

**Notice of Preparation of an
Environmental Impact Report for Long-Term Operations of the State Water
Project**

CALIFORNIA DEPARTMENT OF WATER RESOURCES

To: Agencies and Interested Parties

Date: April 19, 2019

Subject: Notice of Preparation of an Environmental Impact Report for Long-Term Operations of the State Water Project

CEQA Lead Agency Contact

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The Department of Water Resources (DWR) will prepare an Environmental Impact Report (EIR) for Long-Term Operations of the State Water Project (SWP). The EIR will be prepared pursuant to the California Environmental Quality Act (CEQA), California Public Resources Code sections 21000, et seq., and the CEQA Guidelines, Title 14 of the California Code of Regulations sections 15000, et seq. DWR, as the project proponent, will be the lead agency in accordance with CEQA.

Purpose of the Notice of Preparation

The purpose of a notice of preparation (NOP) is to notify responsible and trustee agencies involved in approving or funding a project, the Office of Planning and Research, federal agencies involved in approving or funding a project, and interested parties that an EIR will be prepared. The NOP provides information about the proposed project and its potential environmental impacts to allow recipients the opportunity to provide a meaningful response related to the scope and content of the EIR. Responsible and trustee agencies should respond to the NOP with the following information: “[t]he significant environmental issues and reasonable alternatives and mitigation measures that the responsible or trustee agency, or the Office of Planning and Research will need to have explored in the draft EIR”; and “[w]hether the agency will be a responsible agency or trustee agency for the project.” (CEQA Guidelines, § 15082, subd. (b)(1).)

The description, location, and potential environmental effects of the proposed project are presented below. An initial study has not been prepared because DWR has determined that an EIR will be required for the proposed project.

Background

The SWP includes water, power, and conveyance systems, conveying an annual average of 2.9 million acre-feet of water. The principal facilities of the SWP are Oroville Reservoir and related facilities, San Luis Dam and related facilities, facilities in the Sacramento-San Joaquin Delta, the Suisun Marsh Salinity Control Gates, the California Aqueduct including its terminal reservoirs, and the North and South Bay Aqueducts. DWR holds contracts with 29 public agencies in northern, central, and southern California for water supplies from the SWP. Water stored in the Oroville facilities, along with water available in the Delta (consistent with applicable regulations), is captured in the Delta and conveyed through several facilities to SWP contractors.

The SWP is operated to provide flood control and water supply for agricultural, municipal, industrial, recreational, and environmental purposes. The SWP operates pursuant to water rights permits and licenses issued by the State Water Resource Control Board, which allow appropriation of water by storing, releasing, and conveying from storage throughout the year. Under the terms of the Coordinated Operation Agreement (COA) between the Federal government and the State of California (authorized by Public Law 99-546), DWR and the U.S. Bureau of Reclamation (Reclamation) operate the SWP and federal Central Valley Project (CVP) in close coordination. DWR and Reclamation executed a COA Addendum on December 12, 2018, updating the agreement to recognize changed conditions since its original execution in 1986.

The SWP and CVP are operated consistent with the State Water Resources Control Board's Water Right Decision 1641, as revised (D-1641), which imposes certain water quality objectives and Delta flow criteria on the projects as a condition of exercising their respective water rights.

In addition, the SWP and CVP are currently operated in accordance with the 2008 United States Fish and Wildlife Service Biological Opinion (2008 USFWS Biological Opinion) and the 2009 National Marine Fisheries Service Biological Opinion (2009 NMFS Biological Opinion), issued pursuant to section 7 of the Federal Endangered Species Act (ESA). Both the 2008 USFWS and 2009 NMFS Biological Opinion concluded that the coordinated long-term operation of the SWP and CVP, as proposed in Reclamation's 2008 Biological Assessment, was likely to jeopardize the continued existence of certain species listed as threatened or endangered under the federal Endangered Species Act (ESA) and likely to destroy or adversely modify designated critical habitat for such species. Both Biological Opinions included Reasonable and Prudent Alternatives (RPAs) designed to allow the SWP and CVP to continue operating without causing jeopardy to listed species and without adverse modification to designated critical habitat provided the RPAs were implemented.

