From:	Steve Volker	
То:	DWR Delta Conveyance Scoping	
Cc:	"Alexis Krieg"	
Subject:	Delta Conveyance Scoping Comments	
Date:	Friday, April 17, 2020 2:28:33 PM	
Attachments:	2020-04-17 NCRA to DWR Scoping Comments.pdf	
	Ex 1 Kamman-comments CVP BO FEIS 2-12-20.pdf	
	Ex 2 CVP Power Initiative.pdf	

Delta Conveyance Scoping Comments Attn: Renee Rodriguez, DWR

Dear Ms. Rodriguez,

Attached please find our Delta Conveyance Scoping Comments (and Exhibits 1 and 2 thereto) on behalf of the North Coast Rivers Alliance and other conservation groups and the Winnemem Wintu Tribe.

Please include our comments in the public record.

Thank you for your attention.

Stephan Volker Attorney for North Coast Rivers Alliance, et al.

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April 17, 2020

Via Email

Delta Conveyance Scoping Comments Attn: Renee Rodriguez Department of Water Resources P.O. Box 942846 Sacramento, CA 94236 DeltaConveyanceScoping@water.ca.gov

Re: Delta Conveyance Scoping Comments

Ms. Rodriguez:

We submit these comments on behalf of North Coast Rivers Alliance, Institute for Fisheries Resources, Pacific Coast Federation of Fishermen's Associations, San Francisco Crab Boat Owners Association, Save California Salmon, and the Winnemem Wintu Tribe (collectively, "Conservation Groups") regarding the California Department of Water Resources' ("DWR's") latest Notice of Preparation ("NOP") of an Environmental Impact Report ("EIR") pursuant to the California Environmental Quality Act, Public Resources Code ("PRC") section 21000 et seq. ("CEQA") for the Delta Conveyance Project ("Project"). Please include these Scoping Comments in the public record for this Project.

I. INTRODUCTION

Like WaterFix, Bay Delta Conservation Plan, and CalFed, the Project purports to address the continuing collapse of the Bay-Delta ecosystem but fails to recognize the fundamental disconnect between existing water supplies and claims thereto. The Bay-Delta's freshwater flows are simply over-allocated. To avoid the pitfalls of these prior iterations – including the continued decline of California's salmon, steelhead, delta smelt, longfin smelt, and other fish populations – the Project must not prioritize agribusiness over sustainable practices. To attain this goal, DWR's Draft EIR ("DEIR") must study a reasonable range of Project alternatives that can meet the Project's goals – including alternatives that do not require the construction of new conveyance facilities in the Delta. DWR must also consider the significant impacts of the Project – and alternatives to the Project – on relevant resource areas including aquatic and terrestrial resources, water quality and climate change. DWR must take a clear-eyed look at the Project's cumulative impacts, when taken with past, present, and reasonably foreseeable future actions.

10.604.01

In addition, DWR's insistence that it must steam ahead with the Delta Conveyance Project while Californians are contending with the Covid-19 pandemic frustrates informed public decisionmaking, and runs counter to CEQA's goals. DWR and aligned water contractors have stepped on the accelerator to hurry the process, through DWR's precipitous release of its NOP and a slew of meetings held by the Delta Conveyance and Construction Authority and Delta Finance Authority. DWR's refusal to relax the April 17, 2020 comment deadline despite statewide shelter-in-place restrictions on the public is irresponsible. It prevents countless impacted Californians from providing informed comment on the NOP and otherwise participating in the public review of the Project. The virus, and the necessary precautions taken in response, render commenting on the NOP difficult if not impossible for many Californians. Setting aside time to weigh in on the NOP is simply a luxury most cannot afford when families are sick, struggling to protect their health, housing, and job security, and attempting to educate their children. DWR should have delayed work on this Project indefinitely in recognition of the emergency conditions unleashed by the Covid-19 pandemic.

North Coast Rivers Alliance ("NCRA") is a non-profit unincorporated association with members throughout Northern California. NCRA was formed for the purpose of protecting California's rivers and their watersheds from the adverse effects of excessive water diversions, ill-planned urban development, harmful resource extraction, pollution, and other forms of environmental degradation. Its members use and enjoy California's rivers and watersheds for recreational, aesthetic, scientific study, and related non-consumptive uses.

The Institute for Fisheries Resources ("IFR") is a non-profit, tax-exempt organization that works to protect and restore salmon and other fish populations and the communities that depend on them. IFR both funds and manages many fish habitat protection programs and initiatives. In that capacity, IFR seeks reforms to protect fish health and habitat throughout the West Coast of the United States and has successfully advocated for dam removals, improved pesticide controls, better forestry management and stream protection standards, and enhanced marine and watershed conservation regulations.

Pacific Coast Federation of Fishermen's Associations ("PCFFA") is a nonprofit membership organization incorporated in 1976. PCFFA is composed of more than 14 separate commercial fishing and vessel owners' associations situated along the Pacific Coast of the United States. By virtue of its combined membership of approximately 750 fishermen and women, PCFFA is the single largest commercial fishing advocacy organization on the West Coast. PCFFA represents the majority of California's organized commercial salmon fishermen and has been an active advocate for the protection of Pacific salmon and their spawning, rearing and migratory habitat for more than 40 years.

The San Francisco Crab Boat Owners Association is a century-old association of owners and operators of small, family-owned fishing boats that catch Dungeness crab, wild California

King salmon, Pacific herring, and other species that live in and depend upon the cold waters of the Pacific Ocean, the San Francisco Bay-Delta and the Sacramento and San Joaquin Rivers and their tributaries. It is also actively involved in community education and advocacy concerning fisheries resources legislation to ensure that the rich heritage of commercial fishing in the Bay Area will survive for future generations.

Save California Salmon is a conservation organization that seeks to restore key salmon watersheds and water quality through flow restoration, fish passage, and toxics clean up, along with responding to threats to adequate flows and clean water. It focuses on diversifying the environmental movement and helping Tribes and other underrepresented people create strategic and successful campaigns for clean water and healthy, harvestable fisheries. The specific watersheds it works to protect are the Klamath, Trinity, Eel, San Joaquin, Smith, Pit and Sacramento rivers, and the Bay Delta.

The Winnemem Wintu Tribe is a California-recognized Tribe whose aboriginal territory encompasses the upper watersheds of the Sacramento River including the McCloud River. The Winnemem Wintu Tribe was traditionally dependent on salmon fishing for both subsistence and cultural purposes, and maintains a deep cultural, spiritual and recreational interest in the continued viability of California's salmon runs that pass through the Sacramento-San Joaquin River Delta. The Winnemem Wintu Tribe is a strong proponent of Delta restoration.

Each of these groups urges DWR to comply with CEQA, the California Water Code including the Sacramento-San Joaquin Delta Reform Act of 2009, Water Code sections 85000 *et seq.*, and the Public Trust Doctrine. These concerns are discussed in more detail below.

II. THE EIR MUST COMPLY WITH CEQA

A. THE EIR MUST ANALYZE A REASONABLE RANGE OF ALTERNATIVES BASED UPON AN APPROPRIATELY DRAWN PROJECT PURPOSE

"CEQA requires that an EIR, in addition to analyzing the environmental effects of a proposed project, also consider and analyze project alternatives that would reduce adverse environmental impacts." *In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings* (2008) 43 Cal.4th 1143, 1162-1163 (citing Cal. Pub. Res. Code §§ 21061, 21001(g), 21002, 21002.1(a), 21003(c)). An EIR must "describe a range of reasonable alternatives to the project . . . which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project" 14 Cal. Code Regs. [("CEQA Guidelines")] § 15126.6 (a). Alternatives that would lessen significant effects should be considered even if they "would impede to some degree the attainment of the project objectives, or be more costly." CEQA Guidelines § 15126.6(b); *California Native Plant Society v. City of Santa Cruz ("CNPS*") (2009) 177 Cal.App.4th 957, 991. The range of alternatives considered must "foster informed decisionmaking and public

participation." CEQA Guidelines §15126.6(a); *CNPS*, 177 Cal.App.4th at 980, 988. Alternatives may only be eliminated from "detailed consideration" when substantial evidence in the record shows that they either (1) "fail[] to meet most of the basic project objectives," (2) are "infeasibl[e]," or (3) do not "avoid significant environmental impacts." CEQA Guidelines § 15126.6(c).

The DEIR must include "[a] statement of the objectives sought by the proposed project. . . . The statement of objectives should include the underlying purpose of the project and may discuss the project benefits." CEQA Guideline § 15124(b). "'[A] lead agency may not give a project's purpose an artificially narrow definition." North Coast Rivers Alliance v. Kawamura (2015) 243 Cal.App.4th 647, 668 (quoting In re Bay–Delta (2008) 43 Cal.4th 1143, 1166). The agency's formulation of its underlying purpose and objectives is essential to its consideration of alternatives. Id.

Here DWR has improperly curtailed its Project purpose, in contravention of CEQA. The NOP states that

DWR's underlying, or fundamental, purpose in proposing the project is to develop new diversion and conveyance facilities in the Delta necessary to restore and protect the reliability of State Water Project (SWP) *water deliveries* and, potentially, Central Valley Project (CVP) *water deliveries* south of the Delta, consistent with the State's Water Resilience Portfolio.

NOP 2.

This purpose has been sharply narrowed from the broad and balanced purposes of the previous iterations of this Project, which correctly recognized DWR's responsibility under the Delta Reform Act to restore "ecosystem health" and "water quality." For example, in preparing the DEIR for the BDCP, DWR stated that

DWR's fundamental purpose in proposing the BDCP is to make physical and operational improvements to the SWP system in the Delta necessary to restore and protect *ecosystem health*, water supplies of the SWP and CVP south-of-Delta, and *water quality* within a stable regulatory framework, consistent with statutory and contractual obligations.

2013 BDCP DEIR, 2-2 (emphasis added).

By drawing the Project's purpose so narrowly – to construct new conveyance to restore water deliveries, but *not* ecosystem health and water quality – DWR has fatally tainted the EIR process in at least four respects.

First and most importantly, DWR has abandoned its prior commitment to "restor[ing] and protect[ing] ecosystem health" and "water quality." In so doing, DWR ignores the mandates of the Delta Reform Act, which are discussed in more detail in Section III, below. This abrupt change from DWR's prior Project purpose ignores the legislative intent behind and plain

language of the Delta Reform Act's coequal goals.

Second, by instead limiting the Project's purpose to "restoring" "water deliveries," DWR has abruptly dispensed with any pretense that it seeks to protect the Delta ecosystem and, indeed, the very water quality on which the SWP's water deliveries depend. Ironically, by dropping water quality as an objective, DWR is sabotaging even the unduly narrow purpose – the promotion of increased water deliveries – that ostensibly animates its Project.

Third, DWR has created a false narrative that water deliveries need "restoration." In fact, DWR has *never* been able to deliver full contract quantities, and thus there is no higher water delivery quantity that DWR may "restore." DWR is quite aware of this historic fact, as courts have repeatedly pointed it out when overturning DWR's water delivery decisions. For example, in *Planning and Conservation League v. Department of Water Resources* (2000) 83 Cal.App.4th 892, 913, the court of appeal confirmed what had already been widely known for decades, that "[t]here is . . . no question that the SWP cannot deliver all the water to which contractors are entitled under the original contracts. *It does not appear that SWP has ever had that ability.* Nor do defendants suggest that full delivery of entitlement water is likely within the life of the contracts."

Fourth, DWR misleads the public by claiming that the range of alternatives it plans to study in the DEIR will address differing preliminary locations, corridors, capacities, and operations, with "varying degrees of involvement of the CVP." But in fact, as the NOP makes clear, each of these options will focus instead on building yet another new conveyance designed solely to attain DWR's impermissibly narrow and unattainable Project purpose.

DWR must broaden the NOP's improperly narrow purpose to reflect the overarching need and statutory command to restore the Delta's ecosystem health and water quality. And, DWR's DEIR must accordingly study a reasonable range of alternatives that can satisfy these statutory mandates. This reasonable range of alternatives must include non-conveyance alternatives, such as increased water efficiencies, rationing, increased local reliance, and other sources of water for SWP users. DWR must also consider an alternative that reduces water exports from the Delta – an action that is necessary to restore the Delta ecosystem's health and water quality.

B. THE DEIR MUST ANALYZE THE PROJECT'S IMPACTS, WHEREVER THEY OCCUR

The NOP appropriately includes areas upstream of the Delta in the Project area, including the Shasta Reservoir and Trinity River System, as these areas are directly impacted by SWP and CVP operations. NOP 6-7. This is essential to an accurate and comprehensive evaluation of the Project, as the proposed new Delta conveyance facilities would likely necessitate changes in reservoir management in northern California, including the Trinity, Shasta, Folsom, and Oroville

Reservoirs. These new facilities would likely take even more water from upstream storage in the Shasta Reservoir and Trinity River System in order to increase exports from the Delta, thereby harming the fish and wildlife, and rural communities, that depend on these upper watershed resources.

The Project would also increase diversions of water that currently flows through the Sacramento River into the Delta, further reducing available flows into and through the Delta ecosystem. With less water in the rivers and more water in the pipes of water exporters, the fish and the Delta ecosystem would suffer, while the wasteful and polluting practices of many of those who use the exported Delta water will be allowed to continue, if not expand. The DEIR should expose these undesirable and unlawful consequences of the Project.

The Trinity River is a "Delta Tributary Watershed" whose waters would be diverted through the proposed Project's new conveyance. Water Code § 78647.4(b). The NOP admits that CVP water deliveries south of the Delta could potentially be conveyed by the proposed Project. NOP 2. Federal Reclamation Law, including the 1955 Trinity River Act (PL 84-386) and section 3406b23 of the Central Valley Improvement Act (PL 102-575) ("CVPIA"), fully integrates the Trinity River into the CVP. The Interior Secretary is obligated to preserve and propagate the Trinity River's fishery resources to meet Trinity River fishery restoration goals, satisfy Tribal Trust obligations to the Hoopa Valley and Yurok Tribes, and restore fisheries to pre-dam levels. *See,* 2000 Trinity River Record of Decision ("Trinity ROD"); 2000 Biological Opinion by the National Marine Fisheries Service ("NMFS Trinity BO").

In particular, the NMFS Trinity BO contains specific mandatory conditions related to maintenance of cold water in the Trinity River for protection of federal and state listed salmon. These non discretionary conditions require the Bureau of Reclamation and the U.S. Forest Service to:

7.a. Be prepared to make use of the auxiliary bypass outlets on Trinity Dam as needed, and pursuant to reinitiation of ESA section 7 consultation regarding Sacramento River Winter-run chinook salmon, to protect water quality standards; associated actions may include modification of the export schedule of Trinity Basin diversions to the Sacramento River.

Trinity NMFS BO 49.¹ Likewise, it mandates:

7 .b. In years that Reclamation has reinitiated consultation pursuant to criteria

¹ The NMFS Trinity BO is available at

https://www.fws.gov/arcata/fisheries/reports/technical/TREIS_BO_NMFS.pdf (last visited April 16, 2020).

established in the Winter-run chinook salmon CVP-OCAP BO, evaluate drawdowns of Trinity Reservoir below the 600 T AF minimum end-of-water year carryover level to the extent needed to avoid significant temperature-related loss of the early life stages of winter-run chinook salmon (> 1 0% as predicted by Reclamation's Salmon Mortality Model). Implementation of drawdowns below the 600 T AF minimum end-of-year carryover level in Trinity Reservoir shall be determined by Reclamation, USFWS, and NMFS on a case by-case basis in dry and critically dry water years.

Id.

The recent Biological Opinion prepared for the Reinitiation of Consultation on the Coordinated Long-Term Operation of the Central Valley Project and State Water Project did not address Trinity River salmonids. It should have. As revealed by Kamman Hydrology's review of DWR's modeling of Trinity Reservoir storage (attached as **Exhibit 1**), the Trinity Reservoir storage calculations for DWR's Preferred Alternative 1 are deeply flawed. They overstate Trinity Reservoir Storage by up to 350,000 AF during a critically dry period, with the result that the Project's operations will have far greater impacts on the Trinity River System than DWR projects.

This shortfall in water supplies will have very significant consequences for the Trinity River and its fish and wildlife. Thus, under the current operational scheme it is likely that coordinated SWP and CVP operations will lead to frequent violation of condition 7.b of the 2000 Trinity NMFS BO. The DEIR must address this impact, and explore alternatives that would avoid or at least mitigate it.

The DEIR should also examine the impacts on the Trinity River System from reoperation of the Trinity Reservoir. The Bureau of Reclamation's "Central Valley Project Power Initiative"² implies that powerplant bypass operations at CVP dams, including Trinity Dam, will no longer be implemented to protect fisheries resources. While bypassing the Trinity Dam Powerplant during periods of low reservoir storage is currently required to maintain suitable temperatures for downstream fisheries under Term and Condition 7.a of the 2000 Trinity NMFS BO, the Bureau of Reclamation's apparent intent to ignore this requirement would, tragically, be in keeping with the current federal administration policies disregarding species protections.

Where possible, the lead agency must employ feasible mitigation measures that could avoid or minimize the project's significant adverse impacts. PRC § 21002; CEQA Guidelines §§ 15121, 15126.4. Accordingly, DWR must consider and address how the Project will impact flows in the Trinity River System, and to what extent the Project will exacerbate existing

² Attached as **Exhibit 2** and available at https://www.usbr.gov/mp/docs/hydro-memo.pdf (last visited April 16, 2020).

violations of the NMFS Trinity BO. And, DWR must also mitigate this potentially significant impact, if feasible. PRC § 21002; CEQA Guidelines §§ 15121, 15126.4. In order to mitigate this potentially significant impact, DWR must commit to enforceable conditions preventing the delivery of additional Trinity River water through any new Delta conveyance. Alternatively, DWR must commit to a Trinity River specific water right hearing by the State Water Resources Control Board to incorporate additional protections for the Trinity River, including:

- A. Conformance with the instream fishery flows set forth in the Trinity River Record of Decision as minimum instream flows.
- B. Provision for release of not less than Humboldt County's 50,000 AF contract water in addition to fishery flows and tribal ceremonial flows.
- C. Inclusion of permit terms and conditions to require Reclamation to comply with the Trinity River temperature objectives contained in the Water Quality Control Plan for the North Coast Region for all relevant time periods and for all uses of Trinity water diverted to the Sacramento River.
- D. A requirement for a minimum cold water storage in Trinity Reservoir adequate to preserve and propagate all runs of salmon and steelhead in the Trinity River below Lewiston Dam during a multi-year drought. Based on studies to date, 1.25 million AF to 1.75 million AF is appropriate for starting storage, with storage levels not falling below 900,000 AF in any year.
- E. Require Reclamation to address the temperature issue in Lewiston Reservoir through a feasibility study and NEPA document to follow up on the 2012 preliminary technical memorandum by Reclamation.
- F. When releases from Spring Creek are more than one degree Fahrenheit warmer than releases from Shasta Dam, limit the export of Trinity River water to the Sacramento River to the quantity necessary to meet Trinity River Basin Plan Temperature Objectives.

C. THE DEIR MUST ADDRESS IMPACTS TO AQUATIC RESOURCES AND WATER QUALITY

The NOP indicates that DWR will address "Fish and Aquatic Resources: effects to fish and aquatic resources from construction and operation of the water conveyance facilities" in its DEIR. NOP 9. Impacts to fish are particularly important. Seventeen species of fish endemic to the Delta have already gone extinct; just twelve indigenous species remain. Critical habitat for the endangered Sacramento River winter run Chinook salmon, Central Valley steelhead and spring run Chinook, Delta smelt, longfin smelt, and the Southern Distinct Population Segment ("DPS") of the Northern American green sturgeon is experiencing progressively worsening

degradation. The DEIR must evaluate how these species will be impacted by construction and operation of the proposed Project, including impacts from the Project's reasonably foreseeable alterations to SWP and CVP operations, both upstream and downstream of the proposed Project's physical facilities.

In examining the Project's impacts on fish, the DEIR must detail how the Project's intakes and alterations to river hydrology will impact Delta smelt, Longfin smelt, Sacramento splittail, white sturgeon, green sturgeon, Pacific lamprey, river lamprey, and Central Valley steelhead which are likely to be in the vicinity of the proposed Project's north Delta diversion. This discussion must include analysis of sweeping velocities at the north delta diversion during different operational conditions and their impacts on fish entrainment.

The DEIR must also detail the Project's impacts on flows - including information on inflow and outflow – during different operational conditions, and resultant changes in water quality, including temperature, salinity, turbidity, and other pollutants. This analysis is necessary to disclose impacts on salmonids, which depend on cool waters for survival.

DWR must not rely upon separate agency review under the Endangered Species Act ("ESA"), 16 U.S.C. section 1531 *et seq.* as a substitute for appropriate CEQA analysis. Analysis under the ESA examines whether an activity is "likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of [critical] habitat of such species." 16 U.S.C. § 1536(a)(2). The scope and detail of this analysis is far more limited than the broader evaluation required under CEQA, which instead asks whether a Project would have a significant impact. Significant impacts can occur at levels of disturbance that are far below those that would jeopardize a species' survival.

D. THE DEIR MUST ADDRESS GLOBAL WARMING AND SEA LEVEL RISE

DWR's NOP indicates that an objective of the Project is "to address anticipated rising sea levels and other reasonably foreseeable consequences of climate change and extreme weather events." NOP 2. In the WaterFix, DWR failed to appropriately do so. Here, DWR must examine both whether the Project will be able to physically withstand the rising sea levels at the proposed intake locations *and* whether the Project would remain feasible at the higher rates of sea level rise predicted over the long term. Indeed, DWR must consider this concern carefully as all indications are that it would not. DWR must not artificially divorce hydrologic modeling from infrastructure design, nor can it assume constant fresh water intake, in light of overwhelming scientific evidence indicating saltwater inundation. DWR must disclose whether the Project's potential diversion points will take in saltwater over the anticipated life of the Project, and how its operation would upend the water quality of the Delta due to increased salinity.

In addition, DWR must address how the Project will increase the state's greenhouse gas

emissions. DWR's SWP is already the largest single power consumer in California, and while DWR generates a significant portion of that power through hydroelectric and solar projects, it still relies upon greenhouse gas-emitting power sources to provide power to pump SWP water through the state. It appears that DWR's greenhouse gas emissions increase with the quantity of SWP deliveries, and thus are likely to increase if the Project does "restore" SWP deliveries.³

E. THE DEIR MUST PROVIDE SUFFICIENT INFORMATION FOR ALL RESPONSIBLE AGENCIES

DWR's analysis of the proposed Project, its alternatives, and measures to mitigate its significant impacts must also include the information necessary for responsible agencies to conduct their own review of the Project. *Habitat and Watershed Caretakers v. City of Santa Cruz* (2013) 213 Cal.App.4th 1277, 1305.

F. DWR MUST CONSULT WITH IMPACTED TRIBES, INCLUDING THE WINNEMEM WINTU TRIBE

CEQA requires DWR to consult with any California Native American tribe that requests consultation and that is traditionally and culturally affiliated with the geographic area of the proposed project. PRC §§ 21084.2, 21080.3.1. The Winnemem Wintu Tribe is such a tribe, as it is traditionally and culturally affiliated with land and resources within the Project area (NOP 6-7) and thus its cultural resources may suffer such impacts. This consultation is necessary to determine whether the Project "may cause a substantial adverse change in the significance of a tribal cultural resource." PRC §§ 21084.2 (quote) 21074 (defining tribal cultural resource). The Winnemem Wintu Tribe's traditional cultural practices along the McCloud River, and its historical, spiritual, and subsistence relationship to the McCloud River Chinook salmon, should be considered and addressed as part of this required tribal consultation. Therefore DWR must consult with the Winnemem Wintu Tribe regarding concerns pertinent to its cultural places and traditional practices, and alternatives or measures to mitigate impacts to cultural resources *before* circulating a draft Environmental Impact Report. PRC §§ 21080.3.1, 21084.3.

III. DWR MUST COMPLY WITH THE DELTA REFORM ACT

The Delta Reform Act mandates that projects proposed to be undertaken within the legal boundaries of the Delta must be consistent with the Delta Plan, and with the underlying co-equal goals of the Delta Reform Act. The Delta Stewardship Council's staff previously recommended that the Delta Stewardship Council determine that the WaterFix was *inconsistent* with the Delta

³ DWR GHG Emissions and Water Delivered (2010-2016), available at

https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/State-Water-Project/Power/Cl ean-Energy/Images/DWR_GHG_chart1.jpg (last visited April 16, 2020).

Plan and the Delta Reform Act.

In preparing the DEIR, and designing the Project and alternatives thereto, DWR must consider the requirements of the Delta Reform Act and the Delta Plan. DWR must ensure that the Project *is* consistent with their mandates. Before DWR can approve the Project and move forward with its construction, it must provide the Delta Stewardship Council with its consistency determination and comply with any orders from the Delta Stewardship Council regarding the same.

DWR must show compliance and consistency with these goals. In particular, DWR must show that it can comply with the following goals and polices of the Delta Plan: Best Available Science (22 CCR § 5002(b)(3)), Reduce Reliance on the Delta Through Improved Regional Water Self Reliance (23 C.C.R. § 5003), Delta Flow Objectives (23 C.C.R. § 5005), and Respect Local Land Use When Siting Water or Flood Facilities or Restoration Habitats (23 C.C.R. § 5011). In response to the Delta Stewardship Council's request, DWR was unable to provide the Delta Stewardship Council with evidence supporting DWR's prior determination of consistency with these Delta Plan policies.

For example, DWR must show that it has relied upon the best available science in its analysis and decisonmaking. Delta Plan G P1(b)(3) (22 CCR § 5002(b)(3)): Best Available Science. In its analysis and approval of the WaterFix, DWR improperly failed to address credible scientific evidence of sea level rise at levels sufficient to render the Project unusable long before the Project's 100-year life would end. In undertaking its analysis in the DEIR, DWR must present more comprehensive sea level rise analysis over a range of likely scenarios, including high-risk scenarios – and this analysis must address both the physical impacts of this sea level rise *and* the resulting salt water intrusion, as discussed above.

DWR must show that the SWP contractors and CVP contractors that would receive water from the Project have reduced their reliance upon the Delta and are instead increasing reliance upon local water supplies. As of DWR's prior consistency determination, DWR's records reflected that Alameda County Flood Control & Water Conservation District, Zone 7, Santa Clara Valley Water District, Coachella Valley Water District and the Metropolitan Water District ("Met") all forecast *increases* in SWP water due to new Delta conveyance. DWR's August 2018 Consistency Determination: Reduced Reliance Analysis 3-40 (Table WR P1-1). DWR must be able to demonstrate that each water supplier will comply with WR P1-1's mandates regarding *reduced* reliance on the Delta.

DWR must also be able to demonstrate historical compliance with Delta flow objectives established by the State Water Resources Control Board, and show that the Project will not increase the likelihood that water quality violations will occur.

Likewise, DWR must address how its Project conflicts with local land use plans, and

work to remedy and avoid these conflicts.

IV. DWR MUST PROTECT PUBLIC TRUST RESOURCES

DWR must consider and address its duties under the Public Trust Doctrine. Although compliance with CEQA "may assist an agency in complying with its duties under the public trust doctrine . . . [,] CEQA review of a project does not necessarily or automatically satisfy the agency's affirmative duties to take the trust into account and protect public trust uses whenever feasible." *San Francisco Baykeeper Inc. v. State Lands Com.* (2018) 29 Cal.App.5th 562, 571. "[A] public trust use is not any use that may confer a public benefit, but rather a use that facilitates public access, public enjoyment, or public use of trust land." *Id.* at 570.

In formulating the Project and alternatives thereto, DWR must consider its obligations to protect – to the extent feasible – the public trust resources and uses under its jurisdiction. DWR must do more than simply maintain the baseline condition, where feasible. Unlike CEQA, where the impacts of the Project – and the alternatives designed to lessen those impacts – are framed in the context of that baseline condition, the Public Trust Doctrine requires DWR to examine whether its activities will protect public trust uses independently of that condition. Where, as here, decades-long mismanagement of the state's water supply has resulted in stark declines in the populations of delta smelt, long-fin smelt, salmon, and steelhead, among others, DWR must take affirmative action to protect the remaining fish and wildlife populations throughout the waterways of the Project area. These actions include habitat restoration, new or improved fish passage projects, dam removal, increased instream flow requirements, sufficient minimum Delta inflow and outflow requirements, and other protective measures to restore these imperiled fish, including recovery of the McCloud River salmon and the habitat required to accomplish that objective.

V. CONCLUSION

DWR must comply with CEQA, the Delta Reform Act, and the Public Trust Doctrine. Should DWR continue to promote this proposed Project, the EIR it prepares must include a thorough evaluation of the Project's significant impacts, and a frank and clear discussion of alternatives and mitigation measures that could lessen these impacts.

ruly yours,/

Attorney for North Coast Rivers Alliance, Institute for Fisheries Resources, Pacific Coast Federation of Fishermen's Associations, San Francisco Crab Boat Owners Association, Save California Salmon, and the Winnemem Wintu Tribe

Exhibit List:

- Exhibit 1: Greg Kamman, Kamman Hydrology & Environmental, Inc. FEIS Review Comments: Reinitiation of Consultation on the Coordinated Long-Term Operation of the Central Valley Project and State Water Project (Feb. 13, 2020)
- Exhibit 2: Brenda Berman, U.S. Bureau of Reclamation, Directives Resulting from the Central Valley Project Power Initiative (June 25, 2019)

Dear Ms. Rodriguez,

Please accept this comment for the Notice of Preparation of Environmental Impact Report for the Delta Conveyance Project. Please acknowledge the receipt of this comment and notify me of any and all actions taken on this project and all opportunities for public input. Thank you.

Sincerely, Frank Toriello President of We Advocate Thorough Environmental Review





We Advocate Thorough Environmental Review P.O. Box 873, Mount Shasta, California 96067 * (530) 918-8805 * mountshastawater@gmail.com * www.cawater.net

Renee Rodriguez Delta Conveyance Scoping Comments Department of Water Resources P.O. Box 942836 Sacramento, CA 94236

Sent via email to: DeltaConveyanceScoping@water.ca.gov Frank Toriello President Bruce Hillman Treasurer Geneva M. Omann Secretary Raven Stevens Board Member Dan Axelrod Board Member Diane Lowe Board Member

Dear Ms. Rodriguez:

We Advocate Thorough Environmental Review (W.A.T.E.R.) is a California 501(c)(3) non-profit corporation incorporated to promote quality local and regional planning, land use and development, as well as to preserve a healthy human and natural environment within the Siskiyou County area.

We are responding to a request for public comment on the "Notice of Preparation of Environmental Impact Report for the Delta Conveyance Project." We note that, since the source waters that will be conveyed by this project include those from the Mt. Shasta watershed area in Siskiyou County, this project has significant importance to our organization and our mission as well as our communities.

1) Involvement of CVP projects:

NOP misrepresents the connection with the CVP:

"Here, as the CEQA lead agency, DWR's underlying, or fundamental, purpose in proposing the project is to develop new diversion and conveyance facilities in the Delta necessary to restore and protect the reliability of State Water Project (SWP) water deliveries and, *potentially, Central Valley Project (CVP) water deliveries south of the Delta*, consistent with the State's Water Resilience Portfolio."

The NOP repeatedly states that this SWP project will "potentially" involve the CVP, but there is no indication as to how these projects will be evaluated in the EIR. In fact, the water to be conveyed through the tunnel must come from somewhere: the proposed raising of the Shasta Dam, a CVP effort, will be a source for water to be conveyed via the tunnel. In addition, water from the Trinity River watershed is conveyed via a CVP project to the Sacramento River. This lack of attention to CVP in the NOP leaves out many stakeholders, and perhaps most importantly misrepresents who will really benefit from the project – a few wealthy "family farmers" (i.e., corporate farmers) via Westlands Water District. Moreover, this smacks of "segmentation" or piecemealing of projects, something that is prohibited by CEQA. Thus the environmental impacts of CVP's proposed raising of the Shasta Dam and operation of the Trinity River Division/Clear Creek Tunnel as well as the proposed SWP Sites Reservoir must be thoroughly integrated into the Delta Conveyance EIR.

2) Impacts to water quality, fish and wildlife in the Delta:

The diversion of water from the North State watersheds to the south will significantly deplete the flows of water through the Delta and out to sea. These diversions would result in a great decrease in water quality in the Delta, resulting in increases in salinity, toxic hot spots, pesticides, mercury, and other pollutant discharge that won't be cleaned out due to a lack of seasonal high freshwater flows through the Delta; with resulting detrimental impacts on the aquatic life in the Delta and San Francisco Bay. Scientists agree that allowing more, not less, water to flow through the Delta and west toward San Francisco Bay is essential for protecting fish life and providing a clean supply of drinking water for current and future generations. That means reducing, not increasing, pumping of water out the south end of the Delta into Central Valley farmland. The National Oceanic and Atmospheric Administration reported over 80% of fish collected in the Delta exhibited spinal deformities due to selenium¹. Yet the Central Valley Regional Water Board has issued a 25-year permit for toxic discharges of agricultural wastewater coming from the Westlands Water District into the San Joaquin River and the Delta and Bay². This discharge is high in selenium, mercury, nitrates, pesticides and other toxins, and is being discharged into the San Joaquin River, and thus into the Delta, threatening the drinking water supply of Bay Area residents and millions of Californians. The EIR must study the toxic loads entering the Delta from this and all other anthropogenic and natural sources when evaluating the amount of water needed to flush the Delta and prevent toxic loads from accumulating there. The EIR must also explore ways of reducing the toxic run-off from agricultural and other anthropogenic sources.

We note that the Trump administration has issued a flawed "Biological Opinion" that significantly reduces the protections for endangered species in the Delta area. This document is clearly a political one, not a scientific one, promoted by Interior Secretary David Bernhardt, former lobbyist for the Westlands Water District. We demand that the DWR conduct its own evaluation of environmental impacts and impacts to endangered, sensitive, and at risk species in the Delta relying on sound peer reviewed literature, not the politically motivated "Biological Opinion."

¹<u>https://www.fisheries.noaa.gov/feature-story/spinal-deformities-sacramento-san-joaquin-delta-fish-linked-toxic-mineral-selenium-new</u>

² <u>https://www.mercurynews.com/2020/02/07/opinion-stop-farmers-poisoning-of-bay-area-drinking-water-supply/</u>

3) Impacts to upstream ecosystems:

The EIR must also evaluate the impact of the project to the far northern reaches of California (including Assembly District 1) and all along the Sacramento River and its tributaries as well as the Trinity River watershed. We note that while the water flows in one direction, downhill (except in SWP where water flows to money), the ecology of riparian systems flows IN BOTH DIRECTIONS. For example, anadromous fish species migrate up the river and are essential for cycling nutrients from the ocean upstream, along the river and radiating out from it, and to its far northern reaches. These fish are ESSENTIAL for supporting the ecology of the upstream and headwater regions. In addition, the increased extraction of water via the tunnel would further degrade the water quality of the Delta possibly pushing the endangered Delta smelt, which salmon depend on, to extinction. In a suppressed report, the National Marine Fisheries Service unequivocally concluded that increasing water deliveries to Southern California would likely jeopardize the continued existence of endangered winter-run Chinook salmon, threat-ened spring-run Chinook and threatened Central Valley steelhead, as well as endangered Southern Resident killer whales that dine on salmon³. The EIR must also evaluate the impact of the project's infrastructure and operation on the viability of the passageway in the Delta for outgoing and returning spawning salmon, other anadromous and migratory fish and freshwater Delta species.

The EIR must include studies of the entire Sacramento River system, including its tributaries and the headwater region above the Shasta dam: the Pit River, the Upper Sacramento River, and the Wild and Scenic McCloud River. Already there has been a severe decline in the number of returning Sacramento River Winter-Run Chinook salmon below the Shasta Dam, and of course that dam blocks Salmon from returning to their historic habitats above the dam. How will these Salmon runs be restored? Alternatives must include a swim-way around the existing Shasta Dam. How will the northern regions be compensated for this loss of "ecosystem services" otherwise provided by the Salmon? This Delta Conveyance project MUST include permanent and effective solutions for returning the Salmon to the rivers above the Shasta Dam. In addition, water from the Trinity River watershed is conveyed via a CVP project to the Sacramento River. Impacts to the Trinity River watershed must also be studied in the EIR.

Because these northern, upstream watershed areas (including the Sacramento River and its tributaries above the Shasta Dam and the Trinity River) are critical sources of water for the Sacramento River, the EIR must also study and incorporate programs to protect and support superior water quality and optimize water quantity that flows from these Water Recharge Areas. Where is the compensation to Siskiyou County for the pristine water that flows from this area?

Any public hearings related to this project must also be held in the far northern part of the state (e.g., Redding and Yreka).

³https://www.latimes.com/environment/story/2019-08-20/trump-california-water-salmon-farms

4) Protecting Tribal Cultural Resources:

Many of the areas impacted by this project also include Traditional Tribal Territories of several Indigenous Tribes. California law requires that AB 52 consultations must be conducted for all affected tribes, including but not limited to the Winnemem Wintu, Yurok and Hoopa Tribes. CVP projects have inhumanely and violently impacted traditional tribes, their territories and Tribal Cultural Resources. This horrific injustice must not be perpetuated in this SWP project.

5) Studying alternatives that do not require the Delta Tunnel:

The EIR must analyze water conservation, efficiency, and additional demand reduction measures that would be less environmentally harmful than the tunnel and achieve the same water supply reliability goals and targets that the tunnel project proposes (and likely would be cheaper). Such measures might include fixing leaky municipal water systems and adopting drought-tolerant crops and low-water irrigation methods in the agricultural sector, as well as the possibility of fallowing salt damaged soils/ farms. Further study will likely uncover many useful and adequate measures that do not require a tunnel and pumping of water from the Delta.

6) Water as a Public Trust:

The water that flows from source areas is considered a Public Trust. This means that this water MUST NEVER be allowed to be sold for a profit. How will the EIR deal with "for profit" companies, like Westlands Water District and their clients, who will make decisions that only benefit their "for-profit" schemes?

7) Global warming impacts and greenhouse gas (GHG) emission reduction:

Lastly, how does climate change play into this project? Overall, scientists agree that there will be less snow pack and therefore less fresh water flowing into our creeks, streams and rivers. A new study is reporting on the drought that has scorched western North America for the better part of two decades, withering crops, draining rivers and fueling fires. Scientists warn that this trend could be just the beginning of an extended mega drought that ranks among the very worst of the past 1,200 years and would be unlike anything known in recorded history⁴. Surely the wisdom of diverting depleted water flows to desert regions must be questioned should this mega drought become a reality. This scenario **must** be addressed in the EIR.

In addition, as ocean levels rise during the climate crisis, saltwater will be inundating the Delta from the west and threaten the survival of freshwater Delta species. How will this "attack from both directions" be mitigated to protect Delta biota?

⁴<u>https://www.smithsonianmag.com/science-nature/american-west-may-be-entering-megadrought-worse-any-historical-record-180974688/</u>

This project will require significant expenditure of energy to pump the water. The EIR must identify energy sources that will result in zero GHG emissions.

We offer these comments with a genuine interest in the development of a quality water supply for all the peoples of the state and the environment. Please acknowledge receipt of this letter, and keep us informed of any and all actions taken on this project and all opportunities for public input.

Sincerely, Frank Toriello

Frank & Toriello

President Board of Directors We Advocate Thorough Environmental Review

Gabrielle Broche
DWR Delta Conveyance Scoping
Delta Conveyance Scoping
Thursday, April 16, 2020 2:09:21 PM

To Whom this May Concern;

I attended the North State Delta Conveyance Project scoping meeting on March 2nd in Redding. As you know, the Redding site was added only because many Northern Tribal members complained at the Sacramento scoping event that all the water project meetings were held in Central and Southern California.

It is a disgraceful oversight of the scopes committee not to include communities where the water comes from.

I also attended the Butte County Board of Supervisors meeting March 10th. The DWR presented the overall plan of the Delta Conveyance Project. It was disturbing because again, the North State was not afforded the opportunity for real input into the project.

My objections :

1.) The scope of the EIR is insufficient. The Trinity River complex is not included, nor the Feather River complex.

2.). What is the operation of the term "efficiently conveyed"? Does it imply that there will be more water leaving the North State to be delivered to privately owned reservoirs, canals and water transfers paid by tax payers ?3.) If the EIR is honest with it's intentions, then reopen the scopes timeline, broaden input to include all that are directly effected. Consequently, creating an advisory board representing these areas can be formed. Inviting community leaders to join .

