

# CONTRACT FOR ADMINISTRATION OF PUBLIC ECOSYSTEM BENEFITS SITES RESERVOIR PROJECT

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# CONSIDERATIONS FOR CAPB DEVELOPMENT

- Consistency with WSIP Regulations and Prop 1
  - The project applicant has entered into a contract to ensure that the public contribution of funds pursuant to Chapter 8 of Proposition 1 achieves the public benefits identified for the project (Water Code § 79755)
- What leads to achievement of benefit?
- Need to plan for long term
- What is in the scope of the Project's control?
- What happens if we don't achieve the benefit?
- Consistent approach across all projects

# OVERVIEW OF CONTRACT CONTENTS

Recitals

Section 1 Abbreviations and Definitions

Section 2 Roles and Responsibilities

Section 3 Term

Section 4 Public Ecosystem Benefits

Section 5 Public Benefit Dispute Process

Section 6 Dispute Resolution

Section 7 Specific Performance

Section 8 General Terms and Conditions

Exhibit A Findings

Exhibit B Adaptive Management Plan

Exhibit C Agreements

# CONTRACT TERM

Term is 70 years or until:

- Termination of the Funding Agreement
- Cumulative volume of water delivery has been achieved
- Unless otherwise terminated or amended as provided by the Contract

Ecosystem Benefits in MCED:

- Yolo Bypass flows
- Refuge water supply
- Assumed 82-year term

# YOLO BYPASS FLOWS

## 2017 Application

Long-term average of 39 thousand acre-feet (TAF) from August to October to benefit Delta smelt.

## Current Status

In 2025, DWR recommended discontinuing this flow action due to unintended side effects that outweighed potential benefits

CDFW and the Sites Project Authority did not move forward with contracting for this benefit

# REFUGE WATER SUPPLY

2017 Application: Annual average deliveries over 82 years in TAF

	Critical	Dry	Below Normal	Above Normal	Wet	Long-term Average
North of Delta	0.1	0.5	0.7	1.0	0.8	0.6
South of Delta	6.5	25.1	35.4	48.0	47.2	34.6

2026 CAPB: Annual average deliveries over 60 years\* in TAF

	Critical	Dry	Below Normal	Above Normal	Wet	Long-term Average
North of Delta	10.3	18.2	14	19.9	2	11.4
South of Delta	16.8	32.8	26.1	25.4	16	22.6

\*benefits start in year 11 to account for construction time and some reservoir filling

# WATER CONVEYANCE

Three primary routes:

1. Exchanges with Lake Oroville to deliver water to Upper Butte Basin Wildlife Area by Richvale Irrigation District or Western Canal Water District
  - Requires an Exchange Agreement with the Department of Water Resources (DWR) and conveyance agreements with the districts
2. Delivery to refuges north-of-Delta through the Refuge Water Supply Program (RWSP) administered by the Bureau of Reclamation
  - Requires a Donation Agreement with Reclamation
3. Delivery to refuges south-of-Delta through the RWSP
  - Requires a Donation Agreement with Reclamation and Wheeling Agreement with DWR

\*Sites must maintain up to 17.3% of Base Facilities Capacity and Downstream Facilities Capacity for ecosystem benefit

# ADDITIONAL WETLAND HABITAT

- CAPB includes process to provide benefit to wetland habitat outside of areas currently identified
- Additional wetland habitat must meet certain criteria to ensure a net benefit is provided
- Allows for flexibility and changing conditions under adaptive management

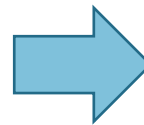
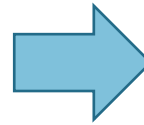
# PUBLIC ECOSYSTEM BENEFIT

## Project Implementation Actions:

- Volume of water delivered
- Base and downstream facility capacity of 17.3%

## Benefit Implementation Actions:

Maintain Agreements



## Benefit Environmental Response:

- Contribution toward CVJV Implementation Plan
- Wetland habitat enhancement

# REPORTING REQUIREMENTS

## Annual Summary Report

- Adaptive Management actions, challenges and successes, monitoring methods, data, etc.

