June 11, 2026

Via E-Mail
State Water Resources Control Board
Eric Oppenheimer, Executive Director

Re: Comments on Final Temperature Management Plan

Executive Director Oppenheimer:

San Francisco Baykeeper, Winnemem Wintu Tribe, California Sportfishing Protection Alliance, Restore the Delta, Resource Renewal Institute, and Friends of the River submit these comments on the final Temperature Management Plan ("Plan") submitted by the Bureau of Reclamation ("Reclamation") to the State Water Resources Control Board ("Water Board"), as well as the Water Board's response to the final Plan and its determination not to approve it ("Response").

We previously submitted letters on Reclamation's planned temperature and reservoir management actions to the Water Board (*see* April 22, 2026 Letter to Water Board) and to the Bureau (*see* May 15, 2026 Letter to Reclamation). The problems, legal and scientific, articulated in those letters remain applicable to the final Plan given Reclamation's election not to change its unlawful and misguided temperature and reservoir management strategy over the last two months.

The Water Board's Response to the Plan explains that: (a) greater end of September storage is required under the 2024 National Marine Fisheries Service biological opinion, (b) end of September storage of at least 2.4 million acre feet is within Reclamation's reasonable control, (c) modeling of temperature dependent mortality by Reclamation and Southwest Fisheries Science Center and other factors "support more conservative temperature management operations," (d) the higher releases relative to the draft Plan and to other modeled alternatives increase the risk that winter-run Chinook Salmon redds will be subject to dewatering later in the year, and (e) that changes by Reclamation which increase end of September storage would

benefit winter-run Chinook Salmon, fall-run Chinook Salmon, the Chinook Salmon fishery, and future year water supply reliability and ecological flexibility.

We largely agree. The Plan is inconsistent with the 2024 biological opinion issued by the National Marine Fisheries Service and with Water Rights Order 90-5. The operations in the Plan will cause significant harm to listed and non-listed native fish species and to the Chinook Salmon fishery. The mismanagement of Shasta reservoir contemplated by the Plan will reduce the ecological benefits and flexibility, as well as the water supply reliability, that can be offered in Water Year 2027, especially if next year is a drought. Reclamation has not changed its plans or approach in any meaningful way, despite the concerns raised by the Water Board, the California Department of Fish and Wildlife, or the analysis of temperature dependent mortality and temperature related impacts on winter-run Chinook Salmon provided by the Southwest Fisheries Science Center. And the Sacramento River population of threatened spring-run Chinook Salmon is also likely to suffer from high river temperatures because of Reclamation's operations described in the Plan.

The Water Board was correct to reject the Plan.

Unfortunately, the Water Board's Response also will allow Reclamation to operate inconsistently with its water rights permits and to do *exactly* what was proposed in the draft and final Plans that the Water Board declined to approve. The Board cannot abandon its legal obligations and authority—instead it should use that authority to compel Reclamation to take the actions necessary to protect the Chinook Salmon fishery.

Water Rights Order 90-5 provides that Reclamation "shall operate Keswick Dam, Shasta Dam, and the Spring Creek Power Plant to meet a daily average water temperature of 56°F in the Sacramento River at Red Bluff Diversion Dam during periods when higher temperatures will be detrimental to the fishery." (Water Rights Order 90-5 at p. 54 [new condition 1] [emphasis added]; see also, *id.*, at pp. 19-20 [the "term we adopt in this Order will require the Bureau to maintain the temperature in the reach of the Sacramento River between Keswick Dam and the Red Bluff Diversion Dam at 56°F"].) Reclamation may propose to meet the temperature requirement at a different location in a temperature management plan, and may then operate to that new location unless, within 10 days, the Water Board objects to that change. (*Id.* at p. 55 [new condition 1].)

Based in part on Reclamation's legally erroneous determination that this is a "Bin 2" year—a position appropriately rejected by CDFW and the Water Board—Reclamation is planning to maintain a temperature of 53.5°F "at" the Clear Creek Gage. In a "Bin 1" year, the location where Reclamation is required to meet 53.5°F shifts downstream of that gage. The Water Board has historically accepted Reclamation's assertion that 53.5°F at the Clear Creek gage is equivalent to meeting a temperature target of 56°F at Balls Ferry. The further downstream Reclamation provides temperature at or below 53.5°F, the further downstream from Balls Ferry temperatures below 56°F will exist. Given that Water Rights Order 90-5 requires temperatures below 56°F *thirty miles downstream of Balls Ferry*, the Water Board should force Reclamation to act consistent with its water rights permits and the 2024 biological opinion's Shasta Framework.

Instead, the Water Board has allowed Reclamation to continue to operate exactly as described in the final Plan that the Board has (rightly) rejected. Doing so shifts compliance from

roughly 60 miles downstream of the reservoir to just 30 miles downstream of the reservoir, reducing the amount of temperature suitable habitat in the Sacramento River by at least half. More, the Plan's modeling shows that Reclamation will be unlikely to meet 56°F at Balls Ferry or 53.5°F at CCR through the entirety of temperature management season. (See Plan at p. 7 [Table 3]; *id.* at Attachment 3 [PDF p. 48]; *id.* at Attachment 5, Tables 1 and 5 [PDF pp. 65, 67].) Additionally, according to data from SacPAS, Reclamation has already deviated from the May operations described in the Plan by releasing more water from Shasta Reservoir than the Plan and associated temperature modeling contemplates. These greater releases will reduce the available cold water and total Shasta storage usable for temperature management later this year.

Given Reclamation's history of failing to meet its temperature targets, the inherent uncertainty of temperature modeling in September and October, and the wealth of scientific evidence showing that 56°F is not protective of Chinook Salmon eggs, the Water Board must require Reclamation to comply with its permits, not bless its refusal to do so.

By failing to do so, the Water Board's response becomes an objection in name only, with no substance behind it. The Water Board has the authority to require Reclamation to comply with the law and its water right permits. The Water Board has identified Reclamation's failure to do so. And yet the Water Board does not appear willing to exercise its authority. The result of the Water Board's abdication of its own authority will likely be that Reclamation moves forward as described in the draft and final Plans, that the consequences the Water Board identified in its response occur, and that late this summer and fall, when it is too late for anyone to act, the Chinook Salmon fishery (including fall-run, winter-run, and spring-run Chinook Salmon) will suffer unreasonable and avoidable harm, endangered fish will die at unnecessary and unreasonably high rates, and protections for native fish and water supply reliability for Water Year 2027 will be at unneeded risk.

We applaud the Water Board's refusal to approve a legally deficient and ecologically harmful Plan. But despite doing so, the Board has failed to take the necessary actions to prevent wholly avoidable consequences that will result from Reclamation's legal malfeasance.

Respectfully submitted,

San Francisco Baykeeper

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/s/ Jon Rosenfield
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Resource Renewal Institute

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Restore the Delta

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cc (via email):

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