4.). It is reckless that the scopes meeting in Redding was left hanging.

Meaning there were a roomful, a packed roomful of people who were fearful for there existence and of the extinction of Salmon and Smelt species. A responsible response would of been to hold an additional meeting to address these important, compelling issues. Is this indicative of how this project is moving forward?

If the worst fears of the March 2nd scopes meeting is unfounded, then publicly state that.

No tunnel, no diverting more water.

Gabrielle Broche Paradise California

Sent from my iPad

From:	<u>Eric Jenks</u>
To:	DWR Delta Conveyance Scoping
Cc:	Green, Blaine I.; David Granoff
Subject:	Delta Conveyance Scoping Comments // Wilbur-Ellis Company // Submittal of Comments
Date:	Friday, April 17, 2020 8:52:17 AM
Attachments:	image001.png
	Wilbur Ellis Company - Comments on NOP for Delta Conveyance Project.pdf

Delta Conveyance Scoping Comments Atten: Renee Rodriguez

Dear Ms. Rodriguez,

On behalf of Wilbur-Ellis Company, I am hereby submitting the attached comments to the Department of Water Resources in response to the January 15, 2020 Notice of Preparation for an Environmental Impact Report for the Delta Conveyance Project. Wilbur-Ellis Company has serious concerns about how the project will impact our existing facility located at 4707 Twin Cities Road, Elk Grove CA. These concerns are more detailed in the attached letter.

Upon your review of the letter if you need any further information regarding our facility, or our specific concerns regarding the project's impacts, please feel free to contact me.

Regards, Eric Jenks

?	

Eric Jenks National Director Manufacturing, Facilities & Real Estate

Wilbur-Ellis Agribusiness P.O. Box 511 Yuba City, CA 95992 Cell: 916.799.9813 (preferred) Office: 530.673.6770 ejenks@wilburellis.com



April 17, 2020

By Email (DeltaConveyanceScoping@water.ca.gov) And U.S. Mail

Delta Conveyance Scoping Comments Attn: Renee Rodriguez Department of Water Resources P.O. Box 942836 Sacramento, CA 94236

Re: Notice of Preparation of an Environmental Impact Report – Delta Conveyance Project

Dear Ms. Rodriguez:

Wilbur-Ellis Company ("Wilbur-Ellis" or "W-E") submits the following comments to the Department of Water Resources ("DWR") in response to the January 15, 2020 Notice of Preparation ("NOP") for an Environmental Impact Report ("EIR") for the Delta Conveyance Project ("Project").

As discussed below, Wilbur-Ellis has serious concerns about how the Project could impact the company's agricultural retail facility located at 4707 Twin Cities Road, in Elk Grove ("Elk Grove facility"). The Twin Cities facility is critical to the company's business. Furthermore, growers in the Delta region, as well as northern San Joaquin and southern Sacramento counties, depend on the products and services that Wilbur-Ellis provides at the Twin Cities facility.

Based on our review of information made available from the Delta Conveyance Design & Construction Authority ("DCA"), it appears that the Project may include a launch shaft site near the Twin Cities facility, which could cause severe impacts on the Twin Cities facility and the agricultural communities the facility serves. We ask:

(1) If a launch site or other Project component near the Twin Cities facility is included in the proposed Project, the EIR should (a) should fully analyze the environmental and related impacts of such Project component, including impacts to agricultural resources, traffic and transportation, greenhouse gas emissions and air quality, and the local economy in the Delta, northern San Joaquin and southern Sacramento county regions; and (b) identify and analyze reasonable and feasible launch sites that would <u>not</u> impact the Twin Facilities facility, given the importance of this facility to agricultural resources.



(2) The EIR should not recommend, and DWR should not approve, a launch site or other Project component adjacent to or that could impact the Twin Cities facility.

I. <u>BACKGROUND</u>.

A. <u>Background on Wilbur-Ellis.</u>

Wilbur-Ellis is a national supplier of crop production inputs to the agricultural industry, including crop protection products, plant fertilizers, seed and field technology, and other products and services necessary for farming. Headquartered in Northern California, Wilbur-Ellis serves farmers throughout the state, including the most agriculturally productive regions of the Central Valley.

B. <u>W-E's Agricultural Retailer Locations and the Importance of Proximity to Local Growers.</u>

While the company has a nationwide footprint, Wilbur-Ellis supplies its products and services locally, through agricultural retail facilities in close proximity to growers. Proximity to growers is critical because farming—including supplying and delivering the products and services essential for growing crops—is inherently local in nature.

For every crop cycle, growers need proximate access to the products and services that Wilbur-Ellis provides, including fertilizer, crop protection products, seeds, and agricultural implements and equipment. Location and proximity are especially important for agricultural products because of the size and nature of these products—e.g., large volumes of fertilizer, heavy and bulky equipment—which are not well-suited for transport across long distances.

Accordingly, Wilbur-Ellis has established agricultural retailer locations based on their proximity to growers who depend on these services.

C. <u>Twin Cities Facility in Elk Grove—Serving Delta Farmers and Surrounding Area.</u>

Some of the most agriculturally productive areas of California are located in the Delta region of the northern Central Valley, where the Delta Conveyance Project is proposed. Since the 1980s, Wilbur-Ellis has served growers in the Delta region through its agricultural retail facility on Twin Cities Road in Elk Grove.

The Twin Cities facility is centrally located in the Delta region, on one of the primary east-west arteries through the Delta, and immediately adjacent to north-south Interstate 5. The facility serves the Delta region, as well as the wine-growing areas in and around Lodi (18 miles to the southeast) in north San Joaquin County, and farms northward in southern Sacramento County (e.g. Elk Grove, Clarksburg and other communities on the south side of Sacramento). The Twin Cities facility serves hundreds of farming customers every year, most of whom are from the local Delta/Lodi/South Sacramento County communities.

The Twin Cities facility is on a 26-acre property, which includes an administrative office, a packaged goods warehouse, maintenance shop, bulk liquid fertilizer storage and specialized blending equipment, dry bulk fertilizer storage, and an equipment storage yard for "implements of husbandry" that are used by local farmers (e.g., field storage tanks, specialized application equipment, fertilizer distribution equipment). This facility serves as a local storage and distribution site for dry and liquid fertilizers, agricultural crop protection chemicals and seeds—the necessary crop inputs for growers in the Delta, South Sacramento County and Northern San Joaquin County growing regions.

The Twin Cities facility is a major contributor to the local economy and tax base. The facility employs approximately 43 people, including highly-trained and licensed pest control advisors and agronomists, sales and operations managers, administrative staff, and warehouse and delivery personnel.

D. <u>DCA's Preliminary Site Plans</u>.

On March 18, 2020, the DCA made publicly available on its website a set of tentative "Site Plans" for the Project ("DCA Site Plans").¹ The DCA Site Plans bear the following disclaimer: "These maps are for Stakeholder Engagement Committee discussion purposes only. They do not represent a decision by the DCA or DWR. Final decisions about the project will be made by DWR and will NOT be made until the concluding stages of the CEQA process."

The DCA Site Plans present two possible alignments for the tunnel: a Central Corridor and an Eastern Corridor. The Site Plans for both corridors tentatively show a "Glanville Tract Launch Shaft Site" that is adjacent to and would impact Wilbur-Ellis's Twin Cities facility. See DCA Board Meeting Materials for March 19, 2020, p. 12 (Central Corridor) and p. 37 (Eastern Corridor), available at https://www.dcdca.org/pdf/2020-03-19-DCABoardMeetingPacketVF.pdf.²

These maps indicate that W-E's Twin Facilities property may be used as a "Twin Cities Support Site" for Project-related "Deliveries, Employee Parking, Batch Plant, Offices, Segment Storage, RTM Loading."

II. COMMENTS ON NOP FOR DELTA CONVEYANCE PROJECT.

A. <u>DWR's NOP for the Project</u>.

According to the NOP, DWR's underlying and fundamental purpose in proposing the Project—which gives rise to the listed Project objectives—is to develop new diversion and conveyance facilities in the

¹ Available at <u>https://www.dcdca.org/pdf/2020-03-19-DCABoardMeetingPacketVF.pdf</u>.

² W-E's Twin Cities facility is located on the triangular property immediately north and east of the Twin Cities Road interchange with Interstate 5, as depicted on the DCA Site Plans at p. 12 and p. 37 of the DCA Board Materials for March 19, 2020. We have marked the location of the Twin Cities facility in red on p. 12 of the DCA Board Materials (attached to the end of this letter for reference).

Delta necessary to restore and protect the reliability of State Water Project water deliveries and, potentially, Central Valley Water Project water deliveries south of the Delta. NOP, 2.

The Project will involve construction of one main tunnel and several tunnel shafts, including "launch" and "retrieval" shafts. Each shaft site would require a permanent area of about four acres, but could involve "temporary" use of **up to 400 acres** for "construction staging and material storage." NOP, 5 (emphasis added). According to the NOP, overall Project construction would take "**approximately 13 years**" (though duration at most locations "would vary" and not extend for this full period). NOP, 3 (emphasis added).

Per the NOP, the scoping process will "inform preliminary locations, corridors, capacities and operations of the new conveyance facilities to be evaluated in the EIR." NOP, 9. The purpose of the scoping process is to identify "important issues raised by the public," and obtain suggestions on "the scope of issues and alternatives" to be considered in the EIR. NOP, 9.

To that end, Wilbur-Ellis identifies the following issues, concerns and alternatives for consideration in preparing the EIR.

B. <u>Specific Comments on the NOP for the Project</u>.

<u>Comment 1: Project Description</u>. The EIR should clearly describe the proposed location of all Project components, including any launch shafts and ancillary facilities. This should include any area to be used for construction staging and material storage, as well as any "support sites" for deliveries, employee parking, batch plant, offices, or "RTM loading."³ If the EIR considers a launch site or other Project component adjacent to or that could impact W-E's Twin Cities facility, the project description should specifically identify the location, nature and duration of impacts. This detailed and specific project description is critical so that the EIR can fully analyze and inform the public, including Wilbur-Ellis and other affected stakeholders, how potential disruption or closure of the Twin Facilities facility will impact agricultural resources, traffic and transportation, air quality and greenhouse gas emissions, and will cause socioeconomic effects.

For example, DCA's Central Corridor site plan for the Glanville Tract launch site depicts a "conveyor system" that connects to the property immediately north of the Twin Cities facility. But DCA's Eastern Corridor site plan for the Glanville Tract does not show any such conveyor system. It is unclear from the DCA site plans what impact this conveyor system would have on the Twin Cities facility under either the Central Corridor or Eastern Corridor alignment. The EIR should clearly describe this and all other Project components, and the EIR should analyze the precise location, nature and duration of impacts associated with this and other Project components.

³ According to the DCA Site Plan materials, "RTM" refers to "Reusable Tunnel Material."

<u>Comment 2: Agricultural Impacts of any Disruption or Closure of Twin Cities Facility</u>. Some of the most agriculturally productive areas of California are in the Delta region, where the Delta Conveyance Project is proposed. As discussed above, growers in the Delta region (as well as northern San Joaquin and southern Sacramento counties) rely on the Twin Cities facility for fertilizer, crop protection products, seeds, and agricultural implements and equipment. Location and proximity are especially important for agricultural products because of their size and nature—e.g., large volumes of fertilizer, heavy and bulky equipment—which are not well-suited for transport across long distances. The Twin Cities facility is the largest and most centrally located agricultural retail facility in the Delta region. Closure or disruption would have serious impacts on agriculture in the region—not just impacts to a single farm, but to hundreds of farming customers (313 customers served in 2019) that use products or services from the Twin Cities facility. Furthermore, agricultural impacts, including impacts from any disruption of the Twin Cities facility, should be analyzed on both a Project-specific and cumulative basis.

In addition, the EIR should consider and analyze any potential impacts related to conversion of agricultural land and/or land use incompatibility associated with the possible need to relocate—temporarily or permanently—the Twin Cities facility.

<u>Comment 3: Traffic and Transportation Impacts</u>. The Twin Cities facility is centrally located to serve the agricultural product needs for growers in the Delta region, the wine-grape growing region in and around Lodi, and farms in southern Sacramento County. If this facility were disrupted or closed, it would cause significant adverse impacts to traffic because local growers in these areas would need to travel much farther for their crop input needs. In 2019, the substantial majority of customers who visited (or took deliveries from⁴) the Twin Cities facility were within 10 to 25 miles of the facility:

City	# Customers	%
LODI	46	14.70%
WOODBRIDGE	35	11.18%
VICTOR	32	10.22%
ACAMPO	17	5.43%
ELK GROVE	17	5.43%
GALT	14	4.47%
CLARKSBURG	13	4.15%
OTHER	139	44.41%
Total	313	100.00%

As noted above, proximity is especially important for agricultural products because of their size and nature—e.g., large volumes of fertilizer, heavy and bulky equipment—which are not well-suited for transport across long distances. These impacts to traffic and transportation must be considered.

⁴ For 2019, W-E averaged over 1,600 shipments from its Twin Cities facility each month, with more than 9,000 shipments from May through July.

In addition, the EIR should consider and analyze any potential disruption to the Twin Cities facility caused by traffic associated with the Project, including any proposed hauling of reusable tunnel material ("RTM"), or other Project-related materials, on Twin Cities Road.⁵ According to DCA's presentation on launch shaft logistics,⁶ the potential traffic on roads adjacent to launch shaft sites can be reduced by using barges or trains, instead of trucks, for hauling RTM off-site. Thus, siting launch shafts adjacent to barge access (i.e., on navigable water bodies) would be preferable in order to minimize traffic and transportation impacts.

<u>Comment 4: Air Quality and Greenhouse Gas Emissions</u>. The impacts on traffic associated with any disruption or closure of the Twin Cities facility would, naturally, cause impacts to air quality and greenhouse gas emissions associated with more vehicle miles traveled. If the Twin Cities facility was disrupted or closed, W-E's customers would have to travel much farther to access agricultural products and services. The next closest W-E facility would be north and/or west of Sacramento (Woodland, Dixon and Rio Linda), or far to the south (Manteca). These impacts to air quality and greenhouse gas emissions must also be considered.

<u>Comment 5: Alternatives that Do Not Impact Twin Cities Facility</u>. The Delta Conveyance Project can and should be done without impacting the Twin Cities facility. The EIR should consider and analyze such alternatives.

5.a. <u>DCA Site Plans</u>. As noted above, the DCA Site Plans show two possible tunnel alignments: a Central Corridor and an Eastern Corridor, both of which tentatively show a "Launch Shaft Site" immediately adjacent to and impacting Wilbur-Ellis's Twin Cities facility. These maps show the Twin Facilities property may be used as a "Twin Cities Support Site" for Project-related "Deliveries, Employee Parking, Batch Plant, Offices, Segment Storage, RTM Loading."

By DCA's own admission, it developed the DCA Site Plans using ranking criteria "based on engineering considerations," not environmental or socioeconomic considerations; and it is DWR's role to "evaluate sites based on environmental analysis in the CEQA process." See DCA Stakeholder Engagement Committee Meeting Summary, Feb. 12, 2020, available at https://www.dcdca.org/pdf/02142020-SECMeetingSummary.pdf.

For all the reasons discussed above, DWR should not choose a launch shaft site that potentially disrupts or closes the Twin Cities facility, because doing so would cause serious adverse impacts.

⁵ See DCA "Abridged Presentation: Launch Shaft Logistics," presented to Stakeholder Engagement Committee at February 12, 2020 meeting ("DCA 2/12/20 Presentation"), available at <u>https://www.dcdca.org/pdf/4c-</u> LaunchShaftSiting.pdf, at p. 32 (projecting hundreds of thousands of truck trips for hauling reusable tunnel material, at a rate of 130-140 trips per day).

⁶ See note 5.

Alternative locations for launch shafts (as discussed immediately below) would avoid these significant impacts, while still meeting project objectives.

- 5.b. <u>Alternative Locations for Launch Shafts</u>. Under CEQA, an EIR must describe and evaluate a range of reasonable alternatives to the project or its location which would feasibly attain most of the basic project objectives while avoiding or substantially lessening any of the significant effects of the project. CEQA Guidelines, section 14126.6(a). As shown by the DCA 2/12/20 Presentation, there are many feasible—indeed, many potentially favorable—locations for launch sites that, by avoiding the vicinity of the Twin Cities facility, would eliminate or reduce the impact to agricultural resources and other impacts noted above. Notably, the 2/12/20 Presentations shows:
 - The total tunnel length is about 40 miles. (p. 31.)
 - Only 2 to 3 launch shafts will be needed over the course of these 40 miles. (p. 31.)
 - For these 40 miles, there are many feasible alternative locations for launch shafts in both corridors which would avoid or substantially lessen environmental impacts. (p. 37.) This is especially true for the eastern corridor, where virtually the entire 40-mile corridor is colored green as "favorable" for launch shafts. (p. 37.)
 - For Launch Site A (the northernmost launch shaft) in which the Twin Cities facility is located, DCA's maps show a large area—seemingly about 3 miles wide (3 miles westward from Interstate 5), and 5-6 miles long (from south of Courtland to south of Walnut Grove) that is "favorable" (colored green) for launch shafts. (p. 37 and p. 42.)
 - Even if 400 acres is needed for temporary construction staging and material storage at each launch site (as per NOP, at 5), this would be 0.625 square miles that's required—a small fraction of the area identified as favorable for Launch Shaft A.

DWR should analyze alternative locations for the northernmost launch shaft that do not potentially impact the Twin Cities facility.

• 5.c. <u>Alternative Construction Staging and Storage at Launch Shafts</u>. The NOP notes that launch shaft sites permanently require just 4 acres, but that "up to about 400 acres [are needed] for construction staging and material storage." NOP, 5. Using such a large area for staging and material storage has potentially much larger impacts on the environment, especially if the Twin Cities facility is potentially disrupted or closed as a result. DCA's 2/12/20 Presentation (pp. 35-36) shows alternatives are available that would require less acreage for material storage: specifically, the surface area needed for stockpile/storage could be reduced by (i) constructing a narrower tunnel, or using shorter drive lengths (thus resulting in less RTM at a given launch site); (ii) piling stored RTM higher on the stockpile site; (iii) choosing not to stockpile the entire volume of RTM produced; and/or (iv) hauling RTM off-site for beneficial re-use as the tunnel is excavated. DWR should analyze these and other alternatives for reducing the acreage required for storage at launch shafts, which would avoid any potential impacts to agricultural resources from disrupting or closing the Twin Cities facility.

<u>Comment 6: Impacts on Wilbur-Ellis and Other Socioeconomic Effects Should Be Considered in</u> <u>Analyzing Alternative Launch Shaft Locations, and Ultimately, in Making Any Project Approval</u>. In its consideration and any approval of the Project and alternatives, DWR should take into account the socioeconomic effects, including on Wilbur-Ellis, the Twin Cities facility, and the growers in the Delta and surrounding areas who depend on agricultural products and services from the Twin Cities facility. CEQA Guidelines, section 15126.6 (economic viability of alternative sites should be considered in determining feasibility of alternatives, including whether project proponent can reasonably acquire the site and costs of acquisition)

The economic importance, value and potential acquisition cost of the Twin Cities facility is high, and the economic consequences of disruption or closure would be severe. If an alternative location were available to serve growers in the Delta and surrounding area, the cost to relocate the Twin Cities facility would be in excess of \$10 million (based on W-E's experience siting, permitting and constructing a facility of similar size and nature), and it would potentially take 24 months or longer. But even at that high cost and extended time, relocation is not a viable option. W-E has previously looked for alternative locations for the Twin Cities facility, but none was available within 10-15 miles of the current location that would meet the needs of Wilbur-Ellis and its customers.

Furthermore, in considering the Project and alternatives in the EIR, and in ultimately making any Project approval, DWR should take into account socioeconomic effects on growers and the agriculture industry in the Delta and surrounding area, as well as ripple effects on the regional economy.

* * * *

We appreciate the opportunity to comment on the NOP for this Project, and we look forward to reviewing the Draft Environmental Impact Report as soon as it's available. Also, we would welcome the opportunity to meet with you to discuss our concerns and show you our Twin Cities facility and operations.

If you have any questions or would like to arrange a meeting, please feel free to contact me.

Sincerely,

Tric Jenks

Eric Jenks National Director, Manufacturing, Facilities and Real Estate Wilbur-Ellis Company ejenks@wilbur-ellis.com

cc: Blaine Green, Pillsbury Winthrop Shaw Pittman LLP

To whom It May Concern:

I am a West Delta resident who has many concerns surrounding the Delta Conveyance Project. Water quality is important to me. I live in Oakley, CA which is situated on the San Joaquin River. I am an avid sportsman and boat, fish and hunt in the West Delta. Living in the Delta I am well connected to its legacy cities, agriculture and lifestyle. Some of the concerns I have about the DCP are:

- 1. What will happen to the water quality in the Delta if the water is diverted through a tunnel beneath the Delta?
- 2. Will damage from salt water intrusion be mitigated and how?
- 3. How will harmful algae blooms, now prevalent, be controlled?
- 4. Will and romous fish such as salmon, green sturgeon, white sturgeon and striped bass be negatively affected by tunnel operations.
- 5. During the construction period how will legacy communities be affected, will the residents and their properties be protected?
- 6. Will tunneling under the Delta destroy existing aquifers that Delta residents rely on for drinking water? How will they be compensated if it does?
- 7. Will saltwater intrusion ruin the productivity of Delta agriculture and possibly destroy it? How will these decades old family farmers be compensated for their loss?
- 8. Why does the NOP not have strengthening Delta levees as a priority.
- 9. During the construction phase of the project what will happen to the fragile Delta roadways?
- 10. How will navigation be affected?
- 11. With climate change and projections of less snowpack and more precipitation, where will the water come from to fill the tunnel?
- 12. What safeguards are in place to protect to protect the water quality that 4 million Delta residents depend on.
- 13. What affect will the tunnel have on migratory birds that depend on the Pacific Flyway as their wintering grounds?
- 14. Has a cost benefit analysis been completed?
- 15. How does DCP comply with the 2019 Delta Reform Act which mandated that there be less reliance on the Delta for water?
- 16. There are many environmental concerns surrounding construction from stirring up sediments with contaminants to air pollution, how are these being addressed?
- 17. How is it justified to worsen conditions for people living in the Delta to benefit those outside of the Delta?
- 18. Will Delta residents be forced to pay for a project that will negatively affect the lives? Where is the money coming from?

Thank you for your consideration address some of my concerns.

Roger S. Mammon 4720 Oak Forest Avenue Oakley, CA 94561 To Whom it May Concern-

Please see the attached comment letter from Westlands Water District on the Notice of Preparation of Environmental Impact Report for the Delta Conveyance Project. If you have any questions, please don't hesitate to contact me.

Thanks,

Shelley Ostrowski Deputy General Manager, External Affairs Westlands Water District SOstrowski@wwd.ca.gov Phone: 559-244-1533



Westlands Water District

3130 N. Fresno Street, P.O. Box 6056, Fresno, California 93703-6056, (559) 224-1523, FAX (559) 241-6277

April 17, 2020

Sent via email to: <u>DeltaConveyanceScoping@water.ca.gov</u>.

Delta Conveyance Scoping Comments Attn: Renee Rodriguez, Department of Water Resources P.O. Box 942836 Sacramento, CA 94236 E-Mail: <u>DeltaConveyanceScoping@water.ca.gov</u>

Re: Notice of Preparation of Environmental Impact Report for the Delta Conveyance Project

To Whom it May Concern:

Westlands Water District ("District") appreciates the opportunity to comment on the Notice of Preparation ("NOP") of Environmental Impact Report ("EIR") for the Delta Conveyance Project ("Proposed Project"). Westlands Water District encompasses approximately 600,000 acres in western Fresno and Kings counties. The lands within Westlands are some of the most highly productive agricultural lands in the world producing, on average, more than \$2 billion worth of food and fiber each year and generating approximately \$6 billion in farm-related economic activities in local communities. Westlands depends on water provided through the Central Valley Project ("CVP"), much of which is conveyed through and pumped from the Sacramento-San Joaquin Delta ("Delta") at the C.W. "Bill" Jones Pumping Plant.

The District has historically supported efforts similar to the Proposed Project, to investigate the potential for Delta Conveyance facilities that enable both CVP and State Water Project ("SWP") water to enhance the manner in which water is conveyed to areas south of the Delta.

From these past efforts, it is clear that the Proposed Project may impact CVP operations, including operations of the Jones Pumping Plant and San Luis Reservoir and have environmental impacts in the CVP service area. As a result, DWR must: (1) include within the Project area the CVP facilities and the areas where CVP water is used, including the South-of-Delta CVP Service Areas, (2) analyze potential effects on the CVP and the areas served by the CVP, and (3) mitigate the resulting environmental effects.

The District requests that DWR work with the United States Bureau of Reclamation, the District, and other CVP contractors in developing the Proposed Project, Project alternatives, especially with regard to exploring the possibility of moving both CVP and SWP water through the conveyance facilities, the impact analyses, and formulation of mitigation measures. Further, because of the potential for the District to rely

upon the EIR to support discretionary decisions concerning the Proposed Project, the District should be identified in the EIR as a Responsible Agency.

Sincerely,

Shalley Ostrowski

Shelley Ostrowski Deputy General Manager, External Affairs Westlands Water District P.O. Box 6056 Fresno, CA 93703

From:	Elaine Barut
To:	DWR Delta Conveyance Scoping
Cc:	Nathan Magsayo
Subject:	Delta Conveyance Scoping Comments
Date:	Friday, April 17, 2020 2:41:52 PM
Attachments:	LMR Logo email (1).png
	Youth Advocate Public Comment Letter.pdf

Dear Ms. Rodriguez:

On behalf of Little Manila Rising's Youth Advocates for Social Justice, please find our comments on the proposed Delta Conveyance Project (DCP). Please let us know if you received the letter and/or are able to access the comment letter.

In Community,

Elaine Barut Senior Program Manager Community Educator Pronouns: She, Her, Hers Office Phone: 209.336.6332 Cell Phone: 209.954.6951

?

littlemanila.org


Via Email to: DeltaConveyanceScoping@water.ca.gov

April 16, 2020

Department of Water Resources Attn: Renee Rodriguez P.O. Box 942836 Sacramento, CA 94236

Re: Delta Conveyance Scoping Comments

Dear Ms. Rodriguez,

Please accept and fully consider these scoping comments for the Delta Conveyance project's environmental review process.

We, the Youth Advocates for Social Justice of Little Manila Rising, are the next generation of advocates who are paving the way for equitable solutions. We aim to create a generational cultural shift by highlighting the history of marginalized communities to address and give context to present day disparities. We also understand the lasting trauma and sacrifices of the past and are rising in power to heal those wounds. As Youth Advocates for Social Justice, we understand that historically disenfranchised communities face environmental impacts that shortens their lives and are dedicated to bringing multifaceted equity to Stockton. Our organization celebrates our community's contributions and history in the California Delta.

As the Department of Water Resources studies the Delta Conveyance project proposal and develops alternative proposals, we would like you to consider the following comments: Delta Conveyance Scoping Comments from Youth Advocates for Social Justice of Little Manila Rising Page 2 of 4

Need for Education About Project Impacts

- 1. **Core Issue:** We are allowed to submit comments, but we aren't really that knowledgeable about the impacts and don't have a lot of time to read a huge report. **Solutions:**
 - Please help the public understand the impacts. People need to be actively equipped with knowledge about project impacts. DWR needs to provide enough information, but also needs to make it short enough and clear enough to be accessible.
 - DWR needs to make the EIR accessible to a lay person in South Stockton. The language needs to be understandable for as many people as possible, including those who are not very educated about the issue and don't have prior knowledge.
- 2. More people need to know about the project and its potential impacts. Please increase publicity about the project and its potential impacts. Disseminate information widely, so it is in everyone's hands.
- 3. Make sure the public has adequate time to digest the impacts in the EIR.

Participation & Decision-Making

- 4. I am concerned about how communities will continue to participate in the decision process after the EIR is released. How could we make the engagement process more community-led during the environmental review and beyond the environmental review? How can we make it more participatory and more democratic?
- 5. The process is undemocratic. People can comment on the EIR, but they can't vote on the final outcome. How will the public, especially people who are living within this community (Stockton), become involved with the decision making?

Pollution and Health Impacts of the Project and its Construction

- 6. How will the tunnel affect nearby residents' quality of life? Who will be impacted the most? What precautions are being considered that prioritize the health of those who already live there? Will it contribute to pollution of the area? Could it cause any kind of contamination of resources, water...? Will construction make noise?
- 7. How will this affect air quality? We have pollution burden from the crosstown freeway and other pollution sources mobile and stationary. Will this project worsen our air quality in any way?
- 8. How will this project affect water quality around Stockton? Among other things, we are concerned that added traffic from construction will cause worsening water quality around Stockton. How will the water quality be protected from construction impacts and longer term impacts of the project?
- 9. Harmful algal blooms are a problem in Stockton. How will this project affect that?
- 10. What are they doing with the existing pumps that are already there? Is there an opportunity to reuse, repurpose, retrofit, not waste those resources? What will they do to restore the landscape from the impacts from the existing pumps?

Delta Conveyance Scoping Comments from Youth Advocates for Social Justice of Little Manila Rising Page 3 of 4

- 11. What sort of materials are going to be used in this project? Will the materials have negative effects on any life (plants, animals, people) around it? Will they release toxins?
- 12. What are the other dangers of this project to our community?
- 13. How long is the project going to take before its whole completion?

Levees/Floods

- 14. How will they protect the safety of the community from floods?
- 15. Levees are part of this process how are they going to strengthen or improve the levees. How will this be prioritized?
- 16. In the case of the unexpected floods, could the tunnel be repurposed for disaster relief/flood draining?
- 17. What will DWR do to reinforcing already existing waterways and what are their plans to upkeep them?

Supporting Communities Who Experience Negative Impacts

- 18. What are ways DWR can compensate and help maintain quality of life and sustainability for communities impacted by the final decision?
- 19. Will initiatives or programs be created to support and compensate communities for potential damage resulting from the project and throughout the construction process?
- 20. How will DWR deal with the dangers of the project? What can be and will be done to make it a better outcome for everyone?

Drinking Water

- 21. How will the tunnel impact the drinking water system? Will it cut off proper drinking water to certain communities or will there be a plan to work around it?
- 22. What will the filtration systems look like to make the water quality better (safe, drinkable) that is being delivered?

Thank you for your consideration of these comments. Please keep us informed of future opportunities to participate in this important process.

Sincerely,

Elaine Barut Senior Program Manager Little Manila Rising <u>elaine@littlemanila.org</u> Nathan Magsayo Social Justice Specialist Little Manila Rising nate@littlemanila.org

DCS707

Delta Conveyance Scoping Comments from Youth Advocates for Social Justice of Little Manila Rising Page 4 of 4

Gloria Alonso Cruz Youth Advocate Little Manila Rising Youth Advocates for Social Justice

AZ Banguis Youth Advocate Little Manila Rising Youth Advocates for Social Justice

Julius Buyco Youth Advocate Little Manila Rising Youth Advocates for Social Justice Glenabel Toreno Youth Advocate Little Manila Rising Youth Advocates for Social Justice

Jerome Robles Youth Advocate Little Manila Rising Youth Advocates for Social Justice

Aleen Phimpha Youth Advocate Little Manila Rising Youth Advocates for Social Justice

From:	<u>Harris, Kayla K</u>
То:	DWR Delta Conveyance Scoping
Cc:	Michael.S.Jewell@usace.army.mil
Subject:	Delta Conveyance Scoping Comments - Attn: Renee Rodriguez
Date:	Tuesday, April 14, 2020 11:49:17 AM
Attachments:	NOP Comment 04112020 SIGNED.pdf

Good Afternoon,

Please see the attached letter from the Bay-Delta Office. Please note recipients will only receive an electronic copy.

Thank you, Kayla Harris

Kayla Kamaile O Hualalai Harris Secretary Bureau of Reclamation, Bay-Delta Office Interior Region 10 801 I Street, Suite 140 Sacramento, CA 95814 (916) 414-2400 (Office) (279) 200-2081 (Mobile) (916) 414-2439) (Fax)



United States Department of the Interior

BUREAU OF RECLAMATION Interior Region 10 Bay-Delta Office 801 I Street, Suite 140 Sacramento, California 95814-2536



IN REPLY REFER TO:

BDO-700 2.2.4.21

Renee Rodriguez Department of Water Resources P.O. Box 942836 Sacramento, CA 94236

Subject: Delta Conveyance Scoping Comments

Dear Ms. Rodriguez:

Reclamation appreciates the opportunity to provide comments on the Department of Water Resource's (DWR) proposed Delta Conveyance Project. This letter highlights our comments regarding the Notice of Preparation (NOP). We understand the objectives of the Delta Conveyance Project are to restore water supply reliability, reduce the potential for disruption of water deliveries through the existing Delta Diversion facilities from natural disaster, and allow more natural flows in the Delta for salmon, smelt, and other species.

Given the coordinated nature of the Central Valley Project (CVP) and the State Water Project (SWP), Reclamation requests that DWR take all measures to avoid, mitigate, or offset potential Delta Conveyance Project impacts to the CVP. Potential impacts include annual and daily operations of the Delta Conveyance Project that negatively impact CVP water and power operations, any restrictions or financial commitments imposed on the CVP through permits or other regulatory approvals issued for the Delta Conveyance Project, and biological impacts attributable to the Delta Conveyance Project. In addition, Reclamation requests DWR continue to honor the addendum to the Coordinated Operation of the CVP and SWP agreement, specifically, recital 6. provides the following language, "...within 365 days of the implementation of new or revised requirements imposed jointly on CVP and SWP operations by any federal or state agency, or prior to initiation of operation of a new or significantly modified facility of the United States or the State or more frequently if so requested by either party, the United States and the State jointly shall review the operations of both projects."

With the Delta Conveyance Project in place, it is important that Reclamation continue to meet our obligations under the Central Valley Project Improvement Act (CVPIA), including deliveries to wetland habitat areas ("Refuges") under Section 3406(d) of the CVPIA, and protect existing water rights and contractual priorities. Operation of the Delta Conveyance Project must not negatively impact Reclamation's ability to meet existing legal obligations.

INTERIOR REGION 10 • CALIFORNIA-GREAT BASIN

CALIFORNIA*, NEVADA*, OREGON*

Reclamation requests the following: a clear delineation between the existing biological monitoring requirements within the Delta and the monitoring requirements resulting from changes in system wide programs due to the addition of the Delta Conveyance Project; an initial plan that describes how DWR would operate the Delta Conveyance Project and comply with Federal Endangered Species Act requirements related to operations; and a detailed analysis of the effects of the Delta Conveyance Project on the CVP.

Sincerely,

David M. Mooney Office Manager

cc: Michael Jewell
 Chief, Regulatory Division
 US Army Corps of Engineers, Sacramento District
 1325 J St
 Sacramento, CA 95814

CALIFORNIA*, NEVADA*, OREGON*

From:	Daniel Bacher
То:	DWR Delta Conveyance Scoping
Subject:	Delta Conveyance Scoping Comments
Date:	Friday, April 17, 2020 2:36:46 PM
Attachments:	Dan Bacher Comment.docx

Department of Water Resources, Attn: Renee Rodriguez, P.O. Box 942836, Sacramento, CA 94236

I am the long-time editor at Northern California Angler Publications, the publishers of the Fish Sniffer magazine, a bi-weekly fishing magazine that has covered freshwater and saltwater fishing in northern California and southern Oregon and freshwater fishing in Nevada since 1982. I am also an outdoor columnist for the Stockton Record.

I have written many thousands of reports and features on fisheries, water, regulatory capture, and environmental justice for an array of publications, including the East Bay Express, Appeal Democrat, Sacramento News & Review, Sacramento Bee, Native California News, Elk Grove News, yuba.net, Counterpunch and others. I also serve on the Advisory Board of the Save the American River Association and am a board member of water4fish.org. I was inducted into the California Outdoors Hall of Fame in January 2015.

Based on the research and many articles I have written since 1983, my conclusion is the Delta Tunnel project, as described in the EIR, would present a tremendous danger to the fisheries that I write and edit articles about.

When I first began work full time as an editor for the publication in 1985 and as a columnist and report writer two years prior to that, the fishing scene was much different than it is now.

There were a plethora of bait and tackle stores in the Sacramento area, including Wild Sports in Orangevale, Fran and Eddy's Sports Den in Rancho Cordova and Roseville, Ben's Bait and Tackle in West Sacramento, River City Bait and Tackle in Sacramento, Fruitridge Bait and Tackle, Sacramento Pro Tackle and Broadway Bait and Tackle, Saving Center, Elkhorn Bait and Tackle in Elverta and three shops in Freeport, a total of 13 stores.

Now, after years of fishery declines, the only local bait and tackle stores left are Sacramento Pro Tackle, Broadway Bait, Fisherman's Warehouse, and Elkhorn Outdoors, and three bait shops in Freeport, a total of 7 stores.

The closure of the salmon season in 2008, 2009 and 2011, spurred by record water exports, combined with poor ocean conditions and other

factors, caused immense harm to the local fishing industry. One of the biggest fishery incomes of the year, the salmon fishery on the Sacramento, American and Feather, was lost when the season was closed for two years and restricted for another year. This decline in income to bait and tackle stores and fishing coincided with a drop in license sales. Now committed fishermen leave the state to fish, taking their dollars in other areas, like Alaska or British Columbia.

Since 1980, the number of annual fishing licenses sold in California declined over 55%. In fact, the number of annual licenses plummeted by another 40,000 in 2014 alone, according to the California Sportfishing League. Californiia ranks dead last in statewide fishing participation rate – and in northern California, much of this the result of a decline in striped bass, Chinook salmon, steelhead, shad and white sturgeon fisheries spurred by increased water exports out of the Delta.

While California's 2.8 million anglers rank as one of the top markets for outdoor consumer products in the country, there has been an unprecedented decline in California's fishing participation rate, as well as its impact on an industry that contributes over \$4.6 billion annually to California's economy and supports more than 35,000 jobs, according to the California Sportfishing Protection League.

This decline in fishing license sales is an alarming trend that has devastated businesses and the California communities dependent on recreational fishing for tourism, jobs and tax revenue.

While there are many factors, including the high price of fishing licenses now, the removal of vast quantities of water from the Delta in the state and federal pumps is acknowledged as a key factor in this decline.

When I first began with the Fish Sniffer, anglers were able to still fish for winter run Chinook on the Sacramento River and spring run Chinook salmon on the Feather River and Butte Creek.

However, the decline of the winter run Chinook and spring run Chinook salmon runs has led to a collapse in both these populations. The winter run Chinook declined from 117,00 fish in 1969 an average of 87,000 spawning adults in the late 1960s to fewer than 200 in the early 1990s, according to NOAA Fisheries.

On March 6, 1989, the California Fish and Game Commission denied endangered species protection to the winter-run Chinook salmon that for many thousands of years spawned in the McCloud River that drains the Mount Shasta Glacier. Hal Bonslett, the late founder and publisher of the Fish Sniffer, and I were there at the meeting in Sacramento on a crusade to stop the extinction of the fish,

The Tehama Fly Fishers and John Merz, then the executive director of the Sacramento River Preservation Trust, Bonslett and I argued before the Commission to put the fish on the state endangered species list to prevent it from going extinct, but to no avail at first. However, we kept going to the Commission meetings and working on the federal level for the listing of the winter run Chinook as endangered. Hal and I wrote one editorial after another calling for the designation.

We finally succeeded on the state level later in 1989 when the fish was listed as "endangered." The National Marine Fisheries Service also listed the winter run as "threatened," five years after the agency received the petition calling for the listing. After receiving another petition, NMFS listed the fish as "endangered" in 1990.

The winter run Chinook 's dramatic decline is due to dramatic increases in water exports to corporate agribusiness interests through the State Water Project and Central Valley water project pumps in the South Delta, as well as the construction of Shasta and Keswick Dams.

The years from 2003 to 2011 featured record water exports out of the Delta. The state and federal governments authorized the all-time record for exports out of the Delta in 2011 - 6,520,000 acre-feet. That's 217,000 acre feet more than the previous record of 6,303,000 acre feet set in 2005.

In the years since the initial listing, run numbers have bounced up and down, with a number of measures taken, including the screening of unscreened diversions on the Sacramento, the removal of the Red Bluff Diversion Dam and some restrictions on Delta pumping resulting from federal biological opinions.

