May 25, 2021 6:30:59 PM

From: Jessie Rodriguez <jessier@americanindianculturaldistrict.org>
Sent: Tuesday, May 25, 2021 5:49 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Cc: Sharaya Souza <sharayas@americanindianculturaldistrict.org>
Subject: SFBOS 5/25 Regular Meeting Agenda Item #40 Public Comment

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Hello,

My name is Jessie Rodriguez, I am writing on behalf of the American Indian Cultural District on [Agenda Item #40](#), 210577 [Urging the San Francisco Public Utilities Commission to Pause Litigation Against the State Water Resources Control Board] from today's Board Of Supervisors Regular Meeting.

We need to prioritize clean water in San Francisco and the protection of our California Salmon. The May 13th lawsuit filed by the SFPUC and SF City Attorney Dennis Herrera has a disproportionate negative impact on American Indian people who rely on salmon as a traditional food source and medicine for their people, including Tribes from the SF Bay and Bay Delta, along with millions of Californians that get their water below San Francisco's diversion. This lawsuit and Mr. Herrera's views do not reflect the environmental values of the American Indian community or the San Francisco Bay Area. These positions directly undermine needed reform of the SFPUC regarding environmental protections, use of credible science including Indigenous knowledge, and diversifying San Francisco's water supply.

Thank you,

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From: [Somera, Alisa \(BOS\)](#)
To: [BOS Legislation, \(BOS\)](#)
Subject: FW: Item 40, BAWSCA and the SFPUC
Date: Tuesday, May 25, 2021 4:23:01 PM
Attachments: [TRT Letter to BAWSCA re-TRVA.pdf](#)

For file

Alisa Somera

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**From:** Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>  
**Sent:** Tuesday, May 25, 2021 4:21 PM  
**To:** BOS-Supervisors <bos-supervisors@sfgov.org>; BOS-Legislative Aides <bos-legislative\_aides@sfgov.org>; BOS-Administrative Aides <bos-administrative-aides@sfgov.org>  
**Cc:** Calvillo, Angela (BOS) <angela.calvillo@sfgov.org>; Somera, Alisa (BOS) <alisa.somera@sfgov.org>; Laxamana, Junko (BOS) <junko.laxamana@sfgov.org>; Ng, Wilson (BOS) <wilson.l.ng@sfgov.org>; Mchugh, Eileen (BOS) <eileen.e.mchugh@sfgov.org>  
**Subject:** FW: Item 40, BAWSCA and the SFPUC

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**From:** Peter Drekmeier <[peter@tuolumne.org](mailto:peter@tuolumne.org)>  
**Sent:** Tuesday, May 25, 2021 11:19 AM  
**To:** Calvillo, Angela (BOS) <[angela.calvillo@sfgov.org](mailto:angela.calvillo@sfgov.org)>  
**Subject:** Item 40, BAWSCA and the SFPUC

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Dear Supervisors:

Today you received a letter from the CEO of the Bay Area Water Supply and Conservation Agency (BAWSCA) regarding the Tuolumne River Voluntary Agreement (TRVA). BAWSCA and the SFPUC are misleading others about the potential efficacy of the TRVA. Attached is a letter we sent to BAWSCA in response to a presentation the CEO gave to her Board. BAWSCA was unable to respond to our comments. The National Marine Fisheries Service commissioned a peer review that debunked the “science” behind the TRVA, yet the water agencies continue to claim it would produce more fish with less water. In fact, it would likely lead to the extinction of Central Valley salmon.

I point this out to encourage you to hear from both sides of the issue. The SFPUC continues to inflate the potential impact of the Bay Delta Plan on our water supply. For example, a few months ago the SFPUC provided information to the BAWSCA agencies to help them prepare their Urban Water Management Plans. That information used contractual obligations to represent current and future demand, inflating it by 25%. We caught them trying to cook the books, and they were forced to correct the information using actual demand projections. This simple, honest change reduced potential future rationing by 27%.

There are a number of other ways the SFPUC and BAWSCA mislead leaders like you. We would welcome the opportunity to address these issues alongside the SFPUC and allow you to serve as judges. You won't be disappointed.

In the meantime, I invite you to view a presentation I gave to Sustainable Silicon Valley. It's posted at <https://www.youtube.com/watch?v=NkY5alrIEQo&feature=youtu.be&t=1> (I start at 31:55).

I look forward to continuing this conversation, and encourage you to support Supervisor Peskin's resolution.

Thank you.

-Peter Drekmeier

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January 20, 2021

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San Mateo, CA 94402

*Via Email*

**Re: Response to December 9, 2020 BAWSCA presentation on "Six Concerns Raised by Others Regarding the TRVA and the Facts" and "Eight Recent Comments About BAWSCA and Its Member Agencies' Bay Delta Efforts and the Facts."**

Dear Chair Pierce and BAWSCA Board Members:

BAWSCA has two main relationships with the SFPUC, one as a partner and the other as a watchdog. This is appropriate, and should apply to all issues. BAWSCA does a good job at keeping an eye on its financial and water supply interests, but a poor job as an environmental watchdog. On issues such as the Bay Delta Water Quality Control Plan and Federal Energy Regulatory Commission (FERC) licensing of Don Pedro and La Grange Dams, BAWSCA relies heavily on the SFPUC for talking points, and doesn't do enough of its own analysis. In this realm, BAWSCA has failed its constituents, who care deeply about the environment.

The Tuolumne River Trust (TRT) was very disappointed by a presentation given to the BAWSCA Policy Committee on December 9, 2020. In the spirit of improving communication, this letter shares TRT's responses to comments presented as facts at that meeting. Furthermore, we request an opportunity to meet with BAWSCA representatives to discuss our differences on the Bay Delta Plan and competing Tuolumne River Voluntary Agreement (TRVA). We may not all agree on certain policy decisions, but we certainly should base our positions on mutually-accepted facts.

Following are BAWSCA's responses to concerns raised about the TRVA and TRT's responses to BAWSCA's comments.

**Six Concerns Raised by Others Regarding the TRVA and the Facts**

**Concern #1: The TRVA does not include enhanced stream flow.**

**BAWSCA Response #1:** The TRVA provides increased flows on the Tuolumne River in all water year types over current average requirements.

**TRT Response:** The concern as stated obfuscates the issue. The issue is that the TRVA's additional flows are limited and wholly inadequate. In 2010, the State Water Resources Control Board (Board or Water Board) issued a flow criteria report that concluded 60%

of unimpaired flow on the lower San Joaquin River and its three major tributaries, including the Tuolumne River, between February and June would be necessary to protect biological resources and restore the Bay-Delta ecosystem. In 2012, the Board released its first draft Substitute Environmental Document (SED), recommending a range of unimpaired flow from 25% to 45%, starting at 35%, between February and June, to be determined by whether biological goals and objectives were being met. The purpose of the range in flows was to incentivize non-flow measures, such as habitat restoration and predator control, which the Board does not have the authority to mandate. The Board has always acknowledged that a combination of flow and non-flow measures would be necessary to restore the ecosystem.

Following months of comments from State and Federal agencies, water agencies, and environmental and fishing groups, the Board worried the SED was insufficient to withstand legal challenges, and directed staff to revise it. In 2016, a new draft SED was released, recommending a range of unimpaired flows from 30% to 50%, starting at 40%.

**BAWSCA Response #2:** The TRVA will provide enhanced Tuolumne River flows resulting in 24,000 to 110,000 acre-feet of greater flows above current average requirements.

**TRT Response:** This comment is misleading because it refers to “required discharge” rather than “total discharge,” which most people would assume the numbers refer to. The key words in BAWSCA’s response are “above current average **requirements.**”

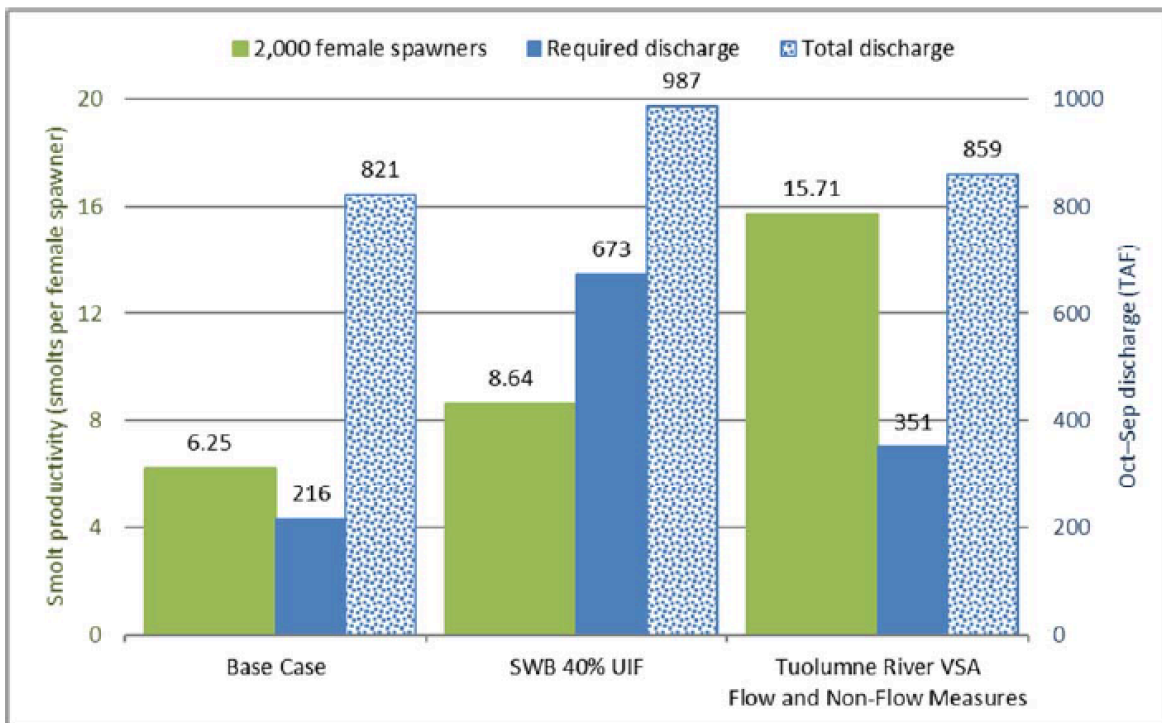
Required discharge primarily involves better timing of “spill” – water that must be released when reservoirs are expected to fill in order to prevent downstream flooding. Little of the required discharge included in the TRVA is new water.

