

**Appendix A. Summary of Stipulated Agreements between
Delta Wetlands and Parties to the Hearing on
Delta Wetlands' Water Rights Applications**



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In 1997, the State Water Resources Control Board (SWRCB) convened a water right hearing to consider Delta Wetlands' petitions for new water rights and changes to existing water rights. Eighteen parties filed protests with the SWRCB against Delta Wetlands' water rights applications. Delta Wetlands entered into negotiations with some of these protestants. As a result of these discussions, Delta Wetlands entered into stipulated agreements with the U.S. Bureau of Reclamation (Reclamation), California Department of Water Resources (DWR), Amador County, the City of Stockton, and North Delta Water Agency that affirm the seniority of the protesting parties' water rights. To preclude interference with those water rights, the stipulated agreements outline general conditions under which the Delta Wetlands Project would operate. These terms are incorporated into the proposed project and are summarized below.

U.S. BUREAU OF RECLAMATION

Two stipulations were included in the agreement between Delta Wetlands and Reclamation. The first requested that a term be included in any permits issued by the SWRCB to Delta Wetlands prohibiting any diversion that would adversely affect the operation of the Central Valley Project (CVP) or the State Water Project (SWP). After entering into the stipulated agreement with Delta Wetlands, however, Reclamation delivered a letter to the SWRCB dated October 31, 1997, which stated that Reclamation would accept DWR's terms (see below) instead of this first term in the Reclamation-Delta Wetlands agreement.

The stipulated agreement between Reclamation and Delta Wetlands also includes a condition regarding an operations agreement. This second stipulation prohibits discharge for export under water rights established under Application Nos. 29061, 29062, 29063, 29066, 30267, 30269, and 30270 before Reclamation, DWR, and Delta Wetlands execute one or more formal agreements for surplus Delta export pumping capacity at the SWP and CVP pumping plants. Any agreement(s) must include operations coordination procedures consistent with all of the following:

- the Delta Wetlands Operating Criteria and Plan (i.e., final operations criteria),
- Endangered Species Act (ESA) requirements,
- PL 102-575,

- Title 34,
- the 1995 Water Quality Control Plan, and
- the 1986 Agreement Between the U.S. and the State of California for Coordinated Operation of the Central Valley Project and State Water Project, and any amendments to this agreement.

The condition in the stipulated agreement additionally states that any formal agreement(s) between Reclamation, DWR, and Delta Wetlands will recognize SWP and CVP pumping priorities, ESA requirements, state or federal regulatory limitations, and the costs of the export pumping.

CALIFORNIA DEPARTMENT OF WATER RESOURCES

The stipulated agreement between Delta Wetlands and DWR includes three terms. Term 1 of the agreement between Delta Wetlands and DWR—the Los Vaqueros term—is included to determine when the operations of the Delta Wetlands Project “would be ‘deemed’ or presumed to be causing injury to” the SWP and CVP, “namely, when the Delta is in balanced conditions under the Coordinated Operating Agreement”. Generally speaking, Term 1 prohibits Delta Wetlands diversions when the Delta is determined to be in balanced conditions. The term “in balance” indicates that all Delta inflow is required to meet Delta objectives and satisfy diversions by the Contra Costa Water District (CCWD), the CVP, the SWP, and Delta riparian and senior appropriative water users.

Term 2 of this agreement limits the amount of water Delta Wetlands can take under excess Delta conditions to the amount by which the Delta is “in excess” as reasonably determined by DWR and Reclamation. This will be the amount of water that may be diverted by Delta Wetlands “without putting the Delta back into balanced conditions”.

Term 3 specifies that Delta Wetlands must stop or reduce any reservoir releases if, as a result of releases, the SWP or the CVP would have to modify operations to meet a legal requirement (e.g., ESA requirements, water rights terms and conditions such as export limits and salinity standards for exported water, or U.S. Army Corps of Engineers [USACE] requirements).

AMADOR COUNTY

Delta Wetlands and Amador County agreed that the Delta Wetlands “permit (or license) shall be junior in priority to any permit or license issued on any application regardless of application date that authorizes the provision of water for beneficial uses within Amador County”.

Delta Wetlands and Amador County also agreed that “whether or not SWRCB includes the above term in any permit granted” for the Delta Wetlands Project, Delta Wetlands will operate the project “so as not to deprive directly or indirectly the inhabitants or property owners in Amador County of the prior right to all of the water reasonably required for beneficial uses within said County”.

Further, Delta Wetlands agrees, through this stipulated agreement, “not to protest any water right applications hereafter filed to the extent that the applicants for said applications propose to use the applied-for water in Amador County”. Delta Wetlands, under this agreement, “reserves its right to protest to the extent that the water will not be used within said County”.

CITY OF STOCKTON

Delta Wetlands’ agreement with the City of Stockton stipulates that any and all permits or licenses issued to the Delta Wetlands Project by the SWRCB must include a term specifying that Delta Wetlands’ permit or license “shall be junior in priority to any application filed by the City of Stockton to obtain the water reasonably required to adequately supply the beneficial needs of the Stockton Urban Area or any of the inhabitants or property owners therein”.

NORTH DELTA WATER AGENCY

The stipulated agreement between Delta Wetlands and North Delta Water Agency specifies that Delta Wetlands will support the inclusion of the following condition in any permits or licenses issued by the SWRCB for the Delta Wetlands Project:

Delta Wetlands agrees that it will not operate the Delta Wetlands Project reservoir islands if the water quality criteria for salinity in effect pursuant to the “Contract Between State of California Department of Water Resources and North Delta Water Agency for the Assurance of a Dependable Water Supply of Suitable Quality” dated January 28, 1981, as amended, are not being met until Delta Wetlands can demonstrate, to the reasonable satisfaction of North Delta Water Agency, that Project reservoir operations are not adversely affecting salinity levels at any of the monitoring locations established by that Contract.