I believe that excessive exports of water since the State Water Project came on line in 1968 and poor management of upstream reservoirs have led to a steady decline of pelagic and anadromous fish species in recent years. This has seriously impacted the health of the recreational and commercial fisheries to the point where numerous species are bordering on extinction. Clearly public trust fishery and recreational fishery issues haven't been protected – and this degree of public degradation cannot be in the public interest.

It's now 2020, over 31 years after the initial listing, and the winter run Chinook salmon is still in deep, deep trouble. For example, only 1,123 adult winter Chinook salmon, once one of the biggest salmon runs on the Sacramento River and its tributaries, returned to the Sacramento Valley in 2017, according to a report sent to the Pacific Fishery Management Council (PFMC) by the California Department of Fish and Wildlife (CDFW).

This is the second lowest number of returning adult winter run salmon since modern counting techniques were implemented in 2003, undercut only by the 824 that returned in 2011.

I am supporting the Winnemem Wintu Tribe in their effort to reintroduce the original run of McCloud winter run Chinook, now thriving on the Rakaira River in New Zealand, where they were introduced over a hundred of years ago, back to their ancestral home on the McCloud.

Like the winter run Chinook, the Delta smelt and longfin smelt has declined to record low levels in recent years. These three indicator species are part of an overall ecosystem decline, including dramatic reductions in spring and fall-run Chinook salmon and steelhead populations, driven by water diversions by the federal and state water projects. The CDFW fall midwater trawl surveyd in both 2018 and 2019 found zero smelt.

All of the species that need healthy river flows to survive have declined since I started working for the Fish Sniffer. From 1967 through 2015, populations of striped bass, Delta smelt, longfin smelt, American shad, splittail, threadfin shad, spring Chinook, winter Chinook, fall Chinook, late fall Chinook and Central Valley steelhead have declined by orders of magnitude, according to data compiled by the Department of the Fish and Wildlife and the Anadromous Fisheries Restoration Program. This program has failed to double populations of naturally anadromous fish species from the average of their 1967 to 1991 levels, as required by the Central Valley Improvement Act of 1992. I have written hundreds of articles about the Delta Tunnel and have testified before the Delta Stewardship Council and other state panels many times about the many problems with the project.

However, in the many hours I've spent covering the Delta Tunnel and its predecessors, there's one terminal flaw with the project that stands out among all others: the false assumption the project is based upon. The Delta Conveyance is based on the absurd contention that taking more water from the Sacramento River at the new points of diversion will "restore" the ecosystem.

I am not aware of a single project in US or world history where the construction of a project that takes more water out of a river or estuary has resulted in the restoration of that river or estuary.

Based on this untenable premise and all of the flaws that thousands of Californians have uncovered about the project, I am urging the Department of Water Resources to reject the EIR for the Delta Tunnel project and to cease all support for the environmentally destructive project.

Rather than building the Delta Tunnel, we need to look at sustainable alternatives such as the Environmental Water Caucus Responsible Exports Plan. We need to support sustainable alternatives to ecosystem restoration and water supply reliability that will restore our salmon, steelhead, striped bass, sturgeon, American shad and other valuable fisheries, based on upholding the public trust and public interest, rather than destroying them.

Dan Bacher, journalist, Sacramento, April 17, 2020

From:	Ryan Bezerra
To:	DWR Delta Conveyance Scoping
Subject:	Delta Conveyance Scoping - Comments of American River Water Agencies
Date:	Thursday, April 16, 2020 11:13:53 AM
Attachments:	American River agencies" comment letter on Delta tunnel NOP 2020-04-15 (00170320xE2E14).pdf

Ms. Rodriguez -

On behalf of the American River Water Agencies, please find attached their joint comments on the Department of Water Resources' notice of preparation for an environmental impact report for the Delta Conveyance Project (NOP). The individual agencies within the American River Water Agencies group are identified in the attached letter. One or more of those individual agencies also may submit individual comments on the NOP.

Kind regards, Ryan Bezerra Bartkiewicz, Kronick & Shanahan Attorneys for the Cities of Folsom and Roseville, Sacramento Suburban Water District and San Juan Water District



April 16, 2020

Delta Conveyance Scoping Comments Attn: Renee Rodriguez, Department of Water Resources Post Office Box 942836 Sacramento, California 94236 Via E-mail DeltaConveyanceScoping@water.ca.gov

Re: Delta Conveyance Scoping Comments of American River Water Agencies

Dear Ms. Rodriguez:

The Cities of Folsom, Roseville and Sacramento, Carmichael Water District, El Dorado Irrigation District, Placer County Water Agency, the Regional Water Authority (RWA), Sacramento County Water Agency, Sacramento Suburban Water District, and San Juan Water District (collectively, the American River Water Agencies or ARWA) submit these comments in response to the Department of Water Resources' (DWR) notice of preparation (NOP) for an environmental impact report (EIR) for the Delta Conveyance Project (Project).

Background

Our individual agencies collectively deliver water to over 2,000,000 people in El Dorado, Placer and Sacramento Counties. We deliver these water supplies under many

different water rights and contracts, but we all depend, directly or indirectly, on appropriate management of Folsom Reservoir. RWA is the joint powers authority of 21 water suppliers – including our individual agencies – that serve the Sacramento region's communities.

Our reliance on Folsom Reservoir management exists because our agencies' water supplies depend on diversions directly from the reservoir, directly from the American River downstream of Folsom Dam, on groundwater supplies that depend on local use of American River water to be sustainable or all of these things. In addition, for over 20 years, our agencies have worked with local environmental groups through the Water Forum to advance the co-equal objectives of a reliable water supply for our region's communities and the protection and enhancement of the lower American River's environment. We therefore have a strong interest in the Project's potential effects on upstream reservoir operations and the American River's salmon and ESA-listed steelhead, as it is integrated into the coordinated operations of the State Water Project (SWP) and the Central Valley Project (CVP).

In order to adequately inform the public and decision makers, the EIR must analyze the Project's potential effects on Folsom Reservoir and the lower American River. It is particularly important that DWR analyze the Project's potential effect on storage in Folsom Reservoir during dry cycles of two or more consecutive years. The 2012-2016 drought demonstrated that conditions and regulatory requirements that apply across the coordinated operations of the SWP and the CVP tend to particularly affect Folsom Reservoir storage. Impacts to Folsom Reservoir occurred through the combination of, among other factors, the efforts to hold water in Lake Shasta to maintain Sacramento River water temperatures and the obligation-sharing formulas in the Coordinated Operations Agreement (COA). As a result, through 2014 and 2015, Folsom Reservoir's level was at near continual risk of being lowered below a level at which its municipal water-supply intake would function properly. Moreover, significant environmental impacts to protected fish species occurred, primarily because the low reservoir storage resulted in increased water temperatures in the lower American River with consequent impacts on the river's steelhead and salmon. Such low storage also threatened significant water supply impacts to the 500,000 people who receive water directly from the reservoir, water suppliers who divert water downstream, and groundwater-dependent agencies whose supplies are affected by increased pumping.

DWR's analyses of the prior California WaterFix project did not adequately account for these factors. Our agencies raised all of these issues before the State Water Resources Control Board (SWRCB) in its multi-year hearing on the California WaterFix water-right change petition. In that hearing, many of our agencies and the Water Forum proposed that terms and conditions – called the "modified flow management standard" or "MFMS" – be incorporated into California WaterFix's operating criteria to address those issues. In developing the Project's new modeling and EIR analyses, DWR should carefully consider the expert evidence submitted by the ARWA in that hearing, which will inform DWR of the type of information, assumptions and methodology necessary to properly evaluate the impacts identified in these comments. All of this information is available to DWR through

June 30, 2020 on the SWRCB's website.¹ DWR should contact any of the signatories to this letter if it is unable to locate or access any of this information.

Issues to Address in Draft EIR

I. Project Description

The EIR must include sufficient information about proposed Project operations for the public and ARWA to understand potential impacts. To address the interests of ARWA and the American River's fish, information about proposed Project operations must include substantial information about Folsom Reservoir operations and streamflows and temperatures in the lower American River. Accordingly, the EIR also must explain how the Project would operate under the COA, and affect accounting under the COA, if Reclamation participates and if it does not. Complete and accurate information about the range of potential operations is critical to evaluating a number of potentially significant impacts, particularly impacts to upstream water supplies and fish at all life stages. In particular the ARWA recommend that the Project description include a commitment to operate according to the terms for Folsom Reservoir management and lower American River streamflows that DWR included its CalSim modeling that supports DWR's recent draft environmental impact report for the SWP's incidental take permit, discussed in more detail below.

II. Methodology for Impact Analyses Involving Hydrologic Modeling

The methodology DWR used in the "Proposed Project" modeling for DWR's draft EIR on an incidental take permit for SWP operations should be applied in its EIR for the new Delta-conveyance Project. DWR's draft EIR for the proposed SWP incidental take permit relies on, for that draft EIR's "Proposed Project," CalSim modeling that assumes terms for Folsom Reservoir management and lower American River streamflows that our agencies and the Water Forum have developed with the Bureau of Reclamation. Specifically, that DEIR's Appendix H states, at page H-1-2-4, the following about the assumptions used in the CalSim modeling supporting the DEIR:

-	Existing	Proposed Project
American River	-	-
Minimum flow below	American River Flow	American River Flow
Nimbus Dam	Management (2006) as	Management Standard,
	required by NMFS BO	per 2017 Water Forum
	(Jun. 2009) Action II.1	Agreement with a
		planning minimum end of
		September storage target
		of 275 TAF

Table 2-1 m. Regulatory Standards – Sacramento River I	Region	River	Sacramento	dards –	Stan	Regulatory	le 2-1 m.	Tab
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(See also ITP DEIR, Appendix H, pp. H-1-1-7, H-1-1-15 (text under "Lower American Flow Management" headings).)

It appears, however, that this text contains an error because our review of the DEIR's CalSim modeling files found the "Proposed Project" scenario actually uses a Folsom Reservoir planning minimum value of 275,000 acre-feet at the *end of December*, rather than the *end of September*. As many of our agencies commented on the draft ITP EIR, its Appendix H's text should be corrected to show the use of an end of December Folsom Reservoir storage planning minimum. DWR's EIR for the revised Delta-conveyance Project should use the same end of December Folsom Reservoir planning minimum, paired with the American River flow management standard identified in the "Proposed Project" scenario in the draft ITP EIR. We strongly recommend that these elements from the draft ITP EIR's modeling be stated explicitly as part of the project description for DWR's revised Delta-conveyance of preparation.

Also, to accurately reflect Project impacts on the reservoir and the American River, the EIR's hydrologic model assumptions must reflect all potential SWP and CVP operations with a proposed Delta tunnel in place. For example, the "San Luis rule curve" that, in the CalSim model, seeks to reflect SWP/CVP operational discretion in moving water from upstream of the Delta into storage in San Luis Reservoir must be at least as aggressive in the with-Project modeling as in the no-Project modeling. DWR's modeling for the California WaterFix project assumed a *less aggressive* San Luis rule curve *with the project*, which may have skewed the modeling of that project's potential effects on upstream storage in Folsom Reservoir so that the "with project" modeling showed better storage in the reservoir than actually was likely to occur.

Finally, DWR's environmental analysis of the Project must not rely on the assumption that "real-time operations" are capable of clearly avoiding significant impacts to Folsom Reservoir and the lower American River that could occur particularly in dry or critical water years. During the 2012-2016 drought, real experience showed that "real-time operations" could result in impacts on the reservoir and the river's resources because of other SWP/CVP operational priorities.

III. Scope of Impact Analysis

In order to adequately analyze the Project's potentially significant impacts on our agencies' water supplies and the lower American River's steelhead and salmon, the EIR must specifically analyze the Project's impacts on Folsom Reservoir storage and the river's streamflows and water temperatures in back-to-back dry or critical water years. Because the reservoir is relatively small for its watershed, it tends to fill more frequently than other reservoirs, but it also lacks multi-year carryover storage capacity. The extensive technical analyses that our agencies and the Water Forum prepared for the SWRCB's California WaterFix hearing demonstrated that the greatest risk to our water supplies and the river's listed fish would occur in the second year of back-to-back dry or critical years if that project's operations were to result in reservoir releases that were too high in the first year of that cycle.

It is particularly important for the EIR to analyze the Project's effects on Folsom Reservoir and the American River in light of climate change. The NOP identifies that one of the Proposed Project's potential environmental effects would be the following: "Climate Change: increase resiliency to respond to climate change." (See NOP, p. 10.) This potential effect, however, appears to be concerned only with the delivery of water to areas served from the Delta by the SWP and, potentially, the CVP. In considering the potential effects of climate change, the EIR for the Project must consider the effects of climate change on upstream water supplies and environmental conditions like those associated with Folsom Reservoir and the American River as a result of changes in precipitation patterns and the Sierra Nevada's snowpack.

Conclusion

The ARWA are encouraged by DWR's recent attention to measures to protect Folsom Reservoir storage and the lower American River. The ARWA strongly encourage DWR to continue to incorporate these measures in its environmental analysis of the revised Deltaconveyance Project and are available to consult with DWR as it prepared the EIR modeling and analyses. Please do not hesitate to contact any of the following signatories if you have questions.

Very truly yours.

CITY OF FOLSOM

MARCUS YASUTAKE Environmental & Water Resources Director

CITY OF ROSEVILLE

SEAN BIGLEY Assistant Environmental Utilities Director – Water Utility & Government Relations

EL DORADO IRRIGATION DISTRICT

JIM ABERCROMBIE General Manager

WATER AGENCY

ANDREW FECKO

General Manager

SACRAMENTO COUNTY WATER AGENCY

Mulael

MICHAEL L. PETERSON, Director of Department of Water Resources, Acting as Agency Engineer

SACRAMENTO SUBURBAN WATER DISTRICT

DAN YORK General Manager

PLACER COUNTY

DCS710

CITY OF SACRAMENTO DEPARTMENT OF UTILITIES REGIONAL WATER AUTHORITY

MAD O. Benk

BILL BUSATH Director

JAMES PEIFER Executive Director

CARMICHAEL WATER DISTRICT

Unte

Cathy Lee General Manager

SAN JUAN WATER DISTRICT

Paul Helliker

PAUL HELLIKER General Manager

From:	Lindsey Liebig
To:	DWR Delta Conveyance Scoping
Cc:	bruceb@sjfb.org; Amber McDowell; kfoneto@gmail.com
Subject:	Delta Conveyance Scoping - Delta Caucus
Date:	Friday, April 17, 2020 4:35:13 PM
Attachments:	image001.png
	2020 Delta Conveyance Scoping Comment Letter - Delta Caucus.pdf

Please find the attached Delta Conveyance Scoping Comment Letter from the Delta Caucus, which represents the Contra Costa County Farm Bureau, Sacramento County Farm Bureau, San Joaquin County Farm Bureau Federation, Solano County Farm Bureau and Yolo County Farm Bureau.

If you are unable to open the attachment or need this file in a different format, please let me know.

Thank you,

Lindsey

Lindsey Liebig | Executive Director

Sacramento County Farm Bureau 8970 Elk Grove Blvd. Elk Grove, CA 95624 P: (916) 685-6958 | C: (916) 513-1619





April 17, 2020

Delta Conveyance Project Scoping Comments Attn: Renee Rodriguez Department of Water Resources PO Box 942836 Sacramento, CA 94236

Dear Renee Rodriguez,

First, we request that planning for this ill-advised project take a backseat during this COVID-19 crisis. Please extend the deadline for public comment on the Delta Conveyance Project to a later time when the community can connect to discuss and prepare adequately. Broadband communication in the Delta is very limited which has prevented community members to meet and to access information from the state agencies regarding this project. It would be irresponsible for the state to move forward knowing that the affected region cannot participate or even receive updates on the project that will greatly harm them. Our families need to focus on their health and their farming operations.

The Farm Bureau Delta Caucus is composed of the five Delta county Farm Bureaus that are committed to enhancing and protecting agricultural interests within the Delta.

The Delta Conveyance project has many issues that need to be addressed and if mitigation can't be accomplished, or the financial costs are economically irrational compared to the many alternative projects that would actually provide water sustainability along without negatively impacting the Delta, then a No Project option needs to be supported.

We request that the following issues to be addressed in the EIR for the Delta Conveyance project:

• The California Legislature passed the North Delta Agency Act (Cal Statutes 1973 Chapter 283), the South Delta Water Agency Act (Cal Statutes 1973 Chapter 1089), and the Central Delta Water Agency Act (Cal Statutes 1973 Chapter 1133) which created the three Delta Water Agencies as political subdivisions of the State of California. Each Delta Water Agency is charged with negotiating, entering into, administering, and enforcing agreements with the United States and the State of California: 1) To protect the water supply of the lands within the Agency against intrusion of ocean salinity, and 2) To assure the lands within the Agency have a dependable supply of water of suitable quality sufficient to meet present and future needs. The South Delta Water Agency encompasses about 120,000 acres, and the North Delta Water Agency encompasses about 277,000 acres primarily devoted to agriculture. The North Delta Water Agency also has a binding Water Right Settlement Agreement with DWR representing the

State of California in 1981 that establishes year-round protection standards. Unfortunately, the State has failed to comply with the 1981 contract with the North Delta Water Agency on numerous occasions and have not been held accountable. All three agencies have been given protections within California law under the Area of Origin and Delta Protection Act, but the State regularly fails to ensure those protections. All three agencies have submitted numerous comments of concerns and have filed lawsuits against California for actions that have or will cause damage to the water quality and supply that is held in right by Delta land. The state needs to stop wasting money on developing projects that they know will cause harm to water quality and/or supply available to Delta right holders and instead look at the alternative water projects that will not involve the Delta but will provide water sustainability for all of California. We request that the EIR include the alternative projects listed in the second part of our letter.

- Sacramento-San Joaquin Delta Reform Act of 2009. Delta Policy (chapter 2, 85020) outlines the policy for the State of California to achieve the coequal goals for management of the Delta. The state has failed to make progress on most of these policies. These include salinity and water quality issues, lack of investment in flood protection, expansion of statewide water storage, and statewide water conservation and sustainability. The biggest policy failure has been the lack of progress to reduce the reliance on the Delta in meeting California's future water supply needs (85021). DWR has a poor history of building and maintaining their current infrastructure. They have wasted time and money on numerous versions of this project instead of focusing on other economical and sustainable water solutions. We request that the EIR include how this project reduces California's water reliance on the Delta.
- Agricultural damage. Crop damage is a tremendous concern for farmers. Delays on the road with traffic, construction stops, rough unmaintained detour roads or rough construction zone roads, and longer routes will impact the quality of the crops. Too much damage from bruising, extended sunlight on the top layer, and excessive heat buildup will quickly turn high quality produce into worthless culls and a loss financially for the farm and family. Many residents in the Delta depend on the harvest of the Delta crops to support their family. Whether a farm owner or farm laborer, the success of the harvest affects their paychecks. Even the increase of greenhouse gases can impact the quality by ripening some of the fruit faster. The EIR needs to address mitigation for harvest time. Major crops include cherries and wheat in May and June, blueberries in May to July, pears and apples in July and August, alfalfa hay from May to October, wine grapes and corn in September and October, almonds in October and November and much more.
- Delta river pumps. Extensions and/or additional pumps will need to be included in the EIR mitigation along with their greenhouse gas emissions. Identical to the previous versions of this project, the result will be pulling water out of the river at a northern point which will result in the lowering of the river water level. The projected drop in water level was 1-2 feet and with most of the Delta holding riparian rights, issues with the water level below those pump intakes will need to be addressed and mitigated. When a salinity barrier was being proposed for Steamboat Slough and that water would drop 18", the State realized that they couldn't just place a separate temporary pump line over the levee for a few months as they could on other islands since the road was a public road. If that barrier had been put in, they would have had to come in and extend the river side pipe to lower the pump intake. We request that the EIR include the mitigation costs for the pump extensions for all the

Delta water users' thousands of pumps. In addition, the overall river water table will also be lowered and will require more Delta water users to have to pump more. Currently, the river water table on many of the islands is between 3-6 feet which naturally sub irrigates some of the crops. This has allowed the area to have lower greenhouse gas emissions from having less pumps and shorter pumping times. But as the river water table is dropped and out of reach for the crops, Delta farmers will have to start pumping more water out of the river to water their crops, which will cause them to have to use more fuel and increase greenhouse emissions. We request that the EIR include the additional greenhouse gas emissions from additional required pumps and pumping time that will be needed to water crops due to the river water table drop that will result from this project.

- Salinity and Water Quality. Inflows are required to balance the water quality of the Delta. Salinity is a great concern for the Delta agricultural economy that encompasses over 500,000 acres of prime agricultural land. Already, salinity issues have not regularly met compliance by DWR on the 1981 North Delta Water Agency contract. In addition, during years of drought, DWR has violated the salinity standards numerous times and not been held accountable. Salinity in the South Delta regularly has levels that are over the required standards of acceptability, even in normal years. Current operations of the CVP and SWP have been exporting as much as half a million tons of Bay salt per year down to the westside service area, and as much as several hundred thousand tons a year of this non-indigenous salt has drained back into the San Joaquin River system and into the South Delta. Once there, the export operations further exacerbate the salinity in the channels by reducing circulation and creating stagnant zones where salinity levels spike uncontrollably. Over time this has also adversely impacted soil salinity and groundwater quality, damage which is difficult to reverse. A study found that the 1976 economic loss in the South Delta was over \$7 million. The SWRCB later established salinity standards in the South Delta that still did not restore pre-Project levels. Instead of enforcing these standards, the SWRCB has now relaxed the standards, ignoring testimony and a 2016 study by Dr. Leinfelder-Miles of the U.C. Cooperative Extension in order to justify the change. This is a huge loss not just economically for the family and community, but also a loss for the wildlife. The Delta agricultural fields provide invaluable food and habitat resources for many species including waterfowl, coyotes, birds of prey, owls, frogs, insects, rabbits, river otters, and more. We request the EIR to address mitigations for improving the salinity issues throughout all the Delta.
- Tourism. The small service businesses such as restaurants, wineries, farm stands, grocery stores, bait shops, realtors, and art galleries are a crucial component to the economies of each community. Summertime is an important time for all Delta communities with tourism. Many car and bike clubs take drives through various parts of the Delta, bird watchers and sightseers look for quiet out of the way scenic areas, wine enthusiasts and foodies visit the various wineries and fresh produce farms. Families come to experience the cultural aspect of the historic towns, fishermen search for new quiet fishing holes, and boaters enjoy the water recreational activities. The Delta contributes over \$35 billion to the state's economy. Without easy and enjoyable access into and throughout the Delta, people will not visit the Delta. This loss of revenue for our community, especially lasting for over a decade, will kill the Delta towns and generational family farms. We request that the EIR include tourism loss impacts on the local economy.

- Disadvantaged communities. While the State keeps touting about how it is providing resources to protect disadvantaged communities especially with water quality, air quality, and other health aspects, this project will do just the opposite. Many of the residents in the Delta are farm laborers. Most of the children in the schools receive free or reduced cost lunches. The drinking water for these residents will either be cut off or contaminated by this project. In previous proposals, nothing was mentioned about providing clean water for residents whose water wells end up compromised. Basic services including fire, medical, and access to goods will be compromised. These need to be addressed in the EIR and have money available to mitigate those disadvantaged families.
- Loss of irreplaceable farmland. Delta agricultural land is protected in perpetuity by the State for agriculture through The Delta Protection Act of 1992. The Act declared that the Delta is a natural resource of statewide, national, and international significance, containing irreplaceable resources, and that it is the policy of the State to recognize, preserve, and protect those resources of the Delta for the use and enjoyment of current and future generations, in a manner that protects and enhances the unique values of the Delta as an evolving place (PRC sections 29701-2). Specifically, it identifies agricultural lands located within the primary zone should be protected from the intrusion of nonagricultural uses (PRC sections 29703-c). More than 80% of Delta farmland is classified Prime by the USDA, the richest soil in the State. Agriculture was the reason for the Delta's original reclamation and remains the predominant land use in the primary zone. The Delta Protection Commission is tasked to conserve agricultural land and economically sustainable agricultural operations in the Delta through its Land Use and Resource Management Plan. This Delta Conveyance Project will ruin thousands of acres of prime farmland during the construction. These impact areas include the tunnel shafts construction zones, the intermediate forebay, dewatering zones, and temporary roadways. The tunnel shafts would destroy over 2,800 to 3,200 acres alone. Even though the construction will end, the impact from soil compaction, oil and fuel contamination, tunnel muck contamination, temporary paved haul roads, and more will permanently alter and prevent the ability to farm that piece of land forever. In addition, as flows decrease in the Sacramento River, saltwater will quickly creep farther upriver all the way to the City of Sacramento. This increase salinity will contaminant all the Delta's prime farmland and destroy the agricultural production that sustains these Delta communities and California. We request that the EIR include economic impacts from the permanent destruction of several hundred thousand acres of agricultural land in the Delta.
- Tunnel shafts. The project states it will require a series of launch and retrieval shafts with each shaft requiring 400 acres for construction staging and material storage and a permanent footprint of 4 acres that will be 45 feet tall. These shafts would be placed every 4-5 miles along the tunnel route totaling at least 7 shafts for the Central Corridor Site Plan and 9 for the Eastern Corridor Site Plan. This height would put each shaft well above the levee height and in sight for miles around in the Delta. These unsightly pillars will ruin the aesthetic natural beauty of the Delta, hinder the agricultural productivity of those farmers located along the tunnel track during construction, and permanently disable their land to farm after construction. In addition, the project plans to develop and build new "haul roads" for their construction equipment to get to these shafts and between shafts furthering the disruption and damage to agricultural production. The EIR needs to address and mitigate for the financial loss of agricultural production at each of these sites.

- Forebays. The size and location of the Intermediate Forebay is a concern. The 30-foot-high embankments would place this feature well above the levee by potentially 10-20 feet and in sight for miles around the delta. Appurtenant structures and a permanent crane would be an additional 10 feet above the embankments. Again, ruining the natural aesthetic views of the Delta. The placement of this 250-acre intermediate forebay is also concerning. The last proposal had it placed right behind the elementary school in the small town of Courtland. If failure of that forebay should occur, the first to be hit would be the school, wiping out an entire generation for the families in Hood, Courtland, and Walnut Grove. This is poor planning and shows a disregard for this elementary school that over 90% of the students are on free or reduced cost lunch and the surrounding communities that all send their children to this school. The Southern Forebay and new pumping plant would also remove 1,125 acres of prime agricultural land out of production to store prior to connect to the already existing pumping plant and forebay of the State Water Project system.
- Costs associated with construction zones must include road and levee maintenance, greenhouse gas emissions, and increased time and costs to residents. Road and levee impacts of the detour routes and not just of the construction zones must also be mitigated. As construction occurs, traffic will use surrounding roads to avoid the construction zone. Before construction on the project starts, upgrades and additional structural support need to be required on all surrounding roads that may be used as detour by residents. Then as the construction progresses, those roads will need to be maintained regularly and when the project is complete, a final replacement of those roads will need to be completed. Failure to address this critical issue will subject the residents and islands to levee failure and potential flooding.

Consideration must also be given and addressed for residents who will bear huge additional costs in fuel and wear and tear on their vehicles. While a detour route in the city may only add 1-5 minutes around a single block, in the delta with the rivers and a few bridges, detour routes will cause at minimum, 30 additional driving minutes for most residents. This impact will directly affect residents financially with increased fuel consumption, increased mileage and wear on their vehicles.

The project has noted that the number of construction vehicle trips will be potentially 300 per day and have identified that it will create an unacceptable amount of greenhouse gas emissions. We request that the EIR also include calculations and mitigation for all the additional emissions created by residents having to travel around the construction sites on detour routes as well as those directly related to the construction of this project.

- Tunnel Muck. The muck that will be removed during the tunneling needs to be handled like Hazardous Waste Material. It is known that the earthen material deep in the delta contain Valley Fever spores. Also, the liquid muck will not be suitable to just dump on the existing levees as a structural enhancement. This should not be continued to be referred to as 'reusable' until this material is adequately analyzed for additional contaminants. Until it is determined to be free of contaminants, provisions must be made to store the materials or transfer it out of the construction area. All negative impacts related to the storage or transport of the materials must be analyzed and mitigated. The EIR needs to address the costs and processes of removal, disposal, storage, testing and transport of all tunnel muck brought up to the surface.
- Tunnel construction is a specialized job that will require specialized workers. Those workers are not in California, so saying that this project will create jobs for Californians is Delta Caucus & 3290 North Ad Art Road & Stockton, CA 95215

not correct. Already, the state has hired an out-of-state lead engineer to oversee this project. Just like a few years ago when the State spent \$3 million to repaint the 3 bridges along Highway 160, they took low bid which was a company from Washington State who brought down their own workers from Washington. All that money all went back to Washington State's economy, not California's. We request the EIR to assess the reinvestment of CA taxpayer's money to be paid to the potential tunnel construction companies already identified as able to build the tunnel and including the lead engineer. In addition, this project will be digging a tunnel which classifies it as mining and must follow mining regulations. One regulation is that core samples must be taken all along the track of the planned route. To complete this pre-assessment will cost a minimum of \$1 billion. But if an issue comes up halfway way through the sampling, a new route will have to be determined and then new samples taken along the new route, now costing \$1.5 billion, if nothing is identified as an issue on the new track. Considering the number of gas fields located in the Delta, it is unlikely that a simple track will be possible. Several fields have been identified by the state including Hood-Franklin Gas, Snodgrass Slough Gas, Thornton Gas, Thornton W Walnut Grove Gas, River Island Gas, East Island Gas, Rio Vista Gas, McDonald Island Gas, and Roberts Island Gas. Digging a tunnel through this area will be hazardous and has the potential for explosions. This would not be the first explosion with the construction of a water tunnel. The Sylmar explosion in 1971 killed 17 workers. During the construction of the Channel Tunnel between England and France, 10 workers died between 1987-1993. We request that all mining requirements and costs be included in the EIR. We request the EIR address all hazards and impacts associated with the surrounding gas fields.

- Water loss. This project is only one component of an overall system that needs repair. With this project, no new water will be created, only transferred. Once this water is transferred to the aqueduct, a large portion of it will be lost due to the leakage issue of the aqueduct. We request that the EIR include the cost for canal improvement and if not, how the project will mitigate for the waste of water that should have stayed in the Delta ecosystem. In addition, the tunnel is not a securely enclosed tunnel and water leakage is expected. Taking untreated river water and putting it underground near the clean domestic water table will eventually contaminate the underground water basin that most of the Delta residents depend on for their daily domestic water needs including drinking. If this project isn't going to improve the water quality in the Delta, it cannot move forward.
- Earthquake impact. Researchers from the University of California and the Network for Earthquake Engineering have been testing model levees to understand how the unique peat soil of the Delta, as deep as 80 feet, may respond to an earthquake. Of all the levee failures in the past, none have been associated with an earthquake. The research teams have conducted tests on both dry peat soil and saturated peat soil. It showed that the levees held, especially when the testing machine broke instead of the levee while trying to test for higher magnitude earthquakes. The results showed that pore pressure ratios are not large enough to significantly degrade shear strength. There are techniques for quicker repair of levees from breaches. We request the EIR to show the mitigation costs of a levee breach from an earthquake so that we can compare this alternative to the proposed project that part of the rationale for building is to prevent levee failure from an earthquake. The cost and timeframe to fix a levee failure will be quite less than a damaged tunnel from the same earthquake 100-200 feet underground. There are several studies on the impact of earthquakes on tunnels. Locally in California, 2 separate earthquake impacts are documented in "Earthquakes and Seismic Faulting: Effects on Tunnels" by Villi A.

Kontogianni & Stathis C. Stiros. The Wright Railway Tunnel in Santa Cruz was impacted by the 1906 San Francisco earthquake with offset of 1.5m and was closed for over one year due to collapse. We request the EIR to investigate the timeline and costs for mitigating if a mega-earthquake occurs, which will cause damage to the tunnel. We request the EIR to address the following recommended general issues for tunnel design identified in ScienceDirect's "Impact of Seismic Design on Tunnels in Rock" as the author noted often tunnels are unlined and limited in ground support to make the design more efficient in materials and time required to install them. Especially with this project not being placed in ideal solid rock, these factors for the success and longevity of the tunnel are extremely important to get right the first time during the design construction of the tunnel. The EIR needs to address that the project is properly designed and built without shortcuts financially, safety, or of the necessary materials.

We strongly encourage the EIR to support a No Project option for the Delta Conveyance Project. This project does not make any sense economically, environmentally, or for water sustainability. It is state law to reduce reliance on the Delta and reduce transfers out of the Delta. The State needs to uphold that law. There are many other water projects that can create new water resources, better use our current water resources, and create water sustainability in our growing state. The following are alternative projects that we request that the EIR address.

- Dredging rivers. Over time, sedimentation has built up in many of our rivers and sloughs. Some are so full that water can't properly move through the channels. By dredging the rivers and sloughs in the Sacramento and San Joaquin River systems to their original depth, less riverside water pressure will be placed on our levees. This reduction of pressure will extend the longevity of the levees and reduce breaching during flood periods with more channel space to hold and move storm water. Dredging will also provide a rocky bottom surface which is helps protect fish eggs and young fry from predators. Dredging equals more depth and cooler water which results in better water.
- Above Ground Storage. The Sites Reservoir objective is to collect storm water during high water events and store that water until room is available in other water storage facilities or as needed by water users. The water being stored in this facility is only excess water that can't be captured to store and otherwise would have flowed out to the ocean. Sites would cost \$4.4 billion in capital with 500,000 AFY (acre-feet/year) and have a capacity of 1,800,000 AF (acre-feet). The Temperance Flat Reservoir would have a capacity of 1,300,000 AF and provide 183,000 AFY. Temperance Flat would cost \$2.8 billion in capital. The Los Vaqueros Reservoir Expansion would cost \$800 million in capital to increase the 160,000 AF reservoir to 275,000 AF. The San Luis Reservoir Expansion would increase the reservoir by 130,000 AF at a cost of \$360 million in capital.
- Desalination. We need to get the large metropolitan cities along the coast to utilize desalination. Desalination plants are a reliable drought proof water source. The Carlsbad Desalination Plant was constructed within a 3-year timeframe and provides more than 50 million gallons of new fresh water every day to serve 400,000 people in San Diego County. This project covers a smaller footprint, reduces that area's dependence to import water, but is a reliable local water resource to already supply one-third of their county's water needs. The Delta Conveyance Projects will take over a decade to construct, and still not guarantee any water as it doesn't create or store water. It will only transfer water that may be

available, which during drought, could be an empty tunnel that taxpayers will still be paying money for. At least with a desalination plant, when taxpayers are paying for the facility, water will be created. In addition, the Carlsbad Desalination Plant uses energy recovery devices that recycles the pressure from the reverse osmosis process to save an estimated 146 million kilowatt-hours of energy every year and reducing carbon emissions by 42,000 metric tons every year. Desalination is a start in securing California's water sustainability, especially for coastal cities. As more desalination plants become operational, since they are pulling seawater to make fresh water, they can have a small effect on the expected rising sea level with climate change. There are several proposed desalination projects that need to be supported over the Delta Conveyance Project as these projects create new water and at a lower cost. Some of these desalination projects are listed here, but there are also many others being proposed. The East Bay Municipal Utilities District's project for the Bay Area would create 22,000 AFY costing \$168.5 million in capital. The Soquel Creek Water District's project for the Central Coast would create 5,000 AFY for a cost of \$115 million in capital. The DeepWater, LLC's project for the Central Coast would create 28,000 AFY costing \$350 million in capital. The People's Moss Landing Water Desal Project on the Central Coast would create 11,000 AFY for a cost of \$129 million in capital. The California American Water's project on the Central Coast would create 11,000 AFY for a cost between \$320-370 million in capital. The Seawater Desalination Vessel Project on the Central Coast would create 22,000 AFY at a cost of \$185 million in capital. The Municipal Water District of Orange County's project would create 17,000 AFY for a cost of \$175 million in capital. The Poseidon Resources/San Diego County Water Authority's project would create 56,000 AFY costing \$870-970 million in capital.

- Recycled Water. With a little investment at each local area, many areas can make a big impact on water sustainability. The Metropolitan Water District of Southern CA Water Recycling Project will recycle 168,000 AFY with a capital cost of \$1 billion. The Pico Rivera Project in Southern California would recycle 21,000 AFY with \$95 million in capital. Los Angeles County's project would also recycle 171,000 AFY with \$95 million in capital. The East Valley Water District's project in Southern California would recycle 3,000 AFY with \$18 million in capital.
- Recharge. California has a great natural water storage already underground. Over the years the natural recharge has decreased as the State continually tries to direct and funnel water into channels, along with the technological advances in agriculture to reduce water use through micro irrigation. In addition, many areas are also pumping more water out of the basin than it can naturally recharge. There are years and times of the year, when storm water is available to allow to flood over fields and seep slowly into the ground. These opportunities are readily available, low cost, and just need to be supported and promoted. In the long run, this will help our groundwater basins to come into balance, provide the state with a readily available water source during years of drought, lower dependence on surface water diversions, and is ecologically beneficial.
- Support the passage of legislation to allow groundwater storage to be considered a beneficially use. Currently, storing water as groundwater in not considered a beneficial use and with the establishment of SGMA, is contradictory. For SGMA to achieve balance and sustainability, water must be allowed into the groundwater basin. Yet, legislatively, recharging a groundwater basin is limited as it's not deemed a beneficial use. Where

natural flooding events and agricultural flood irrigation practices actually supplied time for water to soak in and recharge the groundwater basin, today's practices of micro irrigation to conserve water and the channeling of natural flood events has all but eliminated the ability for water to seep into the soil and down into the groundwater basin. Our technology, while great for conservation and flood safety, has impaired our groundwater basins and hurt the surrounding natural environment on river flows and drier soil surface from lower groundwater tables.

By supporting a No Project option for the Delta Conveyance Project and to instead find better and more economical alternatives to provide new and sustainable water resources, all four of the project objectives to improve the SWP Delta Conveyance system will be achieved, provide more functionality to support the State's Water Resilience Portfolio, and protect and benefit all Californians properly.

Sincerely,

David Strecker President San Joaquin County Farm Bureau

Martne R_

Joe Martinez President Yolo County Farm Bureau

Sean Favero President Solano County Farm Bureau

Mer Omto

Ken Oneto President Sacramento County Farm Bureau

UR Ve

John Viano President Contra Costa County Farm Bureau

From:	gwen cauthren
To:	DWR Delta Conveyance Scoping
Subject:	Delta Conveyance Scoping
Date:	Tuesday, April 14, 2020 4:34:58 PM

As a resident of Discovery Bay for 37 years, I hereby:

Request for Stay of Public Processes for Delta Conveyance Planning During Novel COVID-19 Pandemic.

It is totally inappropriate to be moving forward on this at such a historical time. People are worried about taking care of there families at this time, and we need everybody's attention on this issue.

Gwen Cauthren

<u>Mike Bassi</u>
DWR Delta Conveyance Scoping
Delta Conveyance Scoping
Thursday, April 16, 2020 1:09:01 PM

Dear Governor Newsome,

I am a member of Restore The Delta and live in the Delta area. I've been able to watch the decimation of the Delta over the last 30 years due to illegal over pumping of water due to lack of oversight of regulations that have been set up to guard and protect Delta water quality and sustainability. I believe in best science and good governance to protect our estuary and it's sustainability Forever. I believed the words you delivered during your election to be transparent, use best science and include all those effected. Please deliver on your promise.

Thank you, Mike Bassi Pinole Ca Sent from my iPhone

From:	sheridan@greenaction.org
To:	DWR Delta Conveyance Scoping
Subject:	Delta Conveyance Project-Scoping Comments-Greenaction for Health and Environmental Justice
Date:	Friday, April 17, 2020 4:35:45 PM
Attachments:	Delta Conveyance Project-GA Scoping Comments.pdf

Please see attached for scoping comments from Greenaction for Health and Environmental Justice related to the Delta Conveyance Project.

Thank you,

Sheridan Noelani Enomoto

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Sheridan Noelani Enomoto, MA
Community Organizer & Policy Advocate
Greenaction for Health & Environmental Justice
315 Sutter Street, 2nd Floor, San Francisco, CA 94108
sheridan@greenaction.org
P: (415) 447-3904
C: (310) 351-6707
www.greenaction.org



April 17, 2020

Delta Conveyance Project Department of Water Resources Att: Renee Rodriguez P.O. Box 942836 Sacramento, CA 94236 Submitted via email to **DeltaConveyanceScoping@water.ca.gov**

RE: Notice of Preparation

Greenaction for Health and Environmental Justice Scoping Comments on the EIR for the Delta Conveyance Project

Greenaction for Health and Environmental Justice submits the following scoping comments for issues that must be addressed in the Notice of Preparation for the Environmental Impact Statement/Report (EIS/EIR) for the proposed Delta Conveyance Project. We submit these comments in support of the Hupa, Yurok, Karuk, Pit River and Winnemem Wintu whose ancestral lands, watersheds and cultural resources will be significantly impacted if the Delta Conveyance Project is currently approved.