On August 2, 2016, DWR and Reclamation requested reinitiation of consultation with both the USFWS and NMFS on the CVP and SWP coordinated long-term operations. Reinitiation of consultation is ongoing and is expected to update the system-wide operating criteria consistent with ESA requirements, to review the existing RPAs included in the 2008 USFWS and 2009 NMFS Biological Opinions to determine their continued substance and efficacy in meeting the requirements of the ESA, and to investigate the potential of including new and relevant conservation measures for listed species to mitigate project impacts. Reclamation is pursuing a separate environmental review process under the National Environmental Policy Act related to the reinitiation of consultation.

DWR also operates the SWP in compliance with the California Endangered Species Act (CESA). DWR has obtained consistency determinations from the California Department of Fish and Wildlife (CDFW), pursuant to section 2080.1 of the California Fish and Game Code, that the 2008 USFWS and 2009 NMFS Biological Opinions are consistent with the requirements of CESA for aquatic species listed under both the ESA and CESA (i.e., Delta smelt, winter-run Chinook salmon, and spring-run Chinook salmon). CDFW's determinations represent that no further authorizations are necessary under CESA to take those dually listed species in accordance with the 2008 USFWS and 2009 NMFS Biological Opinions. DWR also holds an Incidental Take Permit from CDFW pursuant to section 2081 of the California Fish and Game Code covering incidental take of Longfin smelt, which is only listed under CESA. The Incidental Take Permit for Longfin smelt expires on December 31, 2019.

DWR intends to seek a new Incidental Take Permit from CDFW pursuant to section 2081 of the California Fish and Game Code. The new Incidental Take Permit will cover all aquatic species that are listed under CESA and are subject to incidental take from long-term operation of the SWP (Delta smelt, Longfin smelt, winter-run Chinook salmon, and spring-run Chinook salmon). It is expected that CDFW will rely on this EIR when issuing a decision on DWR's Incidental Take Permit application.

Seeking an Incidental Take Permit for these four species represents a new approach to CESA coverage for SWP long-term operations, as DWR is currently operating pursuant to consistency determinations under section 2080.1 of the Fish and Game Code. An Incidental Take Permit would provide CESA authorization for SWP operations regardless of whether there are changes to federal law during the term of the Incidental Take Permit. If there are changes to CVP operations during the term of the Incidental Take Permit, DWR may seek modifications to the Incidental Take Permit as provided for in CDFW's regulations, to authorize SWP operations that are coordinated with CVP operations. Issuance of the Incidental Take Permit must meet the criteria set forth in section 2081 of the California Fish and Game Code.

Project Description

Under the project, the SWP will continue to be operated to provide flood control and water supply for agricultural, municipal, industrial, recreational, and environmental purposes consistent with applicable legal requirements. SWP operations also will continue to be closely

coordinated with the CVP, including the COA and operational requirements resulting from the ongoing reinitiation of ESA consultation on coordinated long-term CVP and SWP operations.

The EIR will evaluate potential impacts associated with long-term operations of the SWP as it may be modified:

- Update operating criteria, including operations of SWP facilities in the Delta such as pumps, the Suisun Marsh Salinity Control Gates, and the North Bay Aqueduct. The update will also include a review of Delta operational requirements in the RPAs in the 2008 USFWS and 2009 NMFS Biological Opinions as well as operational requirements in the existing CESA Incidental Take Permit covering Longfin smelt.
- Updates to the COA including the COA Addendum that was executed on December 12, 2018.¹
- Measures that may be adopted to avoid, minimize or mitigate impacts to listed species resulting from SWP long-term operations, including habitat restoration and other actions to address known stressors.