The following graph from the TRVA<sup>1</sup> shows required discharge to be 216 thousand acre-feet (TAF) under the base case, 673 TAF under the Water Board’s 40% unimpaired flow, and 351 TAF under the TRVA. In other words, the TRVA would produce 38.5% more “required discharge” than the base case.

“Total discharge” is an entirely different story. Under the base case it is 821 TAF, under the Bay Delta Plan 40% unimpaired flow it is 987 TAF, and under the TRVA it is 859 TAF. The TRVA would produce only 4.5% more “total discharge” than the base case. BAWSCA should correct or clarify its response to avoid misleading readers.

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<sup>1</sup> Voluntary Agreements, Appendix A6: Tuolumne River, page A-192.



**Figure 10.** Comparison of anticipated increase of FRCS smolts successfully reaching the confluence of the San Joaquin River. Required and total discharge measured at the La Grange gage.

After decades of ecological decline on the Tuolumne, the Irrigation Districts should already have been managing spill to “allow sufficient water at all times to pass through a fishway, or in the absence of a fishway, allow sufficient water to pass over, around or through the dam, to keep in good condition any fish that may be planted or exist below the dam,” as required by Fish and Game Code Section 5937. Using better timing of spill as a bargaining chip in the TRVA is inappropriate.

Furthermore, the comparison of female spawners in the above graph is misleading. If the Bay Delta Plan were producing the poor results shown, the unimpaired flow requirement would increase to 50%. The water agencies would not just sit by idly and allow this to happen. They would implement the non-flow measures included in the TRVA to reduce the unimpaired flow requirement to as low as 30%. It is this scenario that should be compared to the TRVA. Otherwise, the TRVA should be compared to the Bay Delta Plan at 50% of unimpaired flow.

**Concern #2: Habitat enhancement is being advanced instead of flows.**

**BAWSCA Response #1:** The TRVA habitat enhancements are designed to work in concert with additional flows.

**TRT Response:** Again, this statement is misleading. The basis of the TRVA is that a combination of habitat enhancement and limited additional flows can achieve better results than the Bay Delta Plan’s significantly higher level of flows in the absence of non-flow measures. Bay Delta Plan flows, coupled with non-flow measures, would produce much better results than the TRVA.



Keep in mind the Water Board, with all its experts, spent more than 10 years preparing the Bay Delta Plan, with numerous public hearings and opportunities to submit written comments, and based its conclusions on peer-reviewed science, unlike the TRVA.

**BAWSCA Response #2:** The TRVA is based in and framed around adaptive management that includes the ongoing implementation and evaluation of flow and non-flow measures.

**TRT Response:** This statement is misleading due to the TRVA's use of the term "adaptive management." Adaptive management, as used in the Bay Delta Plan, measures performance against a set of biological goals and objectives and then increases or decreases an applied resource (water) depending on whether or not the goals and objectives are being met. "Adaptive management" as used in the TRVA refers to optimizing the use and timing of a finite set of resources. In the current version of the TRVA, those resources are the initial capital investment and operations and maintenance costs, 4.5% additional flow, and better management of spill water. The TRVA has vague, limited biological goals and no additional investment of water or habitat enhancement if goals are not met.

A major problem with the TRVA is that it plans for a number species at different life stages coexisting in the river channel. This is not natural, and exacerbates predation of juvenile fish. In a natural environment, mature fish inhabit the main channel where water is faster moving and cooler, while baby fish inhabit floodplains where the water is slower moving and warmer, and they have access to more food and refuge from predators.

The TRVA is full of examples of the need to make trade-offs between species and life stages. For example:

Adult *O. mykiss* [rainbow trout and steelhead] habitat is 78% of maximum WUA [weighted usable area] at 200 cfs. An alternative flow of 150 cfs was considered, which improves fry habitat to 78% of maximum WUA, but decreases adult habitat to 70% of maximum WUA. At 150 cfs, average daily water temperatures at RM 43 are less than 20 C until maximum daily air temperature exceeds 95 F, which occurs on average three days in June. An alternative flow of 300 cfs increases adult WUA to 90%, but decreases fry to just over 60% of maximum WUA.<sup>2</sup>

The above conclusion refers to a single species. Elsewhere in the TRVA are examples of trade-offs needed to be made between different species.

It's more than a little odd that the SFPUC's Environmental Stewardship Policy (ESP) embraces the unimpaired flow approach to river management on the upper Tuolumne, yet they support a different approach on the lower Tuolumne. The ESP states:

It is our policy to operate the water system in a manner that protects and restores native fish and wildlife downstream of our dams and water diversions, within reservoirs, and on our watershed lands. Releases from reservoirs will (consistent with our mission described above, existing agreements, and applicable state and federal laws), mimic the variation of the seasonal hydrology (e.g., magnitude, timing, duration, and frequency) of their corresponding watersheds in order to

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<sup>2</sup> Ibid, page A-171.

sustain the aquatic and riparian ecosystems upon which these native fish and wildlife species depend.<sup>3</sup>

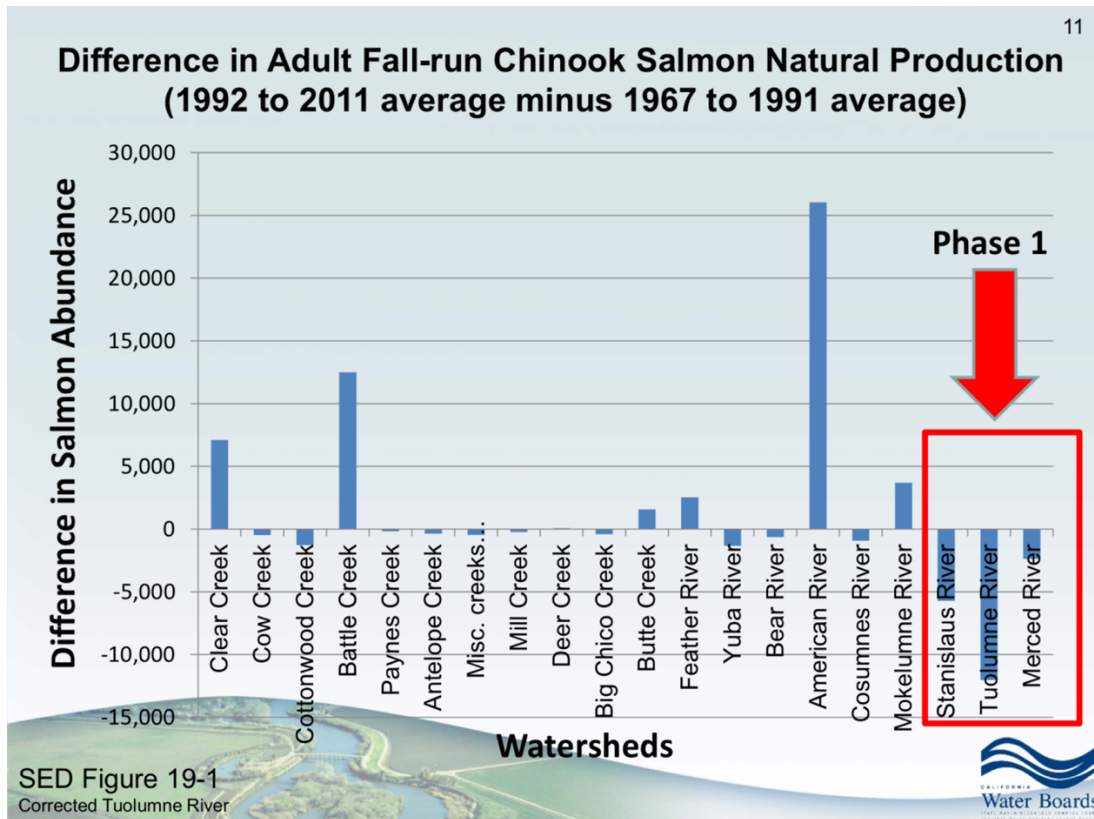
**Concern #3: The TRVA is based on inadequate science and flawed governance structures.**

**BAWSCA Response:** The TRVA is built on best available science and decades of monitoring, data collection and multiple River-specific studies.

**TRT Response:** This is an opinion, not a fact. The fish studies upon which the Tuolumne River Management Plan and TRVA are based have been discredited by the peer review commissioned by the National Marine Fisheries Service (see TRT response to Concern #4).