Greenaction for Health and Environmental Justice is a multiracial grassroots organization that works with low-income and working class urban, rural and indigenous communities to protect health and promote environmental, social and economic justice.

For the past few years, Greenaction has been working closely with the Winnemem Wintu Tribe to support their efforts for the restoration of California's endangered winterrun Chinook Salmon, the protection of the environment and of Winnemem Wintu sacred and culturally significant sites. DCS714 The following issues and potential impacts must be thoroughly evaluated for this proposed project.

I. The ancestral lands and watersheds of the Hupa, Yurok, Karuk, Pit River and Winnemem Wintu tribes should be added to the proposed project area.

As required by **CEQA AB 52**, the Hupa, Yurok, Karuk, Pit River and Winnemem Wintu must be consulted, as the Delta Tunnel would impact their cultural resources. The Delta Tunnel, if constructed, would pump water from these rivers, the flows of which have already been heavily degraded by reservoirs, diversions and hydroelectric projects.

II. The EIR should analyze impacts to California's salmon people, including salmon dependent Tribes along the length of the affected watersheds, as well as coastal fishing communities.

There should be a thorough analysis of alternatives that would increase Delta outflow and reduce water exports as compared to current conditions in the Delta. The EIR should analyze the impacts to water sources, and their reservoir storage, including the Trinity, Klamath, Sacramento, Feather, Yuba and San Joaquin Rivers and their tributaries. Water quality impacts from any increased diversions should be included in this analysis.

III. The EIR should analyze the cumulative impacts of the Delta tunnel in relation to the new Trump administration Biological Opinions for the Trump Water Plan, the Bureau of Reclamation's plan to raise Shasta Dam, the long term operations of the State Water Project, and the proposed Sites Reservoir.

IV. The EIR should analyze water conservation and efficiency, and in addition, demand reduction measures that would be less environmentally harmful and more economical than the tunnel, which would achieve the same water supply reliability goals and targets.

V. The EIR must analyze the Delta tunnel's consistency with the Delta Reform Act to reduce reliance on the Delta as a water source.

VI. The EIR must adequately analyze the effectiveness of proposed mitigation and conservation measures over the term of the tunnel project, and include mitigation and protection for every impacted watershed.

VII. The EIR should analyze the economic costs and benefits of the single tunnel project, as well as those of a "no tunnel" alternative and investment in water conservation and efficiency improvements to meet water supply needs.

VIII. The Department of Water Resources must investigate serious alternatives, including a no tunnel alternative that could address the main objectives of this project without any additional water diversions. Input from tribes, traditional ecological knowledge, and the recommendations in the Environmental Water Caucus' "A Sustainable Water Plan for California," should be required in developing a no tunnel alternative.

IX. Request for Notification of any and all opportunities for public comment on this proposed project.

Please notify Greenaction for Health and Environmental Justice of any and all opportunities for public comment on this proposed project, including but not limited to when the draft EIR is available for public review.

Notice should be sent via email at greenaction@greenaction.org and by mail to Greenaction for Health and Environmental Justice, 315 Sutter Street, 2nd Floor, San Francisco, CA 94108.

Please acknowledge receipt of these comments.

For health and environmental justice,

Sheridan N. Enomoto

Sheridan Noelani Enomoto Climate and Environmental Justice Community Organizer & Policy Advocate Greenaction for Health and Environmental Justice

> Greenaction for Health and Environmental Justice 315 Sutter Street, 2nd floor San Francisco, CA 94109 Phone: (415) 447-3904 Fax: (415) 447-3905 <u>www.greenaction.org</u>
| From: | Emily Pappalardo | |
|--------------|--|--|
| То: | DWR Delta Conveyance Scoping | |
| Subject: | Delta Conveyance Project Notice of Preparation | |
| Date: | Friday, April 17, 2020 3:19:40 PM | |
| Attachments: | RD 3 Delta Conveyance Project NOP comment letter.pdf | |

Dear Ms. Rodriguez,

Please find comments on the Delta Conveyance Project Notice of Preparation from Reclamation District 3 attached.

Thank you for your consideration.

Emily Pappalardo, P.E. MBK Engineers 455 University Avenue, Suite 100 Sacramento, CA 95825

Office (direct): (916) 437-7552 Fax: (916) 456-0253 Cell: (916) 205-0770

RECLAMATION DISTRICT No. 3 GRAND ISLAND P.O. Box 984 Walnut Grove, California 95690

April 17, 2020

VIA EMAIL (DeltaConveyanceScoping@water.ca.gov)

Ms. Renee Rodriguez Department of Water Resources P.O. Box 942836 Sacramento, CA 94236

Re: COMMENTS ON NOTICE OF PREPARATION OF ENVIRONMENTAL IMPACT REPORT FOR THE DELTA CONVEYANCE PROJECT

Dear Ms. Rodriguez:

Reclamation District No. 3 (RD 3 or the District) appreciates this opportunity to comment on the above-referenced Notice of Preparation of Environmental Impact Report (EIR) for the Delta Conveyance Project in the Sacramento-San Joaquin River Delta (NOP) posted by the Department of Water Resources (DWR) on January 15, 2020.

RD 3 encompasses approximately 17,100 acres within Grand Island. RD 3 was established in 1861 and is responsible for operating Grand Island's reclamation works. These works include levees bordering the Sacramento River (which levees are part of the larger Sacramento River Flood Control Project) and Steamboat Slough, and a network of drainage canals and pumps that remove drainage water from the district and thus keep the water table low enough for productive agriculture. RD 3 raises revenue for these activities by levying an assessment against all specially benefited lands within the district, and currently with supplemental subventions reimbursements from the State for levee maintenance activities.

RD 3 submits the following comments to help ensure that the full range of environmental issues and concerns related to the development of the EIR are identified and adequately studied.

COMMENTS

The Delta Conveyance Project proposes to downsize the past iterations by reducing the number of intakes and underground tunnels to be constructed. However, like the projects before it, the Delta Conveyance Project envisions an expansion of existing State Water Project facilities, significant temporary construction impacts, and permanent water conveyance operations within and around the Delta. According to the NOP project description, the facilities will include the following:

- Two 3,000 cfs intake facilities on the Sacramento River
- Construction footprints of 40-60 acres at each intake location

- Tunnel reaches and tunnel shafts
- Intermediate and Southern Forebays
- Pumping plant
- South Delta Conveyance Facilities

The assumptions used to develop the project objective of protecting against water supply disruptions due to a major earthquake in the Delta seemingly do not consider updated levee data and recent studies that that reflect a lower probability of flooding due to an earthquake event. This objective must be re-evaluated based on the actuarial risk of extensive flooding from a seismic event causing disruptions to water supplies. The proposed project is projected to cost \$12 billion, to meet this and other objectives. This objective could also be met by improvements to the existing levee system for a much lower investment. Investments must be made in the levee system regardless, as explained later.

The NOP project description says initial operating criteria will be formulated during the preparation of the Draft EIR. This is not sufficient to fully evaluate the impacts of the whole project. Modified operations of the existing State Water Project (SWP) is the premise behind the proposed project. While construction impacts of the project will be extensive, impacts from operations will also be extensive. Operational criteria can change as a result of processes outside of CEQA and impacts will change accordingly. If final operations cannot be included within this CEQA process, they must go through a separate CEQA process to assess impacts to agricultural, environmental, and domestic water users within and outside the Delta.

The NOP does not include a specific plan for how the proposed conveyance system will be operated, and so it is impossible to forecast the potential impacts of those operations at this stage. As DWR develops this plan, it must devote careful attention to the existing conditions within the Delta.

The NOP also states that DWR intends to utilize certain information from prior Delta conveyance proposals, including the Bay Delta Conservation Plan (BDCP) and California WaterFix, though the proposed Project will undergo separate analysis under the California Environmental Quality Act (CEQA). Reclamation Districts within the Delta participated extensively in the environmental review process for the BDCP/California Water Fix projects and hereby incorporates by reference its prior comment letters, as well as the comments submitted by the North State Water Alliance, and North Delta Water Agency where applicable. We anticipate that these entities and other Delta stakeholders may submit comments on the NOP and subsequent environmental documents, and all of those comments are likewise incorporated herein by reference.

1. Water Quality

There are areas of known seepage within many Reclamation Districts (refer to DWR Bulletin 125). Salinity intrusion in these seepage areas, as elsewhere, poses a serious risk to water quality, for both residential wells and for existing agricultural operations. Where conveyance pumping operations reverses flow or alter existing flow patterns, existing in-Delta agricultural users may be faced with sudden changes to salinity and crop damages, particularly in these high-seepage

areas. (See, for example, Bulletin 125, page 99, acknowledging that seepage as a result of conveyance "could limit the use of lands to less than their full economic potential."). Any operations plan developed for the Project must identify, avoid, and/or sufficiently mitigate for these impacts.

We further note that many northern Delta Reclamation Districts are within the boundaries of the North Delta Water Agency, and their landowners hold subcontracts under the 1981 North Delta Water Agency Contract with DWR. Those protections include not only water quality protections, but a commitment by the State that it will not convey SWP water in such a way as to cause "a decrease or increase in the natural flow direction, or cause the water surface election in Delta channels to be altered, to the detriment of the Delta channels or water users" within the NDWA area. In the event that "lands, levees, embankments or revetments…experience seepage or erosion damage," the State is responsible for repairing and alleviating that damage. (1981 Contract, para. 6). These legal obligations are an integral part of any future implementation of the Delta Conveyance Project, and any operational plan developed by DWR must account for these legal requirements.

2. Levees

The Delta levees act as a system, if one levee fails the likelihood of failure of adjacent levees is increased due to increased hydraulic conditions and wave fetch. The project will be subject to flooding if improvements in surrounding levees are not made. Upgrades to levees adjacent to project facilities and those required to support construction traffic must be considered. Impacts from years of construction traffic can degrade the existing levees, thus improvements/repairs must be made prior to and after construction of the project.

The Delta Conveyance Project should place a stronger focus on measures to protect and improve Delta levees, including a greater role in flood management planning. The levees help protect the water quality within the Delta, which is of grave concern to aquatic and terrestrial species, local landowners and water exporters alike. Any improved system of through-Delta conveyance will depend on the reliability of local levees. Stockpiling rock at strategic locations throughout the Delta will better enable local maintaining agencies to respond to emergency levee breaks.

3. Transportation

Construction of the Delta Conveyance Project will also have severe transportation impacts upon the general public and landowners. Routes will need to be planned and provided to ensure there is no reduction in vehicle travel times for emergency response vehicles and schools. Traffic impacts to landowners will also be significant, particularly for farms that will be cut in half by intervening water storage and conveyance facilities. The Delta Conveyance Project must propose measures to mitigate for any and all traffic impacts, including building public access bridges and roadways, and paying to maintain them in perpetuity.

4. Farming Operations

Given the size and scope of the proposed Project, there will likely be significant impacts to productive agricultural lands and communities in the Delta. Thus, the Draft EIR must analyze

the economic, social and health impacts of constructing and operating the Delta Conveyance Project facilities within the Delta. These impacts will have a devastating effect upon the local economy and severe long-term impacts upon the community of people who live and work in the district. These effects on the human environment must be mitigated, at a minimum, to the extent required under controlling law.

Farming operations will be severely impacted during harvest due to increased construction traffic. Many bridges in the Delta only support one-way truck traffic, which is currently a cause of traffic conditions in the Delta. Increased trucks due to construction will only exacerbate this issue, severely disrupting agricultural operations and those who commute through and within the Delta. Dewatering for construction and changes to groundwater levels associated with project operations threaten existing spray wells.

It is impossible to foresee the numerous potential impacts that the Delta Conveyance Project may have upon farming within the Delta, particularly before the project-level documents are prepared and released for comment. Nonetheless, the Delta Conveyance Project should as a general matter include a commitment to set up an administrative process for hearing and remedying complaints from landowners whose operations are affected by the eventual construction and implementation of the conveyance facilities. These complaints should be addressed with the goal of remediating every financial and other impact upon all landowners within the district.

5. Groundwater

Dewatering from construction activities will have extensive impacts on immediate and surrounding areas of the intake facilities and tunnel alignment. The Delta islands have a high groundwater table due to their proximity to the river. Dewatering activities can result in land subsidence within Reclamation Districts and surrounding levees. It has been observed that a quick drawdown of water can result in sloughing of the levees and create instability. The cone of depression from dewatering can extend far beyond the project area impacting domestic wells, which is the primary water source for residence within the Delta. The dewatering activities also threaten existing spray wells, which are essential to the continued agricultural operations of many of the Delta's landowners.

All of these impacts stated above will have a devastating socio-economic impact on the Delta and its legacy communities. A proposed 13-year construction window is going to have lasting impacts on the agriculture and tourism industries that are vital to the Delta as place, one of the co-equal goals of the Delta Plan. These industries cannot survive over a decade of reduced income due to the noise and traffic nuisances, among other impacts, that project construction will inflict on the Delta. These will be direct impacts to businesses and residents in the Delta that must be mitigated, at a minimum, to the extent required under controlling law.

6. Alternatives

While DWR intends to draw from information and analyses of the past conveyance projects, it is not appropriate to artificially limit the range of feasible alternatives to those previously studied. The EIR for the Delta Conveyance Project must include a comprehensive discussion of the alternative locations of the water conveyance facilities that will reduce or avoid the substantial impacts expected to occur within the north Delta if the facilities are to be located here. Alternative size and configurations must also be evaluated, and the impacts associated with each option. The current plans call for two intakes of 3,000 cfs each, or a total of 6,000 cfs. The larger the facilities and the more water to be conveyed across the Delta and north Delta Reclamation Districts, the greater the impact and the greater the risks to adjacent landowners and to Delta Reclamation Districts. Due to the extensive impacts described above and the hundreds of unmitigable impacts of the previously proposed, but similar, California Water Fix, below are other feasible alternatives that meet all of the listed objectives and must be included in the Draft EIR:

a. Improve levees to a seismic standard.

As discussed in the project description, any proposed conveyance project will be operated as dual conveyance, utilizing the existing pumps in the South Delta. This will require significant enhancement of the existing levee system to guard against sea level rise and major earthquakes. The levees currently act as the only water conveyance for the SWP and CVP and will continue to do so through Delta Conveyance Project planning and construction which may take 20 years, likely more. The levee system is critical to any path forward. Improvements to a seismic standard must be included in the current project description and as a stand-alone alternative in the Draft EIR.

b. Intakes at Sherman Island.

Due to extensive and unavoidable impacts on private lands within the North Delta, an alternative intake location at publicly-owned Sherman Island must be considered. The proposed project will permanently remove an already limited supply of prime agriculture in the State. The impacts of final operations to the in-Delta water users and environmental needs are also greatly reduced by placing intakes at the western end of the Delta. Based on the objectives, the project operations must meet other existing applicable agreements, namely the North Delta Water Agency contract, existing water rights, and Decision 1641 which requires the salinity gradient, to remain downstream of Sherman Island. Currently it is unknown if the proposed project will uphold these agreements due to the lack of data on final operations. These aforementioned agreements must be upheld and enough outflow must be maintained to beyond Sherman Island to address anticipated sea level rise project or not. An intake in this location will reduce any reverse flows that could occur within the Delta due to pumping from the North or South Delta as Shermanbased intakes are placed at the natural inlet/outlet for aquatic species in the Delta. If flows were diverted when there are sufficient flows, i.e. flood flows, the impacts to aquatic species may be low due to great sweeping velocities past intakes. This intake alternative also allows for improved aquatic conditions in the Delta by allowing substantial freshwater flows to move through the Delta before they are diverted. These improvements in water conditions and freshwater movement within the Delta may ease regulatory constraints in the Delta. As previously discussed this alternative, as with the proposed alternative, relies on the existing levee system to provide full SWP operability and guard against any disruption in water supply due to flooding. Lastly, the tunneling length through the Delta will be reduced, reducing project costs and impacts to the Delta.

c. Congressman Garamendi's "Little Sip/Big Gulp."

This route places intakes at publicly owned land along the Sacramento River at the mouth of the Deep Water Ship Channel (DWSC). It utilizes the DWSC as a conveyance corridor until it terminates at the lower end of Prospect Island. At this point, it could be tunneled to the existing pumps at Tracy. This alternative would meet all of the listed objectives as it would create SWP operational flexibility and have the ability to capture water when flows are sufficient. It would have a much shorter tunneling route and associated tunneling impacts on the Delta than the current proposed solution. This removes the intake locations from the heart of the Delta, private property, and prime farmland, reducing overall project impacts. It also is far enough upstream on the system where there will be no impacts due to sea level rise and levee failures. That said, the existing agreements on water quality and flows in the Delta previously mentioned must continue to be upheld and the levees must still be improved and maintained to facilitate dual conveyance.

We encourage the inclusion of the listed alternatives in the Draft EIR and appreciate the opportunity to comment on the impacts of the proposed Delta Conveyance Project. Thank you for your attention to these comments.

Very truly yours,

Daniel Wilson / President, Board of Trustees

From:	Muriah Grabner
To:	DWR Delta Conveyance Scoping
Subject:	Delta Conveyance Project Scoping Environmental Impact Considerations
Date:	Friday, April 17, 2020 4:59:41 PM

What is the environmental impact from the Delta Conveyance Project As it will support the continued increase of human population in California. This related population growth impacts on the environment of California as in housing, open space, watershed, pollution, etc. How much will growth in population affect the environment?

Northern california is also growing all around this proposed project, the displacement of all these new people?

This has massive effects. Muriah Kendall

From:	Shasta Enviromental Alliance
To:	DWR Delta Conveyance Scoping
Subject:	Delta Conveyance Project Scoping Comments
Date:	Friday, April 17, 2020 1:28:01 PM
Attachments:	SEA DWR DELTA PROJECT SCOPING COMMENTS APRIL 2017 33.pdf

Hello DWR,

Attached are comments of Shasta Environmental Alliance for the proposed Delta Conveyance Project. Please send acknowledgement of receipt if possible. Sincerely,

David Ledger President Shasta Environmental Alliance 530-355-8542

bcc:SEA board members



P.O. Box 993777 • Redding, CA 96099 • ecoshasta.org

April 17, 2020

Department of Water Resources Attn: Renee Rodriguez P.O. Box 942836 Sacramento, CA 94236 DeltaConveyanceScoping@water.ca.gov

Re: Delta Conveyance Project Scoping Comments

Dear Sirs/Madams,

Shasta Environmental Alliance is a California non-profit(501(c)(3) corporation founded in 2017 and has 19 supporting organizations in environmental, conservation and outdoor areas of interest in the greater Shasta County area.

Our concerns about the proposed Delta Conveyance Project is that it will ultimately result in increased water diversions and further degradation of the Sacramento River ecosystem including the Delta area and the San Francisco Bay due to increased water diversions. Other groups have submitted comments related to further environmental degradation of the Delta and the Sacramento River watershed. We would like to add the following concerns that should be addressed in the Environmental Impact Report.

- Because water is scarce in California and the public is subsidizing this project and the connecting reservoirs, the EIR should study the feasibility of increased water rates to water districts and corporations that use California water irrigating high water use crops that are primarily for export and do not benefit the citizens of California or the nation. This would include crops such as almonds and cotton that are high users of water and primarily sold for export. Providing any subsidies to these types of export crops harms the citizens of California and the ecosystem of the Sacramento River watershed for the private gain of corporations and wealthy individuals.
- 2. Included with the above, the EIR should consider whenever possible differing rates for crops that are high users of water compared to the amount of food or other plant product produced. Consideration should be given to requiring water districts to charge for water on this basis.
- 3. All possible uses of executive orders by the President of the United States that would be detrimental to the citizens of California and the environment should be considered in all options proposed for the project especially if the federal government should become a

DCS717

4. The EIR should ensure that future water contracts the DWR makes with various water districts, corporations and other entities should be available to the public with a 90-day public comment period before the contracts are effective. Investigative reporting by the Loa Angeles Times and the documentary "Water and Power: A California Heist" exposed secret contracts the DWR made to the detriment of the citizens of California This public review period would help prevent future abuse of the Project water for private gain.

Sincerely,

al sh

David Ledger, President Shasta Environmental Alliance ecoshasta@gmail.com

 From:
 Amber McDowell

 To:
 DWR Delta Conveyance Scoping

 Subject:
 Delta Conveyance Project Scoping Comments

 Date:
 Friday, April 17, 2020 2:34:26 PM

 Attachments:
 SJFB Delta Conveyance Project Scope Comments 4-17-20 Final.doc

Please include our attached comment letter for the EIR scoping of the Delta Conveyance Project.

Amber McDowell

Program Assistant O(209)931-4931, C(209)470-1212 San Joaquin Farm Bureau Federation 3290 N Ad Art Rd Stockton, CA 95215



MEETING TODAY'S CHALLENGES / PLANNING FOR TOMORROW

April 17, 2020

Delta Conveyance Project Scoping Comments Attn: Renee Rodriguez Department of Water Resources PO Box 942836 Sacramento, CA 94236

Dear Renee Rodriguez,

First, we request that planning for this ill-advised project take a backseat during this COVID-19 crisis. Please extend the deadline for public comment on the Delta Conveyance Project to a later time when the community can connect to discuss and prepare adequately. Broadband communication in the Delta is very limited which has prevented community members to meet and also to get information from the state in regard to this project. It would be irresponsible for the state to move forward knowing that the affected region cannot participate or even receive updates on the project that will greatly harm them. Our families need to focus on their health and their farming operations.

The San Joaquin Farm Bureau Federation is a private, not for profit, volunteer organization and San Joaquin County's oldest agriculture organization, dedicated to the advancement of agriculture for over 100 years. The gross value of agricultural production of the 3,580 farms in San Joaquin County for 2017 was over \$2.5 billion and encompassed over 250 different commodities. We are committed to the protection of the natural resources that our industry depends on, including land and water. San Joaquin County encompasses 35 square miles of waterways including the Mokelumne, Calaveras, Stanislaus, and San Joaquin Rivers which are vital to the 517,918 acres of farmland in our county alone.

The Delta Conveyance project has many issues that need to be addressed and if mitigation can't be accomplished, or the financial costs are economically irrational compared to the many alternative projects that would actually provide water sustainability along without negatively impacting the Delta, then a No Project option needs to be supported. We request that the following issues to be addressed in the EIR for the Delta Conveyance project:

• The California Legislature passed the North Delta Agency Act (Cal Statutes 1973 Chapter 283), the South Delta Water Agency Act (Cal Statutes 1973 Chapter 1089), and the Central Delta Water Agency Act (Cal Statutes 1973 Chapter 1133) which created the three Delta Water Agencies as political subdivisions of the State of California. Each Delta Water Agency is charged with negotiating, entering into, administering, and enforcing

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agreements with the United States and the State of California: 1) To protect the water supply of the lands within the Agency against intrusion of ocean salinity, and 2) To assure the lands within the Agency have a dependable supply of water of suitable quality sufficient to meet present and future needs. The South Delta Water Agency encompasses about 148,000 acres, the Central Delta Water Agency encompasses about 120,000 acres, and the North Delta Water Agency encompasses about 277,000 acres primarily devoted to agriculture. The North Delta Water Agency also has a binding Water Right Settlement Agreement with DWR representing the State of California in 1981 that establishes year-round protection standards. Unfortunately, the State has failed to comply with the 1981 contract with the North Delta Water Agency on numerous occasions and have not been held accountable. All three agencies have been given protections within California law under the Area of Origin and Delta Protection Act, but the State regularly fails to ensure those protections. All three agencies have submitted numerous comments of concerns and have filed lawsuits against California for actions that have or will cause damage to the water quality and supply that is held in right by Delta land. The state needs to stop wasting money on developing projects that they know will cause harm to water quality and/or supply available to Delta right holders and instead look at the alternative water projects that will not involve the Delta but will provide water sustainability for all of California. We request that the EIR include the alternative projects listed in the second part of our letter.

- Sacramento-San Joaquin Delta Reform Act of 2009. Delta Policy (chapter 2, 85020) outlines the policy for the State of California to achieve the coequal goals for management of the Delta. The state has failed to make progress on most of these policies. These include salinity and water quality issues, lack of investment in flood protection, expansion of statewide water storage, and statewide water conservation and sustainability. The biggest policy failure has been the lack of progress to reduce the reliance on the Delta in meeting California's future water supply needs (85021). DWR has a poor history of building and maintaining their current infrastructure. They have wasted time and money on numerous versions of this project instead of focusing on other economical and sustainable water solutions. We request that the EIR include how this project reduces California's water reliance on the Delta.
- Agricultural damage. Crop damage is a huge concern for farmers. Delays on the road with traffic, construction stops, rough unmaintained detour roads or rough construction zone roads, and longer routes will impact the quality of the crops. Too much damage from bruising, extended sunlight on the top layer, and excessive heat buildup will quickly turn high quality produce into worthless culls and a loss financially for the farm and family. Many residents in the Delta depend on the harvest of the Delta crops to support their family. Whether a farm owner or farm laborer, the success of the harvest affects their paychecks. Even the increase of greenhouse gases can impact the quality by ripening some of the fruit faster. The EIR needs to address mitigation for harvest

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time. Major crops include cherries and wheat in May and June, blueberries in May to July, pears in July and August, alfalfa hay from May to October, wine grapes and corn in September and October, almonds in October and November and much more.

- Delta river pumps. Extensions and/or additional pumps will need to be included in the EIR mitigation along with their greenhouse gas emissions. Identical to the previous versions of this project, the end result will be pulling water out of the river at a northern point which will result in the lowering of the river water level. The projected drop in water level was 1-2 feet and with most of the Delta holding riparian rights, issues with the water level below those pump intakes will need to be addressed and mitigated. When a salinity barrier was being proposed for Steamboat Slough and that water would drop 18", the State realized that they couldn't just place a separate temporary pump line over the levee for a few months as they could on other islands since the road was a public road. If that barrier had been put in, they would have had to come in and extend the river side pipe to lower the pump intake. We request that the EIR include the mitigation costs for the pump extensions for all of the Delta water users' thousands of pumps. In addition, the overall river water table will also be lowered and will require more Delta water users to actually have to pump more. Currently, the river water table on many of the islands is between 3-6 feet which naturally sub irrigates some of the crops. This has allowed the area to have lower greenhouse gas emissions from having less pumps and shorter pumping times. But as the river water table is dropped and out of reach for the crops, Delta farmers will have to start pumping more water out of the river to water their crops, which will cause them to have to use more fuel and increase greenhouse emissions. We request that the EIR include the additional greenhouse gas emissions from additional required pumps and pumping time that will be needed to water crops due to the river water table drop that will result from this project.
- Salinity and Water Quality. Inflows are required to balance the water quality of the Delta. Salinity is a great concern for the Delta agricultural economy that encompasses over 500,000 acres of prime agricultural land. Already, salinity issues have not regularly met compliance by DWR on the 1981 North Delta Water Agency contract. In addition, during years of drought, DWR has violated the salinity standards numerous times and not been held accountable. Salinity in the South Delta regularly has levels that are over the required standards of acceptability, even in normal years. Current operations of the CVP and SWP have been exporting as much as half a million tons of Bay salt per year down to the westside service area, and as much as several hundred thousand tons a year of this non-indigenous salt has drained back into the San Joaquin River system and into the South Delta. Once there, the export operations further exacerbate the salinity in the channels by reducing circulation and creating stagnant zones where salinity levels spike uncontrollably. Over time this has also adversely impacted soil salinity and groundwater quality, damage which is difficult to reverse. A study found that the 1976 economic loss in the South Delta was over \$7 million. The SWRCB later established



MEETING TODAY'S CHALLENGES / PLANNING FOR TOMORROW

salinity standards in the South Delta that still did not restore pre-Project levels. Instead of enforcing these standards, the SWRCB has now relaxed the standards, ignoring testimony and a 2016 study by Dr. Leinfelder-Miles of the U.C. Cooperative Extension in order to justify the change. This is a huge loss not just economically for the family and community, but also a loss for the wildlife. The Delta agricultural fields provide invaluable food and habitat resources for many species including waterfowl, coyotes, birds of prey, owls, frogs, insects, rabbits, river otters, and more. We request the EIR to address mitigations for improving the salinity issues throughout all of the Delta.

- Tourism. The small service businesses such as restaurants, wineries, farm stands, grocery stores, bait shops, realtors, and art galleries are a crucial component to the economies of each community. Summertime is an important time for all Delta communities with tourism. Many car and bike clubs take drives through various parts of the Delta, bird watchers and sightseers look for quiet out of the way scenic areas, wine enthusiasts and foodies visit the various wineries and fresh produce farms. Families come to experience the cultural aspect of the historic towns, fishermen search for new quiet fishing holes, and boaters enjoy the water recreational activities. The Delta contributes over \$35 billion to the state's economy. Without easy and enjoyable access into and throughout the Delta, people will not visit the Delta. This loss of revenue for our community, especially lasting for over a decade, will kill the Delta towns and generational family farms. We request that the EIR include tourism loss impacts on the local economy.
- Disadvantaged communities. While the State keeps touting about how it is providing
 resources to protect disadvantaged communities especially with water quality, air
 quality, and other health aspects, this project will do just the opposite. Many of the
 residents in the Delta are farm laborers. Most of the children in the schools receive free
 or reduced cost lunches. The drinking water for these residents will either be cut off or
 contaminated by this project. In previous proposals, nothing was mentioned about
 providing clean water for residents whose water wells end up compromised. Basic
 services including fire, medical, and access to goods will be compromised. These need
 to be addressed in the EIR and have money available to mitigate those disadvantaged
 families.
- Loss of irreplaceable farmland. Delta agricultural land is protected in perpetuity by the State for agriculture through The Delta Protection Act of 1992. The Act declared that the Delta is a natural resource of statewide, national, and international significance, containing irreplaceable resources, and that it is the policy of the State to recognize, preserve, and protect those resources of the Delta for the use and enjoyment of current and future generations, in a manner that protects and enhances the unique values of the Delta as an evolving place (PRC sections 29701-2). Specifically, it identifies agricultural lands located within the primary zone should be protected from the



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intrusion of nonagricultural uses (PRC sections 29703-c). More than 80% of Delta farmland is classified Prime by the USDA, the richest soil in the State. Agriculture was the reason for the Delta's original reclamation, and remains the predominant land use in the primary zone. The Delta Protection Commission is tasked to conserve agricultural land and economically sustainable agricultural operations in the Delta through its Land Use and Resource Management Plan. This Delta Conveyance Project will ruin thousands of acres of prime farmland during the construction. These impact areas include the tunnel shafts construction zones, the intermediate forebay, dewatering zones, and temporary roadways. The tunnel shafts would destroy over 2,800 to 3,200 acres alone. Even though the construction will end, the impact from soil compaction, oil and fuel contamination, tunnel muck contamination, temporary paved haul roads, and more will permanently alter and prevent the ability to farm that piece of land forever. In addition, as flows decrease in the Sacramento River, salt water will quickly creep farther upriver all the way to the City of Sacramento. This increase salinity will contaminant all of the Delta's prime farmland and destroy the agricultural production that sustains these Delta communities and California. We request that the EIR include economic impacts from the permanent destruction of several hundred thousand acres of agricultural land in the Delta.

- Tunnel shafts. The project states it will require a series of launch and retrieval shafts with each shaft requiring 400 acres for construction staging and material storage and a permanent footprint of 4 acres that will be 45 feet tall. These shafts would be placed every 4-5 miles along the tunnel route totaling at least 7 shafts for the Central Corridor Site Plan and 9 for the Eastern Corridor Site Plan. This height would put each shaft well above the levee height and in sight for miles around in the Delta. These unsightly pillars will ruin the aesthetic natural beauty of the Delta, hinder the agricultural productivity of those farmers located along the tunnel track during construction, and permanently disable their land to farm after construction. In addition, the project plans to develop and build new "haul roads" for their construction equipment to get to these shafts and between shafts furthering the disruption and damage to agricultural production. The EIR needs to address and mitigate for the financial loss of agricultural production at each of these sites.
- Forebays. The size and location of the Intermediate Forebay is a concern. The 30 foot high embankments would place this feature well above the levee by potentially 10-20 feet and in sight for miles around the delta. Appurtenant structures and a permanent crane would be an additional 10 feet above the embankments. Again, ruining the natural aesthetic views of the Delta. The placement of this 250 acre intermediate forebay is also concerning. The last proposal had it placed right behind the elementary school in the small town of Courtland. If failure of that forebay should occur, the first to be hit would be the school, wiping out an entire generation for the families in Hood, Courtland, and Walnut Grove. This is poor planning and shows a disregard for this

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elementary school that over 90% of the students are on free or reduced cost lunch and the surrounding communities that all send their children to this school. The Southern Forebay and new pumping plant would also remove 1,125 acres of prime agricultural land out of production to store prior to connect to the already existing pumping plant and forebay of the State Water Project system.

• Costs associated with construction zones must include road and levee maintenance, greenhouse gas emissions, and increased time and costs to local residents. Road and levee impacts of the detour routes and not just of the construction zones must also be mitigated. As construction occurs, traffic will use surrounding roads to avoid the construction zone. Before construction on the project starts, upgrades and additional structural support need to be required on all surrounding roads that may be used as detour by residents. Then as the construction progresses, those roads will need to be maintained regularly and when the project is complete, a final replacement of those roads will need to be completed. Failure to address this critical issue will subject the residents and islands to levee failure and potential flooding.

Consideration must also be given and addressed for residents who will bear huge additional costs in fuel and wear and tear on their vehicles. While a detour route in the city may only add 1-5 minutes around a single block, in the delta with the rivers and a few bridges, detour routes will cause at minimum, 30 additional driving minutes for most residents. This impact will directly affect residents financially with increased fuel consumption, increased mileage and wear on their vehicles.

The project has noted that the number of construction vehicle trips will be potentially 300 per day and have identified that it will create an unacceptable amount of greenhouse gas emissions. We request that the EIR also include calculations and mitigation for all of the additional emissions created by residents having to travel around the construction sites on detour routes as well as those directly related to the construction of this project.

- Tunnel Muck. The muck that will be removed during the tunneling needs to be handled like Hazardous Waste Material. It is known that the earthen material deep in the delta contain Valley Fever spores. Also, the liquidy muck will not be suitable to just dump on the existing levees as a structural enhancement. The EIR needs to address the costs to properly remove and dispose of all tunnel muck brought up to the surface.
- Tunnel construction is a specialized job that will require specialized workers. Those workers are not in California, so saying that this project will create jobs for Californians is not correct. Already, the state has hired an out-of-state lead engineer to oversee this project. Just like a few years ago when the State spent \$3 million to repaint the 3 bridges along Highway 160, they took low bid which was a company from Washington State who brought down their own workers from Washington. All that money all went back to Washington State's economy, not California's. We request the EIR to assess the



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reinvestment of CA tax payer's money to be paid to the potential tunnel construction companies already identified as able to build the tunnel, and including the lead engineer. In addition, this project will be digging a tunnel which classifies it as mining and must follow mining regulations. One regulation is that core samples must be taken all along the track of the planned route. To complete this pre-assessment will cost a minimum of \$1 billion. But if an issue comes up halfway way through the sampling, a new route will have to be determined and then new samples taken along the new route, now costing \$1.5 billion, if nothing is identified as an issue on the new track. Considering the number of gas fields located in the Delta, it is unlikely that a simple track will be possible. Several fields have been identified by the state including Hood-Franklin Gas, Snodgrass Slough Gas, Thornton Gas, Thornton W Walnut Grove Gas, River Island Gas, East Island Gas, Rio Vista Gas, McDonald Island Gas, and Roberts Island Gas. Digging a tunnel through this area will be hazardous and has the potential for explosions. This would not be the first explosion with the construction of a water tunnel. The Sylmar explosion in 1971 killed 17 workers. During the construction of the Channel Tunnel between England and France, 10 workers died between 1987-1993. We request that all mining requirements and costs be included in the EIR. We request the EIR address all hazards and impacts associated with the surrounding gas fields.

- Water loss. This project is really only one component of an overall system that is in great need of repair. With this project, no new water will be created, only transferred. Once this water is transferred to the aqueduct, a large portion of it will be lost due to the leakage issue of the aqueduct. We request that the EIR include the cost for canal improvement and if not, how the project will mitigate for the waste of water that should have stayed in the Delta ecosystem. In addition, the tunnel is not a securely enclosed tunnel and water leakage is expected. Taking untreated river water and putting it underground near the clean domestic water table will eventually contaminate the underground water basin that most of the Delta residents depend on for their daily domestic water needs including drinking. If this project isn't going to improve the water quality in the Delta, it cannot move forward.
- Earthquake impact. Researchers from the University of California and the Network for Earthquake Engineering have been testing model levees to understand how the unique peat soil of the Delta, as deep as 80 feet, may respond to an earthquake. Of all the levee failures in the past, none have been associated with an earthquake. The research teams have conducted tests on both dry peat soil and saturated peat soil. It showed that the levees held, especially when the testing machine broke instead of the levee while trying to test for higher magnitude earthquakes. The results showed that pore pressure ratios are not large enough to significantly degrade shear strength. There are techniques for quicker repair of levees from breaches. We request the EIR to show the mitigation costs of a levee breach from an earthquake so that we can compare this alternative to the proposed project that part of the rationale for building is to prevent

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levee failure from an earthquake. The cost and timeframe to fix a levee failure will be quite less than a damaged tunnel from the same earthquake 100-200 feet underground. There are several studies on the impact of earthquakes on tunnels. Locally in California, 2 separate earthquake impacts are documented in "Earthquakes and Seismic Faulting: Effects on Tunnels" by Villi A. Kontogianni & Stathis C. Stiros. The Wright Railway Tunnel in Santa Cruz was impacted by the 1906 San Francisco earthquake with offset of 1.5m and was closed for over one year due to collapse. We request the EIR to look into the timeline and costs for mitigating if a mega-earthquake occurs, which will cause damage to the tunnel. We request the EIR to address the following recommended general issues for tunnel design identified in ScienceDirect's "Impact of Seismic Design on Tunnels in Rock" as the author noted often tunnels are unlined and limited in ground support to make the design more efficient in materials and time required to install them. Especially with this project not being placed in ideal solid rock, these factors for the success and longevity of the tunnel are extremely important to get right the first time during the design construction of the tunnel. The EIR needs to address that the project is properly designed and built without shortcuts financially, safety, or of the necessary materials.

We strongly encourage the EIR to support a No Project option for the Delta Conveyance Project. This project does not make any sense economically, environmentally, or for water sustainability. It is state law to reduce reliance on the Delta and reduce transfers out of the Delta. The State needs to uphold that law. There are many other water projects that can actually create new water resources, better use our current water resources, and create water sustainability in our growing state. The following are projects that we request that the EIR address.

- Dredging rivers. Over time, sedimentation has built up in many of our rivers and sloughs. Some are so full that water can't properly move through the channels. By dredging the rivers and sloughs in the Sacramento and San Joaquin River systems to their original depth, less riverside water pressure will be placed on our levees. This reduction of pressure will extend the longevity of the levees and reduce breaching during flood periods with more channel space to hold and move storm water. Dredging will also provide a rocky bottom surface which is helps protect fish eggs and young fry from predators. Dredging equals more depth and cooler water which results in better water.
- Above Ground Storage. The Sites Reservoir objective is to collect storm water during high water events and store that water until room is available in other water storage facilities or as needed by water users. The water being stored in this facility is only excess water that can't be captured to store and otherwise would have flowed out to the ocean. Sites would cost \$4.4 billion in capital with 500,000 AFY (acre-feet/year) and have a capacity of 1,800,000 AF (acre-feet). The Temperance Flat Reservoir would have a capacity of 1,300,000 AF and provide 183,000 AFY. Temperance Flat would cost \$2.8



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billion in capital. The Los Vaqueros Reservoir Expansion would cost \$800 million in capital to increase the 160,000 AF reservoir to 275,000 AF. The San Luis Reservoir Expansion would increase the reservoir by 130,000 AF at a cost of \$360 million in capital.