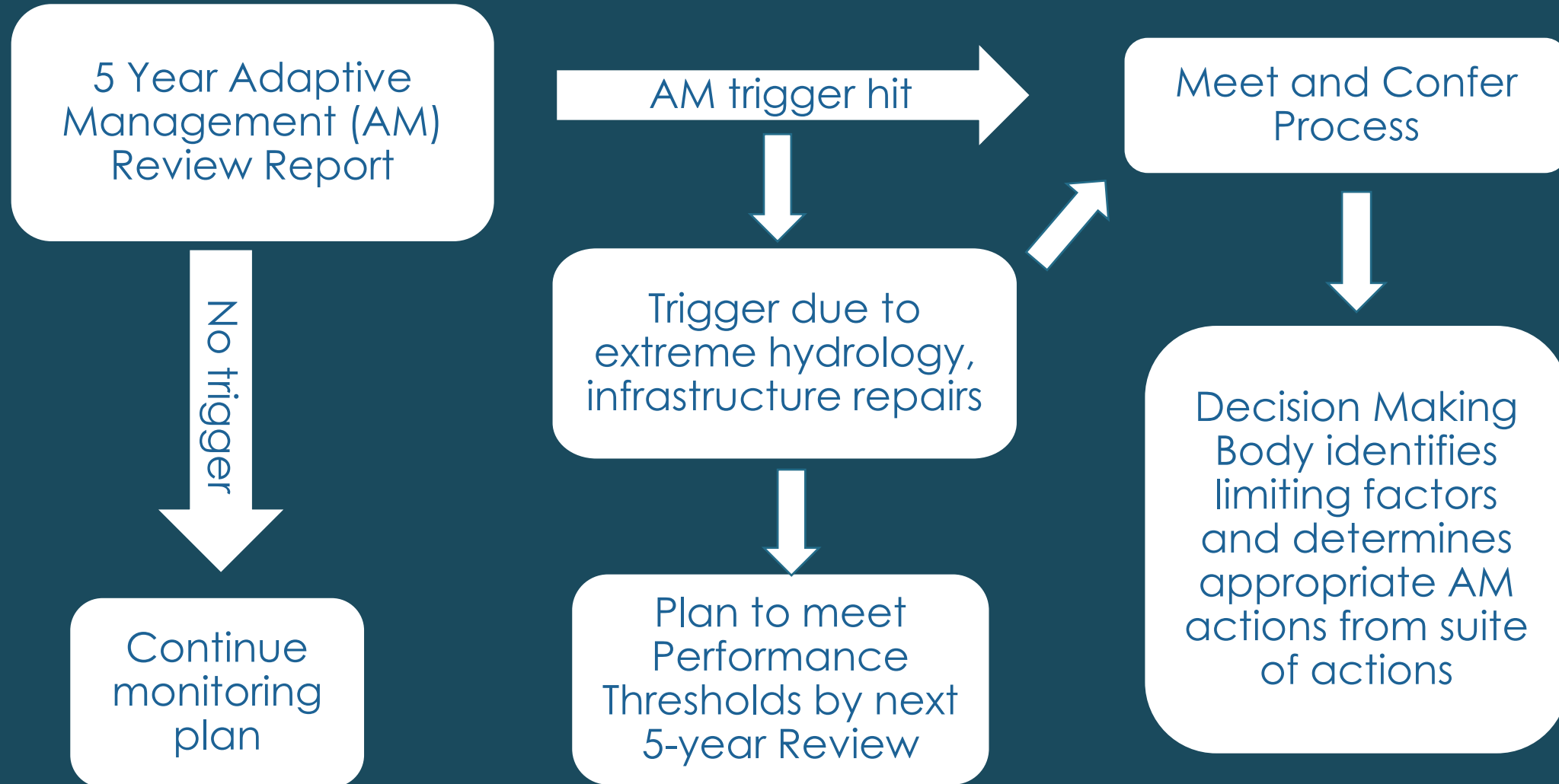
## Adaptive Management Review Report

- Every five years, or annually if an adaptive management trigger occurs
- More detailed evaluation of actions and results
- Discussion of any adaptive management triggers that occurred and limiting factors that may have contributed