The Irrigation Districts have a terrible track record of managing the Tuolumne, despite their “scientific” studies. Consider this. In 1944, 130,000 salmon spawned in the Tuolumne. This occurred after many decades of in-river mining, the introduction of striped bass in the late 1800s, and La Grange Dam having blocked access to 85% of historic spawning grounds since 1893. Based on these facts, we can surmise that the Tuolumne historically hosted 150,000 to 200,000 salmon. In 2020, the number barely topped 1,000.

The following graph shows that the Tuolumne’s salmon population is the worst off in the Central Valley.



<sup>3</sup> SFPUC Water Enterprise Environmental Stewardship Policy – <http://sfwater.org/index.aspx?page=181>

A good example of a non-flow measure failing as a result of inadequate flows is the Special Run Pool (SRP) 9 project. This project resulted from the 1995 Settlement Agreement, which, like the TRVA, placed a significant focus on reducing predators and predator habitat. SRPs are in-river gravel pits that harbor non-native species. The SRP 9 project filled in a pit, but after expending approximately \$2.8 million, it simply exchanged one non-native predator (largemouth bass) with another (smallmouth bass).

The Districts' own post-project monitoring report was clear about the importance of flows in affecting predator habitat. It stated:

During extremely wet years, high flows can flush largemouth bass out of a stream, but typically a sufficient number of adults can find shelter in flooded areas to repopulate the stream during lower flow conditions (Moyle 2002). During the years following the flood, largemouth bass abundance was controlled by spring and summer flow conditions that were unfavorable for reproduction.

Largemouth bass require low water velocities and warm water temperatures to reproduce (Moyle 2002, Swingle and Smith 1950, Harlan and Speaker 1956, Mraz 1964, Clugston 1966, Allan and Romero 1975, all as cited in Stuber et al 1982) (p 130).<sup>4</sup>

**Concern #4: A review performed by a National Marine Fisheries Service (NMFS) consultant of the fishery models that support the TRVA proves that the scientific basis of the TRVA is inadequate to evaluate long-term fish management on the river.**

**BAWSCA Response:** The models reviewed by the NMFS consultant were not designed to be a tool for long-term fishery management for conservation purposes, but were developed and approved by FERC as part of the FERC relicensing study plan for the purpose of evaluating the relative changes to in-river fish populations resulting from possible license conditions.

**TRT Response:** This statement is short-sighted. BAWSCA is correct that the models “were not designed to be a tool for long-term fishery management for conservation purposes.” This is a major problem for the TRVA, which would be considered by the State Water Board, not FERC. The Water Board is legally charged with improving aquatic conditions for beleaguered fisheries, so they must base their decision on a plan that will dramatically improve long-term conditions. FERC went easy on the Irrigation Districts, but the Water Board cannot. We appreciate BAWSCA identifying this major flaw in the TRVA.

It should be noted that the peer review<sup>5</sup> was not just conducted by consultants, but by highly competent scientists working for the well-respected firm, Anchor QEA. Following are some quotes from the peer review:

The Chinook salmon population model is useful but not usable by all stakeholders; and the *O. mykiss* [rainbow trout and steelhead] population model is neither useful nor usable.

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<sup>4</sup> 2006 Lower Tuolumne River Annual Report, Special Run Pool 9 Post-project Monitoring Report – <https://static1.squarespace.com/static/5eebc0039b04b54b2fb0ce52/t/6006f76cf77a806cf0f5b270/1611069310182/7+SRP+9+-+Post-Project+Monitoring+Report.pdf>

<sup>5</sup> NOAA National Marine Fisheries Service's Technical Review of Salmonid Population Models e-Filed to the FERC Projects' Dockets – <https://static1.squarespace.com/static/5eebc0039b04b54b2fb0ce52/t/5ffe1a69cc1c8606a3081719/1610488432168/X-3+NMFS+Peer+Review+of+Fish+Models.pdf>

The [Chinook] model is not a full life cycle, which hampers its utility for evaluating potential benefits of management actions to the overall population.

A shortage of habitat quantity, including spawning habitat and gravel availability, is not a limitation on the population at abundance levels that are of concern. Thus, gravel augmentation would not significantly improve population performance.

The Chinook salmon production model cannot identify the number of predators that would need to be removed or how much of a reduction in consumption would be required to achieve a significant increase in smolt-to smolt survival. The response from predator control is assumed, not predicted.

It bears noting that the model, as developed, found water temperatures to be the major environmental factor driving juvenile *O. mykiss* productivity downstream of the dam. Flows released below La Grange Dam are apparently the major factor affecting water temperatures.

The model, as configured, indicates that the status of the Chinook salmon population is extremely precarious and bold actions will be needed to prevent extirpation. This need, according to the model, would best be met by very substantial increases in flow releases during spring (the period of active smolt outmigration from the river).

**Concern #5: State and federal funding will be required to implement the TRVA.**

**BAWSCA Response:** The TRVA proposes \$83M in capital funding and \$44.5 in annual O&M funding that will be paid by partner agencies and does not depend on state or federal grants, loans, taxes or fees.

**TRT Response:** We have not heard anyone claim that state and federal funding will be required to implement the TRVA, but we will respond just the same.

BAWSCA should cite the source of its figures. The TRVA states, “The Districts and SF will establish a dedicated fund with a commitment to a total funding of \$38,000,000 for capital costs and an additional annual increment not to exceed \$1,000,000/yr for O&M, monitoring, and reporting associated with completed capital projects.”<sup>6</sup>

**Concern #6: The TRVA development process lacked sufficient public input.**

**BAWSCA Response #1:** The TRVA is the result of close collaboration and good faith discussions among the three public agency Partners and numerous stakeholders.

**BAWSCA Response #2:** The stakeholders included federal, state and local agencies, scientists, and environmental stewards, including stakeholders engaged in pre-scoping, scoping, development of technical tools, and the completion and publication of a Final EIS by FERC.

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<sup>6</sup> See supra note 1, page A-186.

**TRT Response:** BAWSCA should distinguish between the development process for the TRVA and the review process. The NGOs did not contribute to the development of the TRVA, but were involved in its review, and were not impressed. Not a single environmental group supports the TRVA.

There were six environmental groups that participated in reviewing the Voluntary Agreements. They did not include the organizations that are most engaged in the Tuolumne River – Tuolumne River Trust, Tuolumne River Conservancy, California Sportfishing Protection Alliance, and Central Sierra Environmental Resource Center.

Highly detailed and technical comments submitted by the Conservation Groups in the FERC licensing process, including responses to the Ready for Environmental Analysis (scoping document), Draft EIS and Final EIS (all available upon request), were mostly ignored by FERC. There is not a single environmental or fishing group that supports FERC’s preferred alternative, which is a modified version of the TRVA.

The environmental groups that did participate in reviewing the VAs expressed numerous concerns throughout the process. In a letter to Governor Newsom, the NGOs stated:

It is critical that you understand the current agreements will not adequately improve conditions in the Bay-Delta estuary and its Central Valley watershed. Furthermore, the ongoing VA process is flawed and not on course to produce an agreement that is legally, scientifically, and biologically adequate to survive environmental review and legal challenge...None of our organizations support the current proposed package of VAs because they do not contain sufficient flow and habitat assets to adequately improve conditions in the Bay-Delta estuary as required under state and federal law. The best available science makes this clear. Moreover, there are major flaws with the VA process itself that, unless addressed, will prevent parties from reaching a successful agreement...Unless these concerns can be addressed without delay, our organizations will be compelled to conclude that these agreements will fail and will leave the VA process.<sup>7</sup>

In a follow-up letter to the Governor, the NGOs wrote:

However, it has become clear that voluntary agreements that are sufficiently protective of the environment will be extremely difficult to achieve in the near term...Instead, the Water Board must quickly work to implement the water quality protections for the San Joaquin River and its tributaries that it adopted in 2018 and adopt and implement new water quality protections for the Sacramento River, its tributaries, and the Delta.<sup>8</sup>