Water Infrastructure Improvements. The Banta-Carbona Irrigation District Lift Canal Replacement Project located downstream of the gauging station at Vernalis on the San Joaquin River would pump and convey 400 cfs capacity, water from the San Joaquin River into the Delta Mendota Canal and California Aqueduct and vice-versus and allow for power generation costing \$100 million. A large project that would actually create new water is the Farmington Dam Repurpose Project that would increase total reservoir capacity from the current 52,000 AF of flood control to 112,000 AF to include 60,000 AF for water supply. This large project would cost \$175 million and 20 years capital with \$2million O&M (annual operation and maintenance) but would have a groundwater offset or recharge of 30,000AFY where the Delta Conveyance Project would provide zero amount to our water sustainability. Another would be the Delta Corridors Plan that would use an alternative Delta configuration to protect Delta fish and improve Delta export water quality. The Delta Corridors Plan would allow water to be conveyed from the Sacramento River to the south Delta export pumps using the existing Delta channel network to improve water quality. The entire San Joaquin River flow would be diverted into the head of Old River and be separated from the export pumping with a "river bridge" over a large box culvert in Victoria Canal to allow the San Joaquin River water to flow down Old River to Franks Tract. Potential benefits of the Delta Corridors Project would include (1) salinity at the exports will be reduced (2) San Joaquin River drainage and wastewater discharges will be separated from drinking water intakes (3) export reductions during the VAMP period would no longer be necessary (4) Sacramento fish would be separated from the water supply corridor (5) Estuarine habitat with river inputs of turbidity and plankton would be re-established (6) Delta smelt spawning in the lower San Joaquin River or along Old River would no longer be subject to adult or juvenile entrainment losses and (7) The risk of water supply interruption from levee failure and island flooding events would be reduced by the separation of the water supply and estuary corridors. The dredging component of this project would cost about \$100 million. The City of Manteca Advanced Metering Infrastructure Project would reduce about 272 AFY of water use through replacing meters and upgrading the Encoder Receiver Transmitters on meters and construct an Advanced Metering Infrastructure network to further increase efficiency to its 20,696 service connections costing \$650,000 and 2 years in capital with \$300,000 O&M. Similarly, the Stockton Advanced Metering Infrastructure Project would reduce 2,000 AFY to its 48,000 water meters costing \$11 million and 3-5 years capital with \$550,000 O&M. If each city implemented this type of infrastructure efficiency and other conservation projects, the reliance on the Delta for water would not be needed and the State would be able to achieve water sustainability faster and at less cost.



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- Desalination. We need to get the large metropolitan cities along the coast to utilize desalination. Desalination plants are a reliable drought proof water source. The Carlsbad Desalination Plant was constructed within a 3 year timeframe and provides more than 50 million gallons of new fresh water everyday to serve 400,000 people in San Diego County. This project covers a smaller footprint, reduces that area's dependence to import water, but yet is a reliable local water resource to already supply one-third of their county's water needs. The Delta Conveyance Projects will take over a decade to construct, and still not guarantee any water as it doesn't create or store water. It will only transfer water that may be available, which during drought, could be an empty tunnel that tax payers will still be paying money for. At least with a desalination plant, when tax payers are paying for the facility, water will be created. In addition, the Carlsbad Desalination Plant uses energy recovery devices that recycles the pressure from the reverse osmosis process to save an estimated 146 million kilowatthours of energy every year and reducing carbon emissions by 42,000 metric tons every year. Desalination is a start in securing California's water sustainability, especially for coastal cities. As more desalination plants become operational, since they are pulling seawater to make fresh water, they can have a small effect on the expected rising sea level with climate change. There are several proposed desalination projects that need to be supported over the Delta Conveyance Project as these projects actually create new water and at a lower cost. Some of these desalination projects are listed here, but there are also many others being proposed. The East Bay Municipal Utilities District's project for the Bay Area would create 22,000 AFY costing \$168.5 million in capital. The Soquel Creek Water District's project for the Central Coast would create 5,000 AFY for a cost of \$115 million in capital. The DeepWater, LLC's project for the Central Coast would create 28,000 AFY costing \$350 million in capital. The People's Moss Landing Water Desal Project on the Central Coast would create 11,000 AFY for a cost of \$129 million in capital. The California American Water's project on the Central Coast would create 11,000 AFY for a cost between \$320-370 million in capital. The Seawater Desalination Vessel Project on the Central Coast would create 22,000 AFY at a cost of \$185 million in capital. The Municipal Water District of Orange County's project would create 17,000 AFY for a cost of \$175 million in capital. The Poseidon Resources/San Diego County Water Authority's project would create 56,000 AFY costing \$870-970 million in capital.
- Recycled Water. With a little investment at each local area, many areas can make a big impact on water sustainability. The Metropolitain Water District of Southern CA Water Recycling Project will recycle 168,000 AFY with a capital cost of \$1 billion. The Pico Rivera Project in Southern California would recycle 21,000 AFY with \$95 million in capital. Los Angeles County's project would also recycle 171,000 AFY with \$95 million in capital. The East Valley Water District's project in Southern California would recycle 7,000 AFY with \$4.5 million in capital. The Paso Robles project would recycle 3,000 AFY with just \$18 million in capital. Just in our San Joaquin County, we have identified the

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following recycled water projects. The White Slough Water Pollution Control Facility Expansion project would provide 388 AF storage of tertiary-treated Title-22 effluent for use as irrigation water on approximately 890 acres of agricultural land surrounding the facility costing \$6 million and 1 year capital with \$4,664 O&M. The City of Manteca Recycled Water Transfer to Agriculture project would provide about 5,190 AFY of tertiary-treated Title-22 effluent water for irrigation to nearby ag water users costing \$37,645,000 capital with \$679,000 O&M. The North San Joaquin Water Control District's Winery Recycled Water Project would blend water with wastewater from wineries for about 750 AFY of irrigation on agricultural land costing \$1.5million over 2 years with \$100,000 O&M.

- Recharge. California has a great natural water storage already underground. Over the years the natural recharge has decreased as the State continually tries to direct and funnel water into channels, along with the technological advances in agriculture to reduce water use through microirrigation. In addition, many areas are also pumping more water out of the basin than it can naturally recharge. There are years and times of the year, when storm water is available to allow to flood over fields and seep slowly into the ground. These opportunities are readily available, low cost, and just need to be supported and promoted. In the long run, this will help our groundwater basins to come into balance, provide the state with a readily available water source during years of drought, lower dependence on surface water diversions, and is ecologically beneficial. The water districts in San Joaquin County have identified the following recharge projects to propose and implement as local efforts to secure water for our county. The Lake Grupe In-Lieu Recharge off the Calaveras River near Bellota, would allow about 4,500 AFY to recharge costing only \$75,000 and one year in capital with \$3,000 O&M. The BNSF Railway Company Intermodal Facility Recharge Pond in central San Joaquin County off New Melones would recharge 1,000 AFY costing \$150,000 and 2 years in capital with \$50,000 O&M. The DREAM groundwater banking project in North San Joaquin County off the Mokelumne River would recharge 3,000-6,000 AFY in dry years and 8,000AFY in wet years costing \$5 million and 5 years capital with \$400,000 O&M. The Manserro Recharge 10 acre Pond Project on the north side of the Mokelumne River would recharge 8,000-10,000 AFY costing \$300,000 and 2 years in capital with \$400,000 O&M. The Lasko Recharge Project along a water district's system pipeline would recharge 2,600 AFY costing \$7 million and 5 years capital with \$150,000 O&M. The Tecklenburg Recharge 10 acre Pond Project on the south side of the Mokelumne River would recharge 8,000-10,000 AFY costing \$1 million and 2 years capital with \$400,000 O&M.
- Support the passage of legislation to allow groundwater storage to be considered a beneficially use. Currently, storing water as groundwater in not considered a beneficial use and with the establishment of SGMA, is contradictory. In order for SGMA to achieve balance and sustainability, water must be allowed into the groundwater basin. Yet,



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legislatively, recharging a groundwater basin is limited as it's not deemed a beneficial use. Where natural flooding events and agricultural flood irrigation practices actually supplied time for water to soak in and recharge the groundwater basin, today's practices of microirrigation to conserve water and the channeling of natural flood events has all but eliminated the ability for water to seep into the soil and down into the groundwater basin. Our technology, while great for conservation and flood safety, has impaired our groundwater basins and hurt the surrounding natural environment on riverflows and drier soil surface from lower groundwater tables.

By supporting a No Project option for the Delta Conveyance Project and instead find better and more economical alternatives to provide new and sustainable water resources, all four of the project objectives to improve the SWP Delta Conveyance system will be achieved, provide more functionality to support the State's Water Resilience Portfolio, and protect and benefit all Californians properly.

Sincerely,

David Strecker President

From:	bdalymsn@citlink.net
To:	Nemeth, Karla@DWR; DWR Delta Conveyance Scoping
Cc:	Ross, Karen@CDFA; Crowfoot, Wade@CNRA; Agency Secretary Blumenfeld; Esquivel, Joaquin@Waterboards; Kathryn Mallon
Subject:	Delta Conveyance Project Scoping Comments - COVID19 Shelter In Place Order - Request for Extension of Public Comments Due Date
Date:	Wednesday, April 15, 2020 2:13:22 PM
Attachments:	North Delta CARES - DWR - DC Scoping Request for Extension.pdf

Dear Ms. Nemeth,

Please find North Delta CARES Action Committee letter attached requesting an extension of Public Comments Due Date for the Delta Conveyance Project Scoping NOP.

Thank you,

Barbara Daly Co-Chair



P.O. Box 223, Clarksburg,CA 95612 Phone: (530) 570-9641

-9641 Email: deltaactioncommittee@gmail.com

April 14, 2020

Ms. Karla Nemeth, Director Department of Water Resources Attn: Renee Rodriguez P.O. Box 942836 Sacramento, CA 95236 Deltaconveyancescoping@water.ca.gov

RE: Delta Conveyance Project Scoping Comments – COVID19 Shelter in Place Order – Request for Extension of Public Comments Due Date

North Delta CARES Action Committee has been actively involved in the BDCP, California WaterFix and single tunnel scoping processes over the past ten+ years. We have had many meetings, made numerous public comments, both verbal and written, at the California State Capitol Committee Hearings, State Water Resources Control Board Hearings, Delta Stewardship Council meetings, Delta Conservancy, and Delta Protection Commission meetings, etc. We also spoke at Santa Clara Water District meetings as well as Delta Conveyance & Construction Authority meetings.

During this unusual time period where we are not allowed by Governor Newsom's mandate to congregate, and due to family and home commitments for North Delta CARES' members, it is not possible for us to continue to work together in "business as usual" ways; and the time period to "shelter in place" continues to be extended. He announced his 6 criteria today as to when to reopen our State to begin normal business. This makes engagement with our communities nearly impossible.

We, therefore, respectfully request that you extend the due date for the Delta Conveyance Scoping Comments to 45 days after the COVID19 pandemic is over.

Thank you for your consideration to support our needs,

Barbara Daly	Anna Swenson
Barbara Daly	Anna Swenson
Co-Chair	Co-Chair

 Cc Karen Ross, Secretary, California Department of Food & Agriculture Wade Crowfoot, Secretary, California Natural Resources Agency Jared Blumenfeld, Secretary, California Environmental Protection Agency
 E. Joaquin Esquivel, Chair, State Water Resources Control Board Kathryn Mallon, Ex. Director, Delta Conveyance Design & Construction Authority

From:	Huitt, Christopher@SLC
To:	DWR Delta Conveyance Scoping; state.clearinghouse@opr.ca.gov
Cc:	<u>Schroeder, Marlene@SLC;</u> <u>Garrett, Jamie@SLC;</u> <u>Calvo, Lucinda@SLC</u>
Subject:	Delta Conveyance Project Notice of Preparation, SCH #2020010227
Date:	Friday, April 17, 2020 11:22:51 AM
Attachments:	image001.png
	image002.png
	image003.png
	image004.png
	2020010227 Delta Conveyance Project NOP.pdf

Good morning,

Please accept this State Lands Commission comment letter for the Delta Conveyance Project, Notice of Preparation (SCH #2020010227). Thank you very much for the opportunity to comment on this important Project.

Best regards,

Chris Huitt

Christopher Huitt, M.S. Senior Environmental Scientist CALIFORNIA STATE LANDS COMMISSION Environmental Planning and Management Division 100 Howe Avenue, Suite 100-South | Sacramento | CA 95825 Phone: 916.574.2080 | Email: christopher.huitt@slc.ca.gov

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Contact Phone: (916) 574-1890

Established in 1938

April 17, 2020

File Ref: SCH # 2020010227

Delta Conveyance Scoping Comments Attn: Renee Rodriquez, Department of Water Resources P.O. Box 942836 Sacramento, CA 94236

VIA ELECTRONIC MAIL ONLY (DeltaConveyanceScoping@water.ca.gov)

Subject: Notice of Preparation (NOP) for a Draft Environmental Impact Report (EIR) for the Delta Conveyance Project, Alameda, Contra Costa, Sacramento, San Joaquin, Solano, and Yolo Counties

Dear Ms. Rodriquez:

The California State Lands Commission (Commission) staff has reviewed the subject NOP for a Draft EIR for the Delta Conveyance Project (Project), which is being prepared by the Department of Water Resources (DWR). DWR is the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). The Commission is a trustee agency for projects that could directly or indirectly affect State sovereign land and their accompanying Public Trust resources or uses. Additionally, since the proposed Project potentially involves work on State sovereign land, the Commission will act as a responsible agency (Cal. Code Regs., tit. 14, § 15386). The proposed Project includes State-owned sovereign lands and a lease from the Commission may be required for the Project (see Commission jurisdiction below).

Commission Jurisdiction and Public Trust Lands

The Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The Commission also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6301, 6306). All tidelands and submerged lands granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the Common Law Public Trust.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its

admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On navigable non-tidal waterways, including lakes and rivers, the State holds fee ownership of the bed of the waterway landward to the ordinary low water mark and a Public Trust easement landward to the ordinary high-water mark, except where the boundary has been fixed by agreement or a court. Such boundaries may not be readily apparent from present day site inspections.

On September 26, 1979, the Commission approved a Memorandum of Understanding (MOU), effective October 19, 1979, between DWR and the Commission providing for the utilization by DWR of State-owned sovereign lands under the jurisdiction of the Commission for the Central Valley Project and the State Water Resources Development System. The MOU was negotiated pursuant to the provisions of Water Code Sections 1130, 11131, and 12931. DWR is required to provide notification of the proposed use of State lands to the Commission. The notification shall include the following: (a) a general plan of the facility to be constructed; (b) if available, specific right of way maps and legal descriptions of State lands DWR proposes to use for the facility; (c) the proposed operational criteria for the project; and (d) the expected duration of the use of the State lands affected by the project. From the information provided to staff, it is not clear whether the 1979 MOU would apply to the Project. If staff determines that the project does not qualify under the 1979 MOU, then a lease from the Commission would be required.

Project Description

DWR proposes to develop new diversion and conveyance facilities in the Delta necessary to restore and protect the reliability of State Water Project (SWP) water deliveries and, potentially, Central Valley Project (CVP) water deliveries south of the Delta, consistent with the State's Water Resilience Portfolio to meet its objectives and needs as follows:

- To address anticipated rising sea levels and other reasonably foreseeable consequences of climate change and extreme weather events.
- To minimize the potential for public health and safety impacts from reduced quantity and quality of SWP water deliveries, and potentially CVP water deliveries, south of the Delta resulting from a major earthquake that causes breaching of Delta levees and the inundation of brackish water into the areas in which the existing SWP and CVP pumping plants operate in the southern Delta.
- To protect the ability of the SWP, and potentially the CVP, to deliver water when hydrologic conditions result in the availability of sufficient amounts, consistent with the requirements of state and federal law, including the California and federal Endangered Species Acts and Delta Reform Act, as well as the terms and conditions of water delivery contracts and other existing applicable agreements.
- To provide operational flexibility to improve aquatic conditions in the Delta and better manage risks of further regulatory constraints on project operations.

The proposed project would construct and operate new conveyance facilities in the Delta that would add to the existing SWP infrastructure. New intake facilities as points of diversion would be located in the north Delta along the Sacramento River between Freeport and the confluence with Sutter Slough. The new conveyance facilities would include a tunnel to convey water from the new intakes to the existing Banks Pumping Plant and potentially the federal Jones Pumping Plant in the south Delta. The new facilities would provide an alternate location for diversion of water from the Delta and would be operated in coordination with the existing south Delta pumping facilities, resulting in a system also known as "dual conveyance" because there would be two complementary methods to divert and convey water. New facilities proposed for the Delta Conveyance Project include, but are not limited to, the following:

- Intake facilities on the Sacramento River
- Tunnel reaches and tunnel shafts
- Forebays
- Pumping plant
- South Delta Conveyance Facilities

The Project Description identifies these five Project aspects that would potentially affect lands under the Commission's jurisdiction and an evaluation for their impacts must be included in the Draft EIR.

Environmental Review

Commission staff requests that DWR consider the following comments when preparing the Draft EIR, to ensure that impacts to Public Trust resources and State sovereign land are adequately analyzed.

General Comments

1. <u>Project Description</u>: A thorough and complete Project Description should be included in the Draft EIR in order to facilitate meaningful environmental review of potential impacts, mitigation measures, and alternatives. The Project Description should be as precise as possible in describing the details of all allowable activities (e.g., types of equipment or methods that may be used, seasonal work windows, locations for material disposal, staging and lay-down areas, as well as timing and length of activities, etc.). In addition, the Draft EIR should include the maximum area of impact, including loss of land and habitat due to flooding and the volume of sediment and vegetation removed or disturbed, inclusive of impacts not previously analyzed.

The Draft EIR should also include figures illustrating the total footprint of the preferred and alternative projects (preferably aerial overlays), so that public agencies and the public can visualize the proposed Project effects on existing land uses. In addition, the Draft EIR should include engineering plans and a detailed written description of activities. Thorough descriptions will facilitate a more robust analysis of the work that may be performed and minimize the potential for subsequent environmental analysis to be required.

Biological Resources

- 2. The Draft EIR should disclose and analyze all potentially significant effects on sensitive species and habitats in and around the Project area, and if appropriate, identify feasible mitigation measures to reduce those impacts. Sensitive species include special-status wildlife, fish, and plants which will be present within the proposed Project footprint. DWR should conduct queries of the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database and U.S. Fish and Wildlife Service's (USFWS) Special Status Species Database to identify any special-status plant or wildlife species that may occur in the Project area. Identification of rare and sensitive plant species should be reviewed with various California Native Plant Society databases and information sources. The Draft EIR should also include a discussion of consultation with CDFW, USFWS, and National Marine Fisheries Service (NMFS) as applicable, including any recommended mitigation measures and potentially required permits identified by these agencies.
- 3. <u>Invasive Species</u>: One of the major stressors in California waterways is introduced species. Therefore, the Draft EIR should consider the Project's potential to encourage the establishment or proliferation of aquatic invasive species (AIS) such as the quagga mussel, or other nonindigenous, invasive species including aquatic and terrestrial plants. For example, construction equipment brought in from long stays at distant projects may transport new species to the Project area via hull biofouling or found in soil transport of work and hauling vehicles. Marine and aquatic organisms attach to and accumulate on the hull and other submerged parts of a vessel. Plant invaders may disperse seeds from one area to another via dried mud/soils attached to vehicles from previous work areas. If the analysis in the Draft EIR finds potentially significant AIS and plant impacts, possible mitigation could include contracting vessels from nearby, or requiring contractors to perform a certain degree of hull and vehicle-cleaning. The CDFW's Invasive Species Program could assist with this analysis as well as with the development of appropriate mitigation (information at https://www.wildlife.ca.gov/Conservation/Invasives).
- 4. <u>Construction Noise</u>: The Draft EIR should also evaluate noise and vibration impacts on wildlife and birds from construction. Mitigation measures could include speciesspecific work windows as defined by CDFW, USFWS, and NMFS. Again, staff recommends early consultation with these agencies to minimize the impacts of the Project on sensitive species.

Climate Change

5. Commission staff recognizes the importance of California's transition from traditional energy generation to renewable energy generation, consistent with the state's bold target of 100 percent "zero-carbon" energy procurement by 2045 (Senate Bill 100, statutes of 2018). Nonetheless, Project construction could potentially result in significant impacts due to greenhouse gases (GHGs) produced during construction. Therefore, DWR should ensure a GHG emissions analysis consistent with the

California Global Warming Solutions Act (Assembly Bill [AB] 32) and required by the State CEQA Guidelines is included in the Draft EIR. This analysis should identify a threshold for significance for GHG emissions, calculate the level of GHGs that will be emitted as a result of construction and ultimate build-out of the Project, determine the significance of the impacts of those emissions, and, if impacts are significant, identify mitigation measures that would reduce them to the extent feasible.

Cultural Resources

6. The Project's NOP indicates that the Project may affect Cultural and Tribal properties within the proposed Project footprint. Commission staff suggest that Tribal outreach be implemented as soon as possible with representatives from Tribal groups identified by the Native American Heritage Commission as having cultural or geographic affiliation in the Project area. Commission staff notes that even if none of the affiliated Tribes has requested notification of CEQA projects, the AB 52 provisions in CEQA require lead agencies to evaluate the potential for the project to impact Tribal cultural resources and avoid such impacts to the extent feasible. Details of Tribal Consultation and outreach, and any mitigation measures agreed to as a result of such Consultation and outreach, should be included in the Draft EIR.

Tribal Cultural Resources

- 7. Tribal Engagement and Consideration of Tribal Cultural Resources. Commission staff recommends that DWR expand the discussion of Tribal engagement and consideration of Tribal cultural resources in order to demonstrate compliance with AB 52 (Gatto; Stats. 2014, ch. 532), which applies to all CEQA projects initiated after July 1, 2015.¹ Commission staff notes that the NOP does not contain sufficient information as to how DWR has complied with AB 52 provisions, which provide procedural and substantive requirements for lead agency consultation with California Native American Tribes, consideration of effects on Tribal cultural resources (as defined in Pub. Resources Code, § 21074), and examples of mitigation measures to avoid or minimize impacts to these resources. Even if no Tribe has submitted a consultation notification request for the Project area covered by the NOP, DWR should:
 - Contact the Native American Heritage Commission to obtain a general list of interested Tribes for the Project area
 - Include the results of this inquiry within the Draft EIR
 - Disclose and analyze potentially significant effects to Tribal cultural resources and avoid impacts when feasible

Since the NOP does not disclose if notification or outreach to interested Tribes has occurred and does not document their response, Commission staff recommends that DWR include this information in the Draft EIR to maintain a clear record of DWR's efforts to comply with AB 52.

¹ Sections 21073, 21074, 21080.3.1, 21080.3.2, 21082.3, 21083.09, 21084.2, and 21084.3 were added to CEQA pursuant to AB 52.

Recreation

8. A thorough impact analysis should be included in the Draft EIR to evaluate impacts to proposed Project footprint during construction. Commission staff encourages a robust analysis of potential impacts to public access sites within the footprint of the proposed Project and any future maintenance requirements with the below surface construction of the conveyance tunnel. The analysis should consider how the public may be affected by the proposed Project relating impacts as a result of impacts to navigation and any mitigation proposing improvements along the impacted reaches within the San Joaquin Delta.

Mitigation and Alternatives

9. <u>Deferred Mitigation</u>: In order to avoid the improper deferral of mitigation, mitigation measures must be specific, feasible, and fully enforceable to minimize significant adverse impacts from a project, and "shall not be deferred until some future time." (State CEQA Guidelines, §15126.4, subd. (a)).

All identified mitigation measures included in the Draft EIR should comply with the State CEQA Guidelines, as noted above.

10. <u>Alternatives</u>: The Draft EIR should evaluate any and all possible alternatives to reduce temporary and permanent impacts as a result of the proposed Project construction. A description of the Preferred Project as well as the environmentally superior alternative should be clearly identified and evaluated with mitigation to reduce significant impacts to the lowest possible level.

Environmental Justice

11. The NOP does not state whether DWR intends to discuss and analyze potential environmental justice related issues, including an assessment of public access and equity implications and who would bear the burdens or benefits from the proposed Project. Commission staff believes the Draft EIR, as an informational public document, is an appropriate vehicle to disclose and discuss how the proposed Project would attain or be consistent with DWR's equity goals and statewide policy direction.

Thank you for the opportunity to comment on the NOP for the Project. As a responsible agency, Commission staff requests that you keep us advised of changes to the Project Description and all other important developments. Please send additional information on the Project to the Commission staff listed below as the Draft EIR is being prepared.

Please refer questions concerning environmental review to Christopher Huitt, Senior Environmental Scientist, at (916) 574-2080 or <u>christopher.huitt@slc.ca.gov</u>. For questions concerning Commission leasing jurisdiction, please contact Marlene Schroeder, Public Land Management Specialist, at (916) 574-2320, or

marlene.schroeder@slc.ca.gov. For questions concerning archaeological or historic resources under the Commission's jurisdiction, please contact Staff Attorney Jamie Garrett, at (916) 574-0398 or jamie.garrett@slc.ca.gov.

Sincerely,

Cur gillin

Eric Gillies, Acting Chief Division of Environmental Planning and Management

cc: Office of Planning and Research

J. Garrett, Commission

C. Huitt, Commission

M. Schroeder, Commission

L. Calvo, Commission

From:McDowell Hunting PreserveTo:DWR Delta Conveyance ScopingSubject:Delta Conveyance Project commentsDate:Friday, April 17, 2020 12:04:23 PMAttachments:Michael McDowell- Delta Conveyance Project Scoping Letter.docx

Attached is my comments.

--Michael McDowell McDowell Hunting Preserve (916) 257-9613 hunting@mcdowellestate.com April 12, 2020

Delta Conveyance Project Scoping Comments Attn: Renee Rodriguez Department of Water Resources PO Box 942836 Sacramento, CA 94236

Dear Renee Rodriguez,

I am a 3rd generation Delta farmer on Grand Island. My family has been here since the 1940s growing pears, alfalfa, corn, wheat, safflower, and raising pheasants. The Delta Conveyance project is the same project with a different name and a few tweaks as the peripheral canal, Delta twin tunnels, and WaterFix. The previous projects failed because this type of project does nothing in providing real water to benefit the state and will completely destroy the Delta. There are numerous alternatives that can provide new water resources, not impact the Delta, and are cost effective that the state continues to overlook. I ask that the state to face the reality that this project is horrible and start looking at all of the local and regional water projects that will make a huge impact in California's water sustainability and security with minor impacts to communities and the environment.

Specific to the Delta Conveyance project, I have several issues that I request to be addressed in the EIR for the Delta Conveyance Project. If mitigations can't be accomplished, or the financial costs are economically irrational compared to the several alternative projects that would actually provide water sustainability along without negatively impacting the Delta, then a No Project option needs to be supported.

 Costs associated with construction zones. These must include road and levee maintenance, greenhouse gas levels, and increase time and costs to residents. Road and levee impacts of the detour routes and not just of the construction zones need to be addressed as well. As construction occurs, traffic will use surrounding roads to avoid the construction zone. Before construction on the project starts, upgrades and additional structural support will be required on all surrounding roads that may be used as detour by residents. Then as the construction progresses, those roads will need to be maintained regularly and when the project is complete, a final replacement of those roads will need to be completed. Failure to address this critical issue will subject the residents and islands to levee failure and potential flooding. We have already seen this type of issue occur with the Cosumnes River/ I-5 interchange impact. Outside commuters are regularly using this and the Hood Franklin exit and traveling through the Delta to bypass downtown Sacramento. The enormous amount of traffic has created a weakening of the South River Road levee north of the Freeport bridge up into West Sacramento. To help prevent worsening of the impact, that road has been closed down during certain periods of time but not repaired. This same issue will occur with this Delta Conveyance Projects but on a much bigger scale affecting numerous islands. In addition, the construction
equipment that will also be traveling our roads will be hauling excessively heavy loads. The Delta roads are not capable to handle the hundreds of daily overload vehicles trips that this project projects. The roads will guickly deteriorate and threaten the stability of the levees that protect the islands from flooding. Consideration must also be given and addressed for residents who will bear huge additional costs in fuel and wear and tear on their vehicles. While a detour route in the city may only add 1-5 minutes around a single block, in the delta with the rivers and a few bridges, detour routes will cause at minimum, 30 additional driving minutes for most residents. For example, a large increase of rerouting will be from Hood residents whose children attend Bates Elementary in Courtland. As construction occurs for the project intake south of Hood, those residents, who usually have an 8 minutes drive over 4.5 miles one way, will be forced to go around via the Freeport bridge to cross the river, come down the other side to the Painterville Bridge and back up to Courtland for a 33 minute drive and 22.5 miles one way. For some of these parents, they make 2 round trips 5 days a week to drop off and pick up their kids from school. This detour will cause Hood residents to have to drive an extra 8.33 hours and 360 miles every week just to take their children to school. This impact will directly affect residents financially with increased fuel consumption, increased mileage and wear on their vehicles.

The project has noted that the number of construction vehicle trips will be potentially 300 per day and have identified that as an issue for greenhouse gas emissions. But I request that the EIR also include calculations and mitigation for all of the additional emissions created by residents having to travel around the construction sites on detour routes.

Noise pollution and vibrations. The amount of noise pollution that will be continually present throughout the entire construction from pile diving will not just be a nuisance, but a health issue for people and a damaging ecological issue. Animals tend to avoid noisy areas and the Delta is a critical wintering ground essential for Sandhill Cranes and a host of other migratory birds. The vibrations from the pile driving will also cause damage to some residents' houses. Many houses are built with plaster walls that will easily crack from the constant bombardment of vibration. This will directly affect property values and the ability to sell. This is not only a detrimental impact for residents who may need or want to sell, but also for mortgage appraisals and collateral value for banking. Many farmers use their property as collateral for their business in-line credit loans since they have to pay for inputs and services at throughout the growing season, but don't receive payment for their crop until after the growing season. I request the EIR analyze the impact of vibrations on centennial homes including multiple story, plaster walls, and those built on sandy soil and what mitigations the project must follow to protect these historic buildings. Our family's Victorian style, multistory home on Grand Island was built in 1876. It has beautifully painted plaster walls that cannot be replaced. There are many others throughout the Delta, some located in the construction zone areas and some nearby. I request the EIR also analyze the distances on the degree of impact due the vibrations.

- Personal and Private Property damages. The Delta is a unique area with the rivers, sloughs, and bridges that will require unique planning and additional resources if this project is to move forward. Currently, from my house on Grand Island, it is a 45 minute drive to the nearest hospital. For emergency service, it takes about 30 minutes for them to get out to us since it has to come from Elk Grove before then heading the 45 minutes to the hospital. Our volunteer firefighter medics sometimes can arrive sooner depending on where they are located at the moment, the distance for them to get to the station and then finally out to us. The same for our property. Our firefighters are volunteers with their own jobs. Delays for them to get to the station and then out to the emergency site will be impacted directly from the construction site and indirectly from concentrated traffic on the surrounding detour routes. When minutes matter, extended time due to construction delays, longer detour routes or limited choices for routes/bridges, can impact the wellbeing of individuals and survival of property. For example, when the ferry services were down to access Ryer Island, these delays on two separate occasions for fire and medic were the result of a total loss of a home from a fire and the death of individual. This issue will be an increased necessity with the increased greenhouse gas emissions, particulate air pollution, potential Valley Fever exposure, increase mental health issues from constant exceedance of noise decibels, water guality issues, and stress due to financial worries. Already, the agricultural industry has had several hard years with crop failures, low commodity prices, and increasing regulatory costs, that mental health had become a great concern and issue. Many farmers have developed depression, attempted suicide, or other health issues due to these stresses. This project will only add to that pressure for our Delta farmers. I request that mitigation of this issue be addressed by establishing in the Delta at two or three Delta fire stations at least 4 full time EMT staff on a rotation schedule and EMT service equipment including ambulance and that all Delta fire stations to be staffed full time with a few firefighters to better respond to emergencies during this decade of construction.
- Agricultural product damage. Crop damage is a huge concern for my family. We grow Bartlett pears on Grand Island and it is our livehood for our multigenerational family. Our harvest is a short 3-4 weeks in July and August. Delays on the road with traffic, construction stops, rough unmaintained detour roads or rough construction zone roads, and longer routes will impact the quality of our pears. Too much damage from bruising, extended sunlight on the top layer, and excessive heat buildup will quickly turn our high quality pears into worthless culls and a loss financially for our farm and family. Many residents in the Delta depend on the harvest of the Delta crops to support their family. Whether a farm owner or farm laborer, the success of the harvest affects their paychecks. Even the increase of greenhouse gases can impact the quality by ripening some of the fruit faster. The EIR needs to address mitigation for harvest time. Major crops include cherries and wheat in May and June, pears in July and August, alfalfa hay from May to October, wine grapes and corn in September and October, and much more. Thousands of agricultural truck trips travel in and out of the Delta

throughout the year transporting the base economy for all of our Delta communities.

- Tourism. The small service businesses such as restaurants, wineries, farm stands, grocery stores, bait shops, realtors, and art galleries are a crucial component to the economies of each community. Summertime is an important time for all Delta communities with tourism. This includes our farm stand on Grand Island where we sell fresh fruit and eggs. This stand helps supplement our family income especially when specific crops have bad years. We are part of the Delta Farm & Winery Trail that helps nearby cities and tourists find our fresh produce and local wine. This organization brings together Delta farms that are open to the public to promote agricultural education, provide healthy and locally grown produce and wine, and to help strengthen our Delta economy. Many car and bike clubs take drives through various parts of the Delta, bird watchers and sightseers look for quiet, out of the way areas, wine enthusiasts and foodies visit the various wineries and fresh produce farms. In addition, families come to experience the cultural aspect of our historic towns, fishermen search for new quiet fishing holes, and boaters enjoy the water recreational activities. The Delta contributes over \$35 billion to the state's economy. Without easy and enjoyable access into and throughout the Delta, people will not visit the Delta. This loss of revenue for our community, especially lasting for over a decade, will kill the Delta towns and our generational family farms, including ours that has been here since the 1940's with the 4th generation now helping on our farm. This project will disrupt and block travel from I-5 and SR-12, which are main gateways for tourists to enter into the Delta to come to our farm. This impact will greatly affect our customer visits at our farm and drastically decrease our business revenue. Just with the ferry services down for Ryer Island most of last year, Snug Harbor reported an approximate loss of \$150,000. I request the EIR include tourism loss impacts on the local economy.
- Delta river pumps. Extensions and/or additional pumps will need to be included in the EIR mitigation along with their greenhouse gas emissions. As similar to the previous versions of this project, the end result will be pulling water out of the river at a northern point which will result in lowering of the river water level. The projected drop in water level was 1-2 feet and with most of the Delta holding riparian rights, issues with the water level below those pump intakes will need to be addressed and mitigated for. When the salinity barrier was being proposed for our Steamboat Slough during the last drought and that water would drop 18", the state realized that they couldn't just place a separate temporary pump line over the levee for a few months as they could on other islands since our road, Grand Island Road, was a public road with numerous vehicles traveling it every day. If that barrier had been put in, they would have had to come in and extend our river side pipe to lower the pump intake so that we could pump to water our pear trees and alfalfa fields. I request that the EIR include the mitigation costs for the pump extensions for all of the Delta water users' thousands of pumps. In addition, the overall river water table will also be lowered and will require more Delta water users to actually have to pump more. Currently, the river water table on our island is about 3 feet which naturally sub irrigates some our crops. This

has allowed the area to have lower greenhouse gas emissions from having less pumps and shorter pumping times. But as the river water table will be dropped and out of reach for these crops, Delta farmers will have to start pumping more water out of the river to water their crops, which will cause them to have to use more fuel and therefore increase greenhouse emissions. I request that the EIR include the additional greenhouse gas emissions from the additional required pumps and pumping time that will be needed to water crops due to the river water table drop that will result from this project.

- Water Quality. Flows are required to balance the water quality of the Delta. Salinity is a great concern for the Delta agricultural economy. The Delta has over 500,000 acres of prime agricultural land. The salinity issues already have not been regularly met compliance by DWR on the 1981 North Delta Water Agency contract. In addition, during years of drought, DWR has violated the salinity standards numerous times and not held accountable. Salinity has crept farther up the Delta and once it contaminates the interior land of the island, that land is no longer productive. This is a huge loss, not just economically for the family farm and community, but also a loss for the wildlife. The Delta agricultural fields provide invaluable food and habitat resources for many species including waterfowl, coyotes, birds of prey, owls, frogs, insects, jackrabbits, river otters, and more. I request the EIR to address mitigations for preventing the inflow of salinity farther into the Delta.
- Habitat disruption. Even small changes of the area for just a year can cause detrimental impacts for the Greater Sandhill Cranes. According to the Conservation Assessment For Greater Sandhill Cranes Wintering On The Cosumnes River Floodplain And Delta Regions Of California Report, "Cranes show a high degree of philopatry to traditional wintering sites, and do not readily shift to new areas." They recommend that construction should only occur outside of the wintering period. They also state, "The San Joaquin-Sacramento Delta is one of the two most important winter use-areas for the Central Valley Population of Greater Sandhill Cranes, for over 61% have been recorded on the Delta. The most important islands and tracts include Staten Island, Brack Tract (including Woodbridge ER), the remaining suitable croplands on Terminous Tract (particularly the north and east portions), Canal Ranch, and the New Hope Tract south of Walnut Grove Road. We consider these areas critical to the conservation of Greater Sandhill Cranes, as they support the most consistently used roosting and feeding sites on the Delta; therefore, they should receive the highest priority in conservation plans." The Delta Conveyance Project proposes to go through many of these areas. I request the EIR address ecological impacts on migratory species, especially the Greater Sandhill Cranes.
- Sacramento-San Joaquin Delta Reform Act of 2009. Delta Policy (chapter 2, 85020) outlines the policy for the State of California to achieve the coequal goals for management of the Delta. The state has failed to make progress on many of these policies. These include the lack of investment in flood protection, expansion of statewide water storage, and statewide water conservation and sustainability, and salinity and water quality issues. The biggest policy failure has been the lack of progress to reduce reliance on the Delta in meeting

California's future water supply needs (85021). DWR has a poor history of building and maintaining their current infrastructure which is why we do not trust the state that this project is going to be any different in actually being effective. They have wasted time and money on numerous versions of this same project instead of focusing on the many economical and sustainable water solutions that are out there and have been suggested as alternatives. I request that the EIR include several of the alternative proposed projects out there that would reduce water reliance on the Delta and assist with CA's need for water sustainability.

- Water loss and contamination. This project is really only one component of an overall system that is in great need of repair. With this project, no new water will be created, only transferred. Once this water is transferred to the aqueduct, a large portion of it will be lost due to the leakage issue of the aqueduct. I request that the EIR include the cost for canal improvement and if not, how the project will mitigation for the waste of water that should have stayed in the natural Delta ecosystem. In addition, the tunnel is not a securely enclosed tunnel and water leakage is expected. Taking untreated river water and putting it underground near the clean domestic water table will eventually contaminate the underground water basin that most of the Delta residents depend on for their daily domestic water needs including drinking. I request mitigation measures to be included in the EIR for providing a permanent source of clean, domestic drinking water to residents in each affected Delta town.
- Tunnel construction is a specialized job that will require specialized workers. Those workers are not in California, so saying that this project will create Californian jobs in not correct. Already, the state has hired an out-of-state lead engineer to oversee this project. Just like when the State a few years ago spent \$3 million to repaint the 3 bridges along Highway 160, they took low bid which was a company from Washington State who brought down their own workers from Washington. All that money all went back to Washington State's economy, not California's. I request that the EIR include an economic analysis of the construction and engineering payroll for this project and which economy those workers' dollars will really go and including the lead engineer's, based on the current companies already identified or hired as the possible construction company and engineering firm to be used.
- Gas Fields. Digging a tunnel through the Delta region will be hazardous and has the potential for explosions. Several gas fields have been identified by the state including Hood-Franklin Gas, Snodgrass Slough Gas, Thornton Gas, Thornton W Walnut Grove Gas, River Island Gas, East Island Gas, Rio Vista Gas, McDonald Island Gas, Roberts Island Gas. Also, peat soil can be dangerous if it catches on fire as it can burn underground for a long time. There will be lots of fuel and oil from the construction equipment and tunneling machine that could be ignited. I request the EIR address all hazards and impacts associated with the surrounding gas fields.
- Earthquake impact. Researchers from University of California and the Network for Earthquake Engineering have been testing model levees to understand how the unique peat soil of the Delta, as deep as 80 feet, may respond to an earthquake. Of all the levee failures in the past, none have been associated with

an earthquake. The research teams conducted tests on both dry peat soil and saturated peat soil. It showed that the levees can hold, especially when the testing machine broke instead of the levee trying to test for higher magnitude earthquakes. The results showed that pore pressure ratios are not large enough to significantly degrade shear strength. There are techniques for quicker repair of levees from breaches. I request the EIR to show the mitigation costs of a levee breach from an earthquake so that we can compare this alternative to the proposed project that part of the rationale for building is to prevent levee failure from an earthquake. I think the cost and timeframe to fix a levee failure will be quite less than a damaged tunnel from the same earthquake 100-200 feet underground. There are several studies on the impact of earthquakes on tunnels. Locally in California, 2 separate earthquake impacts are documented in "Earthquakes and Seismic Faulting: Effects on Tunnels" by Villi A. Kontogianni & Stathis C. Stiros. The Wright Railway Tunnel in Santa Cruz was impacted by the 1906 San Francisco earthquake with offset of 1.5m and was closed for over one year for collapse. I request the EIR to look into the timeline and costs for mitigating if a mega-earthquake occurs which will damage the tunnel. I request the EIR to address the following recommended general issues for tunnel design identified in ScienceDirect's "Impact of Seismic Design on Tunnels in Rock" as the author noted often tunnels are unlined and limited in ground support to make the design more efficient in materials and time required to install them. Especially with this project not being placed in ideal solid rock, these factors for the success and longevity of the tunnel are extremely important to get right the first time during the design construction of the tunnel. The EIR needs to address that the project is properly designed and built without shortcuts financially, safety, or the necessary materials.