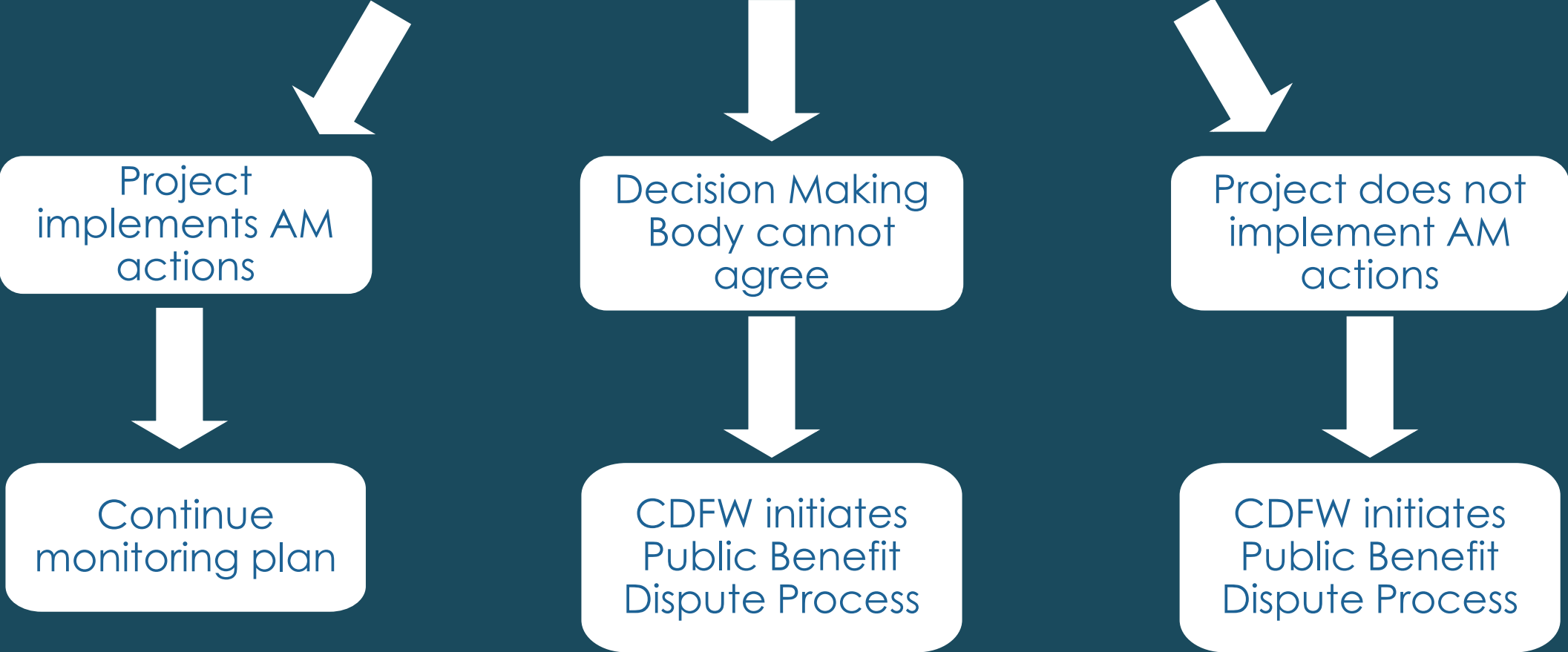
# ADAPTIVE MANAGEMENT: METRICS, THRESHOLDS, AND TRIGGERS

	<b>Performance Threshold</b>	<b>Adaptive Management Trigger</b>
<b>Definition</b>	The expected metric achieved by project compared to baseline	A value determined to be below the Performance Threshold
<b>Example: Volume of Water Delivered</b>	Year 25: Minimum cumulative delivery of 280 thousand acre-feet	Cumulative volume delivered is below Performance Threshold