## **Eight Recent Comments About BAWSCA and Its Member Agencies’ Bay-Delta Efforts and the Facts**

### **1. BAWSCA and SFPUC’s demand estimates are flawed and too high.**

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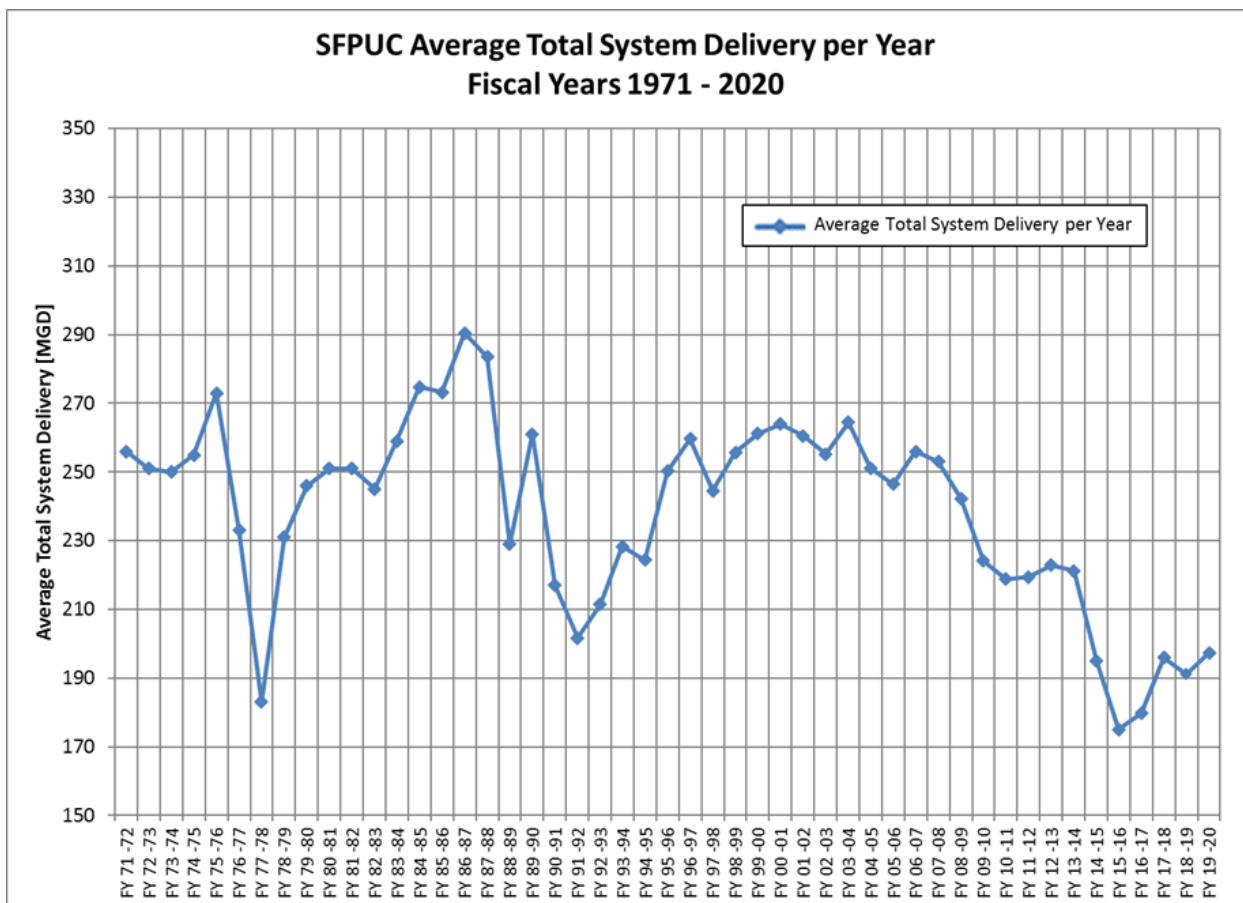
<sup>7</sup> NGO VA participants’ letter to Governor Newsom, September 20, 2019 – <https://static1.squarespace.com/static/5eebc0039b04b54b2fb0ce52/t/6006f6f43431835a94c46fd9/1611069173250/2+VA-NGO-Letter-to-Gov-Newsom-9-20-19.pdf>

<sup>8</sup> NGO VA participants’ letter to Governor Newsom, June 23, 2020 – [https://static1.squarespace.com/static/5eebc0039b04b54b2fb0ce52/t/6006f6fc6506eb0065a5e541/1611069182093/3+VA+NGO+Letter+to+Gov+re+SWRCB\\_6.23.2020.pdf](https://static1.squarespace.com/static/5eebc0039b04b54b2fb0ce52/t/6006f6fc6506eb0065a5e541/1611069182093/3+VA+NGO+Letter+to+Gov+re+SWRCB_6.23.2020.pdf)

**BAWSCA Response:** BAWSCA’s demand studies are highly detailed, follow best practices, and result in future water demand projections suitable for water supply planning purposes.

**TRT Response:** BAWSCA’s response is incomplete. When it comes to demand projections, BAWSCA and the SFPUC have very poor track records. In the PEIR for the Water System Improvement Program (2007), BAWSCA forecasted the need for 194 mgd by 2018. Actual demand in 2018 was 130.7 mgd<sup>9</sup> -- off by more than 32%.

Systemwide projections (San Francisco and BAWSCA) in 2007 were 285 mgd by 2018. The actual was 196 mgd, a difference of 31%. As demonstrated by the following graph, demand decreased substantially in that time period.



Source: SFPUC

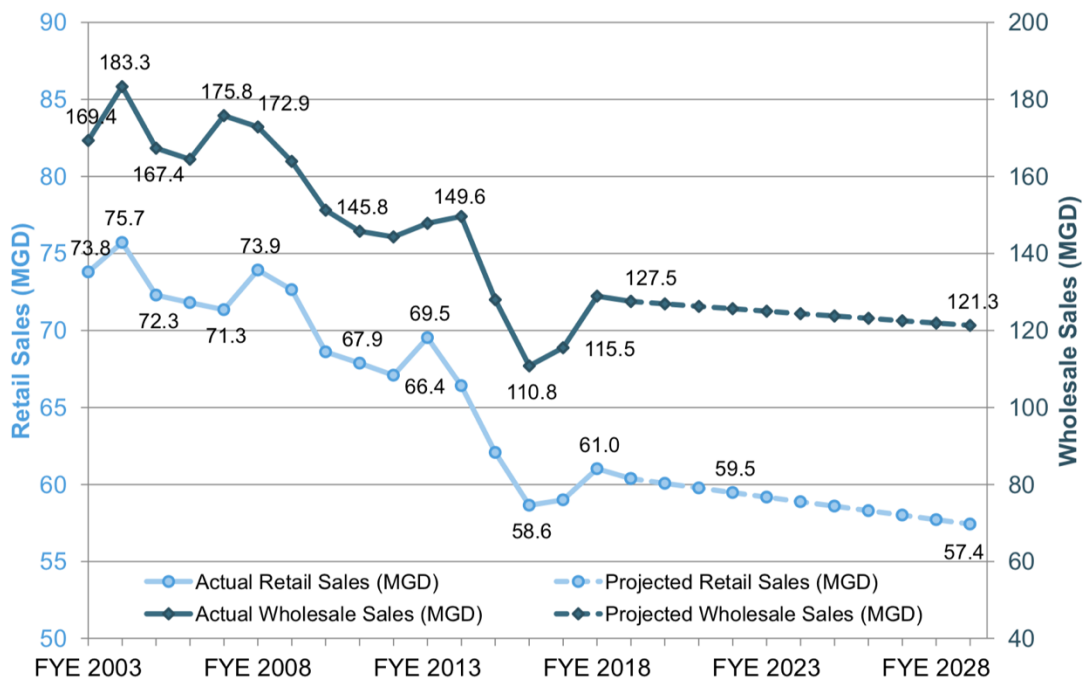
<sup>9</sup> BAWSCA Annual Survey, (FY 2018-19).

Looking forward, the SFPUC's most recent 10-Year Financial Plan states:

The 10-Year Financial Plan assumes a 0.5% average annual decrease in water and wastewater volumes...The slight downward trend forecast is based on historic water sales data that reflects a downward trend in actual water volumes over the past 20 years.<sup>10</sup>



## Water Sales Volumes



4

Source: SFPUC

BAWSCA and the SFPUC are not unique in their water demand over-projections. A recent study by The Pacific Institute found:

All water suppliers experienced dramatic reductions in per capita demand between 2000 and 2015, ranging from 14 percent to 47 percent. During this period, per capita demand declined by an average of 25 percent across all water suppliers.<sup>11</sup>

<sup>10</sup> SFPUC 10-Year Financial Plan (FY 2020-21 to FY 2029-30) –

<https://sfwater.org/Modules/ShowDocument.aspx?documentid=15020>

<sup>11</sup> *An Assessment of Urban Water Demand Forecasts in California*, August 2020, The Pacific Institute –

<https://pacinst.org/publication/urban-water-demand-forecasts-california/>

BAWSCA's long-term projections have never been realized. As a result, BAWSCA risks over-investing in water supply projects while contributing to further environmental degradation.

## **2. SFPUC's design drought is too long and overly conservative.**

**BAWSCA Response:** SFPUC's design drought is appropriately based on actual historical conditions coupled with the addition of an acceptable level of caution for what the future may hold, including climate change and the likelihood of more severe droughts and extreme weather.

**TRT Response:** The "addition of an acceptable level of caution" is quite an understatement. The design drought couples the worst drought on record (1987-92) with the driest 2-year period on record (1976/77). An analysis of tree ring data has shown that there were only a handful of 6-year sequences as dry as 1987-92 over the past 1,100 years.

The SFPUC managed the 1987-92 drought of record despite three challenges that do not exist today. They were:

- Entering the 6-year drought, demand on the Regional Water System was at an all-time high of 293 mgd. Today it is 198 mgd – 32% lower.
- The SFPUC's Cherry Lake reservoir had to be drained in 1989. It holds 273 TAF, and is 75% the size of Hetch Hetchy.
- The SFPUC adopted its "Water First" policy, giving water supply priority over hydropower generation.

While it is prudent to prepare for climate change, the SFPUC and BAWSCA should not just consider potential challenges, but also benefits. For example, climate change is expected to cause earlier runoff as a result of more precipitation falling as rain and earlier melting of the snowpack. An assessment by The Bay Institute found that if the 1987-92 drought were to repeat, but runoff came three weeks earlier, the SFPUC would pick up an additional year's-worth of water. This is because some runoff would shift from the mid-April to mid-June period, when the Irrigation Districts are entitled to the first 4,000 cfs, to before mid-April, when the Irrigation Districts are entitled to the first 2,350 cfs.

Furthermore, climate change will likely lead to poor forest health and an increase in wildfires. While tragic from an environmental perspective, this will likely lead to an increase in runoff (water supply), as less precipitation is taken up by vegetation. For example, 2017 was the second wettest year on record in the Tuolumne watershed, but produced the most runoff by a considerable margin. Recall that the 2013 Rim Fire burned 20% of the Tuolumne watershed.