- Tunnel Muck. The muck that will be removed during the tunneling needs to be handled like Hazardous Waste Material. It is known that the earthen material deep in the delta contains Valley Fever spores. Also, the liquidly muck will not be suitable to just dump on the existing levees as a structural enhancement. With the Delta having a strong breeze almost daily, all of the muck that is brought up needs to be promptly removed from the Delta region. The EIR needs to address the costs to properly remove and dispose of all tunnel muck brought up to the surface.
- Tunnel shafts. The project states it will require a series of launch and retrieval shafts every 4-5 miles with each shaft requiring 400 acres for construction staging and material storage and a permanent footprint of 4 acres that will be 45 feet tall. This height would put each shaft well above the levee height and in sight for miles around in the Delta. These unsightly pillars will ruin the aesthetic natural beauty of the Delta, hinder the agricultural productivity of those farmers located along the tunnel track, and permanently disable their land to farm after construction. I request that the EIR address and mitigate for the financial loss of agricultural production at each of these sites.
- Intermediate Forebay. The size and location of the Intermediate forebay is a concern. The 30 foot high embankments would place this feature well above the levee by potentially 10-20 feet and in sight for miles around the delta.

Appurtenant structures and a permanent crane would be an additional 10 feet above the embankments. Again, ruining the natural aesthetic views of the Delta. The placement of this 250 acre intermediate forebay is also concerning. The last proposal had it placed right behind the elementary school in the small town of Courtland. If failure of that forebay should occur, the first to be hit would be the school, wiping out an entire generation for families in Hood, Courtland, and Walnut Grove including my kids. This is poor planning and disregard for our kids' elementary school that over 90% of the students are on free or reduced cost lunch.

Disadvantaged communities. While the state keeps touting about how it is providing resources to protect disadvantaged communities especially with water quality, air quality, and other health aspects, this project will do just the opposite. Many of the residents in the Delta are farm laborers. Most of the children in our schools receive free or reduced cost lunches. The state has shown no concern for these disadvantaged communities with this project that they know will harm the residents and the Delta region as a whole. The state is willing to sacrifice these communities and permanently destroy a vital and rare ecosystem to benefit only another region that refuses to find better ways to sustain themselves. This is wrong for the state to partake in, especially when there are many other water projects that don't impact the Delta and will have better results in providing all Californians will the quality water and sustainability it needs. The state's role is to ensure all Californians have rights and protections, not to only those who throw money at it. The state knows this project will increase greenhouse gases and particulate pollution in the Delta. The state knows this project will worsen the salinity issue, contaminate the islands, and kill off the agricultural production. The state knows this project will permanently disrupt the feeding and resting grounds for many migratory species including some that are endangered. The state knows this project will put all of the Delta communities and residents at risk for levee failure and flooding. The state knows this project will devastate the Delta economy and market value. The state knows this project will affect the drinking water for these residents by either being cut off or contaminated. In previous proposals, nothing was mentioned about providing clean water for residents whose water well end up compromised or compensation for any damages that any Delta resident will have to occur. The state cannot ignore the Delta residents and the ecosystem with this project. All of these impacts need to be addressed by the state and have money available to mitigate any impacts from this project to all Delta families.

I strongly encourage the EIR to support a No Project option for the Delta Conveyance Project. This project does not make any sense economically, environmentally, or for water sustainability. It is state law to reduce reliance on the Delta and reduce transfers out of the Delta. The state needs to uphold that law. There are many other water projects that can actually create new water resources, better use our current water resources, and create water sustainability in our growing state. The following are projects that I request that the EIR address.

 Dredging rivers. Over time, sedimentation has built up in many of our rivers and sloughs. Specifically, on Steamboat Slough, mudbars have developed all along the slough. In addition, our irrigation river pump has plugged a few times over the years due to the buildup of siltation and the burying our pump. By dredging the rivers and sloughs in the Sacramento and San Joaquin River systems to their original depth, less riverside water pressure will be placed on our levees. This reduction of pressure will extend the longevity of the levees and reduce breaching during flood periods with more channel space to hold and move storm water. This will help with meeting FEMA standards and qualifying for funding assistance. Dredging will also improve the environmental ecosystem by providing a rocky bottom surface which is help protect fish eggs and young fry from predators.

- Sites Reservoir. The Sites Reservoir objective is to collect storm water during high water events and store that water until room is available in other water storage facilities or needed by water users. The water being stored in this facility is only excess water that can't be captured to store and otherwise would have flowed out to the ocean.
- Desalination. We need to get the large metropolitan cities along the coast to utilize desalination. Desalination plants are a reliable drought proof water source. The Carlsbad Desalination Plant was constructed within a 3 year timeframe and provides more than 50 million gallons of new fresh water everyday to serve 400,000 people in San Diego County. This project covers a smaller footprint of area, reduce that area's dependence to import water, but yet is reliable local water resource to already supply one-third of their county's water needs. The Delta Conveyance Projects will take over a decade to construct, and still not guarantee any water as it doesn't create or store water. It will only transfer water that may be available, which during drought, could be an empty tunnel that tax payers will still be paying money for. At least with a desalination plant, when tax payers are paying for facility, water will be created. In addition, the Carlsbad Desalination Plant uses energy recovery devices that recycles the pressure from the reverse osmosis process to save an estimated 146 million kilowatt-hours of energy every year and reducing carbon emissions by 42,000 metric tons every year. Desalination is a start in securing California's water sustainability, especially for coastal cities. To address environmental concerns of warmer and/or higher salinity return water into the ocean damaging and impacting the continental shelf ecosystem, there is a solution of placing the plant farther out in the ocean to expel the return water out on the edge of the continental shelf or father. In Southern California, many base support structures and transfer pipework to bring the fresh water to the mainland are built. Desalination plants can be built on top of the off-shore oil drilling platforms. In addition, there are more feasible options to mitigate the impacts of a desalination plant on the coastline than compared to this Delta Conveyance Project's mitigation issues if even possible to mitigation. As more desalination plants become operational, since they are pulling seawater to make fresh water, they can have a small effect on the expected rising sea level with climate change.
- Recharge. California has a great natural water storage already underground. Over the years the natural recharge has decreased as the state continually tries to direct and funnel water into channels along with the technological advances in

agriculture to reduce water use through microirrigation. Then many areas are also pumping more water out of the basin than can naturally recharge. There are years and times of the year, when storm water is available to allow to flood over fields and seep slowly into the ground. These opportunities are readily available, low cost, and just need to be supported and promoted. In the long run, this will help our groundwater basins to come into balance, provide the state with a readily available water source during years of drought, and lower dependence on surface water diversions, and is ecologically beneficial.

Support legislation to allow groundwater storage to be considered a beneficially use. Currently, storing water as groundwater in not considered a beneficial use and with the establishment of SGMA is contradictory. In order for SGMA to achieve balance and sustainability, water must be allowed into the groundwater basin. Yet, legislatively, recharging a groundwater basin limited as it's not deemed a beneficial use. Where natural flooding events and agricultural flood irrigation practices actually supplied time for water to soak in and recharge the groundwater basin, today's practices of micro irrigation to conserve using water and the channeling of natural flood events has all be eliminated the ability for water to seep into the soil and down into the groundwater basin. Our technology while great for conservation and flood safety, has impaired our groundwater basins to recharge and have hurt the surrounding natural environment on riverflows and drier soil surface from lower water table.

By supporting a No Project option for the Delta Conveyance Project and instead find better and more economical alternatives to provide new and sustainable water resources, all four of the project objectives to improve the SWP Delta Conveyance system will be achieved, provide more functionality to support the State's Water Resilience Portfolio, and protect and benefit all Californians properly. It is time to stop wasting tax payers' time and money on this type of project that will create no water for the state. It's time to protect this special and unique Delta region that provides so much agriculturally, ecologically, and economically to the entire state of California. The state needs to stop focusing on this one type of project only located in the Delta as its only water solution for California. Stop trying to destroy the Delta. There are so many better providing and economical solutions for water sustainability for the state to look at. Please start looking and supporting those water projects.

Sincerely,

Michael McDowell Double M Farms 13161 Grand Island Rd Walnut Grove, CA 95690 April 14, 2020

To DOP:

Delta communities and region during the pandemic frankly cannot focus on how one of California's largest infrastructure projects will impact their community, water supply, and environment. I ask for a stay of all Delta Conveyance Project public processes until 45 days after the COVID19 pandemic subsides to safe levels.

To say this unfair at a time when so many are struggling is an understatement.

Sincerely - Barbara

Barbara L. Steinberg <u>www.AreYouThatWoman.com</u> P.O. Box 160824 Sacramento, CA 95816 916/335-1522 California Travel Expert <u>California Watchable Wildlife</u>, Outreach Coordinator <u>Outdoor Writers Association of California</u>, Board Member

From:	Charlene Woodcock
То:	DWR Delta Conveyance Scoping
Subject:	Delta Conveyance Project comment
Date:	Friday, April 17, 2020 3:24:57 PM

Dear Ms. Rodriguez,

I write to question the validity of the Delta Conveyance Project aim "to develop new diversion and conveyance facilities... to restore and protect the reliability of State Water Project deliveries." This appears to be reassurance to the large Central Valley industrial agriculture users that SDC intends to return their water deliveries to pre-drought levels, as if we weren't expecting an increase of droughts as a part of climate disruption. This aim disregards the findings of environmental science broadly and the Fourth California Climate Assessment specifically in its assumption that we can expect sufficient water to return to earlier profligate levels of use. This as we see the Sierra snowfall diminish year by year and melt too soon for summer use. It seems also to ignore the 2009 state Legislature's mandate to reduce dependence on the Delta for the state's water needs in the future, as well as seismic and levee stability issues long postponed. It disregards the inevitable salt water intrusion up the Delta and toxic algal blooms in the channels if the fresh water flow through is reduced, especially with anticipated sea level rise. And it fails to take seriously the extreme danger posed by moving and then safely storing many tons of soil poisoned by more than a hundred years of heavy metals settlement. To properly handle these soils is itself a hugely costly and delicate operation.

As a native southern Californian I have long been aware of the importance of water in our state, much of the south being in fact arid desert. For that reason it is disturbing to see water wasted, and it is disturbing to see unsuitable lands turned to agriculture, as is the case with much of the land in the Westlands Water District. The result is that the late-coming industrial growers, who plant profitable export crops like almonds and demand ever more water to irrigate their lands for their personal profit, are taking more than their share of this most essential resource and threatening the future of our great San Joaquin-Sacramento Delta. The Delta needs greater flow-through of fresh river water to maintain its health and the health of our invaluable salmon fishery.

Fortunately, those responsible for planning for water needs in southern California are recognizing the necessity of making their part of the state more independent and thus requiring greater conservation and exploring ways to clean and to reuse water, especially for outdoor use. Thus, rather than planning for ever higher use in the Central Valley and south, state water planning should be based on requiring greater conservation and reuse, and to ensure that the health of the Delta is improved and sustained. That obviously mean running more, not less, water through the Delta.

I strongly oppose raising Shasta Dam. Too much of their land and culture has already been taken from the Winnemum Wintu, and raising the dam will not increase rainfall in this time of climate disruption. But obviously underground water storage is vastly more efficient and less costly than raising dams as well. I think most Californians would agree that we are better served by respecting indigenous lands and culture and protecting our hugely beneficial salmon fishery than providing more water to growers of export crops. During the last drought as I drove south from the Bay Area, I passed through miles of newly-planted almond groves. Such flouting of the water needs of all Californians for the sake of profit for private corporations should not be facilitated by those who work for the taxpayers of California.

We do not want to see the destruction of the Delta and the termination of our salmon fishery. There are many small communities, indigenous lands, rural areas, and small farms, whose products actually provide for the needs of California consumers but who do not have the attention of their elected officials. I strongly urge you to reflect on all our best interests and end this too-large, too-costly project planned before there was sufficient understanding of the consequences of climate disruption. Californians must be educated as to the value of our fresh water and the need to use it with care and respect. We have responded satisfactorily to droughts in the past and can do so again. Investing billions of our tax dollars into a hugely intrusive, destructive project, to ensure a reliable water delivery to a retrograde form of agriculture makes no sense. Instead it's time for big agriculture to participate in addressing climate change by planting cover crops to sequester carbon and shifting to much less water-needy products.

Much the most equitable, cost-effective, and environmentally responsible solution to the need to distribute

California's water fairly to all is a regime of much greater efficiency in its use and its storage, consistent and widespread means of filtering waste water for reuse outdoors, and restrictions against water-needy crops.

The huge magnitude of the tunnel water conveyance plan, its environmental damage, and its cost to taxpayers, is simply not justifiable as a means to address the state's water needs.

Sincerely,

Charlene M. Woodcock 2355 Virginia Street Berkelet CA 94709

From:	Hughey, Jessica
To:	DWR Delta Conveyance Scoping
Cc:	"harveyc@gmail.com"; "sdaggert@riverdeltatax.com"; Smith, Rebecca
Subject:	Delta Conveyance Project - RD 2067 Comments
Date:	Friday, April 17, 2020 1:46:07 PM
Attachments:	image001.png
	<u>cci 000073.pui</u>

Ms. Rodriguez:

See attached comments from Reclamation District 2067. Original will follow by U.S. mail.

Thank you,

Jessica Hughey Legal Secretary to Andrea Clark, Steve Saxton, Clifton McFarland and Austin Cho



Downey Brand LLP 621 Capitol Mall, 18th Floor Sacramento, CA 95814 916.444.1000 Main 916.520.5333 Direct 916.520.5733 Fax jhughey@DowneyBrand.com www.downeybrand.com

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DCS724

RECLAMATION DISTRICT No. 2067 PO Box 338 Walnut Grove, CA 95690 916-776-1945

April 17, 2020

VIA EMAIL (DeltaConveyanceScoping@water.ca.gov)

Ms. Renee Rodriguez Department of Water Resources P.O. Box 942836 Sacramento, CA 94236

Re: COMMENTS ON NOTICE OF PREPARATION OF ENVIRONMENTAL IMPACT REPORT FOR THE DELTA CONVEYANCE PROJECT

Dear Ms. Rodriguez:

Reclamation District No. 2067 (RD 2067 or the District) appreciates this opportunity to comment on the above-referenced Notice of Preparation of Environmental Impact Report (EIR) for the Delta Conveyance Project in the Sacramento-San Joaquin River Delta (NOP) posted by the Department of Water Resources (DWR) on January 15, 2020.

Formed in 1924 under the general reclamation district laws, RD 2067 maintains and operates more than 18 miles of drainage ditches on Brannan Island near Rio Vista, to provide reclamation services for landowners within its boundaries. RD 2067 operates pumping stations in concert with Reclamation District Nos. 317 and 407, and the Brannan-Andrus Levee Maintenance District, for the benefit of Brannan-Andrus Island, encompassing 26.2 miles of levees and 13,000 acres of agricultural land.

RD 2067 submits the following comments to help ensure that the full range of environmental issues and concerns related to the development of the EIR are identified and adequately studied.

COMMENTS

The Delta Conveyance Project proposes to downsize the past iterations by reducing the number of intakes and underground tunnels to be constructed. However, like the projects before it, the Delta Conveyance Project envisions an expansion of existing State Water Project (SWP) facilities, significant temporary construction impacts, and permanent water conveyance operations within and around RD 2067. According to the NOP project description, the facilities will include the following:

- Two 3,000 cfs intake facilities on the Sacramento River
- Construction footprints of 40-60 acres at each intake location
- Tunnel reaches and tunnel shafts

- Intermediate and Southern Forebays
- Pumping plant
- South Delta Conveyance Facilities

The assumptions used to develop the project objective of protecting against water supply disruptions due to a major earthquake in the Delta seemingly do not consider updated levee data and recent studies that that reflect a lower probability of flooding due to an earthquake event. This objective must be re-evaluated based on the actuarial risk of extensive flooding from a seismic event causing disruptions to water supplies. The proposed project is expected to cost \$12 billion to meet this and other objectives. This objective could also be met by improvements to the existing levee system for a much lower investment. Investments must be made in the levee system regardless, as explained later.

The NOP project description says initial operating criteria will be formulated during the preparation of the Draft EIR. This is not sufficient to fully evaluate the impacts of the whole project. Modified operations of the existing SWP is the premise behind the proposed project. While construction impacts of the project will be extensive, impacts from operations will also be extensive. Operational criteria can change as a result of processes outside of CEQA and impacts will change accordingly. If final operations cannot be included within this CEQA process, they must go through a separate CEQA process to assess impacts to agricultural, environmental, and domestic water users within and outside the Delta.

The NOP also states that DWR intends to utilize certain information from prior Delta conveyance proposals, including the Bay Delta Conservation Plan (BDCP) and California WaterFix, though the proposed project will undergo separate analysis under the California Environmental Quality Act (CEQA). RD 2067 participated in the environmental review process for the BDCP/California WaterFix projects and hereby incorporates by reference its prior comment letters, as well as the comments submitted by the North State Water Alliance, and North Delta Water Agency (whose area includes RD 2067), where applicable. RD 2067 anticipates that these entities and other Delta stakeholders may submit comments on the NOP and subsequent environmental documents, and all of those comments are likewise incorporated herein by reference.

1. Delta Conveyance Operational Parameters.

The NOP does not include a specific plan for how the proposed conveyance system will be operated, and so it is impossible to forecast the potential impacts of those operations at this stage. As DWR develops this plan, it must devote careful attention to the existing conditions within the Delta, particularly RD 2067.

We further note that the District is within the boundaries of the North Delta Water Agency (NDWA), and its landowners hold subcontracts under the 1981 NDWA Contract with DWR. Those protections include not only water quality protections, but a commitment by the State that it will not convey SWP water in such a way as to cause "a decrease or increase in the natural flow direction, or cause the water surface election in Delta channels to be altered, to the detriment of the Delta channels or water users" within the NDWA area. In the event that "lands, levees, embankments or reventments...experience seepage or erosion damage," the State is

responsible for repairing and alleviating that damage. (1981 Contract, para. 6). As recently as 2015, DWR failed to meet water quality requirements of the 1981 Contract and agricultural operations in RD 2067 were significantly affected by the resulting salinity intrusions. RD 2067 has grave concerns that the frequency of such events will increase under the proposed project. The legal obligations of the 1981 Contract are integral to any future implementation of the Delta Conveyance Project, and any operational plan developed by DWR must account for them.

2. Alternatives

While DWR intends to draw from information and analyses of the past conveyance projects, it is not appropriate to artificially limit the range of feasible alternatives to those previously studied. The EIR for the Delta Conveyance Project must include a comprehensive discussion of the alternative locations of the water conveyance facilities that will reduce or avoid the substantial impacts expected to occur in the Pearson District if the facilities are to be located here. Alternative size and configurations must also be evaluated, and the impacts associated with each option. The current plans call for two intakes of 3,000 cfs each, or a total of 6,000 cfs. The larger the facilities and the more water to be conveyed across the District, the greater the impact and the greater the risks to adjacent landowners and to RD 2067. The size of the forebay should also be seriously reconsidered, as should the need for a forebay at all, particularly in light of the local impacts of such a massive water regulating facility upon the District. Due to the extensive impacts described above and the hundreds of unmitigable impacts of the previously proposed, but similar, California WaterFix, below are other feasible alternatives that meet all of the listed objectives and must be included in the Draft EIR:

a. Improve levees to a seismic standard.

As discussed in the project description, any proposed conveyance project will be operated as dual conveyance, utilizing the existing pumps in the South Delta. This will require significant enhancement of the existing levee system to guard against sea level rise and major earthquakes. The levees currently act as the only water conveyance for the SWP and the federal Central Valley Project, and will continue to do so through Delta Conveyance Project planning and construction which may take upwards of 20 years or more. The levee system is critical to any path forward. Improvements to a seismic standard must be included in the current project description and as a stand-alone alternative in the Draft EIR.

b. Intakes at Sherman Island.

Due to extensive and unavoidable impacts on private lands within the North Delta, an alternative intake location at publicly-owned Sherman Island must be considered. The proposed project will permanently remove an already limited supply of prime agriculture in the State. The impacts of final operations to the in-Delta water users and environmental needs are also greatly reduced by placing intakes at the western end of the Delta. Based on the objectives, the project operations must meet other existing applicable agreements, namely the NDWA 1981 Contract, existing water rights, and State Water Resources Control Board Decision 1641, which requires the salinity gradient, to remain downstream of Sherman Island. Currently it is unknown if the proposed project will uphold these agreements due to the lack of data on final operations. These aforementioned agreements must be upheld and enough outflow must be maintained to beyond

Sherman Island to address anticipated sea level rise, project or not. An intake in this location will reduce any reverse flows that could occur within the Delta due to pumping from the North or South Delta as these intake locations are placed at the natural inlet/outlet for aquatic species in the Delta. If flows were diverted when there are sufficient flows, i.e. flood flows, the impacts to aquatic species may be low due to great sweeping velocities past intakes. This intake alternative also allows for improved aquatic conditions in the Delta by allowing substantial fresh water flows to move through the Delta before they are diverted. These improvements in water conditions and movement within the Delta may ease regulatory constraints in the Delta. As previously discussed this alternative, as with the proposed alternative, relies on the existing levee system to provide full SWP operability and guard against any disruption in water supply due to flooding. Lastly, the tunneling length through the Delta will be reduced, reducing project costs and impacts to the Delta.

c. Congressman Garamendi's "Little Sip/Big Gulp."

This route places intakes at publicly owned land along the Sacramento River at the mouth of the Deep Water Ship Channel (DWSC). It utilizes the DWSC as a conveyance corridor until it terminates at the lower end of Prospect Island. At this point, it could be tunneled to the existing pumps at Tracy. This alternative would meet all of the listed objectives as it would create SWP operational flexibility and have the ability to capture water when flows are sufficient. It would have a much shorter tunneling route and associated tunneling impacts on the Delta that the current proposed solution. This removes the intake locations from the heart of the Delta, private property and prime farmland reducing overall project impacts. It also is far enough upstream on the system where there will be no impacts due to sea level rise and levee failures. That said, the existing agreements previously mentioned must continue to be upheld and the levees must still be improved and maintained to facilitate dual conveyance.

We encourage the inclusion of the listed alternatives in the Draft EIR and appreciate the opportunity to comment on the impacts of the proposed Delta Conveyance Project. Thank you for your attention to these comments.

Very truly yours,

Reclamation District No. 2067

Haven J. Correis

Harvey J. Correia, President

From:	<u>Sue Wilson</u>
То:	DWR Delta Conveyance Scoping
Subject:	Delta Conveyance Project
Date:	Tuesday, April 14, 2020 12:57:02 PM

I am writing to express my vehement opposition to the Delta Conveyance Project aka Delta Tunnel Project.

There has been no updated Environmental Impact Report. The project is moving forward based on data that is at least 20 years old. The Delta's environment is profoundly different than it was 20 years ago as the state has experienced numerous drought conditions in that time, especially recently.

The levee roads are narrow and fragile and cannot handle steady traffic of large trucks and heavy machinery that would be required on a daily basis for many years to complete the proposed project. During recent years there have been several breaks of smaller levees, causing severe flood damage to residents and farm land. Failure of a levee on the Sacramento River would be devastating to communities in the Delta, as well as to the many farms in the area.

Many of the small towns in the Delta have very old buildings, particularly in places such as the town of Locke, which is on the National Registry of Historic Places. The constant vibration of truck traffic, drilling, and other construction activity could collapse these already-fragile, historic structures.

The Delta is in the Pacific Flyway and, as such, is a refuge for migrating birds. The disruption caused by the construction, which will extend for many years, will disrupt the critical habitat for these birds. If the project were completed, it would also reduce the amount of wetlands available for these birds in the future – IF they would ever return to the area.

Water flows in the Delta are erratic and would not at all guarantee the touted water deliveries to the Central Valley and Southern California. This project is already anticipated to cost billions of dollars, but with no guaranteed benefit. This is a flagrant waste of taxpayer money for little to no benefit, and certainly not to the benefit of Delta residents or those who enjoy fishing, water sports, and wildlife viewing. And, as with every other project the State embarks upon, the estimated cost will balloon FAR in excess of the initial estimated cost. This would impose an enormous fiscal burden to state residents far into the future. One only has to look at the recent debacle of the High-Speed Rail project, its astonishing out-of-control costs, and the State Auditor's report about the outrageous lack of proper planning, and complete lack of controls for budget and administration. A perfect example that this proposed project is already off the rails is that there is no viable funding plan for it!

The Delta is already at risk of destruction from drought conditions, and siphoning water from the river would ensure its total destruction. The many towns in the area would die out, and the many farms and vineyards would be destroyed. In addition to the ruination of residents and agriculture, this project would devastate fish and wildlife in the Delta, which are already at high risk of extinction.

In order for the State of California to properly manage its water, we need to focus our efforts and money on sufficient water storage. Only if we build dams to accumulate water in good years can we ever expect to consistently deliver water to farms and cities. Money thrown at a hideously expensive and destructive tunnel, providing no consistency in water delivery, is criminally wasteful and not at all in the best interest of the people of this state. I urge you to scrap this short-sighted and irresponsible project and focus your efforts on projects that will truly be of benefit.

Susan C. Wílson Sacramento, Calífornía

From:	Hughey, Jessica
To:	DWR Delta Conveyance Scoping
Cc:	"rcornwell@rivergardenfarms.com"; Nikkel, Meredith
Subject:	Delta Conveyance Project - SRS Comments
Date:	Friday, April 17, 2020 11:13:34 AM
Attachments:	image001.png
	WEST-#1615462-v1-Delta Conveyance Scoping Comments.pdf

Ms. Rodriguez:

See attached letter from Mr. Cornwell. Original will follow by U.S. mail.

Thank you,

Jessica Hughey Legal Secretary to Andrea Clark, Steve Saxton, Clifton McFarland and Austin Cho



Downey Brand LLP 621 Capitol Mall, 18th Floor Sacramento, CA 95814 916.444.1000 Main 916.520.5333 Direct 916.520.5733 Fax jhughey@DowneyBrand.com www.downeybrand.com

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Board of DidCS726 Roger Cornwell, Chairman Sean Doherty, Vice-Chairman Logan Dennis, Secretary-Treasurer Steve Butler Brett Scheidel Ed Hulbert Scott Tucker

April 17, 2020

Via First-Class Mail and Email (DeltaConveyanceScoping@water.ca.gov)

Delta Conveyance Scoping Comments Attn: Renee Rodriguez Department of Water Resources P.O. Box 942836 Sacramento, CA 94236

Re: Notice of Preparation of Environmental Impact Report for the Delta Conveyance Project

Dear Ms. Rodriguez:

The Sacramento River Settlement Contractors (SRS Contractors) appreciate this opportunity to comment on the Notice of Preparation of Environmental Impact Report for the Delta Conveyance Project issued by the Department of Water Resources (DWR). The SRS Contractors are agricultural and municipal entities situated in the Sacramento Valley who hold senior water rights to divert water from the Sacramento River. Upon construction of the Central Valley Project's Shasta Dam, these senior water-right holders settled water right disputes with the United States Bureau of Reclamation by entering into the SRS Contracts to divert water from the Sacramento River.

The SRS Contractors recognize the importance to California's future of a healthy Bay-Delta and providing high quality and reliable water supplies for all beneficial uses. Through the Northern California Water Association and the North State Water Alliance, the SRS Contractors have been active participants in previous planning and projects regarding conveyance in the Bay-Delta and we look forward to continuing a productive dialogue on DWR's proposal for a new Delta Conveyance Project. The SRS Contractors encourage the Administration and project proponents to collaborate with them on a solution for modern Delta conveyance that does not redirect impacts (water supply, environmental and financial) to the Sacramento River Basin, thus avoiding impacts to the region's special mosaic of farms, cities and rural communities, fish, birds, and recreation. To achieve these objectives, it will be essential to demonstrate how the Central Valley Project and State Water Project can be operated to support modern Delta conveyance, the co-equal goals, and protecting the Delta as a place--while continuing to serve



Board of DidCS726 Roger Cornwell, Chairman Sean Doherty, Vice-Chairman Logan Dennis, Secretary-Treasurer Steve Butler Brett Scheidel Ed Hulbert Scott Tucker

multiple beneficial uses in the Sacramento River Basin and promote regional water sustainability for all of these beneficial purposes.

As DWR embarks on its environmental review and planning for the Delta Conveyance Project, it must carefully develop criteria for operation of the proposed diversion facility that fully protects the SRS Contractors' senior water rights, SRS Contracts with Reclamation, and area of origin protections firmly founded in California law. In addition, the Delta Reform Act of 2009 states that water rights shall not be impaired or diminished as a result of its provisions, including projects such as the Delta Conveyance Project. In order to adequately inform the public and decision-makers about the environmental impacts of the proposed project, the draft EIR must provide sufficient information about operations to demonstrate that the proposed project will not impact said senior water rights or contract rights, and will not reduce available water supplies, both surface and groundwater, for the economy and environment in the Sacramento River Basin. In addition, the draft EIR must demonstrate that the Delta Conveyance Project can avoid significant impacts to salmonid and pelagic fish species in a manner that avoids re-directed impacts to water supplies in the Sacramento Valley.

The SRS Contractors are prepared to fully engage with DWR and proponents of the Delta Conveyance Project as they develop operational criteria to ensure that operation of the proposed Delta Conveyance Project does not re-direct impacts to the Sacramento Valley. The SRS Contractors look forward to the opportunity to review the draft EIR and its proposed operations criteria.

The SRS Contractors appreciate your attention to these comments as DWR prepares the draft EIR for the proposed project.

Sincerely,

-Connell

Roger Cornwell

To Whom It May Concern,

I would like to suggest that alternatives to the tunnel project for the conveyance of water be considered. Specifically, I have looked into desalinization and fog catchers. Both methods are used here in the United States and in other countries to produce large amounts of water under similar geographic circumstances to our West Coast.

Please let me know if I can be of any help in this matter.

Sincerely,

Victoria Allen (209)670-3123

Sent from Mail for Windows 10

Hello,

My name is Jem and I am a recent graduate of UC Santa Barbara. I am writing this email in strong opposition to the Delta Conveyance project. This damaging project should be terminated immediately as its construction and operation will drive the Chinook Salmon to extinction, with over a hundred species following, devastating the Winnemem Wintu Tribe, local fisheries, and the beautiful ecosystem we currently have and need.

This tunnel project will have a tremendous impact on the livelihood and culture of the Winnemem Wintu Tribe, a matrilineal Wintu-speaking community who are indigenous to the Winnemem, or McCloud River. The Chinook Salmon are an essential part of the cultural traditions of the Winnemem Wintu Tribe, who takes care of the Salmon's land and is deeply and spiritually connected to the Chinook Salmon (Julie Bongers).

"As native people, we rely on the river and the salmon as part of our traditional heritage. We cannot afford to let anything further erode our river systems," testified Robbins, an advisor for Water Protectors Club (fishsniffer.com)

As the Department of Water Resources, it is to your mission to protect these natural resources, water, river, Salmon, and listen and learn from the communities most impacted by your proposed project.

Moreover, the environmental disruption to the region will be irreversible as even just the construction and operation of the tunnel will "degrade the water quality for Delta farms, subsist-ence anglers, providers of urban drinking water (including Stockton, Antioch, and other cities), residents playing and swimming in Delta channels, and an increase in deadly toxic algal blooms" (Restore the Delta, Impact Report).

Restore the Delta put together a report detailing the impacts of this Proposed Water Project named The Fate of the Delta. The report stated "[the tunnel project] will impact human uses of water for farms, subsistence fishing, urban drinking water supplies, and urban water rates, each of which will place disproportionate, undue burdens on Delta EJ communities" (Restore the Delta, Impact Report). It is the Department of Water Resource's responsibility to serve communities with non-toxic and pure water, not risk residents life with algea blooms.

Finally, this project will endanger the Chinook salmon, which is a keystone species that for a millennia have been providing nutrients for the soils and nourishing a hundred species that depended on them (Julie Bongers).

Some of the species that depend on the Chinook Salmon are: Black bears, Grizzly Bears, and American badgers, Water shrews, Ringtail cats and Long-tailed weasels, Harbor seals, Great blue herons, and Great egrets, Bald eagles, orcas, and ravens, wolves, North American River otters, ermine, fox, martens, bobcats, ducks, pumas, 'coons, and sharks (California Mammals). These species are crucial to California wildlife and waterways, without them the biodiversity of California will plummet and drive more extinction.

The delta tunnel will heavily contribute towards the extinction of Chinook salmon, most importantly, last year, only 0.1% of the salmon came back! Much of the species living in the area require salmon to continue living and therefore their extinction will change the ecosystem in the region. The species that depend on the Salmons are all currently starving.

Please reconsider this project as its irreversible damages will be detrimental to the ecosystems in the Sacramento Region, McCloud River, Trinity River, and the Delta. We understand that we are currently in a PANDEMIC and you also have other people to take care of, which is why we need this project to HALT immediately because it concerns the well-being of the Winnemem Wintu Tribe, especially so during this time. Please protect your people in California, especially the most vulnerable.

Respectfully,

Jem Unger Hicks

From:	<u>Vink, Erik@DPC</u>
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Subject:	Delta Conveyance Notice of Preparation - Delta Protection Commission comment letter and attachment
Date:	Wednesday, April 15, 2020 5:44:04 PM
Attachments:	DPC_NOP-Comment_Letter-FINAL_041520.pdf
	DPC_NOP-Comments-Attachment 041520 FINAL.pdf

Ms. Rodriguez – please find attached the Delta Protection Commission letter on the Delta Conveyance Notice of Preparation, along with an attachment.

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DELTA PROTECTION COMMISSION

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Via U.S. Mail: Delta Conveyance Scoping Comments Department of Water Resources P.O. Box 942836 Sacramento, CA 94236 Attn: Renee Rodriguez

Via email: DeltaConveyanceScoping@water.ca.gov

Subject: Delta Conveyance Notice of Preparation (NOP) Scoping Comments

Dear Ms. Rodriquez,

The Delta Protection Commission (Commission) is a California State agency created by the Delta Protection Act of 1992, which declared "the Delta is a natural resource of statewide, national, and international significance, containing irreplaceable resources, and that it is the policy of the state to recognize, preserve and protect those resources of the Delta for the use and enjoyment of current and future generations" (California Public Resources Code (PRC) section 29701).

The Act directed the Commission to regulate land use in the Delta to ensure that the populous metropolitan areas surrounding the Delta did not overrun this natural resource and forever alter those irreplaceable resources, including the agricultural, recreational, natural and cultural features that make the Delta the unique place that it is.

In response to the NOP, this letter sets forth the broad principles that serve as the foundation for the attached document detailing issue-by-issue comments. As with the predecessor conveyance proposals, a tunnel through the Delta will irreversibly damage Delta agriculture, recreation, cultural and natural resources. This letter presents our assessment of the potential impacts, offers promising alternatives and effective and feasible mitigation measures for consideration, and reaffirms our position that previously illdefined impacts – or those not defined at all in previous environmental review – must now receive the attention they require.

Additional Authorities

In addition to the Delta Protection Act of 1992, the Commission's authority with respect to the Delta conveyance proposal presented in the NOP stems from the following legislation and agreements.



DCS729

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<u>Delta Reform Act:</u> The Delta Reform Act of 2009 (Chapter 5, Statutes of 2009), as well as 2009 amendments to the Delta Protection Act of 1992, declared that the State's basic goals for the Delta are to provide a more reliable water supply for California and protect, restore and enhance the Delta ecosystem "in a manner that protects and enhances the unique cultural, recreational, natural resource and agricultural values of the Delta as an evolving place" (PRC section 29702(a) and Water Code section 85054). In addition, the law identifies the Commission as a "forum for Delta residents to engage in decisions regarding actions to recognize and enhance the unique cultural, recreational, and agricultural resources of the Delta" (PRC section 29703.5(a)). It directs the Commission to recommend ways to protect and enhance the Delta's unique values to the Delta Stewardship Council.

Sacramento-San Joaquin Delta National Heritage Area. The John D. Dingell, Jr. Conservation, Management, and Recreation Act, enacted in March 2019, created the Sacramento-San Joaquin Delta National Heritage Area (NHA). The law designates the Delta Protection Commission as the NHA's local coordinating entity, and charges it with preparing and submitting to the Secretary of the Interior a NHA management plan. Pursuant to the Act, the plan will emphasize the importance of agricultural resources and activities, flood protection facilities, and other public infrastructure, incorporating an integrated and cooperative approach for addressing them, and provide comprehensive policies, strategies and recommendations for conservation, management, development, and funding of the NHA. We are already at work on that plan, which is due to the Secretary of the Interior by March 2022. Federal agencies (such as the U.S. Army Corps of Engineers or U.S. Bureau of Reclamation) that are planning to conduct activities that may impact the NHA are to coordinate their actions with the Commission to the maximum extent practicable.

Staten Island Memorandum of Understanding

The Commission has a role in reviewing any land-use changes on Staten Island, which is subject to a 2001 conservation easement and a 2002 Memorandum of Understanding between the Commission and the Department of Water Resources (DWR). The stated intent of the conservation easement is that Staten Island be protected from "any actions that would result in the conversion of any material portion ... away from agricultural use." DWR holds the conservation easement and is legally responsible for its enforcement.

Principles

The Commission's comments are based on foundational principles that underlie our response to the Notice of Preparation, derived from what matters to those who live, work and recreate in the Delta. Since none of the stated project objectives specifically benefit the Delta region, we believe these principles should be given equal weight to the project objectives.

The Delta Reform Act of 2009 articulated the State's recognition that the Delta is a special place. Congress recognized its singular qualities when designating it a National Heritage Area. Its assets attracted people from around the world, whose hard work and creativity fashioned the unique landscape that is our home. These special attributes

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include its productive farmlands, with its drainage and irrigation infrastructure; the waterways navigated by recreational and commercial vessels and attracting boaters, anglers and other recreationists; and its rich cultural history stretching from Native California Indians through waves of immigrants to today's legacy communities and multi-generational family farms. It enjoys quiet, dark night skies, and close-knit communities. It is a place of surprising diversity and continuity. Protecting the Delta as a unique place means adhering to the following basic principles.

Protect Delta Water

The reliability of water supplies for in-Delta users and the Delta ecosystem must be fully protected. Our local water utilities, farms, resorts, and industries benefit from abundant fresh water. Our fish and wildlife are attuned to the pulses of this water as it interacts with the Delta's tides. Complex infrastructure built to manage this water, including siphons, diversions, drains, other discharges, and levees, is also carefully adapted to current conditions. This water is protected by our rights as an area where these waters originate, by other water rights, and by federal and State law. Any Environmental Impact Report (EIR) for Delta isolated conveyance must carefully evaluate any harm to the region's water and fully protect all its uses, including its water management infrastructure.

