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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SISKIYOU
DEC - 5 2022
B. ENDORSED-M. INGLE
DEPUTY CLERK

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SISKIYOU,**

**Anthony Intiso, pro se TAXPAYER,
PLAINTIFF**

v.

**Wade Crowfoot Secretary, Natural
Resources Agency, and as an Individual
person, and Does 1 through 50
Defendant**

) Case No.: **22CV00609**
)
) **TAXPAYER COMPLAINT FOR INJUNCTIVE and**
) **DECLARATORY RELIEF**
)
) **CCP §526**

INTRODUCTION

1. Plaintiff Anthony Intiso, taxpayer of the State of California, seeks to enjoin Defendant Wade Crowfoot, Secretary of the Natural Resources Agency, from further providing \$250 million of taxpayer funds to unlawfully use California Water Bond monies to aid Klamath River Restoration Corp. (KRRC) in the removal of a series of Clean Energy Hydro-Electric Facilities, (dams) on the Klamath River, in Siskiyou County.

JURISDICTION

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2. Jurisdiction in this case is founded on Code of Civil Procedure §526(a), and 17 Cal.3d 206, which authorizes California taxpayers to sue state officials and obtain a judgment restraining and preventing illegal expenditures of taxpayer funds and taxpayer finance resources.

Venue

3. Venue in this Court is appropriate under Code of Civil Procedure §393, as Plaintiff resides in Siskiyou County and the taxpayer funds at issue are being expended or will be spent in the County of Siskiyou.

PARTIES

4. Plaintiff Anthony Intiso is a resident taxpayer of the State of California who is assessed for and is liable to pay, or, within one year before the commencement of this action, has paid income and/or other taxes that fund the State of California.

5. Defendant Wade Crowfoot, in his official capacity, Is the Secretary of the State of California Nature Resources Agency.

6. The WATER QUALITY SUPPLY AND INFRASTRUCTURE IMPROVEMENT ACT OF 2014 (Bond Act) was a ballot initiative passed by popular vote of the taxpayers of State of California.

7. Defendant Wade Crowfoot is responsible for the oversite and disbursement of funds authorized by passage of the Bond Act.

LEGAL FRAMEWORK

8. The Klamath River, from the Irongate Dam to the Pacific Ocean is designated as a Wild and Scenic River per the California Public Resource Code § 5093.54.

1 9. The Klamath River was approved, for the inclusion in the National Wild and Scenic
2 Rivers System as Noticed in the Federal Register on January 23, 1981. See Federal
3 Register / Vol. 46, No. 15. By the Bureau of Land Management.

4 10 The Bond Act, in Chapter 4, Sec. 79711(e) (Exhibit C attached hereto and made a part
5 hereof by reference), states "Nothing in this division shall be construed to affect the California
6 Wild and Scenic River Act, Chapter 1.4, Section 5093.50 of Division 5 of the California Public
7 Resource Code or the Wild and Scenic River Act Title 16 U.S.C. § 1271; and funds authorized
8 pursuant to this division shall not be available for any project that could have an adverse
9 effect on the values upon which a Wild and Scenic River or any other river is afforded
10 protections pursuant to the California Wild and Scenic River Act or the Federal Wild and
11 Scenic River Act.

12 **STATEMENT OF FACTS**

13 11.. The removal of the four dams will have an adverse effect on the values of the
14 existing Wild and Scenic River. The Agency in charge of the project, the Federal Energy
15 Regulatory Commission's (FERC) own Environmental Impact Statement, states 763 times, the
16 words adverse effects, caused by dam removal. One example, Exhibit A attached hereto and a
17 part hereof by reference, on the Lower Klamath River

18 12. On October 12, 2016, by the "Grant Agreement Number p11601-0" ("Agreement"),
19 (Exhibit B attached hereto and a part hereof by reference) the State of California Natural
20 Resources Agency, granted to the Klamath River Renewal Corporation ("KRRC"), \$250 million.

21 13. As per the Agreement, \$25 million was funded to be used by KRRC to complete,
22 under phase one, all the required permits and authorizations, EIS documents, before
23 proceeding to phase two for the ultimate deconstruction of the four rivers.
24 Currently KRRC is in the beginning of phase two, dam deconstruction.

