



— BUREAU OF —  
RECLAMATION

# LTO WIIN Act Meeting

September 9, 2025

# Agenda

- Proposed Regulatory Changes
- Executive Order 14181 - Action 5
- Trinity River Division Updates
- Sites Reservoir
- Winter-run Threshold Peer Review
- BDO Conference Save the Date



# Prior 2025 WIIN Act Quarterly Meeting

- June 2025 – Executive Orders and Trinity Updates



# Proposed ESA Regulations Changes

- On April 17, 2025, USFWS and NMFS issued a proposed rule to rescind the regulatory definition of "*harm*" in the ESA regulations and rest on the statutory definition of "*take*." (90 FR 16102)
- USFWS and NMFS definitions of "*harm*" included an "act that actually kills or injures wildlife" and "may include significant habitat modification", as well as "impairing behavior patterns" (e.g., breeding, feeding, spawning, etc.)
- Statutory definition of "*take*" remains unchanged and still includes the term "*harm*" within it
- ~330,000 public comments received by the May 2025 deadline on the proposed rule





# Fiscal Responsibility Act of 2023



- Reasonably Foreseeable Effects
- Level of NEPA Review
- Environmental Document Threshold Determinations
- Categorical Exclusions between Agencies
- Programmatic Document Timelines
- Major Federal Action



# Revised 43 CFR Part 46 – Implementation Regs

- Interim Final Rule Effective 7/3

- Pared down regulations
- Procedural Changes
- 30-day public comment period

Federal Register – 90 FR 29498

- Subparts of Part 46

- Subpart A – ~~General Info~~ [Reserved]
- Subpart B – Protection and Enhancement of Environmental Quality
- Subpart C – Initiating the NEPA Process
- Subpart D – ~~Environmental Assessment~~ [Reserved]
- Subpart E – ~~Environmental Impact Statement~~ [Reserved]



# New 516 DM 1 - DOI Manual for NEPA

- 516 Department Manual 1 – DOI Handbook of NEPA Implementing Procedures

- Includes 3 Appendices

1. Actions normally requiring an EA/EIS bureaus
2. Bureau Categorical Exclusions
3. Implementing Guidance to Bureaus – Additional guidance

- Noteworthy topics

- Defining “major federal action” and “reasonably foreseeable”
  - Revised CEs
  - Public comment period optional
  - Projects separate in time and place optional to consider
  - Programmatic Environmental Documents
  - Decision documents
  - Appendix 2 Using another bureau’s CEs
  - Appendix 3 – More detail on how to implement

[US DOI NEPA Home Page](#)



# NEPA – Seven County Supreme Court Decision

- May 29, 2025 – Decision Issued
- Included NEPA Guidance
  - NEPA as a procedural statute
  - Judicial Deference in NEPA reviews
  - Adequacy, Reasonableness, and Reasonably
  - Agency Discretion





# One Big Beautiful Bill Act - NEPA

- Sec 60026 – Adding Project Sponsor Opt-In Fees for Environmental Review
- The CEQ is currently developing guidance for implementing this section.



# Operation Plan - Action 5

Remove Fall X2

Remove Early  
Implementation of  
Delta export  
reduction

Revise Entrainment  
Management

Revise Governance

Simplify  
Descriptions

Adaptive  
Management -  
NEPA



# Fall X2



- Originally proposed as an experiment in 2008 FWS Biological Opinion
- 2019 Adjusted to reduce impacts to Shasta cold water pool
- 2024 Proposed Action included Fall X2
- 2024 FWS Biological Opinion:
  - "Contemporary life cycle modeling supports the hypothesis that high summer outflow can contribute to beneficial effects but does not support the hypothesis that variation in fall outflow does."
  - "The Fall X2 action is not anticipated to have observable effects on delta smelt survival"