## **3. The population projections estimated for the BAWSCA service area are too high, including the projected housing need.**

**BAWSCA Response:** BAWSCA relies on projected population figures from the Association of Bay Area Governments (ABAG) and locally adopted land use plans, both of which are highly detailed, based on sound science and reflect a comprehensive public engagement process.

**TRT Response:** The jobs and population projections in Plan Bay Area (ABAG) are very controversial. Many Bay Area cities are struggling with these projections, and are pushing back. The consequences of



Covid-19 also are unclear. BAWSCA’s recent “Regional Water Demand and Conservation Projections” report acknowledged:

Water demands are based on data provided from 1995 through 2018. This analysis was completed before the COVID-19 pandemic and does not incorporate any of the new changes in water use profiles, population, employment, or vacancies as the data was not yet available and was outside the scope of the current projects. However, it is recognized that the water demands may need review or modification depending on the impact of recent events.<sup>12</sup>

#### **4. BAWSCA Member Agencies and their Customers can readily reduce water use during droughts as required by the Bay Delta Plan.**

**BAWSCA Response:** While Member Agency customers responded strongly during the 2015 drought, the level of rationing required in the Bay-Delta Plan will reach 50% or greater, creating severe hardships beyond what any resident has experienced.

**TRT Response:** This statement is spurious. The Bay-Delta Plan does not require rationing. Perhaps BAWSCA meant 50% rationing would be necessary based on SFPUC assumptions. Assuming the latter, we will point out that 50% is an arbitrary number. It is based on the SFPUC planning for: 1) a 8.5-year drought (two years longer than any drought in the past 1,100 years); 2) demand of 265 mgd (22% higher than current demand); 3) the development of no new water supplies; and 4) assumes the State will not relax instream flow requirements nor mandate water transfers from irrigation districts to urban areas.

BAWSCA and SFPUC customers have indeed proven they can conserve water. Since the WSIP was adopted in 2008, water consumption has decreased by 21% in the SFPUC Regional Water System service area, and we are not currently experiencing a water conservation mandate. In both 2016 and 2017, water demand was lower than during the 1976/77 drought, despite population growth.

#### **5. BAWSCA constituents do not support the TRVA.**

**BAWSCA Response:** The business community as well as key community groups, such as the Silicon Valley Leadership Group (SVLG), have expressed support for the TRVA.

**TRT Response:** BAWSCA is essentially saying that the business community and a leading business advocacy group support the TRVA. So, one must ask why? The answer is two-fold. Businesses have been told by BAWSCA that the Bay Delta Plan would lead to a water crisis and that the TRVA would produce more fish with less water. Neither of these assertions is true, but this is what they’re hearing. It’s more than understandable they don’t want to run out of water.

If BAWSCA were to poll residents in their service area, you would likely find tremendous support for restoration of the Bay-Delta and Tuolumne River. You also would learn that residents are outraged when they learn the water they conserved during the recent drought did not benefit the environment, but instead remained impounded behind dams until it had to be dumped in 2017 to prevent flooding downstream.

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<sup>12</sup> BAWSCA’s Regional Water Demand and Conservation Projections, Figure ES-2, June 26, 2020.

TRT commissioned such a survey of San Francisco voters in 2018, and while San Francisco is not part of BAWSCA, environmental ethics in the City are very similar to those on the Peninsula. We invite you to review our survey results at <https://www.tuolumne.org/recent-news/survey>.

**6. There will be no economic impact on the Bay Area during a drought if the Bay-Delta Plan is implemented.**

**BAWSCA Response:** An extensive economic analysis was prepared by the SFPUC and relied upon during a recently completed FERC Don Pedro Final EIS review. Results indicate severe economic impacts due to the high level of rationing that would be required.

**TRT Response:** The SFPUC’s socioeconomic study has been refuted by recent real world experience.

In 2016, the General Manager of the SFPUC and CEO of BAWSCA had an OpEd published in the San Francisco Chronicle. It claimed:

Our initial economic analysis of the first iteration of this plan forecast up to 51 percent rationing, resulting in 140,000 to 188,000 jobs lost in the Bay Area. These same forecasts also show between \$37 billion and \$49 billion in decreased sales transactions.<sup>13</sup>

It should be noted that the figures cited in the OpEd were from a 2009 study, despite the fact that the same author had updated his projections in 2014. The justification given by the SFPUC and BAWSCA for using the older figures was that the 2009 study had been finalized, but the 2014 update had not.

You’ll see from the following chart that potential economic and job losses in the 2014 report were less than half of those in the 2009 report. The 2014 report was finalized in 2018, and the numbers changed very little. Despite the huge discrepancy between the 2009 and 2018 final reports, the SFPUC and BAWSCA never corrected the public record.

| Water Supply Reduction | 2009 Report |    | 2014 Report |    | 2016 OpEd |    | 2018 Report |    |
|------------------------|-------------|----|-------------|----|-----------|----|-------------|----|
|                        | Jobs        | \$ | Jobs        | \$ | Jobs      | \$ | Jobs        | \$ |
| 10%                    | 4           | 2  | 3           | >1 | x         | x  | 3           | >1 |
| 20%                    | 7           | 3  | 8           | 2  | x         | x  | 7           | 2  |
| 30%                    | x           | x  | 25          | 7  | x         | x  | 22          | 6  |
| 40/41%                 | 139         | 37 | 54          | 15 | 140       | 37 | 56          | 15 |
| 50/51%                 | 188         | 49 | 71          | 21 | 188       | 49 | 72          | 21 |

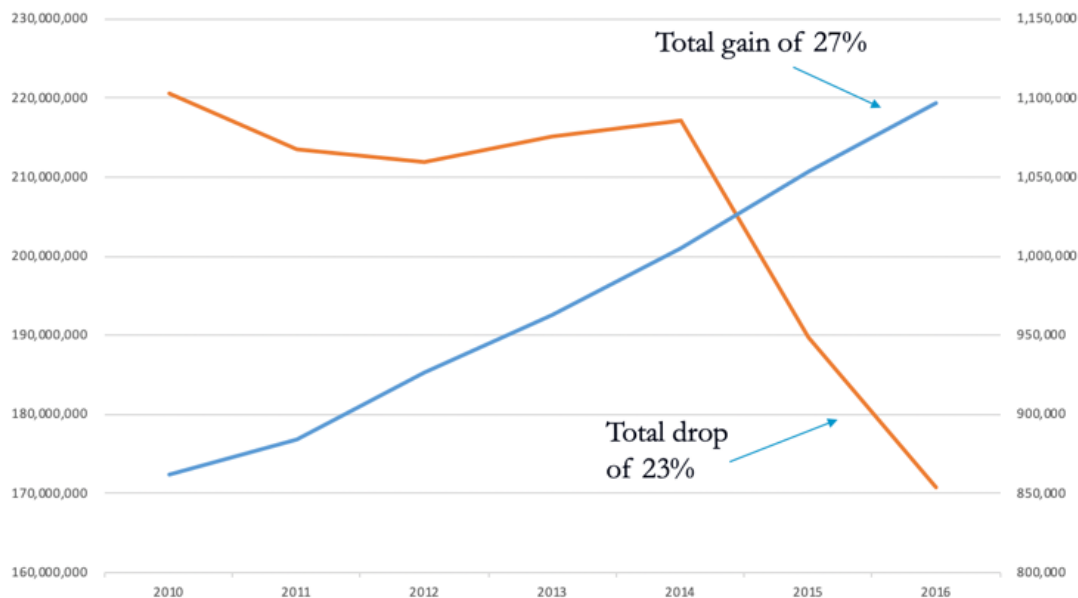
Jobs = Projected job losses in thousands.  
 \$ = Projected financial losses in billions of dollars.

<sup>13</sup> *San Francisco to state on water-use cutbacks: How low can we go?*, San Francisco Chronicle, October 7, 2016 – <https://www.sfchronicle.com/opinion/article/San-Francisco-to-state-on-water-use-cutbacks-How-9940351.php>

Between 2006 and 2016, water demand in the SFPUC service area decreased by 30%, the equivalent of a 30% reduction in water supply. The 2009 study did not look at a 30% reduction in water supply, but the 2018 report forecasted the loss of 22,000 jobs and \$6 billion under such a scenario. Based on comparisons of the other scenarios, one would expect the 2009 study to have come up with twice the 2014/2018 impacts.

However, in the real world, BAWSCA and San Francisco did not experience economic and job losses during the drought. In fact, between 2010 and 2016 jobs increased by 27% in San Mateo and San Francisco Counties while water use declined by 23%.

### SFPUC Water Deliveries and Employment, 2010-2016 San Francisco and San Mateo Counties



Orange Line = SFPUC water sales

Blue Line = Total employment for San Francisco and San Mateo Counties

Source: Bill Martin, Sierra Club

#### **7. BAWSCA staff and BAWSCA Board Members have no understanding of the TRVA or its components.**

**BAWSCA Response #1:** BAWSCA was actively engaged in the TRVA development, its technical review, and is knowledgeable about its scientific basis, content, impacts and implementation.

**BAWSCA Response #2:** The BAWSCA Board is well informed on the TRVA through briefings by SFPUC and BAWSCA staff.

**TRT Response:** We will let this letter stand as our response.

**8. BAWSCA has not provided opportunities for the public to discuss the Bay Delta Plan and the TRVA in an open forum / workshop.**

**BAWSCA Response #1:** The Bay Delta Plan has been included as a regular item on the BAWSCA Board agendas since 2018, during which time the opportunity for public comment is provided.