FIRST CAUSE OF ACTION

14. Plaintiff incorporates by reference and realleges all their prior allegations herein.

15. Defendant Wade Crowfoot, through his actions as Secretary of State of California Natural Resources Agency, illegally granted \$250 million, which portion has already been expended by KRRC, to facilitate the removal of the four dams on the Klamath River.

16. Accordingly, Defendant Wade Crowfoot's granting of \$250 million violates the provisions of the Bond Act.

17. Defendant Wade Crowfoot was acting in his individual capacity because the Bond Act does not allow for the granting of funds and specifically bars the granting of funds that will adversely affect the values of a Wild and Scenic River.

18. Therefore, the \$250 million authorization and partial disbursement is an illegal expenditure of taxpayer funds under California law.

ACTUAL CONTROVERSY

19. An Actual and justiciable controversy has arisen and now exists between Plaintiff and Defendant.

20. Plaintiff contends he is assessed for and liable to pay, or, within one year before the commencement of this action, have paid income and/or other taxes that fund the State of California.

21. Defendant is expending, intends to expend, or will expend taxpayer funds and taxpayer-financed resources illegally by granting funds to KRRC for the purpose of dam removal, on the Klamath River, in violation of federal and state law.

22. On information and belief, Defendant contend those expenditures do not violate the provision of the Bond Act, state law, or federal law; therefore, Wade Crowfoot believes he is not expending taxpayer funds illegally, does not intend to expend or will not expend taxpayer fund or taxpayer-financed resources illegally in the future.

1 23. A judicial declaration pursuant to Code of Civil Procedure § 1060 is necessary and
2 appropriate so that the parties may ascertain their respective legal rights and duties
3 with respect to Defendant's illegal expenditure of taxpayer funds, (Bond Act funds), on
4 the removal of dams on the Klamath River, which will adversely affect a river
5 designated as a Wild and Scenic River.

6 24. Plaintiff has no adequate remedy at law.

7 **PRAYER FOR RELIEF**

8 1. A judgment declaring that Defendant's expenditures of taxpayer funds - \$250 million
9 grant to KRRC, violated the provisions of the Bond Act and are illegal;

10 2. Declaration that Defendant Wade Crowfoot was acting in his individual capacity by
11 granting \$250 million, for dam removal on the Klamath River, to KRRC, in violation of
12 the Bond Act provisions; thus, Defendant Wade Crowfoot was acting outside his
13 authority;

14 3. Declaration requiring Defendant Wade Crowfoot to personally repay the illegally
15 expended taxpayer funds.

16 4. An Immediate Injunction restraining and preventing Defendant from using taxpayer
17 funds and taxpayer-financed resources for dam removal on the Klamath River per the
18 Bond Act Provisions, and a restraining order preventing KRRC from any further work or
19 actions on the dam removal process, until this court renders an opinion.

20 5. Reasonable attorneys' fees under the Private Attorney General Statute, Code of Civil
21 Procedure § 1021.5, if Plaintiff is required to retain a lawyer to assist in this action;

22 6. Such other relief as this Court deems just and proper.

23 Dated: 12/05/2002

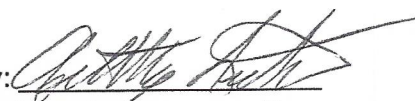
24 By: 
25 Anthony Intiso, pro se Taxpayer

EXHIBIT A



FERC/EIS-0313F



Office of Energy Projects

August 2022

**Final Environmental Impact Statement
For Hydropower License Surrender and Decommissioning**

Lower Klamath Project—FERC Project No. 14803-001
Klamath Hydroelectric Project—FERC Project No. 2082-063
Oregon and California

Abstract:

The staff of the Federal Energy Regulatory Commission (Commission) prepared a final environmental impact statement for the license surrender, decommissioning and removal of the Lower Klamath Hydroelectric Project No. 14803-001, on the Klamath River in Klamath County, Oregon, and in Siskiyou County, California. The project occupies approximately 400 acres of federal land administered by the U.S. Department of Interior, Bureau of Land Management and consists of four developments: J.C. Boyle, Copco No. 1, Copco No. 2, and Iron Gate. Project removal and implementation of mitigation measures proposed in management plans would protect environmental resources, restore project lands, minimize adverse effects, maximize benefits to protected fish, and restore the landscape of the areas that are currently impounded within the project reach to a more natural state. Commission staff recommends approval of the proposed license surrender, decommissioning and removal of the project with staff additional recommendations and mandatory conditions. If authorized by the Commission, license surrender would only become effective after all measures required by the surrender order are adequately completed.