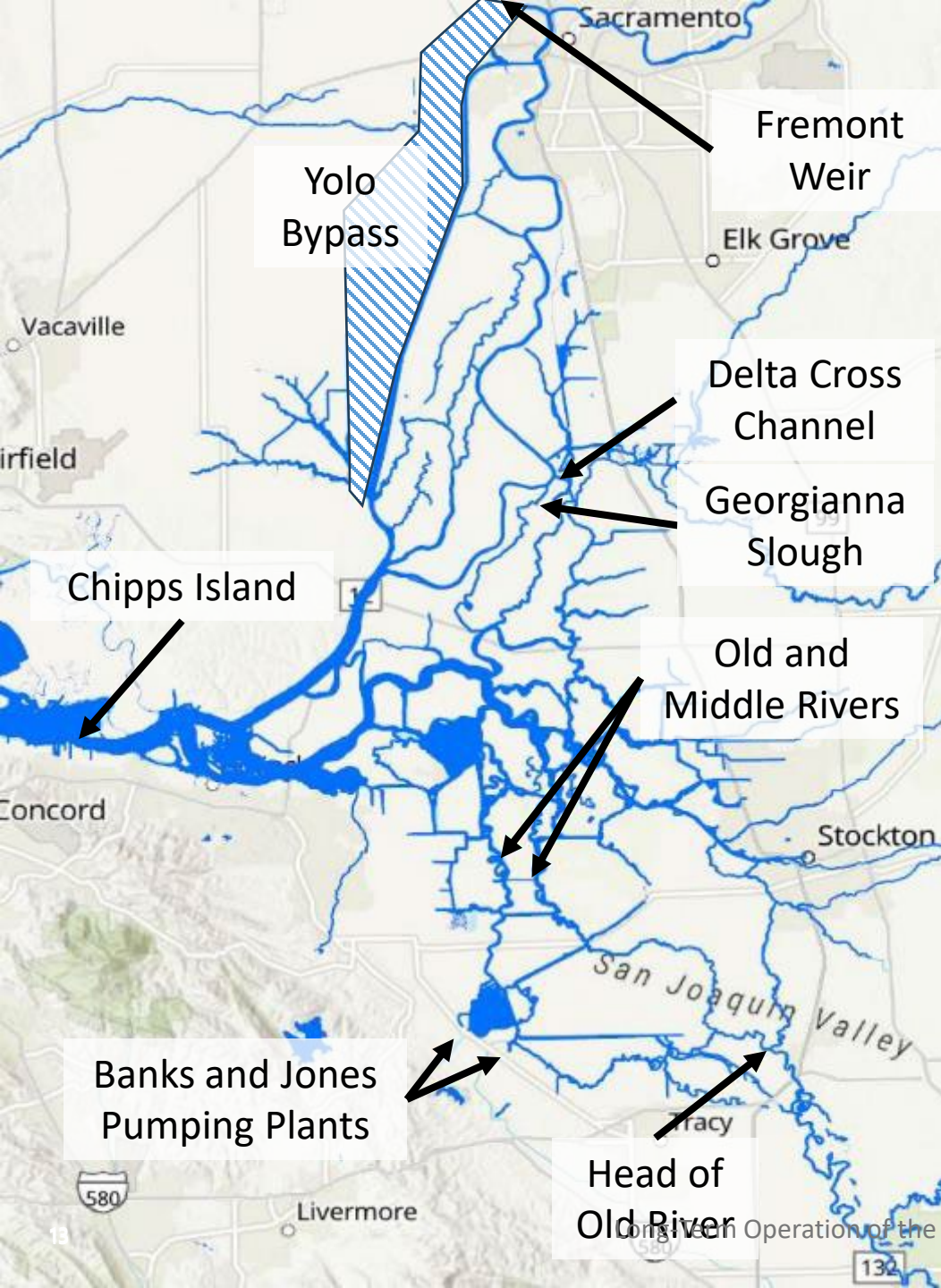


# Early Implementation

- Proposed as two-year stop-gap measure
- Intended to develop data and assist decisions on HRL
- SWP did not include Early Implementation in ITP







# Entrainment Management

- Start of Entrainment Management ( $OMR \geq -5,000$ )
  - First Flush
  - Detection in Salvage
- Real-Time Assessment Thresholds (Weekly)
  - Smelts: expands Jersey Point Flow Criteria
  - Salmonids: Change to Annual Trajectory and Survival
- Stormflex Criteria for  $OMR \geq -6,500$  cfs
- End of Entrainment Management (No Change)



# Governance & Simplified Descriptions

- Roles and Responsibilities
  - Action Agency
  - Consultation and Incidental Take
  - Reinitiation Triggers
- Forums for Input (Tributary Groups)
  - Notifications
  - Seasonal Actions
  - Annual Report
- Scientific Standards