The updates and analysis will account for the current status of listed species, science that has been developed through collaborative processes since the issuance of the existing Biological Opinions and Incidental Take Permit, including science that was undertaken pursuant to requirements in the Biological Opinions and Incidental Take Permit, and what new information shows regarding operations to support listed species. No new infrastructure facilities are included in the proposed project and long-term SWP operations would not change DWR's water rights or impact the water rights of any other legal user of water.

Location of Project

The CEQA project encompasses SWP water diversion, storage, and conveyance facilities and SWP service areas throughout the state, as shown in Figure 1, attached.

As explained above, this EIR is expected to be used to support CDFW's decision on the application of an Incidental Take Permit under CESA. DWR will only be seeking CESA coverage for operations of the SWP in the Delta that could result in incidental take of listed species, and activities that occur outside the Delta and are unrelated to SWP operations (in the remainder of the area shown in Figure 1) will not be addressed in the application for CESA coverage.

Potential Environmental Effects

¹ DWR previously approved the December 12, 2018, COA Addendum based on the statutory exemption for ongoing projects found in CEQA Guidelines section 15261. DWR believes that its approval of the COA Addendum was lawful. DWR has chosen to include the changes associated with the COA Addendum in the upcoming EIR anyway to provide a public and transparent analysis of the environmental effects.

The EIR will contain a detailed discussion of the potential impacts to the following resource categories. As the proposed project and alternatives are refined and analyses performed, additional resource categories, as identified in Appendix G of the State CEQA Guidelines, may be identified for evaluation within the EIR.

- **Biological Resources**
 - **Fisheries and aquatic resources:** Long-term operations will potentially have both beneficial and adverse effects on fish, including CESA and ESA listed species. Operations affect hydrodynamic conditions in the Delta, which, in turn, could affect habitat suitability, entrainment, food supply, predation, migration, and other factors that could influence survival and reproduction of several special-status fish species.
 - **Terrestrial resources:** The EIR will also analyze potential direct and indirect effects to terrestrial species from changes in operations.
- **Surface water hydrology:** Changes in operations could affect surface water hydrology in the Delta and its tributaries, floodplains, and reservoirs within the EIR project area.
- **Water supply:** Water supplies of water users in the EIR project area may be affected by changes in operations and will be addressed in the EIR through evaluation under various water year types with consideration of the effects of climate change on hydrodynamic conditions. SWP operations would not change DWR's water rights or impact the water rights of any other legal user of water.
- **Surface water quality:** Changes in operations could affect water quality of surface waters in the project area and will be addressed in the EIR. The SWP will continue to meet all regulatory requirements, including compliance with water rights decision D-1641.
- **Groundwater:** Groundwater resources and quality may be affected in service areas where water users also use groundwater.
- **Recreation:** Potential changes to surface water hydrology due to changes operations or implementation of potential new and relevant mitigation measures could affect recreational opportunities in reservoirs or other waterways within the EIR project area.

Public Scoping Meetings

Two public scoping meetings will be held to inform interested parties about the proposed project and to solicit input on the scope and content of the EIR.

Location	Date and Time
Ronald Reagan State Building Auditorium 300 S. Spring Street Los Angeles, CA 90013	May 6, 2019 9 a.m. to 11 a.m.
Paul Bonderson Building Hearing Room 901 P Street Sacramento, CA 95814	May 13, 2019 9 a.m. to 11 a.m.

Comment Submission and Document Availability

This NOP is being circulated for a 35-day public comment period, beginning on April 22, 2019 and ending on May 27, 2019. Documents are available from the DWR CEQA contact person for this project, identified above (Dean F. Messer).

Written or oral comments may be submitted at the public scoping meetings, or written comments may be sent to the contact identified above (Dean F. Messer). Written comments should include your name/organization, address, and contact information, and the name for a contact person in your organization if applicable. Please note that your comment in its entirety could be made publicly available at any time.