Contact: Office of External Affairs, (866) 208-FERC
Estimate of Staff's Time Spent in Preparation of EIS: \$183,146. Cooperating agency cost (Corps and EPA): \$44,975; Contractor Costs: \$1,360,877
It is not practicable to include additional costs incurred by other agencies or the applicant.

Federal Energy Regulatory Commission
Office of Energy Projects
888 First Street NE, Washington, DC 20426

Cooperating Agencies:



U.S. Environmental Protection Agency, Region 9



U.S. Army Corps of Engineers
San Francisco District



Yurok Tribe

(Gannett et al., 2007). Gannett et al. (2007) indicates groundwater discharge to the reach between Keno Dam and the J.C. Boyle Powerhouse can vary from less than 200 cfs to greater than 300 cfs and groundwater discharge between the J.C. Boyle Powerhouse to below Iron Gate Dam can vary from 30 cfs to 330 cfs. On average, total groundwater accretion to the hydroelectric reach is over 400 cfs. These springs and drainages occur at elevations from less than 50 feet to more than 800 feet above the reservoir level (Reclamation, 2011a). Local groundwater immediately adjacent, and potentially extending up to a mile from the Lower Klamath Project reservoirs under certain conditions, is more likely influenced by local site-specific variability (i.e., groundwater levels above or below the reservoir stage) and subsurface porosity and permeability (California Water Board, 2020a).

Groundwater pumping for domestic use and irrigation is common in the Klamath River Basin (California Water Board, 2020a). Average well yield in Siskiyou County, California is about 19 gallons per minute (0.04 cfs), and average well yield in Klamath County, Oregon, is about 22 gallons per minute (0.05 cfs). Since 2001, irrigation demand for groundwater increased by 50 percent in response to changes in surface water management practices (e.g., establishment of BiOp requirements). Typical annual drawdown and recovery cycles caused by regional groundwater pumping range from 1 to 10 feet. Overall, the increase in pumping resulted in groundwater levels dropping 10 to 15 feet in the area surrounding the Lower Klamath Project facilities (Reclamation, 2011a).

3.2.3 Effects of the Proposed Action

3.2.3.1 Project Deconstruction Effects on Water Quantity

The process of drawing down the reservoirs and deconstructing the dams would affect downstream river flows during drawdown, and the rate of drawdown and the potential for refilling of the reservoirs during drawdown would be affected by inflows and the effective discharge capacity of outlet structures. Refilling the reservoirs during drawdown would likely extend the duration of high SSCs in the Lower Klamath River, which would adversely affect aquatic resources.

To access the dams for deconstruction, KRRC would perform controlled reservoir drawdowns over a period of four to six months, depending on inflow conditions. KRRC would commence pre-drawdown operations prior to January 1 of the drawdown year, lowering each reservoir water surface level to the normal minimum operating level, and commence full drawdown operations at each facility on January 1. To manage inflows during the deconstruction phase, KRRC would coordinate with Reclamation to establish temporary flow control measures at Upper Klamath Lake. KRRC would lower each reservoir at a target rate of between 2 and 5 feet per day, as inflows allow. Presented below, KRRC's December 2021 Reservoir Drawdown and Diversion Plan describes the project-specific proposed drawdown methods, procedures, schedules, and monitoring it would implement as part of the proposed action.

yards from Iron Gate Reservoir, and that suspended sediment concentrations during reservoir drawdown would increase relative to prior model results.¹⁴³