**TRT Response:** We request a real dialogue with the BAWSCA Board. Getting three minutes to comment at BAWSCA meetings, and receiving no response to our comments, is not a dialogue. We feel ignored, and what we share appears to be seen as inconvenient truths by BAWSCA.

**BAWSCA Response #2:** At the September 19, 2019 BAWSCA Board meeting, the Bay Delta Plan was included as a special report with presentations by the Tuolumne River Trust, SFPUC and BAWSCA.

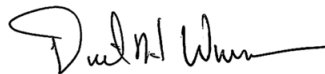
**TRT Response:** We appreciated the opportunity to present at the BAWSCA Board meeting. However, once again there was no dialogue. If we recall correctly, there were instructions that our presentation was “information only,” and there were not to be any questions or comments. Simply listening to a different set of facts and perspectives is not the same as truly engaging.

We hope to have an opportunity to discuss the facts and perspectives presented in this letter with the BAWSCA Board.

Sincerely,



Peter Drekmeier  
Policy Director



Dave Warner  
TRT Volunteer

**From:** [Board of Supervisors, \(BOS\)](#)  
**To:** [BOS-Supervisors](#); [BOS-Legislative Aides](#); [BOS-Administrative Aides](#)  
**Cc:** [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [Ng, Wilson \(BOS\)](#); [Laxamana, Junko \(BOS\)](#); [Mchugh, Eileen \(BOS\)](#); [BOS Legislation, \(BOS\)](#)  
**Subject:** FW: Letter re. Supervisor Peskin's Resolution re. the SFPUC's Resolution  
**Date:** Tuesday, May 25, 2021 1:56:45 PM  
**Attachments:** [NGO Support for Resolution re. SFPUC Litigation 5-25-21.pdf](#)

---

Hello Supervisors,

Please see attached correspondence for Item 40 on today's Board of Supervisors meeting agenda.

Regards,

Jackie Hickey  
Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244  
San Francisco, CA 94102-4689  
Phone: (415) 554-5184 | Direct: (415) 554-7701  
[jacqueline.hickey@sfgov.org](mailto:jacqueline.hickey@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)

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**From:** Barry Nelson <[barrynelsonwws@gmail.com](mailto:barrynelsonwws@gmail.com)> **On Behalf Of** Barry Nelson  
**Sent:** Tuesday, May 25, 2021 1:27 PM  
**To:** Board of Supervisors, (BOS) <[board.of.supervisors@sfgov.org](mailto:board.of.supervisors@sfgov.org)>  
**Subject:** Fwd: Letter re. Supervisor Peskin's Resolution re. the SFPUC's Resolution

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Please share this letter with the Supervisors, regarding agenda item 40 today.

Barry Nelson  
Western Water Strategies  
510 340 1685

Begin forwarded message:

**From:** Barry Nelson <[barry@westernwaterstrategies.com](mailto:barry@westernwaterstrategies.com)>  
**Subject:** Letter re. Supervisor Peskin's Resolution re. the SFPUC's Resolution  
**Date:** May 25, 2021 at 1:16:17 PM PDT

**To:** [angela.calvillo@sfgov.org](mailto:angela.calvillo@sfgov.org)

Angela - Can you share this letter with the Supervisors? The letter supports Supervisor Peskin's resolution re the SFPUC's recent litigation. It's before the supervisors today as agenda item #40.

Barry Nelson  
Western Water Strategies  
510 340 1685



May 25, 2021

Supervisor Aaron Peskin  
City Hall, Room 244  
1 Dr. Carlton B Goodlett Place  
San Francisco, CA 94102

**Re: Support for Resolution Regarding the SFPUC's Anti-Environmental, Anti-Salmon Litigation**

Dear Supervisor Peskin:

We are writing to offer our support for your resolution, which will be considered by the Board of Supervisors today, urging the SFPUC to pause the litigation against the State Water Resources Control Board that was filed on May 13. That litigation includes inaccurate and irresponsible legal claims in an effort to block the State of California from protecting the Tuolumne River, the Bay-Delta ecosystem and salmon fishing jobs.

We offer the following specific concerns regarding the litigation:

- The lawsuit filed on May 13 asserts that “there is little evidence that the flow conditions [required by the State Board] will, in fact materially protect native fish and wildlife.” This assertion is false. There is extensive evidence that supports a dramatic increase in freshwater flows on the Tuolumne River to improve conditions in the River, the Bay-Delta ecosystem, and for endangered species and the California salmon fishing industry. That evidence, relied upon by the State Water Board, was independently peer reviewed by scientists and found to be credible. Further, this litigation ignores the independent peer review completed last August on behalf of the National Marine Fisheries Service that revealed that the SFPUC’s position on flows is not supported by credible science.
- The May 13<sup>th</sup> lawsuit relies on a Trump Administration environmental rollback to argue that the State cannot lawfully establish minimum instream flows as a condition of a federal license under section 401 of the Clean Water Act. This argument is contrary to the plain language of section 401(d) of the Clean Water Act, two decisions of the United States Supreme Court (*PUD No. 1 of Jefferson County v. Washington Department of Ecology*, 511 U.S. 700 (1994), *S.D. Warren Co. v. Maine Board of Environmental Protection*, 547 U.S. 370 (2006)), as well as the position of the Attorney General of the State of California, which is challenging the Trump Administration’s regulation. We do

not believe that San Francisco and Bay Area residents agree that the SFPUC should use a Trump era rollback to muzzle efforts by the State Water Board to protect state rivers and the Bay-Delta ecosystem.

- The May 13<sup>th</sup> lawsuit claims that the State Water Board's requirement to leave 40% of the Tuolumne's flows in the River to protect fish and wildlife represents a "waste or unreasonable use" of water and is therefore a violation of the State constitution. We don't think San Francisco and Bay Area residents agree that river protection is wasteful or unreasonable, especially given that SFPUC and its partners would be allowed to continue to divert more than half of the River's flows.

If this lawsuit were successful, it would not just harm the Tuolumne River. It would represent a significant setback for the State Water Board's efforts to protect the entire San Francisco Bay-Delta ecosystem and all California rivers. It would also block efforts by the Board to protect the Bay-Delta's salmon runs and the California salmon fishing industry. Bay-Delta salmon runs are the backbone of the California salmon fishing industry. These concerns have led a broad coalition of environmental and fishing groups to oppose this litigation.

The SFPUC's May 13<sup>th</sup> lawsuit does not reflect San Francisco's environmental values. These positions directly undermine needed reform of the SFPUC regarding environmental protections, use of credible science, and diversifying San Francisco's water supply. They reinforce, rather than reverse, the SFPUC's old-school sense of entitlement.

We stand ready to work with you to pass your resolution and to reform the SFPUC. Thank you for your leadership.

Sincerely,



John McManus  
Golden State Salmon Association



Peter Drekmeier  
Tuolumne River Trust

Cc: SF Board of Supervisors



**From:** [Board of Supervisors, \(BOS\)](#)  
**To:** [BOS-Supervisors](#); [BOS-Legislative Aides](#); [BOS-Administrative Aides](#)  
**Cc:** [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [Ng, Wilson \(BOS\)](#); [Laxamana, Junko \(BOS\)](#); [Mchugh, Eileen \(BOS\)](#); [BOS Legislation, \(BOS\)](#)  
**Subject:** RE: Comment for Item 40 (210577) at Board of Supervisor"s meeting May 25, 2021  
**Date:** Tuesday, May 25, 2021 1:55:57 PM

---

Hello Supervisors,

Please see the following correspondence for Item 40 on today's Board of Supervisors meeting agenda.

Regards,

Jackie Hickey  
Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244  
San Francisco, CA 94102-4689  
Phone: (415) 554-5184 | Direct: (415) 554-7701  
[jacqueline.hickey@sfgov.org](mailto:jacqueline.hickey@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)

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**From:** Jo Coffey <[coffey.jo@gmail.com](mailto:coffey.jo@gmail.com)>  
**Sent:** Tuesday, May 25, 2021 12:12 PM  
**To:** Board of Supervisors, (BOS) <[board.of.supervisors@sfgov.org](mailto:board.of.supervisors@sfgov.org)>  
**Subject:** Comment for Item 40 (210577) at Board of Supervisor's meeting May 25, 2021

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Honorable Supervisors,

I support this resolution urging the San Francisco Public Utilities Commission to pause its litigation against the State Water Resources Control Board.

Water is life. It's a political slogan, but it's true. All living things - ourselves, the plants and animals we raise, the plants and animals in the wild - we all need water to survive. We're in a drought, so there's less water to go around. I was very disappointed to see that the SFPUC's first reaction to the California State Water Resource Board's proposed allocation was to file suit demanding more water for San Francisco. Less water flowing down the rivers has a particularly bad impact on species, salmon, for instance, who live part of their lives in the rivers, and part in the ocean, and that impacts the diverse groups, including us, that depend on those species, upstream in the river, and downstream in the ocean. I'm sure I'm not alone in saying I'm willing to settle for fewer showers if it helps make for healthier rivers, filled with more abundant life.

This sensible resolution urges the SFPUC to consider the input of the diverse group of stakeholders on this matter, and come to a decision based on credible science.

I urge you to adopt it.

