



# Report on Bay-Delta and State Water Project Litigation

Legal and Claims Committee

Item 7a

June 11, 2019

# Overview

- 72 Cases
- Hundreds of parties
- Myriad claims and defenses
- MWD a party in 34
- Working with SWC in 10
- Monitoring & potentially intervening directly or through State Water Contractors in 29



# 2017 Oroville Dam Cases

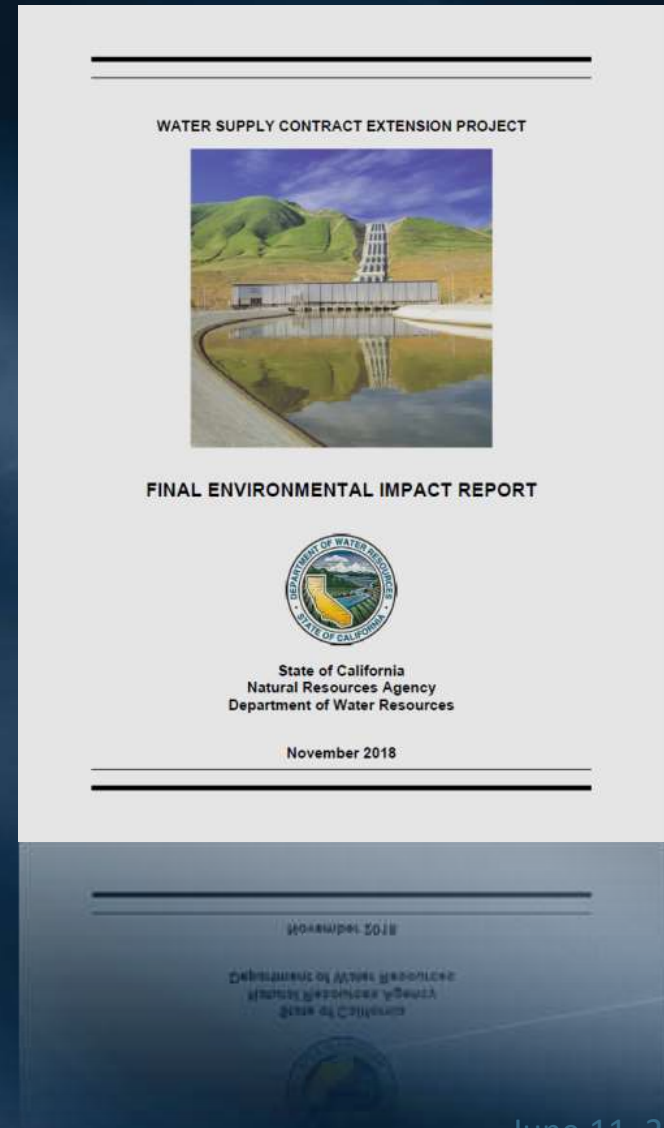
- 10 cases currently coordinated in Sacramento
- One case seeks up to \$51 billion in civil penalties
- Allegations include millions in damages
- Discovery underway
- Motion for class certification pending
- Trial plans due June/July 2019





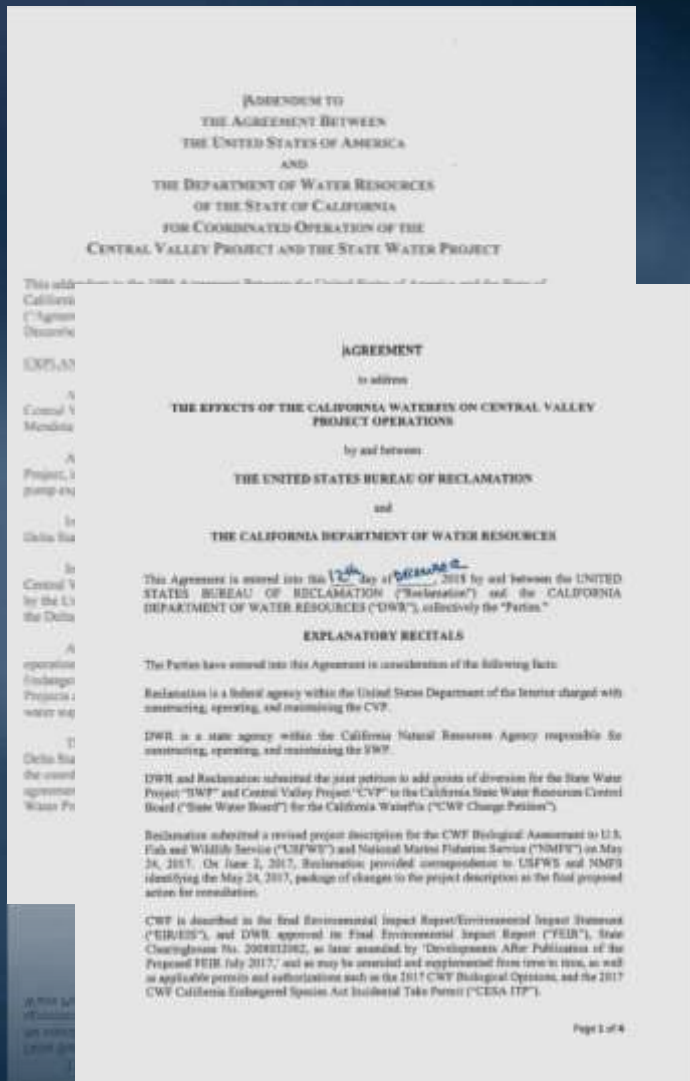
# 2018-2019 SWP Contract Extension Cases