SSCs resulting from sediment jetting would depend on the pressure and angle of the water jet and the cohesiveness of the reservoir sediments. Assuming a sediment jetting flow of about 10 to 30 cfs, which was used on the Mill Pond Dam removal project located on Sullivan Creek near Seattle City Light's Boundary Hydroelectric Project (Washington Department of Ecology, 2016, as cited by California Water Board, 2020a), SSCs in sediment jetting flows would likely range from less than 1,000 mg/l to approximately 100,000 mg/l (California Water Board, 2020a). The California Water Board (2020a) conservatively estimates the effects of sediment jetting on SSCs based on the volume of sediment estimated to be mobilized by sediment jetting over a three-month period, the modeled flow and SSCs for the Klamath River, and the estimated flow and SSCs for sediment jetting.¹⁴⁴ The typical increase over SRH-1D simulated SSCs under the range of typical drawdown flows for all water year types is estimated to be about 350 to 1,400 mg/l from Copco No. 1 Reservoir, by about 270 to 1,200 mg/l from Iron Gate Reservoir, and by about 620 to 2,600 mg/l for both reservoirs. The California Water Board (2020a) concludes that sediment jetting would result in a maximum increase in SSCs under the low flows of a dry water year, and that relative to SRH-1D simulations, increases are expected to be less than 2,200 mg/l for Copco No. 1, 1,700 mg/l for Iron Gate, and 3,900 mg/l if the maximum increase from the two reservoirs coincides. The California Water Board (2020a) concludes that these increases in the magnitude of SSC would not alter the overall effect of suspended sediments because the increases would primarily occur during peak SSCs and are not expected to increase the duration that SSCs are above 100 mg/l. Furthermore, sediment jetting would reduce the potential for mobilization of sediments remaining in the Copco No. 1 and Iron Gate Reservoir footprints after the drawdown period. However, flows in a dry year would have less capacity to continue to suspend sediments that are dislodged by sediment jetting, which could result in some deposition of these sediments in low-velocity areas such as deep pools and along streambanks.

In summary, the proposed action is expected to result in short-term, significant, unavoidable, adverse effects on SSCs in the hydroelectric reach and Lower Klamath River.

¹⁴³ Since the 2020 updated SRH-1D simulations do not appear to include the effects of sediment jetting, we conclude that the California Water Board's estimates also generally apply to the updated simulated suspended sediment concentrations.

¹⁴⁴ The estimated increases in SSCs are conservative (i.e., higher than expected) because the SRH-1D simulations include sediments mobilized from the areas where sediment jetting would occur.

EXHIBIT B

State of California Natural Resources Agency - GRANT AGREEMENT

GRANTEE NAME: Klamath Dam

PROJECT TITLE: RESTORING THE Klamath RIVER: Klamath RIVER DAM REMOVAL PROJECT

AUTHORITY: Proposition 1: Public Resources Code sections 79732 and 79736

DIVISION: Office of the General Counsel

AGREEMENT NUMBER: P11601-0

TERM OF LAND TENURE: In perpetuity from the date of project completion as evidenced by Project Certification Form

PROJECT PERFORMANCE PERIOD IS: 7/1/2016 to 6/30/2020
 Under the terms and conditions of this agreement, the applicant agrees to complete the project as described in the project scope described in Exhibit A, and any subsequent amendments, and the State of California, acting through the Natural Resources Agency pursuant to Proposition 1, agrees to fund the project up to the total state grant amount indicated.

PROJECT DESCRIPTION:
 See project description on page 1 and Exhibit A of the Agreement


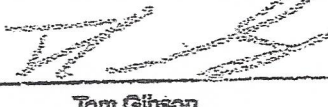

Total State Grant not to exceed **\$250,000,000** (or project costs, whichever is less)
 (250 million dollars)

The Special and General Provisions attached are made a part of and incorporated into the Agreement.

KLAMATH RIVER RENEWAL CORPORATION (KRCC)

STATE OF CALIFORNIA NATURAL RESOURCES AGENCY

STATE OF CALIFORNIA NATURAL RESOURCES AGENCY

By  _____ Michael Carter	By  _____ Tom Gibson	By  _____ Bryan Cash
Title President	Title General Counsel	Title Deputy Assistant Secretary
Date 10/11/16	Date 10/12/16	Date 10/12/16

CERTIFICATION OF FUNDING

AMOUNT OF ESTIMATE FUNDING	AGREEMENT NUMBER	FUND		
\$250,000,000	P11601-0	6083 - Water Quality, Supply, and Infrastructure Improvement Fund of 2014		
ADJ. INCREASING ENCUMBRANCE	APPROPRIATION			
0	0540-6083-003-2016-00101-10			
ADJ. DECREASING ENCUMBRANCE	FUNCTION			
0	Local Assistance/Dam Removal			
UNENCUMBERED BALANCE	LINE ITEM ALLOTMENT	CHAPTER	STATUTE	FISCAL YEAR