4/18/19
Date

Catherine McCalin
Signature
acting for Division Chief
Dean Messer

Title

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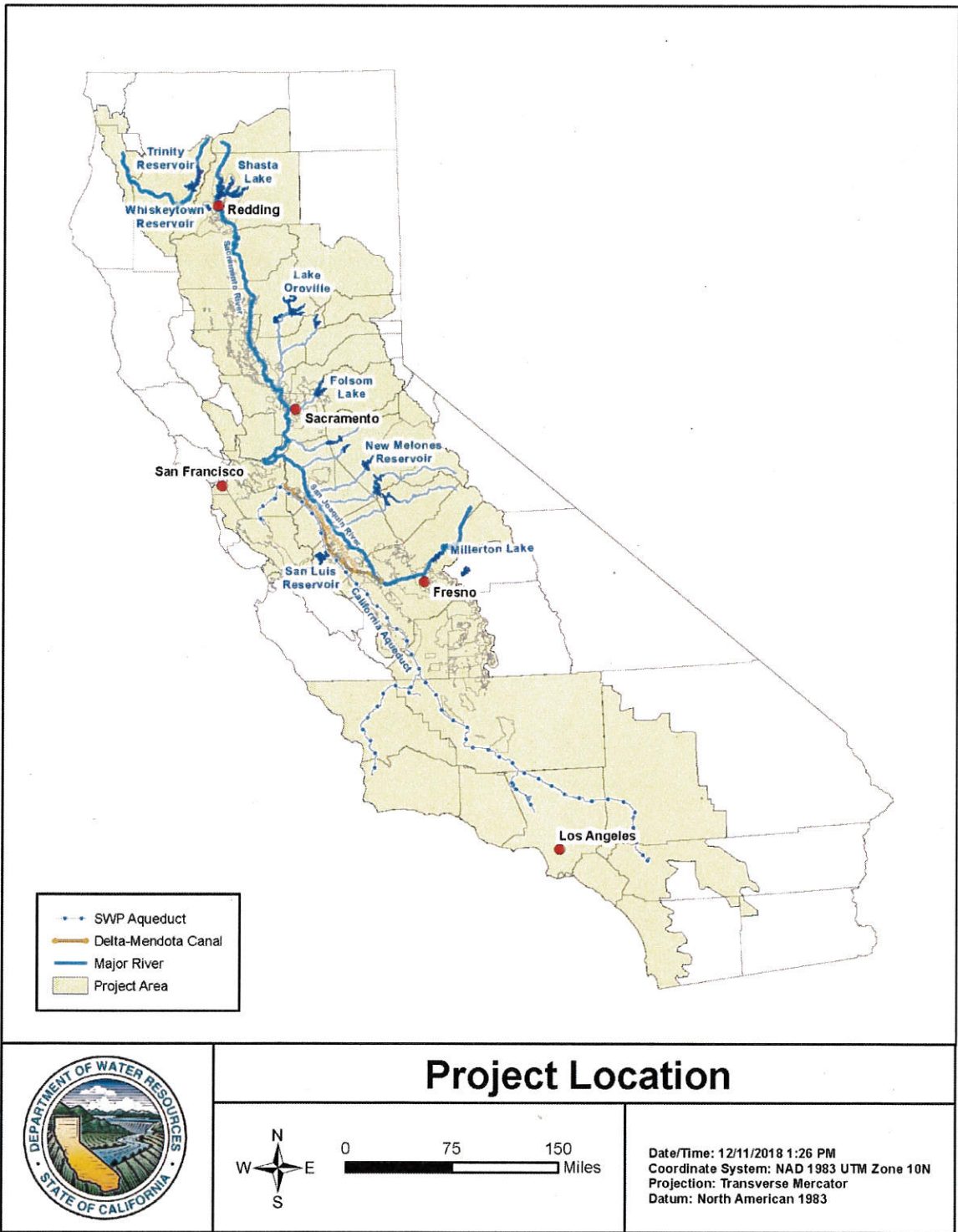


Figure 1. Location of SWP and CVP Facilities, Service Areas, and Associated Waterways (CVP facilities and service areas are shown for informational purposes)