Improve Levees and Reduce Reliance on Exports

The EIR should consider an alternative that reduces risks to Delta water supplies from earthquakes and sea level rise by improving Delta levees, as recommended in the Commission's Economic Sustainability Plan for the Sacramento-San Joaquin Delta (ESP). This alternative should consider a reduction of other region's reliance on water from the Delta by investing in water use efficiency, water recycling, and other advanced technologies. EIR alternatives and mitigation measures should also be consistent with regulations implementing the Delta Reform Act, the Clean Water Act, and the Davis-Dolwig Act's (Water Code sections 11910-11911) requirements about protecting Delta wildlife and fish, providing recreation opportunities, and consulting with local agencies.

Listen to Delta People

The Delta is a complex place. No one knows it better than those who live, work, and recreate there and the local governments who represent them. Involving these Delta people will be essential to understanding the project's effects and how to avoid or reduce them. The Bay-Delta Conservation Plan (BDCP) began by excluding many local stakeholders from discussions about it. Many Delta people felt excluded from substantive involvement in the BDCP EIR as well. The sense of skepticism that resulted will be difficult to overcome. But DWR has gained valuable experience developing constructive working relationships with wildlife and fish agencies that can be applied to working with people in the Delta. The Delta Conveyance Design and Construction Authority (DCA) outreach effort with its Stakeholder Engagement Committee (SEC) is a start, but should supplement, not substitute for consultation. DWR's outreach and listening effort should extend beyond pro forma California Environmental Quality Act (CEQA) notifications. The alternative is further decades of gridlock and impasse.

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Protect People as Well as Wildlife

Delta residents and recreationists must be protected as effectively as its fish and wildlife. Like the fish and wildlife that receive so much attention, our multiracial population is also at risk. Too many residents and workers have low incomes, and others' jobs rely on water-dependent farms or tourism. The communities where they live and work, the waterways that attract our recreationists, and the highways traveled to jobs and shopping, to ship our produce, and to draw visitors are as critical as the river channels and other habitats where wildlife and fish live and migrate. Impacts to the Delta's residents and visitors should be assessed using current data, not outdated information or guesswork. Alternative points of diversion that avoid damaging our communities deserve the same consideration as locations that minimize harm to fish. Specific actions to reduce damaging effects should be spelled out whenever feasible, not deferred to be worked out later. Performance standards should be clearly stated. When harm is unavoidable, compensation to offset damage must be provided, just as it is for damage to waterfowl or salmon.

Treat Us as Well as Other Californians

Measures to mitigate impacts in the Delta must be at least equivalent to those used in other large public works projects in southern California, Santa Clara County, and the San Joaquin Valley that would receive water through the proposed tunnel. These regions have employed both practical and innovative ways to reduce and offset the damaging effects of public works projects. Homes have been insulated to quiet excess noise. State-of-the-art equipment has been used to reduce disruption during construction. Homes that must be purchased are subsequently replaced and made available at affordable prices. Historic structures have been carefully mothballed and then rehabilitated after project completion. Funds have been provided to help adversely-affected businesses persist despite the disruptions caused by project construction. The application of such measures elsewhere in California demonstrates that they can typically be accomplished successfully, considering economic, environmental, social and technological factors. The EIR must evaluate such measures applicability in the Delta and adopt them whenever feasible.

Use the Best Science

The EIR must be based on the best available science and employ adaptive management where impacts within the Delta are uncertain. Data about the Delta must be carefully collected and shared for review. Evaluations of impacts to agriculture, tourism, transportation, housing, cultural assets, and other Delta resources must be peer-reviewed, as should economic studies used to consider mitigation measures' feasibility. Where effects are uncertain, actual effects during the construction period should be monitored so that mitigation can be adjusted based on actual conditions rather than inexact forecasts.

Be Readable

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As noted by the Delta Independent Science Board, the circumstances surrounding impact assessment of a conveyance project demand that the environmental review "go beyond legal compliance," that it have "extraordinary completeness and clarity," that it be "exceptionally clear about the scientific and comparative aspects of both environmental impacts and project performance." The EIR should include summaries of impacts, by chapter, written plainly and with explanatory graphics, so that it is easily understood by Delta residents and agencies. The EIR's purpose should be to inform public discussion and agency decisions about alternative ways to achieve the project's objective, rather than just to compile an exhaustive and encyclopedic narrative about the project and its effects. Innovative communications, such as video clips, should supplement the written report.

Don't Make the Delta Pay

DWR's water contractors must agree to reimburse affected Delta local governments and special districts for the lost property taxes or assessments for land used in the project's construction, location, mitigation, and operation, as required by the Delta Reform Act (Water Code section 85089). DWR should also anticipate reimbursing local agencies, many of whom operate on very modest budgets, when it calls on them for data or consultation during the preparation of the EIR.

Conclusion

The Delta Protection Commission offers these scoping comments in the spirit of constructive dialogue. We believe considering alternatives in light of these principles and giving them equal weight to the project objectives will change the perspective of a preferred alternative and mitigation measures significantly. We hope they will aid DWR in bringing together and resolving the concerns of our affected local government constituents, responsible and trustee agencies, and other interested parties, including those who may not be entirely in accord with the action on environmental grounds, as provided in CEQA Guidelines Section 15083.

Thank you for the opportunity to provide input. We are available to engage in multilateral discussion of how to protect and enhance the unique values of the Sacramento-San Joaquin Delta.

Sincerely,

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Erik Vink Executive Director

Attachment: "Attachment to NOP Comment Letter Dated April 15, 2020"

CC: Chairman Villegas and Commissioners, Delta Protection Commission

ATTACHMENT TO DELTA PROTECTION COMMISSION NOP COMMENT LETTER (APRIL 15, 2020) – DELTA CONVEYANCE

The following comments provide the Commission's specific suggestions and recommendations regarding preparation of the Delta Conveyance Draft EIR.

ALTERNATIVES

The EIR should examine these alternatives, which we believe may avoid or reduce the adverse effects to Delta resources enumerated in the subsequent sections.

Improve through-Delta conveyance and reduce reliance on exports. The Delta Protection Commission advocates improved through-Delta conveyance, rather than the isolated facility proposed by DWR. In recognition of our recommendation and because the project proposed by DWR addresses only some of the factors that contribute to the unreliability of Delta water exports, the EIR should also include an alternative that promotes water reliability by strengthening Delta levees and dredging key Delta channels, rather than tunneling under the Delta, while also reducing other region's reliance on water from the Delta by investing in water use efficiency, water recycling, and other advanced technologies. The through-Delta conveyance components of this alternative should include all the features recommended in the Delta Plan (Delta Plan recommendation WR R1 2(a)(4) and (c)).

This alternative's provisions to reduce reliance on the Delta should be informed by an analysis of water demand and promising alternative supplies in areas to be served by the project. The analysis should comply with the Delta Plan's regulatory policy WR P1. The alternative should also be informed by analyses highlighting southern California's increasingly diverse water supplies and further opportunities to reduce imports there (https://www.nrdc.org/experts/doug-obegi/mwd-suggestssouthern-california-has-too-much-water; https://www.nrdc.org/experts/benchou/new-report-finds-big-mismatches-socal-water-plans) and in the San Joaquin Valley (https://www.ppic.org/wp-content/uploads/water-and-the-future-of-the-sanjoaquin-valley-february-2019.pdf).

<u>Far eastern alignment</u>. A tunnel alternative deserving evaluation is the far eastern alignment recommended in the January 20, 2020 report of the Independent Technical Review (ITR) Panel to the Delta Conveyance Design and Construction Authority (DCA). We understand that a similar alignment was proposed in 2010 by an ITR Panel for the WaterFix tunnels. In addition to the cost and logistical advantages identified by the panel, such an alignment would seem to avoid or reduce impacts to land use, recreation (including boating), and Highway 160 corridor cultural resources from noise, traffic, and construction disruption. Mitigation of remaining impacts would appear to be less complex and thus perhaps less expensive as well. However, the potential impacts of the far eastern alignment have not been as thoroughly studied as the central corridor alignment in terms of agriculture, natural resources and land use conflicts. For example, the far eastern alignment could have potential significant adverse impacts to the Port of Stockton and adjacent neighborhoods.

<u>Alternative points of diversion</u>. Because construction of diversion facilities causes such significant impacts to nearby Delta communities and natural and cultural resources in the Sacramento River/Highway 160 corridor, alternative diversion locations that avoid or reduce damage to Delta communities and recreational boating as well as protect fish should be considered. In addition, the analysis of potential diversion points undertaken in the BDCP/WaterFix EIR's Appendix 3F should be revisited with impacts to Delta communities weighted equally with impacts to fish and wildlife. Experts in Delta land use should be represented on the ranking panel equally with fish agency representatives. Relying on fish biologists, who are not trained in land use, cultural resources, or other relevant topics to weigh impacts on Delta communities does not employ the best available science. Use of a single point of diversion with a total project capacity of 3000 cfs should also be considered, thereby reducing the extent of damage from multiple points of diversion.

<u>Alternative intermediate forebay locations</u>. To avoid or reduce impacts from noise and construction disruption near Locke and the Cosumnes River Preserve and damage that dredging and barge facilities would inflict on recreational boating, aesthetics, and Snodgrass Slough's natural areas, an alternative location for the intermediate forebay and associated facilities should be evaluated south of Walnut Grove Road and adjacent to I-5 along the far eastern alignment. Such a site would still involve painful damage, but perhaps less harm than the site currently under consideration.

HYDROLOGY AND WATER RESOURCES

<u>Protect in-Delta water resources</u>. The project's effects on in-Delta water uses should be carefully assessed. This should include modeling that forecasts the effects of the project's operations, together with ongoing State Water Project (SWP) and Central Valley Project (CVP) operations using existing south Delta facilities, on water quality parameters that affect in-Delta uses. Key parameters that should be assessed include salinity, organic carbon, temperature, in-Delta and through-Delta flows, and outflows to the Bay. The EIR should describe the implications of changes in these parameters on

agriculture, municipal water suppliers that rely on Delta water, Delta industrial uses, such as food processors and petrochemical plants, Delta sport fisheries, and recreation, including the spread of aquatic invasive species and harmful algal blooms. The Department of Parks and Recreation's Division of Boating and Waterways (DBW) and other agencies such as the CA Department of Fish and Wildlife (DFW) and State Water Resources Control Board (SWRCB) should be consulted for current data. This modeling should report outcomes for key parameters over time, through at least 2050, so that readers can understand the project's longer-term effects as climate change affects sea levels and makes runoff to the Delta less predictable. Implications of the project for wastewater agencies discharging to the Delta should also be explored.

If the project will adversely affect Delta water quality, as the BDCP/WaterFix EIR concluded, then vague pledges to provide alternative water supplies or offset increased local water treatment costs should be replaced with a mitigation program that spells out the processes used to identify mitigation actions, sources of alternative water supplies, action triggers, time frame, means of payment, fund sources, an objective third-party governance system, and other pertinent details. Delta water agencies should be involved as this mitigation program is developed.

<u>Protect groundwater</u>. The BDCP/WaterFix EIR acknowledged groundwater losses due to construction dewatering and implementing its environmental commitments but did not identify specific measures to meet preexisting or future water demands of affected parties. These impacts to groundwater should be assessed and specific measures to avoid or mitigate them should be proposed.

<u>Anticipate export interruptions</u>. The EIR should assess the probable Impacts to southof-Delta water users due to interruption or reduction of exports of Delta water conveyed through the proposed project due to drought, growing demand by north-of-Delta water users with superior water rights, alterations in runoff because of climate change, potential regulatory changes, or legal challenges. These and other threats make Delta water exports inherently unreliable. Contingency measures that could be employed in SWP and CVP service areas as well as in the Delta to mitigate this unreliability or restore water exports following these types of disruptions should be described.

<u>Outline cumulative long-term effects</u>. The complexity and potential connections among the many potential actions affecting Delta water resources that are currently under study contributes to Delta residents' concerns about the project. To address these concerns, the EIR should describe how the tunnel could be operated under a scenario in which planned reservoirs, including Sites, expanded Los Vaqueros, expanded Pacheco Reservoir, and south of Delta groundwater banks are completed and operated, as proposed in funding proposals to the California Water Commission. The reservoirs and groundwater banks are reasonably foreseeable: State and in some cases federal funds have been awarded, draft feasibility reports are sometimes complete, as is Sites Reservoir's draft EIR, and south-of-Delta water agencies have joined as sponsors supporting the projects. It is often stated that these projects' value depends on improved conveyance that can move water stored north of the Delta to those new storage areas proposed south of the Delta, but it is unclear how this would alter operations of the tunnel or its impacts on Delta water resources. This should be explained.

Improve through-Delta conveyance and reduce reliance on exports. The Delta Protection Commission advocates improved through-Delta conveyance, rather than the isolated facility proposed by DWR. In recognition of our recommendation and because the project proposed by DWR addresses only some of the factors that contribute to the unreliability of Delta water exports, the EIR should also include an alternative that promotes water reliability by dredging key Delta channels and strengthening Delta levees, rather than tunneling under the Delta, while also reducing other region's reliance on water from the Delta by investing in water use efficiency, water recycling, and other advanced technologies, as discussed above.

<u>Assess flood risks and plan for post-flood recovery</u>. Areas where key project facilities would be located are protected by levees where the risk of levee failure contributes to their ranking in the Delta Plan as very high priorities for State-funded levee improvements. In the north Delta these facilities, including the proposed diversion facilities, an electrical building, sedimentation basin and appurtenant structures, are protected by the levees of Maintenance Area No. 9 South. Similarly, the Byron Reclamation District's levees protect access to and operational facilities at Clifton Court Forebay, including presumably the new pumping facility. The EIR should describe how these project facilities would be protected from flooding in the event of levee failure, how SWP workers would access these facilities until floodwaters drain, how SWP operations would be maintained or restored after that flooding, and measures to reduce the risk of levee failure affecting project facilities.

LAND USE, PLANNING AND PUBLIC SERVICES

Delta Land Use is Controlled Carefully to Foster Agriculture, Encourage Tourism and Recreation, and Maintain Legacy Communities. The Sacramento-San Joaquin Delta is vast, encompassing nearly three-quarters of a million acres of land and 700 linear miles of waterways. Its land uses generally reflect the settlement patterns of the past century and a half, closely associated with its rivers, sloughs, and waterways, and with the configuration of agricultural lands. Rural communities reflect the diverse heritage of the Delta, serving as social and service centers for the surrounding farms and historically served as shipping sites for products.

In response to rapidly encroaching urban growth the Legislature enacted the Delta Protection Act of 1992 (Public Resources Code 29760 et seq.), establishing the Delta Protection Commission and dividing the legal Delta into a primary zone and a secondary zone, with the Commission's principal land use authority over the primary zone. The Act requires the Commission to prepare and update a comprehensive Land Use and Resource Management Plan guiding land uses within the primary zone. The primary zone is largely rural and not intended for intense development. The secondary zone includes existing cities and areas that may be developed. The "legacy communities," eleven communities largely in the primary zone – Clarksburg, Courtland, Freeport, Hood, Locke, Walnut Grove, Ryde, Isleton, Rio Vista, Knightsen, and Bethel Island, -- are a focus of economic development activities and cultural heritage.

Key elements of the Commission's and counties' land use approach are to preserve the rural lands for agriculture and agricultural-related businesses, allow for rural, farm-friendly visitor-serving facilities such as wineries and event facilities, marinas and resorts in key locations to support tourism, and protect the legacy communities as retail and residential centers to support agriculture and tourism. This approach includes some flexibility by allowing unique uses, such as agricultural sales or childcare facilities, by special permits.

The proposed tunnel is incompatible with this fundamental strategy, both during the long construction period and during operation. Presentations at the Stakeholder Engagement Committee (SEC) meetings convened by the DCA showing the location and intensity of construction impacts on traffic, for example, have illustrated how the effect on the Delta as a whole – as a place – is analogous to an earthquake with a series of major aftershocks. Not all Delta communities will be affected in the same way, or perhaps with the same intensity, but all will be affected.

Intake facilities on the Sacramento River as described in the NOP, regardless of which are selected, and regardless which corridor alignment is selected, would irreparably damage the communities of Clarksburg in Yolo County, and Hood and Courtland in Sacramento County. In San Joaquin County, launch shafts, tunnel material handling, and maintenance and retrieval shafts will convert farmland and disrupt marinas and recreational boating. Contra Costa county communities such as Discovery Bay would suffer major recreation impacts. In Solano County, the economic and cultural impact of required project mitigations from agricultural lands being converted to restoration projects are a major concern, as are water quality impacts on municipal wells for Rio Vista and agricultural users in the Cache Slough region.

<u>Every Element of the Project Disrupts Existing and Planned Land Use</u>. Tunnel construction would fundamentally change the agricultural- and water-based character of Delta communities and landscape because of the duration and sheer number of
different locations that construction and staging would take place. The use of nearly 8,000 acres of land will be changed due to surface impacts, with another several thousand acres of agricultural lands likely converted for habitat mitigation. Construction of the tunnel launch, retrieval/reception and maintenance shafts, the intermediate and new southern forebays, pumping plant, and construction-support facilities along the alignment including access and haul roads, potential additional rail lines, barge unloading facilities, concrete batch plants, fuel stations, mitigation areas, and power transmission and/or distribution lines will alter the landscape for the better part of two decades, based on the construction methodology currently being presented by the DCA. Use of additional areas will be harmed by noise, traffic congestion, impaired recreation and tourism, damaged scenery, other disruption accompanying construction, degraded quality of life, lowered property values, and lost investment.

- <u>Intake and Tunnel Construction</u>. Construction of two intakes for either alignment shown in the NOP, each occupying at least 200 acres, would result in drastic changes to the communities of Clarksburg, Hood and Courtland, as well as neighboring areas and the Stone Lakes National Wildlife Refuge. Road construction and widening, bridge modifications and interchange improvements, and installation and operation of concrete batch plants would virtually all occur within the primary zone, in direct conflict with the most fundamental principles of the land use approach of the Delta Protection Act and the Commission's Land Use and Resource Management Plan. After construction is completed, pressure will grow for non-farm development at areas adjoining new offramps or sites that cannot be returned to agriculture.
- <u>Tunnel Corridors</u>. Extending beyond the intakes, construction and operation of the "Central Tunnel Corridor," which would also necessitate widening of narrow bridges and extension of existing or creation of new access and haul roads through much of the agricultural land of the primary zone, would literally pave the way for transformation of the regional landscape, setting a precedent of devalued baseline conditions.

Two to three launch shafts for launching the tunnel boring machines (TBMs) would be required along either tunnel corridor alignment shown in the NOP. Likely launch shaft locations are at Granville Tract adjacent to Interstate 5 at Twin Cities Road, at Lower Roberts Island near the San Joaquin River channel, and at Byron near the Clifton Court Forebay and proposed new southern forebay. Another potential launch site for an "Eastern Tunnel Corridor" would be at Rough and Ready Island near the Port of Stockton. According to the SEC presentations, current thinking is that four TBMs would be used, and would potentially tunnel in both north-south directions. Each launch shaft site would be 200-300 acres. The size and complexity of the launch shafts sites are significant: at these sites, the TBM is launched, followed by the tunnel liner sections, and the tunnel material is removed. Once removed, tunnel material must be dewatered, currently proposed to be onsite with large levees surrounding a tunnel material storage and consolidation center. Liner sections for the proposed 40-foot diameter tunnel would potentially be fabricated at existing nearby plants in Stockton, Lathrop, Antioch and Rio Vista. Transport of liner sections onsite and tunnel material offsite is being considered by barge, rail, and/or truck, although barge and/or rail are being prioritized. A range of operational conditions for the tunnel is possible, but among the examples given at the SEC meetings for a 6,000 cubic feet per second (cfs) tunnel capacity would be that 50 liner segments per day would require 25 days of truck hauling versus 3 to 5 days by rail or barge. Likewise, estimates for removal of tunnel material offsite range widely, but are staggering.

The launch sites would include construction offices, concrete batch plants, equipment storage and electrical substations.

In addition to the launch sites, potentially up to 10 maintenance and retrieval (or reception) shafts will be required for either alignment shown in the NOP. At 15 to 20 acres per shaft site, this represents another 200 acres minimum of converted farmland.

It would be disingenuous for the draft EIR to characterize any of the land conversion along the tunnel alignment as temporary, since even construction sites that are not permanently part of operations will be fallow so many years and will be affected by soil modifiers and other effects from the use of the property as to be of questionable agricultural value if they are ever decommissioned and reclaimed for agricultural use. However, most if not all facilities may well be left in place, according to presentations at the SEC, increasing pressure for non-farm use at sites that cannot be returned to agriculture.

 <u>Habitat Mitigation</u>. Further changes to existing land uses can be anticipated from habitat restoration likely to be proposed to mitigate damage to biological resources. For example, the BDCP/WaterFix EIR proposed converting thousands of acres of farmland to marsh or riparian woodland.

<u>Recommended Significant Adverse Impacts Analysis and Method of Documentation</u>: Given the foregoing brief description of just some of the potential land use impacts, it is clear that tunnel construction and operation in any alignment will irrevocably alter the rural character of the Delta, adversely impacting its economic pillars (agriculture and recreation), and its cultural heritage. The project seriously threatens the long-term sustainability of the Delta regional economy, which the Commission is charged with enhancing and promoting. In addition to direct land use conflicts, in many areas the project would cause a substantial change in intensity of land use that would be incompatible with adjacent land and water uses.

The basic livability of Delta legacy communities and Discovery Bay would be compromised by increased noise and congestion and reduced quality of life. Property values and affordable housing have already been severely impacted over the past decade, buffeted by the economic downturn, by high flood insurance costs and stringent construction requirements, and by the threat of construction of BDCP/CA WaterFix, the predecessors to the current single tunnel proposal. The challenges of housing project construction workers will likely mean competition for local housing resources, which will make it more challenging for major Delta businesses such as marinas and agricultural support to house their workers. The project would cause enormous disruption of the basic elements of daily life for Delta residents, including functional access to schools, libraries, churches, medical care, elder and childcare, and shopping.

Existing congestion on Highways 4, 12, and 160 already impairs Delta residents' commutes to jobs within the Delta and beyond to the metropolitan areas of the East Bay, Stockton-Tracy, and Sacramento, often literally grinding to a standstill. Accidents are frequent and too often fatal, especially on Highway 160 and Twin Cities Road. Delta farmers' ability to move slow or over-size equipment safely from one location to another is already challenged. At least two dozen bridges on the Sacramento, Mokelumne, and Middle rivers and multiple sloughs would be affected by increased barge, rail and truck transit. Either of the alignments of the proposed project shown in the NOP would exacerbate these existing transportation challenges. New rail spurs or access and haul roads could also interfere with access to farmland.

Damage to landside recreation and tourism would occur both directly and indirectly through noise and disruption of the aesthetic charm and character of key tourist destinations such as Hood, Courtland, Clarksburg, Locke, Walnut Grove and seasonal and permanent farm stands along the scenic Highway 160 as well as wildlife viewing destinations such as Stone Lakes National Wildlife Refuge (NWR), Cosumnes River Preserve, Staten Island, and numerous San Joaquin County sandhill crane and waterfowl roosting sites.

Recreational boating would be significantly impacted – and in some cases facilities eliminated – on the Sacramento, Mokelumne and San Joaquin Rivers and the south Delta and at marinas, launches, popular anchorages and hangouts such as Lost Slough and the Meadows; Wimpy's; Giusti's; Beaver, Hog and Sycamore Sloughs; Tower Park; King Island; Potato Slough; Mildred Island and Horseshoe Bend; Bullfrog Landing and Lazy M, to name just a few. Effects could include partial property acquisitions, resulting in division of agricultural or residential parcels, which could create non-conforming lot sizes that are inconsistent with counties' land use and zoning designations.

To meaningfully convey these effects for Delta communities and decision-makers, the EIR should tabulate the acreage and map the areas affected by every adverse or incompatible feature of the project, including direct land use conversions, noise in excess of standards for existing or proposed land use, properties where road congestion to level D or worse impairs access, harm to landscapes surrounding visitor destinations, or other project-related damage. The acreage of lands harmed, by land use (e.g., agriculture, residential, etc.), should be tallied, as should the number of impacted homes and businesses. To adequately inform business owners, their employees, and residents, the EIR should list the names of businesses and the addresses of homes likely to be impacted, much as the EIR lists the species found in habitat areas affected by the project. Special uses that contribute to community cohesion should be highlighted, including groceries, post offices, schools, churches, libraries, and community centers.

To assess impacts on affordable housing, typical rents of homes adversely affected by the project should be estimated. In addition, given the tight housing markets in the affected areas, construction workers' demand for housing should be carefully forecast, considering the project's labor requirements, existing capacity of necessary skilled labor in the region, and the current and forecast utilization of construction workers residing in the region. A thorough analysis of housing impacts should replace the BDCP/WaterFix EIR's assumption that the preponderance of project workers will already reside in the region, particularly given the current state housing mandates that local governments are struggling to meet.

<u>Recommended Approach to Developing and Evaluating Mitigation Measures</u>: In preparing the draft EIR, DWR should provide mitigation that adequately addresses the nature of impacts on land use and communities. At a minimum, the EIR should incorporate the applicable land use policies, standards and Best Management Practices (BMPs) in the applicable local government's general plan and zoning ordinance and adopt the mitigations recommended in Delta Plan recommendation WR R1 2(b)(2)(I)) and the Delta Plan Mitigation, Monitoring and Reporting Program (MMRP).

Mitigation measures for land use and all other environmental aspects of the project should be structured to use careful phasing of project construction to minimize disruption, including cumulative disruptions simultaneously affecting multiple areas of the Delta. Because the duration of the project contributes to its damage to Delta land use, measures should be proposed that provide incentives for timely project completion or penalties for deviations from agreed-upon schedules, without increasing short-term impacts.

To mitigate impacts to affordable housing, replacement housing for acquired or impaired homes should be provided as required by the Delta Plan MMRP. Any home that may be acquired should be carefully maintained and, at the end of the construction period, rehabilitated as needed and sold at affordable prices to prior or new occupants. Contributions to support development of new affordable and work-force housing, including farm labor housing, should also be considered, as were provided in the LAX (Los Angeles International Airport) master plan¹. The text below identifies other measures that should be proposed to reduce harm to specific land uses, such as agriculture and tourism, or mitigate specific impacts that affect land use, such as noise or traffic congestion.

Wherever feasible, mitigation measures should support or enhance existing Delta land use. For example, could the project's greenhouse gas (GHG) emissions be offset by a fair-share contribution that covers the capital costs faced by Delta agricultural land owners who wish to grow rice or other crops that sequester carbon and reverse land subsidence, including costs for land preparation (e.g., land leveling and water management features such as checks and ditches)? The Sacramento-San Joaquin Delta Conservancy has identified these costs as a significant barrier to carbon-sequestering farming systems in the Delta.

Involve Local Agencies, Businesses and Residents. Delta agencies and affected residents should be consulted as these mitigation measures are developed, evaluated, and implemented. Now is the time for DWR to engage in serious conversations with Delta counties, other local agencies, the Commission, and the Sacramento-San Joaquin Delta Conservancy, as well as other state agencies such as Caltrans and the Department of Parks and Recreation about effective mitigation measures. For example, DWR should propose an adaptive strategy for monitoring project effects on Delta land use, residents, and businesses, monitoring outcomes and responding to unanticipated impacts. The mitigation strategy used by the High Speed Rail project to address traffic impacts on agricultural land use could be evaluated in consultation with affected Delta property owners to assess the effectiveness of providing crossings or alternate routes that can accommodate farm equipment, allowing continued use of agricultural lands and facilities.

The EIR should also propose mitigation measures to reduce economic blight and other cumulative impacts on Delta land use, as major public works projects throughout the

¹ (<u>https://www.lawa.org/en/lawa-our-lax/studies-and-reports/mitigation-monitoring-reporting-program</u>).

state or elsewhere have done. One example is the Business Interruption Fund used to mitigate effects of Los Angeles' Metro subway². The fund should provide quickly accessible funds to offset the loss of business income or other damage to land uses due to construction impacts. It could also fund expansion and implementation of the Commission's Delta Community Action Planning effort, invest in public facilities that can compensate for damage to Delta communities and infrastructure through the Delta Investment Fund (PRC section 29778.5), or support agricultural, cultural, recreational, and tourism programs and projects through a Delta charitable entity such as the Delta Regional Foundation. The Commission's Economic Sustainability Plan (ESP) and the Delta Plan propose numerous recommendations in support of Delta as an evolving Place. DWR should consult with Sacramento Area Council of Governments (SACOG). San Joaquin Council of Governments (SJCOG), and Association of Bay Area Governments (ABAG) to assess whether the Mega-Region Economic Model they are developing could be helpful in understanding the project's population, housing, and employment impacts in the Delta and could contribute to developing a strategy to compensate for economic damage from the project.

AGRICULTURE

<u>Protect agriculture</u>. Agriculture is the Delta's principal land use, the foundation of its rural economy, and a pillar of its culture. Every effort to protect it should be taken. Project actions, including wildlife, fish, and habitat mitigation measures, that will directly or indirectly affect agriculture should be described. These should be based on the most recent information about Delta farms, including information we have gathered to update the ESP. Estimates of farmland lost for project facilities, tunnel material management and storage, and wildlife, fish, and habitat mitigation should be reported by total acres, acres by crop type, acres by soil type, and acres under Williamson Act contract. Impacts to local irrigation, drainage, and flood control facilities, such as packing sheds and wineries, project-related congestion on farm-to-market roads, and farm labor housing. Selection of tunnel material, management sites, habitat restoration areas, and other facilities should place a high priority on avoiding prime farmland.

<u>Fully describe avoidance and mitigation actions now</u>. Actions taken to avoid and mitigate impacts to farmland should be described in the EIR, rather than deferred to some future date after the project has been approved, as was proposed in the BDCP/WaterFix EIR. Affected farmers, Delta county Farm Bureaus, county agricultural commissioners, U. C. Cooperative Extension agents, the California

² <u>https://www.metro.net/projects/westside/final-eis-eir/;</u>

https://media.metro.net/projects studies/westside/images/final seis/WPLE Final SEIS and Section 4f.pdf

Department of Food and Agriculture, and other agricultural interests and experts should be involved in discussions to develop these measures. The menu of potential actions outlined in the BDCP/WaterFix EIR's agricultural land stewardship plans is one good source of mitigation options, but the EIR needs to describe now how these would be applied to specific areas along the project right-of way. DWR should propose a model good neighbor agreement to farmers operating on or adjoining its proposed right-of-way, into which these measures could be incorporated as appropriate, including a process to resolve disputes and compensate for farm income losses.

Where specific impact areas cannot yet be described, such as some restoration areas to compensate for habitat damage, the EIR should include clear standards or triggers that explain the extent of mitigation, how its adequacy will be determined, and how those affected will be involved in its development. At a minimum, these measures must comply with or be equivalent to those of the Delta Plan's MMRP sections 7-1 to 7-4. These restoration projects should be subject to subsequent CEQA review.

<u>Avoid and reduce tunnel material impacts</u>. Much of the permanent impact to agriculture reported in the BDCP/WaterFix EIR was for management and storage of tunnel material. In addition to avoiding prime farmland when locating tunnel material facilities, further measures to reduce impacts of these facilities should be employed. Soil conditioners used in creating tunnel material management areas should be selected carefully so that disturbed areas can be returned to agricultural use after the project is completed. Measures to recover compacted soils at these sites should be proposed.

A specific plan for reusing tunnel material must be developed, beginning with review of the feasibility of reuse. A review of spoils disposed from navigation and flood control channel dredging throughout the Delta and Sacramento Valley shows that little has been reused even decades after it was disposed, either because it was unsuitable for other uses or because local users could not afford trucking and other costs required to reuse it. The results of DWR's soil boring investigations should enable classification of the potential uses of excavated material. If feasible, excavated tunnel material should be handled and stored in ways that segregate materials of different quality so they can more easily be reused. Material suitable for reuse to maintain or improve levees should be hauled to those reclamation districts that want it. Costs of hauling tunnel material to reuse sites should be borne by the project, rather than by those who may reuse it, as this mitigation measure is properly a cost of the project's contractors pursuant to Water Code section 85089.

<u>Use conservation easements to compensate for cumulative farmland losses</u>. DWR, through its habitat restoration actions, is the biggest source of farmland loss in the primary zone of the Delta. These actions include both habitat projects at Dutch Slough and McCormack-Williamson Tract and SWP mitigation projects, such as the Lookout Slough tidal marsh restoration project. Farmland lost to this project, even if project features are sited and operated to reduce impacts, will likely add thousands more acres to this accumulating toll. This continual repurposing of the land underlying the Delta's core activity is unacceptable.

Site specific measures to avoid or reduce impacts on farmland can reduce local impacts, but the purchase of conservation easements over Delta farmland that would otherwise be threatened by development can compensate for unavoidable cumulative losses. Farmland conservation easements are part of the High Speed Rail project's agricultural mitigation program³. DWR has agreed to obtain them to partially mitigate the effects of the Lookout Slough tidal marsh restoration project. The Delta Plan's MMRP requires such compensatory mitigation at a ratio of 1 acre protected for each acre permanently damaged. Most Delta local governments require higher mitigation ratios. Rural farmland in the Delta's primary zone is already secure from development under the provisions of the Delta Protection Act, so the purchase of conservation easements should target areas as buffers in the Delta's secondary zone or areas immediately adjoining the Delta where long-term development pressure is higher. Areas proposed to be secured for sandhill crane habitat or other wildlife-friendly farming should not be considered as compensating for the project's contribution to cumulative farmland losses, since agricultural uses of those lands will be constrained, not unreservedly preserved, by those wildlife-friendly practices and because those lands will be protected in any case.

The assertion that securing such agricultural conservation easements may be infeasible is not supported by any evidence. Successful farmland conservancies operate in each Delta county and our own assessment shows that, during the decade before approval of the WaterFix project, they and other agencies secured conservation easements in and adjoining the Delta primary zone in excess of the acreage of conservation easements that would have been required to compensate for that project's permanent destruction of farmland. This indicates that acquiring a similar acreage during this project's construction period should also be feasible. It is understandable that Delta farmers directly affected by this project may be reluctant to cooperate with DWR, but a creative partnership with

³ Final Project Environmental Impact Report/ Environmental Impact Statement (EIR/EIS) for the Fresno to Bakersfield Section of the California High-Speed Rail (HSR) Project

the California Department of Conservation may make a program of purchasing conservation easements more feasible.

Finally, business losses by Delta farmers and agricultural businesses should be eligible for compensation through a business interruption fund, as described under the land use section above. A contribution to the Delta Investment Fund could help compensate for other economic losses to the Delta's agricultural economy.

LEVEES AND DRAINAGE

<u>Protect levees and drainage facilities</u>. The current Delta is a creation of its network of levees and drainage works. Any threat to them risks lives, property, agriculture, legacy communities, recreational destinations, important wildlife habitats, and the region's unique culture. The facilities already face threats to their stability and durability. This project should not add to those perils, but rather should reduce them where feasible. Such an outcome would further the project's objective of anticipating rising sea levels and reducing the risk of levee breaches that may degrade the water quality and threaten water supplies.

<u>Assess and mitigate impacts to levees and drainage facilities using up-to-date</u> <u>information</u>. Impacts to levees and drains cannot be assessed without up-to-date information about their locations and condition. This information should be gathered along the alternative project corridors now, including affected reclamation districts' fiveyear plans, background information from the Delta Plan's levee investment strategy, and conversations with levee engineers from affected districts. Pursuant to Water Code section 85089, DWR or the DCA should reimburse reclamation districts for any costs they incur assisting DWR in gathering this information. The Central Valley Flood Protection Board's (CVFPB) permit fee schedule may offer insights into appropriate rates of reimbursement for this consultation.

The EIR should assess impacts to levees for the full range of activities from project construction and operation. Construction activities that should be considered include levee encroachments, dewatering, grading, tunneling, tunnel material handling and storage, construction-related traffic on levee-top roads, project-related habitat restoration, and other activities. Operational impacts to consider include filling and draining project forebays, changes in Delta flows, especially those that could affect siphons, seepage, or drainage at affected reclamation districts, construction-related structures such as pilings and in-channel coffer dams, and the effect of project fills and embankments on flood flows in the event of a breach of nearby levees.

<u>Mitigate adverse effects to levees and drainage networks.</u> Recommendations from Delta reclamation district engineers should be a primary source of mitigation measures

to reduce or compensate for project-related risks to Delta levees or drains. At a minimum, these measures should conform with Delta Plan MMRP 5-1 through 5-5, 11-3, 11-7, and 11-9. Other potential mitigation measures may be outlined in the CVFPB's encroachment regulations concerning levees, retaining walls, miscellaneous encroachments, and pipelines, conduits, and utility lines, as they may apply.

Move tunnel material suitable for levee improvements to willing reclamation districts. As noted under the agriculture section above, DWR's soil boring investigations should allow classification of the potential reuses of excavated material. If feasible, excavated tunnel material should be handled and stored in ways that segregate materials of different quality so they can more easily be reused. Material suitable for reuse to maintain or improve levees should be hauled to those Delta reclamation districts that want it. This would further the project's objective of anticipating rising sea levels and reducing the risk of levee breaches that may interrupt or degrade the quality of exported water, while diminishing damage to farmland and possibly modestly reducing the imbalance between the project's damage in the Delta and the benefits it provides there. Costs of hauling tunnel material to reuse sites should be borne by the project, rather than by those who may reuse it, as this mitigation measure is properly a cost of the project's contractors pursuant to Water Code section 85089.

Make Delta reclamation districts whole. DWR and the DCA should be held to the same standard that DWR and the CVFPB apply when encroachments affect their levees and drainage works. For example, DWR/DCA should pay local reclamation districts an inspection fee to cover inspection costs, including staff and/or consultant time and expenses, for any inspections before, during, post-construction, and regularly thereafter as deemed necessary by the reclamation district. DWR/DCA should agree that, in the event that levee or bank erosion injurious to a reclamation district's facilities occurs at or adjacent to the project, it will repair the eroded area and propose measures, to be approved by the reclamation district, to prevent further erosion. DWR/DCA should be responsible for the repair of any damages to levees, channel, banks, drains, siphons, or other reclamation district facilities due to construction, operation, or maintenance of the proposed project. DWR/DCA should agree to defend, indemnify, and hold harmless affected reclamation districts against all claims, liabilities, charges, losses, expenses, and costs (including their attorneys' fees) that may arise from the project. If any claim of liability is made against a reclamation district, DWR/DCA should defend and hold them harmless from any claim.

RECREATION

<u>Recreation in the Delta must be protected and improved</u>. The Delta is a "dreamland for boaters, birders, and outdoor enthusiasts", according to the Visit California, the State's tourism promotion organization. Its waterways, historic villages, nature areas, wineries,

and food draw millions of visitors annually, and support a recreation and tourism economy that provides 3,000 jobs and \$275 million in economic activity in the Delta counties – second only to agriculture as the key economic sector in the Delta's primary zone. Its diversity of recreation is available at a wide range of price points, serving local anglers who slip down a levee trail to fish on the way home from work, boaters with dockside homes, or international travelers.

As an element of the SWP, the project has a responsibility to protect and improve these recreation assets, both in areas along the project's right-of-way suitable for multiple use and in habitat areas that may be restored to mitigate this project's adverse effects. State law authorizing the SWP, in its Davis-Dolwig Act, provides that recreation is to be among the purposes of state water projects and that facilities for recreation should be ready and available for public use when each state water project having a potential for such use is completed. Public facilities for outdoor recreation activities including picnicking, fishing, water sports, boating, and sightseeing, and the associated facilities such as picnic areas, parking areas, viewpoints, boat launching ramps, water and sanitary facilities, and any others necessary to make project areas available for use by the public are to be an element of any plan for SWP facilities. Plans for recreation are to be developed during DWR's project formulation activities through full and close consultation with local agencies, DFW, and the Department of Parks and Recreation (Water Code sections 1190-1191). When new recreation facilities would mitigate this conveyance project's adverse effects on the environment, their cost is the responsibility of the SWP's contractors (Water Code section 85089).

Previous conveyance proposals and associated environmental review neglected to address this responsibility. This project and its EIR should not. It is one way the project could provide some few benefits within the Delta that can begin to balance, if only partly, the harm it will do in the region.

<u>Assess and mitigate recreation impacts using up-to-date information</u>. The project as proposed, including its construction-related traffic, barge installations, noise, and cultural and aesthetic impacts would significantly damage key Delta visitor attractions. The magnitude of this damage cannot be estimated, nor adequate mitigation proposed in the absence of up-to-date and accurate Information about recreation use in those areas. The Commission has information as we update our ESP, especially about recreation facilities and Delta-wide recreation use, that can be made available. But new surveys are needed to gather up-to-date data on recreation in areas affected by the project, just as wildlife or fish would be surveyed in a critical habitat to be damaged by the project. These areas include:

• Legacy communities. In Hood, Clarksburg, Courtland, Locke and Walnut Grove, information about visitor use for food, wine, boating, and heritage tourism should be

gathered through surveys of visitors to restaurants, wineries, museums, and historic districts.