- 2018 - DWR Validation Action
  - MWD & 7 other SWCs answered in support
  - 4 answers in opposition alleging extension is for WaterFix
  - Proposed trial dates to be submitted by November 2019
- 2019 - 2 cases allege DWR violated CEQA, Delta Reform Act, and public trust doctrine
  - MWD intervening in 2019 cases



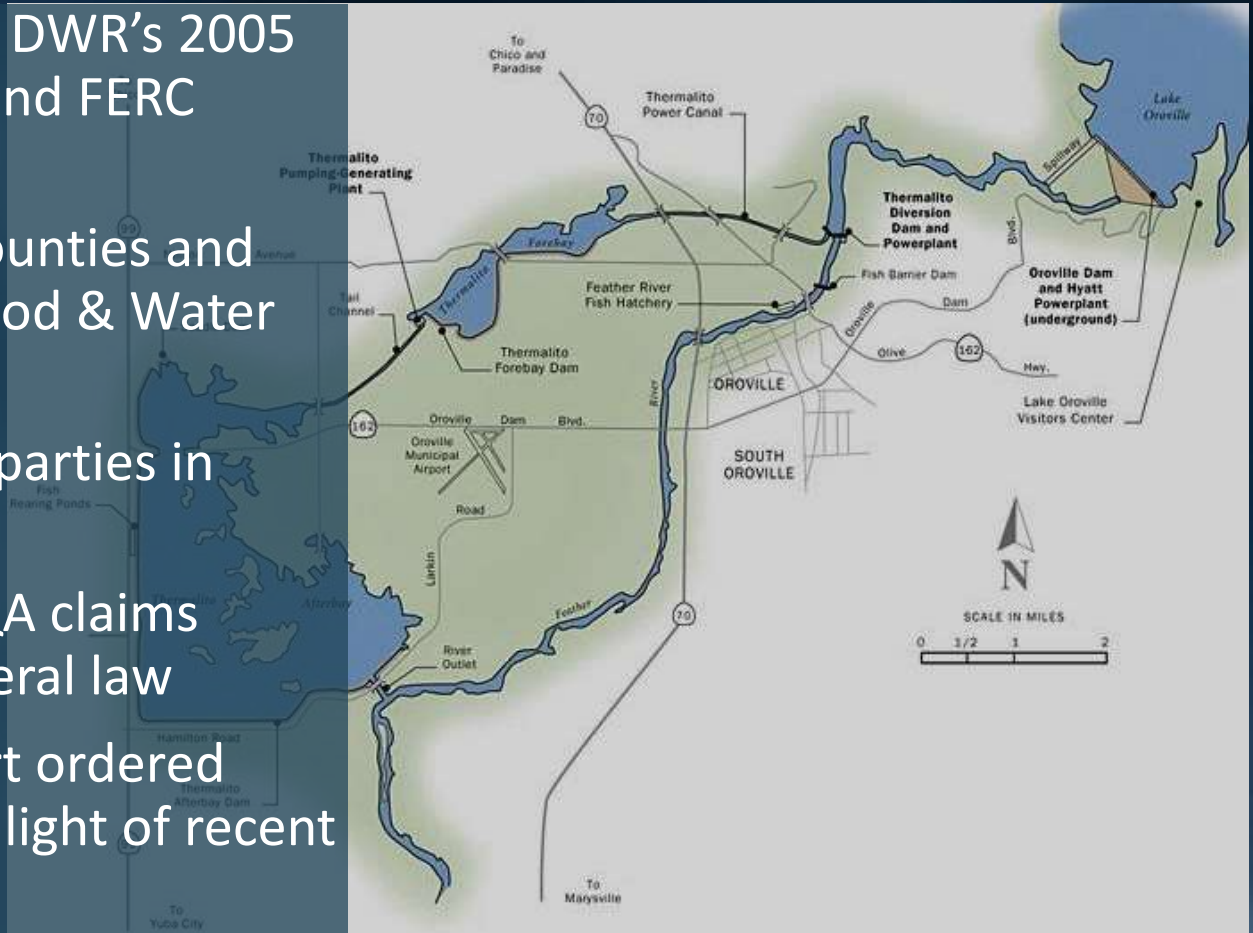
# 2019 COA Addendum/CWF No Harm Case

- DWR and Reclamation entered agreements in December 2018
- Commercial fishing groups and tribe allege violations of CEQA, Delta Reform Act & public trust
- MWD & SWC Monitoring



# 2008 Oroville FERC Relicensing Case

- CEQA challenge to DWR's 2005 application to extend FERC license
- Butte & Plumas Counties and Plumas County Flood & Water Control Dist.
- MWD & SWC real parties in interest
- 2018 Appeal - CEQA claims preempted by federal law
- Cal. Supreme Court ordered reconsideration in light of recent preemption case
- Supplemental briefs have been submitted



# 1995 Monterey Amendment Cases

- Original CEQA and validation action against DWR
  - Planning and Conservation League
  - 2000 decision found EIR inadequate
- 2003 settlement → New EIR in 2010 → New litigation
  - Center for Biological Diversity; Kern Co. water storage districts
  - 2014 trial decision found 2010 EIR defective in one area
  - Plaintiffs appealed
- 2016 New Revised EIR → New litigation
  - Center for Food Safety
  - 2017 trial decision upheld Revised EIR
  - Plaintiffs appealed