Exhibit B

\$	0540-0083-003-2016-00101-10			23/16	2016	10/17
T.S.A. NO.	S.R. NO.	INDEX	OBJ. EXPEND	PCA	PROJECT NUMBER	
		0540	751	32101 3710	P11601	

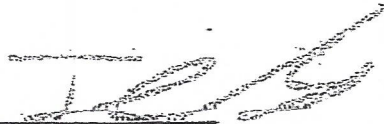
I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance

George J. Lewis
SIGNATURE OF ACCOUNTING OFFICER

10/25/16
DATE

Exhibit B


Agreement No. P11601-0


Thomas Gibson,
Deputy Secretary for Legal Affairs,
General Counsel

Date: 10/14/16


Bryan Cash
Deputy Secretary for
Bonds and Grants

Date: 10/12/16


Michael Carrier,
President
Klamath River Renewal Corporation

Date: 10-11-16

EXHIBIT 'C'

Assembly Bill No. 1471

CHAPTER 188

An act to add Sections 5096.968 and 75089 to the Public Resources Code, to add Sections 13467, 78691.5, 79222, and 79591 to, and to repeal and add Division 26.7 (commencing with Section 79700) of, the Water Code, and to repeal Section 2 of Chapter 3 of the Seventh Extraordinary Session of the Statutes of 2009, relating to a water quality, supply, and infrastructure improvement program, by providing the funds necessary therefor through an election for the issuance and sale of bonds of the State of California and for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 13, 2014. Filed with
Secretary of State August 13, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1471, Rendon. Water Quality, Supply, and Infrastructure Improvement Act of 2014.

(1) Existing law, the Safe, Clean, and Reliable Drinking Water Supply Act of 2012, if approved by the voters, would authorize the issuance of bonds in the amount of \$11,140,000,000 pursuant to the State General Obligation Bond Law to finance a safe drinking water and water supply reliability program. Existing law provides for the submission of the bond act to the voters at the November 4, 2014, statewide general election.

This bill would repeal these provisions.

(2) Under existing law, various measures have been approved by the voters to provide funds for water supply and protection facilities and programs. Existing law, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative measure approved by the voters as Proposition 84 at the November 7, 2006, statewide general election, authorizes the issuance of bonds in the amount of \$5,388,000,000 for the purposes of financing safe drinking water, water quality and supply, flood control, natural resource protection, and park improvements. Existing law, the Disaster Preparedness and Flood Prevention Bond Act of 2006, approved by the voters as Proposition 1E at the November 7, 2006, general statewide election, authorizes the issuance of bonds in the amount of \$4,090,000,000 for the purposes of financing disaster preparedness and flood prevention projects. Existing law, the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, an initiative measure approved by the voters as Proposition 50 at the November 5, 2002, statewide general election, authorizes, for the purposes of financing a safe drinking water, water quality, and water reliability program, the issuance of bonds in the amount of \$3,440,000,000. Existing law, the Costa-Machado

or obligations, except for any water transfers for the benefit of subsection (d) of Section 3406 of the Central Valley Project Improvement Act (Title 34 of Public Law 102-575).

79710. (a) Funds provided by this division shall not be expended to pay the costs of the design, construction, operation, mitigation, or maintenance of Delta conveyance facilities. Those costs shall be the responsibility of the water agencies that benefit from the design, construction, operation, mitigation, or maintenance of those facilities.

(b) To the extent feasible, in implementing subdivision (k) of Section 79731, the Sacramento-San Joaquin Delta Conservancy shall seek to achieve wildlife conservation objectives through projects on public lands or voluntary projects on private lands. Funds available to the Sacramento-San Joaquin Delta Conservancy pursuant to subdivision (k) of Section 79731 may be used, in consultation with the Department of Fish and Wildlife, for payments to landowners for the creation of measurable habitat improvements or other improvements to the condition of endangered or threatened species. The Sacramento-San Joaquin Delta Conservancy may develop and implement a competitive program for habitat enhancements that maximizes voluntary landowner participation in projects that provide measurable and long-lasting habitat or species improvements in the Delta. These funds shall not be used to subsidize or decrease the mitigation obligations of any party.