Jo Coffey  
248 Dublin Street  
San Francisco, 94112  
District 11

**From:** [Board of Supervisors, \(BOS\)](#)  
**To:** [BOS-Supervisors](#); [BOS-Legislative Aides](#); [BOS-Administrative Aides](#)  
**Cc:** [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [Ng, Wilson \(BOS\)](#); [Laxamana, Junko \(BOS\)](#); [Mchugh, Eileen \(BOS\)](#); [BOS Legislation, \(BOS\)](#)  
**Subject:** FW: Please pause the litigation against the State Water Resources Control Board  
**Date:** Tuesday, May 25, 2021 1:51:09 PM

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Hello Supervisors,

Please see the following correspondence for Item 40 on today's Board of Supervisors meeting agenda.

Regards,

Jackie Hickey  
Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244  
San Francisco, CA 94102-4689  
Phone: (415) 554-5184 | Direct: (415) 554-7701  
[jacqueline.hickey@sfgov.org](mailto:jacqueline.hickey@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)

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**From:** Carol Steinfeld <carol@carol-steinfeld.com>  
**Sent:** Tuesday, May 25, 2021 11:43 AM  
**To:** Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>  
**Subject:** Please pause the litigation against the State Water Resources Control Board

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisors,

At today's meeting, please pause the litigation against the State Water Resources Control Board.

There is no risk in this action.

Even with unimpaired flows in the Tuolumne River, the service area will have sufficient water supply.

The biggest user of this water source is the upper end of the wholesale purchase area (San Mateo County). It recently recognized that it must reduce dependence on Hetch Hetchy water.

At the same time, the state will either accept the SFPUC's staff's proposed "voluntary plan" (Tuolumne River Voluntary Agreement or TRVA) or reject it on the basis of its poor modeling. Note that the SFPUC commissioners appear to doubt the basis of the TRVA. The current litigation will not influence this, so it is unnecessary.

The City can also reduce its unnecessary costs associated with this litigation.

Thanks.

Carol Steinfeld

Sierra Club Water Committee member

**From:** [Board of Supervisors, \(BOS\)](#)  
**To:** [BOS-Supervisors](#); [BOS-Legislative Aides](#); [BOS-Administrative Aides](#)  
**Cc:** [Calvillo, Angela \(BOS\)](#); [Calvillo, Angela \(BOS\)](#); [Laxamana, Junko \(BOS\)](#); [Ng, Wilson \(BOS\)](#); [Mchugh, Eileen \(BOS\)](#); [BOS Legislation, \(BOS\)](#)  
**Subject:** FW: Letter re. Supervisor Peskin's Resolution re. the SFPUC's Resolution  
**Date:** Tuesday, May 25, 2021 1:47:26 PM  
**Attachments:** [NGO Support for Resolution re. SFPUC Litigation 5-25-21.pdf](#)

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-----Original Message-----

From: Barry Nelson <[barrynelsonwws@gmail.com](mailto:barrynelsonwws@gmail.com)> On Behalf Of Barry Nelson  
Sent: Tuesday, May 25, 2021 1:16 PM  
To: Calvillo, Angela (BOS) <[angela.calvillo@sfgov.org](mailto:angela.calvillo@sfgov.org)>  
Subject: Letter re. Supervisor Peskin's Resolution re. the SFPUC's Resolution

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Angela - Can you share this letter with the Supervisors? The letter supports Supervisor Peskin's resolution re the SFPUC's recent litigation. It's before the supervisors today as agenda item #40.

Barry Nelson  
Western Water Strategies  
510 340 1685



May 25, 2021

Supervisor Aaron Peskin  
City Hall, Room 244  
1 Dr. Carlton B Goodlett Place  
San Francisco, CA 94102

**Re: Support for Resolution Regarding the SFPUC's Anti-Environmental, Anti-Salmon Litigation**

Dear Supervisor Peskin:

We are writing to offer our support for your resolution, which will be considered by the Board of Supervisors today, urging the SFPUC to pause the litigation against the State Water Resources Control Board that was filed on May 13. That litigation includes inaccurate and irresponsible legal claims in an effort to block the State of California from protecting the Tuolumne River, the Bay-Delta ecosystem and salmon fishing jobs.

We offer the following specific concerns regarding the litigation:

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not believe that San Francisco and Bay Area residents agree that the SFPUC should use a Trump era rollback to muzzle efforts by the State Water Board to protect state rivers and the Bay-Delta ecosystem.

- The May 13<sup>th</sup> lawsuit claims that the State Water Board's requirement to leave 40% of the Tuolumne's flows in the River to protect fish and wildlife represents a "waste or unreasonable use" of water and is therefore a violation of the State constitution. We don't think San Francisco and Bay Area residents agree that river protection is wasteful or unreasonable, especially given that SFPUC and its partners would be allowed to continue to divert more than half of the River's flows.

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The SFPUC's May 13<sup>th</sup> lawsuit does not reflect San Francisco's environmental values. These positions directly undermine needed reform of the SFPUC regarding environmental protections, use of credible science, and diversifying San Francisco's water supply. They reinforce, rather than reverse, the SFPUC's old-school sense of entitlement.

We stand ready to work with you to pass your resolution and to reform the SFPUC. Thank you for your leadership.

Sincerely,



John McManus  
Golden State Salmon Association



Peter Drekmeier  
Tuolumne River Trust

Cc: SF Board of Supervisors

**From:** [Somera, Alisa \(BOS\)](#)  
**To:** [BOS Legislation, \(BOS\)](#)  
**Subject:** FW: BAWSCA Correspondence with SFPUC re; Support of TRVA  
**Date:** Tuesday, May 25, 2021 11:39:02 AM  
**Attachments:** [21\\_May\\_25\\_BAWSCA\\_Letter\\_to\\_SFPUC\\_BOS\\_FINAL.pdf](#)  
[image001.png](#)

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For file

*Alisa Somera*

Legislative Deputy Director  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102  
415.554.7711 direct | 415.554.5163 fax  
[alisa.somera@sfgov.org](mailto:alisa.somera@sfgov.org)

**(VIRTUAL APPOINTMENTS)** To schedule a “virtual” meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.

*Due to the current COVID-19 health emergency and the Shelter in Place Order, the Office of the Clerk of the Board is working remotely while providing complete access to the legislative process and our services.*

Click [HERE](#) to complete a Board of Supervisors Customer Service Satisfaction form.

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

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Disclosures: *Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.*

From: Nicole Sandkulla <NSandkulla@bawsca.org>
Sent: Tuesday, May 25, 2021 10:19 AM
To: Calvillo, Angela (BOS) <angela.calvillo@sfgov.org>
Cc: Somera, Alisa (BOS) <alisa.somera@sfgov.org>; Carlin, Michael (PUC) <mcarlin@sfgwater.org>; bud.wendell <bud.wendell@gmail.com>; aschutte@hansonbridgett.com; Nathan Metcalf (nmetcalf@hansonbridgett.com) <nmetcalf@hansonbridgett.com>; Tom Francis <tfrancis@bawsca.org>
Subject: BAWSCA Correspondence with SFPUC re; Support of TRVA

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear San Francisco Board of Supervisors (c/o Angela Calvillo, Clerk of the Board),

This email transmits a copy of my letter to the Commissioners of the SFPUC regarding BAWSCA's support of the Tuolumne River Voluntary Agreement as an alternative to the Bay-Delta Plan. This letter is particularly timely given the item on your meeting agenda today.

By copy of this email to Ms. Calvillo, I am requesting for her distribution of the letter to members of the Board of Supervisors.

Please call me directly if you have any questions or comments.

Respectfully,
Nicole Sandkulla

Nicole M. Sandkulla
Chief Executive Officer/General Manager
Bay Area Water Supply and Conservation Agency
155 Bovet Road, Suite 650
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May 25, 2021

The Hon. Sophie Maxwell, President,
and Members of the Commission
San Francisco Public Utilities Commission
525 Golden Gate Ave.
San Francisco, CA 94102

Subject: BAWSCA's Support for Analysis of the Tuolumne River Voluntary Agreement as an Alternative to the Bay-Delta Plan

Dear President Maxwell and Members of the Commission:

As the Chief Executive Officer of the Bay Area Water Supply and Conservation Agency (BAWSCA), I am writing to you regarding the San Francisco Board of Supervisors' (SFBOS) desire for more "public engagement" on the 2018 Update to the State Water Resources Control Board's (State Board) Bay-Delta Plan (Plan) and their call for the SFPUC to pause its litigation strategy. The SFBOS' requests of the SFPUC are outlined in a proposed resolution that is on the agenda for consideration at its May 25, 2021 regular meeting.

BAWSCA urges the Commission to reject the SFBOS' requests promptly because it:

- 1) is unnecessary,
- 2) disregards San Francisco's analysis of the impacts of the Plan on the water supply for the Regional Water System (RWS),
- 3) conflicts with San Francisco's obligation to its wholesale customers,
- 4) contradicts San Francisco's stated intention and legal obligation to preserve all of its water rights, and
- 5) inevitably causes additional unwelcome delays in the quest to have the State Board analyze the Tuolumne River Voluntary Agreement (TRVA) as an alternative to the Plan.

BAWSCA will strongly support your leadership and the Commission's action to address this matter with the SFBOS.

As the Commission is well aware, there have been many opportunities for public discussion about the Plan over several years. Most recently, three public workshops were hosted by this Commission -- each 3 hours -- and included in-depth stakeholder, technical and policy discussions. In 2019 through early 2020, the Mayor's office hosted a number of roundtable meetings with key interest groups/stakeholders on the topic, where Plan elements as well as the proposed TRVA were discussed in detail. Moreover, since the release of the State Board's draft Plan in 2016, there have been numerous public presentations where discussion of the Plan have taken place. Taken as a whole, these meetings, workshops, roundtables, and presentations have provided ample learning and engagement opportunities; which will continue to happen with or without the SFBOS' adoption of the proposed resolution.