# Adaptive Management (NEPA)

- Retain the “Bin”, now called “Group”, Framework
- Interested Party Governance
- No Special Studies Identified (No Effects/Permitting Need)
- Retain Relationship to ESA Section 7 Consultation



# Action 5 Milestones

2025

Action 5 Milestones	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Drafting Project Description												
Calsim (Water Operations) Modeling												
Final Project Description												
NMFS and USFWS Coordination												
Temperature and Hydrodynamics Modeling												
Biological Effects Modeling												
Supporting Effects Analyses												
Responses from NMFS and USFWS												
NEPA Sufficiency Review												
Record of Decision												





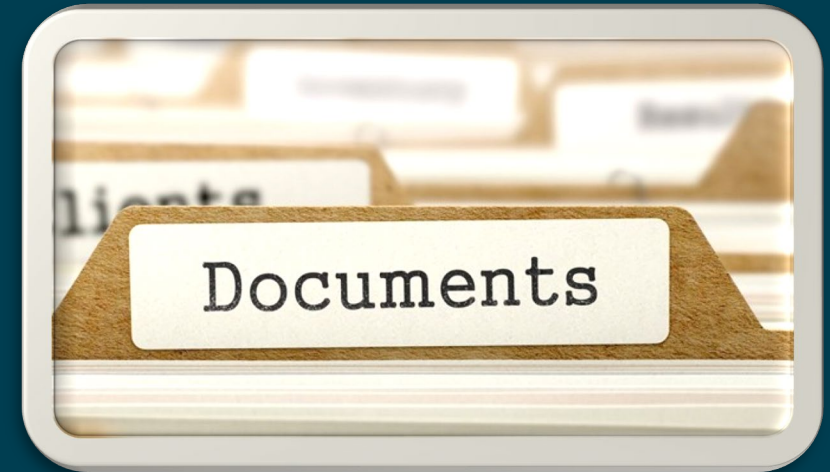
# Trinity River Division (TRD) Reconsultation Update

- Targeting a cooperating agency draft Supplemental Environmental Impact Statement in September 2025
- Cooperating agencies will have a 30-day review
- Study area is Trinity River Region



# Trinity River Division (TRD) Reconsultation Update

- Upcoming Deliverables:
  - Biological Assessment – targeting fall/winter 2025
  - Public Draft SEIS – targeting winter 2025
  - Final Draft SEIS – targeting spring 2026
  - NEPA Decision – targeting spring 2026



Interim Update - Contents Subject to Change



# Sites Reservoir

## ESA Consultation

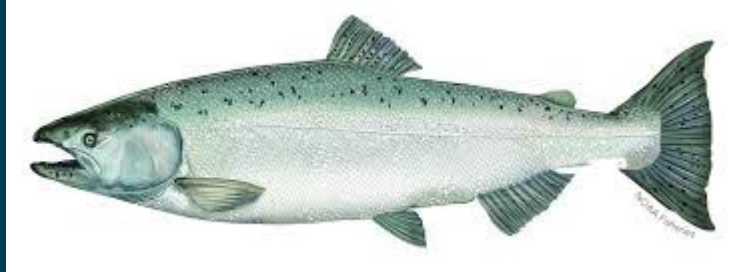
- Construction biological opinion (2024-0125050-S7-001) issued 7/16 (<https://sitesproject.org/permitting/>)
- Operations Framework Programmatic – tiering

## Modeling underway

- CalSim III
- DSM2
- HEC5Q
- USRDOM



# Salmon Threshold Exceedance Peer Review



Water Year 2025 - exceedance of hatchery winter-run chinook salmon loss threshold

Water Year 2024 - exceedance of natural winter-run chinook salmon loss threshold

- June: Interagency Planning Team initiated by Delta Science Program
- July-August: Drafted Charge and recommended panelists
- September: Finalizing Charge, Delta Science Program contracting 3 reviewers
- October: Kick-off meetings with panelists
- Nov-December: Panel will conduct review





# BDO Conference

Tentatively Schedule  
April 1<sup>st</sup> – 3<sup>rd</sup>  
Sac State Aquatic Center



# Upcoming



- Next WIIN Act Quarterly Meeting in December
- Trinity Cooperating Agency Draft
- Trinity Biological Assessment
- E.O. 14181 - Action 5  
Environmental Compliance  
Sufficiency Review







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Thank you