(c) In implementing subdivision (k) of Section 79731, the Sacramento-San Joaquin Delta Conservancy shall coordinate and consult with the city or county in which a grant is proposed to be expended or an interest in real property is proposed to be acquired and with the Delta Protection Commission. Acquisitions by the Sacramento-San Joaquin Delta Conservancy pursuant to subdivision (k) of Section 79731 shall be from willing sellers only.

79711 (a) This division does not diminish, impair, or otherwise affect in any manner whatsoever any area of origin, watershed of origin, county of origin, or any other water rights protections, including, but not limited to, rights to water appropriated prior to December 19, 1914, provided under the law. This division does not limit or affect the application of Article 1.7 (commencing with Section 1215) of Chapter 1 of Part 2 of Division 2, Sections 10505, 10505.5, 11128, 11460, 11461, 11462, and 11463, and Sections 12200 to 12220, inclusive.

(b) For the purposes of this division, an area that utilizes water that has been diverted and conveyed from the Sacramento River hydrologic region, for use outside the Sacramento River hydrologic region or the Delta, shall not be deemed to be immediately adjacent thereto or capable of being conveniently supplied with water therefrom by virtue or on account of the diversion and conveyance of that water through facilities that may be constructed for that purpose after January 1, 2014.

(c) Nothing in this division supersedes, limits, or otherwise modifies the applicability of Chapter 10 (commencing with Section 1700) of Part 2 of Division 2, including petitions related to any new conveyance constructed

or operated in accordance with Chapter 2 (commencing with Section 85320) of Part 4 of Division 35.

(d) Unless otherwise expressly provided, nothing in this division supersedes, reduces, or otherwise affects existing legal protections, both procedural and substantive, relating to the state board's regulation of diversion and use of water, including, but not limited to, water right priorities, the protection provided to municipal interests by Sections 106 and 106.5, and changes in water rights. Nothing in this division expands or otherwise alters the state board's existing authority to regulate the diversion and use of water or the courts' existing concurrent jurisdiction over California water rights.

(e) Nothing in this division shall be construed to affect the California Wild and Scenic Rivers Act (Chapter 1.4 (commencing with Section 5093.50) of Division 5 of the Public Resources Code) or the federal Wild and Scenic Rivers Act (16 U.S.C. Sec. 1271 et seq.) and funds authorized pursuant to this division shall not be available for any project that could have an adverse effect on the values upon which a wild and scenic river or any other river is afforded protections pursuant to the California Wild and Scenic Rivers Act or the federal Wild and Scenic Rivers Act.

(f) Nothing in this division supersedes, limits, or otherwise modifies the Sacramento-San Joaquin Delta Reform Act of 2009 (Division 35 (commencing with Section 85000)) or any other applicable law, including, but not limited to, Division 22.3 (commencing with Section 32300) of the Public Resources Code.

(g) Funds provided by this division shall not be used to acquire land via eminent domain.

(h) Notwithstanding any other law, any agency acquiring land pursuant to this division may use the Natural Heritage Preservation Tax Credit Act of 2000 (Division 28 (commencing with Section 37000) of the Public Resources Code).

79712. (a) Eligible applicants under this division are public agencies, nonprofit organizations, public utilities, federally recognized Indian tribes, state Indian tribes listed on the Native American Heritage Commission's California Tribal Consultation List, and mutual water companies.

(b) (1) To be eligible for funding under this division, a project proposed by a public utility that is regulated by the Public Utilities Commission or a mutual water company shall have a clear and definite public purpose and shall benefit the customers of the water system and not the investors.

(2) To be eligible for funding under this division, an urban water supplier shall adopt and submit an urban water management plan in accordance with the Urban Water Management Planning Act (Part 2.6 (commencing with Section 10610) of Division 6).

(3) To be eligible for funding under this division, an agricultural water supplier shall adopt and submit an agricultural water management plan in accordance with the Agricultural Water Management Planning Act (Part 2.8 (commencing with Section 10800) of Division 6).