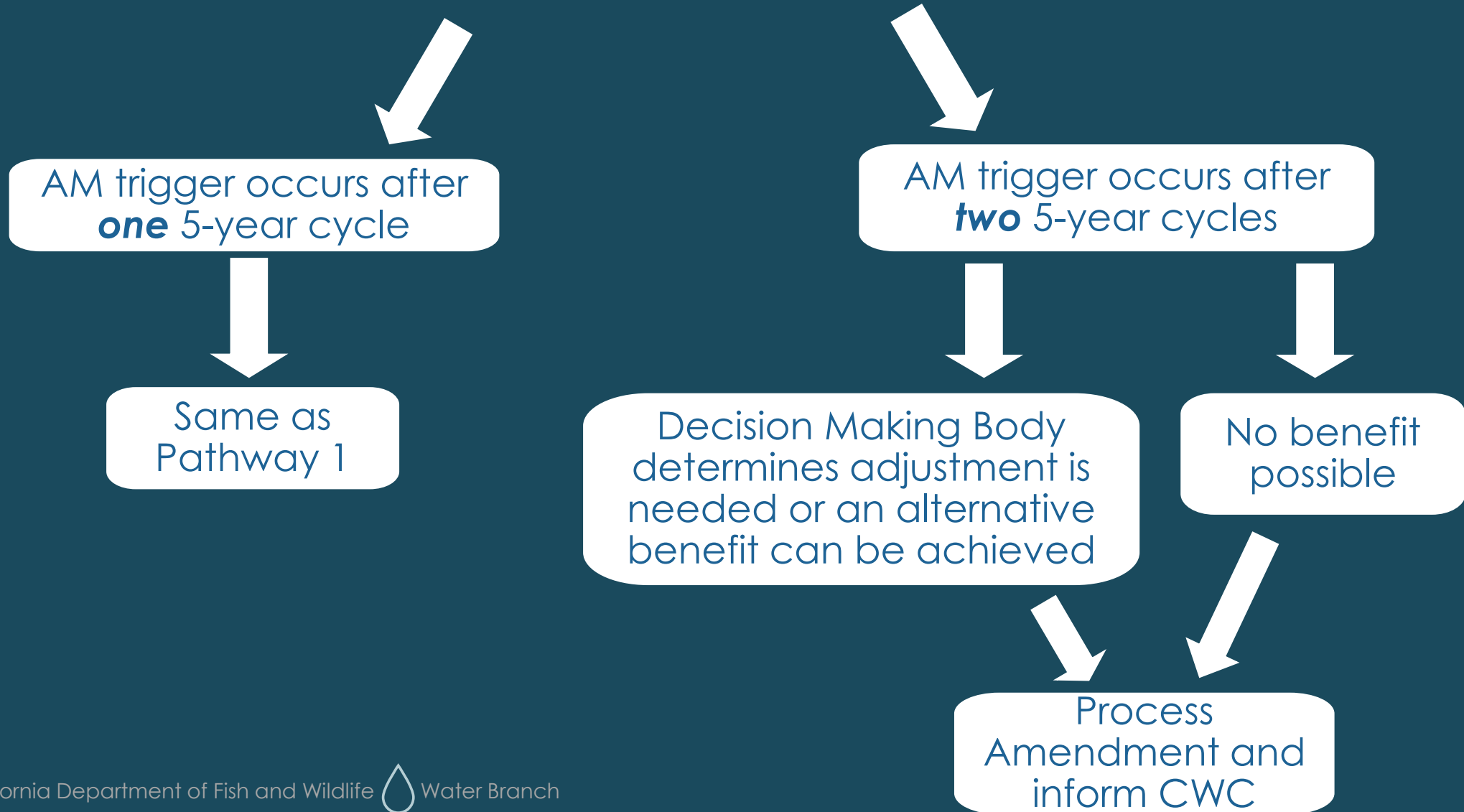
# DECISION MAKING PROCESS



Pathway 1:  
Project or Benefit Implementation Actions AM Trigger



Pathway 2:  
Benefit Environmental Response AM Trigger



# PUBLIC BENEFIT DISPUTE PROCESS

CDFW may only initiate the public benefit dispute process when:

- The Parties disagree on appropriate adaptive management actions and lack of action will result in an insufficient Public Ecosystem Benefit
- The Parties disagree on whether the Public Ecosystem Benefit should be adjusted
- The Parties disagree on whether the Public Ecosystem Benefit continues to be feasible
- The CDFW determines the Public Ecosystem Benefit is no longer occurring due to failure to conduct adaptive management actions

# PUBLIC BENEFIT DISPUTE PROCESS

Goal: find a solution; may include amendment to contract or adaptive management plan

CDFW will provide written notice to Project:

1. State disputed issue
2. Document alternatives considered during Meet and Confer
3. State any partial resolution
4. Identify unresolved issues
5. Propose a solution

Project will respond to CDFW within 60 days

# CONCLUSION OF DISPUTE PROCESS

1. Parties mutually agree on a solution
  - May require amendment to CAPB
2. Parties do not mutually agree on a solution
  - CDFW submits finding of insufficient public benefit to CWC
  - Requires CDFW Director approval
  - CDFW provides CWC explanation and recommendation for compliance
  - Project may also provide information to CWC

# SPECIFIC PERFORMANCE

If CWC agrees with CDFW:

- CDFW may initiate litigation

If court sides with CDFW, remedy is Specific Performance, which requires the Authority to implement:

- Project Implementation Actions
- Adaptive Management Actions

# QUESTIONS?

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