BAWSCA asks that the Commission remind the SFBOS and its constituents of the unassailable legal agreements between BAWSCA's member agencies and San Francisco to ensure the agencies' water supply and protect the water users' health, safety, and economic well-being. San Francisco has a perpetual obligation to its wholesale customers in Alameda, San Mateo,

and Santa Clara counties that BAWSCA represents to provide up to 184 million gallons of water per day from the RWS in accordance with the Water Supply Agreement between the City/County of San Francisco and its wholesale customers, its operational policies, and California law. The SFBOS' draft resolution supporting the Plan conflicts with San Francisco's analyses indicating as great as 50% reductions of water supply to the RWS in multi-year droughts. Any change in San Francisco's litigation strategy related to the Plan must consider the Plan's impacts to water supplies and San Francisco's obligation to its wholesale customers.

Currently as you know, BAWSCA on behalf of its constituents, is seeking the commitment of the State Board to analyze the TRVA as an alternative to the Plan. The SFPUC together with the Modesto and Turlock Irrigation Districts developed the TRVA to provide necessary improvements to enhance the fish population in the Tuolumne River, but also protect the water supply for both BAWSCA's and San Francisco's residents, businesses, and communities. An alternative must move forward because the Plan, as currently adopted by the State Board, will cause irreparable harm to our region.

Awareness of broad support for analysis of the TRVA as an alternative to the Plan by the State Board from labor unions and their members, California legislators, businesses including the Silicon Valley Leadership Group, the Mayors of Hayward, Redwood City, and San Jose, and the Bay Area Council might be important and useful for the SFBOS to know as it considers its future opinion and actions on this topic. If the SFBOS has not already been informed about public benefits of the TRVA as an alternative to the Plan, they should be made aware. Collectively, those stakeholders hold firm in their belief that the TRVA is needed in order to enable San Francisco to continue to provide a reliable supply of high-quality water at a fair price to BAWSCA's 1.8 million residents, 40,000 businesses, and hundreds of communities in Alameda, San Mateo and Santa Clara counties.

BAWSCA respectfully requests that the SFPUC advise the SFBOS of the above-detailed obligations to its wholesale water customers, and that as a result of those obligations, it cannot agree to the SFBOS' request outlined in its resolution put forward for consideration at their May 25, 2021 meeting.

Sincerely,



Nicole Sandkulla
CEO/General Manager

cc: San Francisco Board of Supervisors
Michael Carlin, Acting General Manager, SFPUC
Steve Ritchie, Assistant General Manager, Water Enterprise
BAWSCA Board of Directors

From: [Sherri Norris](#)
To: [BOS Legislation, \(BOS\)](#); [Board of Supervisors, \(BOS\)](#)
Cc: ["Marcus Sorondo"](#); ["Irenia Quitiquit"](#); ["Meyo Marrufo"](#); ["Faith Gemmill"](#)
Subject: City of SF Board Meeting - Agenda Item #40 Comments
Date: Tuesday, May 25, 2021 11:16:15 AM
Attachments: [image001.png](#)
[City of SF to SFPUC Item #40 2021-5-25.pdf](#)

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Good morning,

Attached are our comments for Agenda item #40 for today's City and County of San Francisco Board Meeting. This letter is in support of proposed Resolution #210577, which urges the SFPUC to pause litigation with the SWRCB.

Please also confirm this attachment was received.

Thank you and have a very good meeting!

Respectfully,

Sherri Norris
Executive Director



California Indian Environmental Alliance (CIEA)

Mailing address: PO Box 2128, Berkeley, CA 94702

Physical address: 6323 Fairmount Avenue, Suite #B, El Cerrito, CA 94530

Office: (510) 848-2043 Cell: (510) 334-4408

www.cieaweb.org

 Please consider the environment before printing this email.



May 25, 2021

Shamann Walton, President

Board of Supervisors of the City and County of San Francisco

1 Dr. Carlton B. Goodlett Place

City Hall, Room 244, San Francisco, CA 94102

Clerk of the Board

Submitted digitally to: bos.legislation@sfgov.org / Board.of.Supervisors@sfgov.org

Re: Support of Execution of Resolution 210577 Urging the San Francisco Public Utilities Commission to Pause Litigation Against the State Water Resources Control Board

Dear President Walton and Fellow Members of the Board:

We are writing in support of the resolution by the Board of Supervisors of the City and County of San Francisco urging the SF Public Utilities Commission to pause litigation against the State Water Resources Control Board, and instead heed the beneficial input of a diverse and inclusive group of stakeholders, including subject matter experts in environmental protection, habitat restoration, and the diversification of water supplies based on credible science.

As stated in the proposed resolution we at the California Indian Environmental Alliance also recognize that the San Francisco Bay/Sacramento-San Joaquin River Delta Estuary (the “Bay-Delta Estuary”) is critical to the natural environment and economy of the State of California, as one of the largest ecosystems for fish and wildlife habitats and production in the United States providing drinking water to two-thirds of the State’s population, and supplying some of the State’s most productive agricultural areas.

We remain in support of the San Francisco Board of Supervisors unanimously passed Resolution urging the State Water Resources Control Board (the “State Water Board”) to act to adopt its proposed update to the 2006 Water Quality Control Plan which requires 40% unimpaired flows from each of the Stanislaus, Tuolumne, and Merced Rivers during the months of February through June “in order to maintain inflow conditions ... sufficient to support and maintain the natural production of viable native San Joaquin River watershed populations, including maintenance of flows that more closely mimic the natural hydrographic conditions to which native fish species are adapted;”

CIEA agrees with the National Wildlife Federation classification of Chinook salmon as an important keystone species of the region, a vital food source for a diversity of wildlife including orcas, bears, seals and large birds of prey, and a proverbial “canary in the coalmine” relative to the impact of climate change on the health of regional ecosystems.

Prior to the February 25, 2019, the Bay-Delta Plan amendments, approved by the Office of Administrative Law, the State Water Board’s action, allowed up to 90% of flows had been diverted from the San Joaquin River, causing salmon populations to plummet from approximately 70,000 Chinook salmon in 1984 to just 8,000 in 2014. The Bay Delta Plan as it currently stands calls for 40% natural flows, allowing 60% to go to cities and farms. We are concerned that this has not been enforced and the Bay-Delta Estuary is continuing toward complete ecological collapse.

We are concerned that the San Francisco Public Utilities Commission unilaterally renewed litigation in the Superior Court of the State of California, County of Tuolumne against the California State Water Resources Control Board without holding public hearings on the underlying issues and without notice to legislative policymakers who had recently formally weighed in.

We wish to thank the Board of Supervisors of the City and County of San Francisco for continued support of the 2018 Update to the Bay-Delta Plan with the goal of protection of the San Francisco Bay and Bay Delta environmental benefits, and the goal to provide beneficial uses of these waters for upstream and downstream communities and California Tribes.

We are urging you today to execute the resolution to the San Francisco Public Utilities Commission so that they will to pause its litigation against the State of California and the State Water Resources Board and to allow for deliberate public engagement on the underlying issues and negotiation among the interested parties.

Thank you for this opportunity to provide comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sherri Norris', written in a cursive style.

Sherri Norris
Executive Director
California Indian Environmental Alliance (CIEA)
PO Box 2128, Berkeley, CA 94702
Office: (510) 848-2043 Cell: (510) 334-4408
Sherri@cieaweb.org

From: [Mchugh, Eileen \(BOS\)](#)
To: [BOS Legislation, \(BOS\)](#)
Subject: FW: *UPDATE*: Supporting BOS Agenda Item #40 [Urging the San Francisco Public Utilities Commission to Pause Litigation Against the State Water Resources Control Board] File #210577
Date: Tuesday, May 25, 2021 8:24:04 AM

Fir the file.

Thank you!

Eileen

From: aeboken <aeboken@gmail.com>
Sent: Monday, May 24, 2021 11:28 PM
To: BOS-Supervisors <bos-supervisors@sfgov.org>; BOS-Legislative Aides <bos-legislative_aides@sfgov.org>
Subject: *UPDATE*: Supporting BOS Agenda Item #40 [Urging the San Francisco Public Utilities Commission to Pause Litigation Against the State Water Resources Control Board] File #210577

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TO: Board of Supervisors members

UPDATE:

The Coalition for San Francisco Neighborhoods has now taken an official position in support of this resolution.

Thank you to Supervisor Peskin for his leadership on this issue.

Eileen Boken

Coalition for San Francisco Neighborhoods

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: aeboken <aeboken@gmail.com>

Date: 5/23/21 6:07 AM (GMT-08:00)

To: BOS-Supervisors <bos-supervisors@sfgov.org>, BOS-Legislative Aides <[bos-](#)

legislative_aides@sfgov.org>

Subject: SUPPORTING BOS Agenda Item #40 [Urging the San Francisco Public Utilities Commission to Pause Litigation Against the State Water Resources Control Board] File #210577

TO: Board of Supervisors members

I am strongly supporting urging the SFPUC to pause litigation against the State Water Resources Control Board.

Eileen Boken

Coalition for San Francisco Neighborhoods*

*For identification purposes only.

Sent from my Verizon, Samsung Galaxy smartphone