 Recreational boating and fishing. As proposed, the project would adversely affect very popular boating and angling areas, including the Lost Slough-Snodgrass Slough-Delta Meadows anchorages and marina complexes at Walnut Grove and New Hope Landing, the Mokelumne River south toward the confluence with the San Joaquin River, including the anchorages at Sycamore Slough and the nearby Tower Park Marina, and in the south Delta, Bullfrog Marina and anchorages at Mildred Island and Horseshoe Bend. These areas are critical to recreational boating and angling, just as other areas are for fish and wildlife, and deserve an equivalent level of attention as the EIR is developed.

Delta-wide information on recreational boating has recently been gathered by DBW, but its report does not detail areas of special use by Delta boaters. The *Sacramento River Boating Guide* by Bill Corp, *Franko's Map of the California Delta*, Visit the Delta's *Heart of California* map, and Hal Schell's book, *Dawdling on the Delta* have useful information on popular local boating and fishing areas that are along the project route. We recommend that DWR augment these reports by gathering current information in two ways. First, we suggest that aerial photographic surveys of boater use be undertaken on both weekdays and weekends during each Delta boating and fishing season so that photointerpretation can be used to identify locations and quantity of these activities. Such approaches are common on other waterways and in waterfowl surveys. Second, we encourage you to meet directly with marina operators in and near the project area to obtain their information about levels of boating use and popular areas and activities among their customers. The SEC process has recently included comments from participants about areas rarely mentioned by outsiders but beloved by locals, such as the "bedrooms."

- Driving for pleasure. This is another popular recreation for Delta visitors that would be harmed by project-related disturbance and traffic congestion. The Commission's ESP identifies "right-of-way" activities as among the most popular in the Delta. Survey research could be used to quantify the level of this use as well as popular routes.
- Wildlife viewing. USFWS and The Nature Conservancy should be contacted for estimates of visitation at Stone Lakes NWR and Staten Island.

As with other topics we have discussed, we raise these issues at this early scoping stage because there is enough time to gather this information now as the EIR is drafted. To do otherwise would not be using the best available science to assess impacts on activities that are so important to the Delta's economy and culture.

Avoid or mitigate recreation impacts now. Avoiding or reducing noise, constructionrelated disturbance and traffic congestion, barge traffic that hinders recreational boating, and aesthetic disturbances around important recreation destinations and recreational travel routes is essential. Because recreation is such a vital element of the Delta's resources, measures to avoid or mitigate adverse effects should be described now, while the project is being formulated, as the Davis-Dolwig Act requires, rather than being deferred until after the project has been approved, as was proposed by the BDCP/WaterFix EIR. Recreational operators affected by the project, whether public agencies or private visitor-serving facilities, as well as organizations representing boaters, bicyclists, and other visitors, should be involved early in devising these measures. At a minimum, these measures should comply with the Delta Plan MMRP 18-1 through 18-3. Visitor-serving businesses adversely affected by the project should be eligible for assistance through a business interruption fund, as described under the land use section.

Special note should be taken of the Delta Plan MMRP's provision that where impacts to existing recreation facilities are unavoidable, lead agencies must compensate for impacts through *mitigation, restoration, or preservation off-site or creation of additional permanent new replacement facilities* (emphasis added). Such mitigation should be capable of fully offsetting the project's damage to recreational uses and areas, as would be expected of habitat restoration to offset lost wetlands, separate from and in addition to upgrades or repair of existing recreation areas, rather than unspecific assistance to unidentified future projects, as was proposed in the BDCP/WaterFix EIR.

The process of consultation recommended above should be employed to identify potential mitigation measures, but we suggest three potential actions as examples that could be considered to compensate for otherwise unavoidable damage:

(1) Develop a boating trail and boat-in recreation facilities, including angling, waterfowl hunting, and boat-in day and overnight facilities, at the Cache Slough-Lookout Slough-Liberty Island-Prospect Island habitat restoration complex, to be managed out of local marinas or resorts or new facilities to be developed in Rio Vista, to compensate for lost recreational boating routes and anchorages on the Mokelumne River and its tributaries.

(2) Cooperate with the East Bay Regional Park District to improve its property on Palm Tract adjoining Orwood Resort, linked to a boating trail extending north to Rock Slough, down Old River and its connecting sloughs to the Dutch Slough park and marsh restoration site, Big Break, and Antioch's marinas, to offset damage to south Delta recreation uses;

(3) Develop walking tours of Locke and Walnut Grove, including pedestrian improvements to link the communities across the old Sacramento Southern right-of-way

at the Delta Cross Channel, interpretive materials, fishing access at the Cross Channel, connected to a bicycle path along the old Sacramento Southern right-of-way extending north to Hood or beyond, to compensate for damage to recreation at Sacramento River legacy communities.

None of these measures may ultimately be sufficient, desirable or feasible. They are offered only to illustrate the scale of compensatory mitigation that may be needed to offset the project's adverse effects on Delta recreation.

CULTURAL RESOURCES

<u>The Delta is culturally significant</u>. In designating the Delta as a national heritage area, Congress concluded that the area's historic, cultural, and natural resources combine to form a cohesive, nationally important landscape. In testimony endorsing the national heritage area's designation, the National Park Service's associate director for cultural resources called the Delta "a hidden gem located at a key geographic and historic crossroads of our country. It is a land of ethnic diversity, innovation, industry, enduring history, and both fragile and robust physical features". Our own exploration of the Delta's cultural significance emphasizes it as an exemplar of the American experience in nature and its multicultural immigrants' pursuit of the American dream, free from the restrictions of more traditional societies, where the good life is possible. These cultural values must be respected.

<u>The Delta comprises a significant cultural landscape</u>. The Delta cannot be reduced to a list of historic buildings and archaeological sites. As defined by the National Park Service, a cultural landscape is a geographic area, including both cultural and natural resources and the wildlife or domestic animals therein, associated with a historic event, activity, or person, or that exhibits other cultural or aesthetic values. The Delta is a landscape that has evolved through use by the people whose activities or occupancy shaped that landscape, which the Park Service calls a "historic vernacular landscape". Examples provided by the National Park Service fit the Delta areas affected by the project: rural villages; agricultural landscapes such as farms and ranches, including landscapes with a total absence of buildings, and landscapes encompassing linear resources including transportation systems, such as the Sacramento River or the River Road. A district of historic farms along a river may be an example of a significant cultural landscape, the Park Service notes, but the presence of buildings is not required. Scenic highways such as Highway 160 are another example of a culturally significant landscape.

The Delta, including lands bordering the Sacramento River from Freeport through Sherman Island, adjoining legacy communities, neighboring islands and distributaries of the river, Highway 160, and the rural islands of the south Delta are all integral elements of this important cultural landscape. Its levees and drainage works are reminders of the region's post-Gold Rush reclamation and the efforts of California Debris Commission, an early landmark in national flood control. Its vineyards and orchards today occupy much the same lands as they did 75 years ago. Many of its multi-generational farms are operated from century-old farmsteads. The packing sheds and remnant wharves lining the river developed to transport these farms' products to market. The legacy communities, from Freeport to Isleton, several of which are listed historic districts or contain listed historic buildings, grew to serve the region's commerce and became home to Asian and European immigrants who worked in Delta farms and agricultural businesses. Asian New Year celebrations, Portuguese *festas*, Juneteenth commemorations, and other ethnic festivals, as well as Courtland's Pear Fair and other celebrations of agriculture, demonstrate these cultures' continuing vitality. Railroads and later Highway 160 and other roads, with their assortment of historic swing and lift bridges, extended into the region with the advance of trains, cars and trucks, bringing anglers, boaters, and other recreationists.

The resulting Delta landscape, observed landscape architect Frederick Law Olmsted Jr. in his 1928 report to California's State Park Commission, "commanded delightful views of the river and its margins and of miles of beautiful orchards and farming lands outside of and below the levees....Along the course of this great system of waterways, levees, and roads there are numerous delightful spots...and the route as a whole is in effect, even at present, a river parkway on a vast scale, of great landscape beauty, and enjoyed by thousands of people". This is still an apt description nearly a century later. In recognition of these charms, Highway 160 and Sacramento County's River Road are designated as a State Scenic Highway. Local routes and corridor have been similarly recognized by Sacramento, San Joaquin, and Contra Costa counties.

Given these historic landscape resources, whose importance has been recognized by Congress, U.S. Department of Interior, National Park Service, State of California and local governments, the EIR should protect the Delta as the culturally significant landscape that it is, rather than limiting its impact assessment to only archaeological sites and individual historic structures and districts. Measures to avoid or reduce damage to these resources should be consistent with the Secretary of the Interior's Guidelines for Preserving Cultural Landscapes.

<u>Strengthen protection of historic and archaeological sites</u>. In addition to protecting cultural landscape resources consistent with the Secretary of the Interior's Guidelines, measures to avoid or reduce damage to historic building and archaeological sites should be strengthened from those proposed in the BDCP/WaterFix EIR. Representatives of California native Indian tribes should be consulted regarding protection of archaeological sites as should local Delta historical societies, museums, Locke Foundation, historians, and community groups when historic resources are

affected. Dr. Robert Benedetti's testimony in Sacramento County's appeal of the CA WaterFix Delta Plan consistency certification should also be reviewed to identify historic resources at risk from tunnel constriction. All measures included in the Delta Plan MMRP 10-1 through 10-4 should be used, as applicable.

If historic buildings must be acquired, they should be adequately protected, including stabilizing walls and windows, controlling mold and other damage throughout the construction period, and then rehabilitated consistent with the Secretary of the Interior's Standards for Rehabilitation for reuse upon the project's completion. A useful measure from the mitigation plan for San Francisco's central subway is monitoring vibration of historic structures adjacent to tunnels to ensure that historic properties do not sustain damage during construction. Contract documents should specify maximum peak vibration levels. If at any time the construction activity exceeds this level, that activity must immediately be halted until an alternative construction method can be identified that results in lower vibration levels.

Inadvertent damage to historic properties or historical resources must be repaired, consistent with a written general protocol for inadvertent damage to historic architectural resources and a listing of specific properties that should be the subject of an individual plan because of their immediate proximity to the project, as provided in the High Speed Rail Authority's mitigation plan. Inadvertent damage from the project to any of the historic properties or historical resources near construction activities should be repaired in accordance with the Secretary of the Interior's Standards for Rehabilitation. Another useful measure from the High Speed Rail Authority's EIR is providing interpretive information regarding specific historic properties or historical resources or historical resources affected by the project, including brochures, videos, websites, study guides, teaching guides, articles or reports for general publication, commemorative plaques, or exhibits.

AESTHETICS

<u>The Delta's landscape is integral to its qualities as a place</u>. The Delta is characterized by many diverse and often contradictory visual attributes: it is a vast flat sweep of land and water, yet with its willow and cottonwood-lined levees, farm buildings and historic communities, water towers and, on its horizons, wind turbines and Mount Diablo, it is not a featureless landscape. The aesthetic appeal of the Delta is as varied as the character of the farmed landscape, the waterways and marinas, the towns and communities surrounding favorite recreation areas.

County general plans identify especially prized scenic routes and corridors near the project's proposed footprint:

• Sacramento County: Highway 160, a State scenic highway; River Road, also a State scenic highway; Isleton Road; the Sacramento River, and other Delta roads atop levees bordering Delta sloughs.

- San Joaquin County: Interstate 5 north of Stockton; Eight Mile Road on Kings Island and Bishop Tract; West Lower Jones Road and Zuckerman Road surrounding McDonald Island; Bacon Island Road along Middle River; and Highway 4 west of Bacon Island Road.
- Contra Costa County: Highway 4 west of Old River; and the Byron Road.

In recent surveys of residents and visitors, a common theme volunteered was that coming to the region is like stepping back in time, and how extraordinary that such a place could exist within an hour or two of the Bay and Sacramento metropolitan areas. One of the last lowland areas of the state to be tamed and settled, the Delta continues to be relatively hidden and remote. Few roads traverse it, most of its bridges are historic structures, and a few crossings are still accomplished by ferry. A great quiet and a slow pace rule. These qualities provide a baseline that should be preserved by minimizing the project's alteration of Delta landforms.

The Delta's landscape ranks high among the qualities that make the Delta "home" to residents and frequent visitors. It is often observed that people come to the Delta to get away from city life. They can do so with relative ease because the Delta Protection Act and county general plans have ensured that urban-type development stays for the most part at the outer edges in the secondary zone. These aesthetic qualities should be protected as carefully as key attributes of wildlife and fish habitats. The visual resources of the Delta are literally the outward manifestation of the existing land uses. Thus, all adverse project impacts affecting land use will play out visually and with a compounding, profound effect.

<u>The Project's Decade and a Half of Landscape Alteration Brings Radical, Not Evolving</u> <u>Change</u>. The principal elements of the conveyance project are mainly constructed in the primary zone, which otherwise receives the highest level of protection from changes that would radically alter its landscape, as described in the Land Use section. These principal elements include the two Sacramento River intakes, three or more tunnel boring machine (TBM) launch shafts along the tunnel's route, and roughly ten reception and maintenance shafts at various locations along the 40-mile alignment. Below are described some of the concerns related to each of the principal elements.

<u>Project intakes.</u> The project intakes, regardless of configuration (Intakes 2 and 3 or 3 and 5), would permanently damage scenic resources viewed by boaters on the Sacramento River or motorists on Highway 160 and the River Road, designated State scenic highways, that pass through the communities of Clarksburg, Hood and Courtland. The visual impacts of the facilities including the intakes themselves, new haul roads, road widening and bridge modifications of Hood-Franklin Road, and interchange improvements (in the Intake 2 and 3 configuration, potentially an entirely new interchange at Lambert Road and I-5) would be significant and unavoidable.

 <u>Launch Shaft Sites.</u> At the launch sites, construction support complexes would be necessary with high-voltage power supply to operate the TBMs, sufficient area to dewater and stockpile tunnel material until it is moved offsite, and where concrete batch plants would be co-located. The launch sites are also where the 40-foot diameter concrete tunnel liner sections would be delivered by truck, train or barge, necessarily surrounding the sites with a web of transportation corridors.

Launch shaft sites would have a massive visual impact on the landscape. The visual blight would extend through the Stone Lakes NWR where widening Hood-Franklin Road is likely. Potential avoidance strategies to reduce traffic or other impacts to existing roads, such as constructing haul roads, would increase visual impacts. Mitigation measures, such as landscape and vegetation barriers, visitor centers or kiosks, interpretive signs, and viewpoints, could provide some relief but would not prevent the permanent alteration of this landscape by the project.

Barge landings and related dredging would degrade scenic waterways, such as Snodgrass Slough, the Meadows, and Sycamore Slough.

Some siting approaches that appear to be under consideration by the DCA such as the northerly launch shaft site at "Glanville" Tract (located in Granville Tract) push the impacts of the 290-acre "consolidation" facilities east towards and in that case beyond I-5, outside the boundary of the legal Delta. This would reduce local visual impact somewhat but construction of new haul roads and widening of Diersson Road would be required, as well as a conveyor system to carry tunnel material from the launch shaft across fields to the consolidation facilities between Diersson Road and Twin Cities Road.

For the Eastern Corridor alignment, a Lower Roberts Island launch shaft concept presented at the SEC meetings shows the massive launch shaft complex straddling Black Slough near Holt. This site includes a potential barge landing immediately upstream of Windmill Cove and new haul and access roads and a rail spur on the San Joaquin River banks opposite Buckley Cove Park, near the River Point Landing Marina, Buckley Cove boat launch and home to the Stockton Sailing Club and Delta Sculling Center. Boaters accessing the San Joaquin River from these locations and from Whiskey Slough marinas such as Tiki Lagoon and kayakers to destinations such as Mandeville Tip would all experience a highly altered and industrialized landscape that would be inconsistent with San Joaquin County-designated scenic corridors and roadways.

The Byron launch shaft site at Clifton Court Forebay pumping station would result in even greater impact on views from scenic Byron Road due to the landform alteration involved in constructing the proposed 750-acre surface area Southern Forebay. The walls of the proposed forebay would be constructed from some 5 million cubic yards of tunnel material. What cannot be used in immediate onsite construction at or near each of the launch sites would be stockpiled for eventual removal. The area required

for storage depends on several factors including the TBM speed, production of tunnel material, and height that the stockpile could be – or on how quickly it could be transported to other re-use locations such as in levee upgrades or subsidence remediation. Examples provided by the DCA in SEC presentations based on 10-foot high stockpiles would require 240 acres just for the stockpile at each launch shaft site. Clearly the visual impact and its effect on surrounding communities like Discovery Bay, Byron, Mountain House and Tracy will be massive and lasting.

• <u>Reception and Maintenance Shafts</u>. Based on presentations at the SEC meetings, the Sacramento River intakes would also be the site of reception shafts for the tunnel boring machines (TBMs), with maintenance shafts constructed at a range of intervals from two to five miles between the Launch Shaft and the reception shafts, depending on the final design. With construction and operation of the reception and maintenance shafts for either the central or eastern alignment, the visual impacts would mar the Delta legacy communities of Locke, Walnut Grove and potentially Thornton.

While reception shafts could and should be removed and their sites restored after construction is complete, as reported at SEC meetings some maintenance shafts could remain. To meet projected sea level rise impacts, these shafts would be constructed with concrete walls 30 to 50 feet high, likely rising higher than existing levees. The shafts would have lasting impacts on the landscape, and without careful planning and design could end up looking like oversized gopher mounds. Maintenance shafts for the Central Corridor alignment driving to or from a Bouldin Island Launch shaft would potentially impact views enjoyed by recreational boaters and by visitors to Tower Park Marina. Tranquil Staten Island fields that provide opportunities for viewing sandhill cranes may also be affected.

<u>Transportation.</u> Finally, transportation logistics is a key consideration in the siting of the launch shafts. According to materials presented at the SEC meetings, for a 6,000 cubic feet per second (cfs) tunnel, deliveries of tunnel liner segments by truck could require 25 trips per day every 25 minutes for ten hours per day over 25 days. By rail car that could be reduced to 20 rail cars or 2000 ton barge, every 3 to 5 days. Throughout the construction period, the commotion of this level of trucking or railroad traffic would degrade the tranquil, scenic attributes of affected Delta landscapes.

<u>Recommended Visual Impact Analysis Approach: Lessons Learned.</u> The BDCP/ WaterFix EIR utilized an approach to visual analysis that combined the three mostaccepted visual assessment methodologies used by Federal agencies including the Federal Highway Administration, Bureau of Land Management, and USDA Forest Service that have overlapping assessment principles. A qualitative analysis combined with a quantitative analysis of simulations was used together with narrative descriptions of how the visual environment would be altered. However, simulations could have been more meaningfully used to convey the effects of change on the landscape. To complement the EIR's narrative, impacts should also be portrayed though simulations of scenic conditions both during and after construction from a variety of Delta resident and visitor perspectives. Views from recreational waterways, including portions of the Sacramento, Mokelumne, San Joaquin, Middle, and Old Rivers affected by construction and from Whiskey Slough should be portrayed. This analysis should also portray drivers' views from affected portions of Highway 160, River Road, and locally designated scenic routes and corridors.

DWR should work closely with the affected Delta communities to map and characterize the baseline visual landscape, drawing on existing community planning priorities and elements of the natural, historical and cultural experience to establish threshold visual quality objectives for the communities and for the natural and farmed landscapes. Such objectives should then be used to develop measures to minimize outright visual damage as well as the potential for incremental physical deterioration over the course of the construction timeframe. For example, during EIR development and continuing through the design phase, DWR or the DCA should work with the communities on the design of project features that will remain on the landscape, such as the potentially 30 – 50-foot high tunnel shafts. Like the CA High Speed Rail project, DWR and/or DCA could work with communities to develop aesthetic guidelines for project elements, both temporary and permanent, that provide contextual design responses to site-specific or unique conditions, or "context-sensitive solutions". Context sensitive solutions mean structural aesthetics must respond to local settings with concern for the human scale, building scale, and the vantage points from which the structures will be viewed.

Design principles should include the requirement that the structures enhance local environments and community context to the maximum extent feasible. Especially along Highway 160, the River Road, and local scenic routes and corridors, landscaping could be used to visually integrate project structures into the local context with plantings that recreate the natural or agricultural setting into which they are placed. The aesthetic design of project structures, in combination with landscape and urban design that serve the local community can create a positive contribution to the surrounding visual context and minimize the potential for physical deterioration. If tunnel material is suitable for reuse on areas that will be returned to farming, then the EIR should assess the feasibility of using it to gradually contour slopes surrounding the maintenance shafts, especially when highly visible from heavily travelled roads or locally designated scenic routes and corridors, to minimize abrupt discontinuities in the landform. Using tall crops, such as orchards, to shield maintenance shafts from view should also be considered where soils are suitable. High voltage power lines, batch plants, and other intrusions should be removed when construction is complete. Local government general plan policies that protect scenic routes and corridors also include provisions that suggest potential mitigation measures: maintaining agricultural land in farming use, sign controls, limiting roadway improvements to protect scenic corridors, placing riprap on levees no higher than the average annual high water, and maintaining natural roadside vegetation.

Where unavoidable visual impacts remain, the Delta Plan MMRP requires "compensatory mitigation for visual or aesthetic resources by providing improvements to areas of existing diminished scenic quality". A potential example that should be examined with local communities could be a façade program to upgrade deteriorating storefronts or buildings in legacy communities or other visitor destinations affected by the project.

TRANSPORTATION/TRAFFIC

<u>Transportation routes are lifelines</u>. The key modes of transportation that move people and goods in the Delta are roads, water, and rail. Interstates 5, 80, and 580 provide major transportation and trucking routes skirting the Delta. The three major state highways in the Delta (State Routes 4, 12, and 160) are typically two lanes, sometimes built on top of levees. Originally meant for lower traffic volumes at moderate speeds, the state highways are now heavily used for regional trucking, recreational access, and commuting. More than 50 bridges, including approximately 30 drawbridges, span the navigable channels of the Delta. Regional rail traffic between the Bay Area and the Central Valley passes through the Delta, as do commuter rail services such as the Amtrak San Joaquin.

Two major ports lie in the Delta, the Ports of West Sacramento and Stockton, accessed by the Sacramento River and Stockton Deep Water Ship channels, respectively. The Sacramento channel is 30 feet in depth, and thus is a non-container port. The Stockton channel has a depth of 35 feet and can handle up to 55,000 ton ships fully loaded or up to 80,000 ton ships partially loaded. Several million tons of diversified products are shipped through the Delta each year. Primary cargos in the Port of West Sacramento are rice exports and cement imports. The port can also handle heavy machinery such as wind turbines, steel generators and transformers. The Port of Stockton handles raw and finished goods and has 7 million square feet of warehousing and facilities for handling liquid bulk and dry bulk commodities. According to the U.S. Army Corps of Engineers Waterborne Commerce Statistics Center (WCSC), a total of 898,044 tons of import/export cargo transited the Sacramento Deep Water Ship Channel in 2018. For the same period the Port of Stockton handled a total of 5.2 million tons of import/export cargo and reported a total of 252 ship calls. Both ports hope to expand in the future, which would result in an increase in ship and barge traffic through the Delta.

These transportation assets are essential to the region's economic pillars – agriculture and recreation – to the quality of life of Delta residents, and the enjoyment of Delta visitors.

<u>Involve Stakeholders</u>. The Delta is not only a water hub for the state but also a vast multi-dimensional transportation web of freeways, state highways, county and local levee roads, waterways, ports, railways, and the private and public logistics systems that manage them. This web is so important to the larger regional economy that a multitude of stakeholders have a grip on one or more of the supporting threads –

county, state and federal agencies, local reclamation districts on whose levees some roads travel, and constituents in many industries all have an interest in Delta transportation and depend on this system to support the function of business, commerce and daily life.

To name but a few of these stakeholders, three different Caltrans districts maintain and plan for the Delta's transportation future, in cooperation with three different Councils of Governments (COGs) who represent Delta counties and municipalities in developing Regional Transportation Plans (RTPs) to recommend funding and prioritization of transportation projects and more recently sustainable communities planning. Some counties have transportation planning authorities in addition. The California Highway Patrol (CHP) also has three different districts responsible for highway safety in the Delta. The Delta Officers Intelligence Team (DOIT) convened by the U.S. Coast Guard Station – Rio Vista meets monthly with federal, state and local marine law enforcement, search and rescue agencies such as fire protection districts, and other interested agencies such as State Lands Commission and DBW to coordinate information relative to Delta marine safety and operations. Citizen organizations such as the Highway 12 Association attempt to coordinate with some of these authorities and publicize their activities and projects – especially when it comes to roadway maintenance and improvements.

<u>Account for Pre-Existing Conditions</u>. Traffic congestion and safety is widely acknowledged by all these players to be an ongoing issue in the Delta. Existing congestion on Highways 4, 12, and 160 already impairs travel within the Delta and beyond to the metropolitan areas of the East Bay, Stockton-Tracy, and Sacramento. Accidents are frequent, often fatal, and lead to related hazards such as fires or vehicles in the water. Some safety improvements have been implemented such as installation of "K-rail" in the median of State Route 12, but many more safety projects are a challenge due to the high traffic volumes affected, lack of right-of-way for traffic management, and other unique Delta conditions such as peat soil. Seasonally, safe movement of slow or over-size farm equipment from one location to another is risky. Aging bridges are frequently fully or partially closed for repair and maintenance and ferries may be taken offline, causing significant re-routing or delays of travel.

<u>Rely On the Experts</u>. Successfully avoiding or mitigating transportation impacts to an already over-taxed transportation environment will be difficult. Some transportation and circulation impacts will likely be significant and unavoidable. Addressing transportation impacts will require a construction transportation management system with flexibility and creativity. We urge DWR and/or the DCA to acknowledge the severity of the baseline condition and marshal the knowledge and resources of the local and state agencies that are the most familiar with Delta transportation challenges. Most if not all of

these have spent considerable time developing plans and programs to improve conditions for their citizens but may lack the resources to carry them out.

<u>Start With Best Available Data and Science</u>. We again encourage gathering the best available data and science at this early stage to support the analysis in the draft EIR. The land suitability analysis presented at the SEC meetings appears to be assembling some of the data needed to adequately analyze the project impacts. Identifying roads, rails, and barge-worthy waterways is a start. But the EIR must evaluate more than just the factors considered in design and construction planning.

The Commission is encouraged that DWR and the DCA have initiated new traffic counts in the past several months. To avoid repeating the mistakes of the BDCP/WaterFix EIR, additional information will be needed about (1) the operational status of ferries and movable bridges affected by project traffic (percentage of time when operations are limited by repairs or maintenance), (2) bridge clearance above water levels and existing channel depths and configurations at proposed barge routes under a range of water conditions (to assess their suitability for barge traffic and impact of barge travel on bridge operations and related highway congestion), and (3) recreational boat traffic on proposed barge routes to aid in assessing impacts to marine safety. Data from traffic studies currently being completed should be shared with local transportation agencies or on the state's Data Portal.

It will also be essential for the EIR analysis to start with a through database of Deltawide transportation and circulation policies, plans and programs at all levels. We highlight here a few of the important data sources, obvious perhaps, but nevertheless noteworthy in the consistency of cross-jurisdictional priorities.

The county general plans identify what they can live with, and a survey of all of them quickly shows the high priority for the Delta that each of them sets on:

- Linking communities externally to regional, state, international and virtual destinations through safe and efficient transportation networks and high-speed communications infrastructure.
- Connecting communities internally through an efficient and safe system of roadways, bridges, transit, bikeways, and pedestrian trails and sidewalks.
 Facilitating the movement of goods by preserving and improving transportation corridors including road and rail.
- Community residents and farm equipment move together safely on well managed and maintained roads.
- Including specific transportation and circulation policies to preserve roadway levels
 of service (LOS) and ensure existing and future operations of important economic
 hubs. An example of this: Yolo County's policies protecting the Port of Sacramento
 and its integration with designated truck routes such as State Route (SR) 84 in the

transportation of agricultural products to and from the Clarksburg and Delta regions. Clarksburg Road from SR 84 to South River Road is a targeted trucking corridor for improvements to support agricultural transport.

- Ensuring gateway entry points for visitors to the Delta region seeking agri-tourism, eco-tourism, cultural and recreational experience opportunities.
- Encouraging multi-modal access to alternate transportation to alleviate roadway congestion and enhance the visitor experience.
- Including pedestrian walkways and bikeways on bridges or overpasses that are new or modified.
- Preserving agriculture and the agricultural economy.
- Envisioning strong and vibrant Delta communities whose economies are diverse and serve as a source of food and agricultural commodities; a destination for tourists; and a supply of high-tech and manufactured products.

Additional sources should include the current RTPs and other program documents of Sacramento Area COG (SACOG), San Joaquin COG (SJCOG), and Association of Bay Area Governments (ABAG), which represent the Delta counties and municipalities. Thresholds for traffic impacts should be developed using not only the most up-to-date methodology from the most recent edition of the Highway Capacity Manual but in close consultation with all three Caltrans districts with responsibility for Delta roads, bridges and ferries – Districts 3, 4 and 10. With the traffic count data that DWR is collecting, operational analysis should be completed to help evaluate alternative designs. Recent climate vulnerability assessments completed by the three Caltrans districts should also provide source material.

<u>Account for the Project's Cumulative and Interrelated Impacts.</u> As implied by the foregoing baseline description, either of the project alignments shown in the NOP would exacerbate a multitude of existing transportation challenges. SR 160, 12, and 4 and many county roads would be adversely impacted by increases in any type of traffic. For example, Hood-Franklin Road from Interstate 5 to SR 160 and Lambert Road from Herzog Road to Franklin Blvd are already operating at "Deficient" levels. Increased traffic on the roadways potentially to be used during construction of intakes or construction and operation of the potential Granville Tract launch shaft site, including Hood-Franklin Road, Lambert Road, Twin Cities Road and River Road, would adversely impact public safety in transit to Locke, Walnut Grove, and the Stone Lakes NWR.

At least two dozen bridges on the Sacramento, Mokelumne, and Middle rivers, and multiple sloughs would be affected by increased barge, rail and truck transit. New rail spurs or access and haul roads could also interfere with access to farmland. An adequate assessment of the project's impacts on transportation should integrate information on all these interrelated factors affecting congestion and traffic flows. As suggested in the Land Use section, the EIR should tabulate the acreage and map areas where congestion to LOS D or worse impairs access to properties, including residences, commercial properties, schools and other important community resources.

Engage Others to Mitigate Complex Impacts More Effectively. We recommend a comprehensive approach to transportation impact mitigation, with targeted local avoidance and mitigation wherever feasible. Mitigating transportation impacts will likely be complex, requiring extensive coordination with other entities, each of which has their own pre-existing obligations and responsibilities. These entities range from the school district transportation coordinator to Caltrans, from the CHP and other emergency responders to the residential trash pick-up contractors, from county public works departments to bridge operators.

To streamline coordination, DWR and the DCA should consult with SACOG, SJCOG, and ABAG, with the three Caltrans Delta districts (3,4 and 10) and with Caltrans headquarters. Collectively the COGs and Caltrans comprise the transportation managers of the "mega-region" and have the experience to provide practical input on avoidance and mitigation. Caltrans and some of the county agencies may also have encroachment or other permit authority for certain aspects of the project, so their early input would be particularly valuable. DWR should anticipate reimbursing COGs and local government public works agencies for their time spent on this coordination.

We suggest comprehensive programmatic mitigation as well as more specific localized mitigation.

- Work with county public works or transportation agencies, SACOG, SJCOG and ABAG, and Caltrans to:
 - a. Prepare traffic mitigation plans with detour maps for road closures or where construction-related traffic is likely to congest key roads. Maps should be developed and available for public comment in the draft EIR, similar to those in the San Francisco Municipal Transportation Agency (SFMTA)'s EIR for its Central Subway project through Chinatown⁴.
 - b. For priority project transportation routes, consider upgrading unreliable transportation features, such as bridges and ferries, affected by project-related traffic prior to project initiation.
 - c. Where water diversion structures are under construction, designate, sign, and improve as necessary an alternate route for recreational traffic that avoids Highway 160 sections by using parallel sections of River Road on the river's west bank.
 - d. As in the LA Metro Westside Subway Extension Project, establish staging areas and truck haul headways to avoid platoons of trucks upon local roads and

⁴ <u>https://www.sfmta.com/reports/central-subway-final-seisseir</u>

freeways. Establish a vehicle dispatching system at construction areas and offsite locations to monitor and address truck headway issues as they arise.

- e. Restricting nighttime truck haul operations/times for each route, as was done for the LA Metro Westside Subway Extension Project. Truck haul operations should be avoided during peak morning and evening hours, during noise restriction hours, special events, and public holidays.
- f. Consider transit alternatives for construction workers, including park and ride lots in Elk Grove, Stockton, Tracy, Fairfield, or other locations and dedicated bus service to project construction sites.
- To communicate about detours, highway congestion, barge operations, and other project-related traffic conditions, utilize all appropriate methods of communication including but not limited to roadway signs, 511-type notices and alerts, websites, and hotlines.
- Establish a transportation/construction coordination office for the life of the project, as in the LA Metro Westside Subway Extension Project, to oversee mitigation measures' implementation, coordinate deliveries and barge movements, monitor traffic conditions, advise motorists and those making deliveries about detours and congested areas, and monitor and enforce delivery times and routes. The office should coordinate its transportation actions with roadway projects of other agencies. It should also coordinate with police, sheriff, fire, and water safety personnel regarding emergency access and response times.
- To provide a mechanism for adaptive management of transportation impacts and mitigation measures, the coordination office should analyze traffic conditions throughout the construction period to determine the need for additional traffic controls. It should also work with neighbors to address concerns regarding construction traffic, including a mechanism for the public to report anomalies, changes, un-planned work, etc.
- When traffic impacts cause loss of business for local businesses, use the Local Business Interruption Fund proposed under the Land Use section. Such programs have been used for the LA Metro and other major public works projects.
- To mitigate the project's transportation or greenhouse gas emissions (GHG), consider helping local transportation agencies to implement local programs or projects in the Delta that reduce congestion and locally-generated vehicle miles traveled.

NOISE

<u>Reduce project-related noise</u>. The Delta is quiet. Its loudest sounds are often a dog barking at a nearby home or farm machinery in a neighboring vineyard or farm. For this reason, noise can be one of the most disruptive impacts of the proposed project. In addition to its direct effects, it also contributes to changes in land use, disturbs recreation, and has other secondary impacts. Every approach to reducing it should be employed.

Thresholds of significance used to assess noise impacts should reflect the Delta's existing conditions and the land use in areas where noise effects would occur. One threshold would be noise that exceeds the background sound level by at least ten (10) dBA during daytime hours (seven a.m. to ten p.m.) and by at least five dBA during nighttime hours (ten p.m. to seven a.m.). Noise standards of applicable local government general plans and ordinances should provide another set of thresholds, as these reflect local land use, residents' expectations and other local conditions. Where local standards are unavailable, or where there are special uses, such as parks, nature areas, recreation sites, schools, libraries, churches, or other especially sensitive uses, these federal guidelines should be considered.

Ldn < 55 dB	Outdoor activity interference and annoyance
Leq (24) < 55	Outdoors in residential areas and farms and other outdoor areas
dB	where people spend widely varying amounts of time and other
	places in which quiet is a basis for use.
Ldn < 45 dB	Outdoor areas where people spend limited amounts of time, such as
	schoolyards, playgrounds, etc. Indoor activity interference and
	annoyance
Leq(24) < 45	Indoor residential areas. Other indoor areas with human activities
dB	such as schools, etc.
Leq(24) < 70	Hearing loss All areas.
dB	
Sources II.S. EDA. Information on Loyale of Environmental Naise Requisite to Protect Public Health and Walfere	

Source: U.S. EPA, Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety. Section 4, Identified Levels of Environmental Noise In Defined Areas. March 1974. Leq(24) = the sound energy averaged over a 24-hour period. Ldn = the Leq with a 10 dB nighttime penalty Because these thresholds are, in part, derived from current noise levels, it is important that the EIR be based on recent monitoring of noise conditions in affected areas, rather than textbook estimates as were used in the BDCP/WaterFix EIR. The schedule for the EIR's preparation should provide time for this monitoring, as would be provided for monitoring wildlife and fish if recent data were unavailable. To do otherwise would not reflect the best available science.

Noise impacts should be calculated for all construction activities, including constructionrelated traffic, and for project operations. These calculations should be based on the equipment proposed to be used in project construction, such as types of piles and pile drivers. To help public understanding of noise impacts, areas where cumulative projectrelated noise would exceed any of these thresholds, as applicable, should be identified as adversely affected. Individual structures adversely affected by this noise, as well as lands affected, characterized by land use, should be identified and mapped, so that the number of homes and businesses, and the acres of land harmed can be reported. When especially sensitive uses, such as nature areas, recreation sites, schools, day care facilities, libraries, or churches would be adversely affected, they should be named. Information about construction staging should be used to indicate the duration of these noise effects.

<u>Do not defer noise mitigation</u>. Plans to mitigate noise impacts should be proposed now, not deferred until after the project is approved, as was proposed in the BDCP/WaterFix EIR. To avoid noise that exceeds significance thresholds, these plans should deploy a full menu of measures, such as those cataloged by the Federal Highway Administration (https://www.fhwa.dot.gov/ENVIRONMENT/noise/construction_noise/handbook/handbook07.cfm). They should describe equipment that will be used to reduce noise and vibration, such as pressed in pile installations, vibratory pile drivers, or University of Washington quiet piles. Residences, businesses, and schools that will be exposed to excessive noise should be eligible for funding from DWR/DCA to install sound insulation by replacing doors and windows, as well as adding insulation and ventilation systems where necessary, so that the interior noise level is reduced to 45 dB and achieves at least a 5 dB reduction from previous noise thresholds, as Los Angeles residents are offered under the LAX Master Plan.

Where noise cannot be reduced to acceptable levels, a voluntary acquisition program, plus relocation assistance should be offered to both owners and tenants in compliance with the Uniform Relocation Act.

At a minimum, these measures must comply with the Delta Plan's MMRP measures 15-1 through 15-3. Local agencies, community members, and affected residents and businesses should be involved in developing these measures. Because constructionrelated traffic strongly influences noise impacts, these measures should be coordinated with plans to manage construction-related traffic.

ENVIRONMENTAL JUSTICE

<u>Promote environmental justice in the Delta</u>. The Delta's multiracial population is often at as much risk as the fish who swim past their communities. Too many residents and workers have low incomes. To reach jobs and conduct other daily activities, many rely on Delta roads that will be impacted by project-related congestion. Others rely on water-dependent farms and tourism that the project will harm. Those who live or work in Hood, Clarksburg, Courtland, Locke, or Walnut Grove may have their lives disrupted by noise, traffic, and other disturbances for years by a project that benefits only others far away.

All suffer the stress of decades of State water and ecosystem planning efforts that threaten to harm Delta resources and upend its way of life.

The ESP reported that the age and household composition of the Delta's population is younger and with larger families than is California as a whole. Over a quarter are children younger than 18 years old. In contrast, the population of the primary zone is composed primarily of older people without children, living in smaller households. Most Delta residents describe themselves as white or Hispanic, with the next largest ethnic groups being Asian, other races, and African American or black. About one-third describe themselves as Hispanic. Areas with concentrations of lower income residents include Stockton, Walnut Grove, Locke, Courtland, Clarksburg, and Hood.

Government Code section 11135(a) provides that no person in California shall, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by any state agency, is funded directly by the state, or receives any financial assistance from the state. This provision requires agencies to consider fairness in the distribution of environmental benefits and burdens, so that they (a) foster equal access to a clean environment and public health benefits; and (b) do not cause unmitigated concentration of polluting activities near low income, minority, or other at-risk communities, such as those in the Delta affected by this project. Provisions of CEQA and its guidelines, including CEQA Guidelines § 15064(e), require that lead agencies consider how the environmental and public health burdens of a project might specially affect these communities.

The BDCP/WaterFix EIR did not include a section addressing how the project considers environmental justice in the Delta. This EIR should, including updated analysis of demographics, income levels, and other protected characteristics of communities that the project impacts. Disruptions in community character, lost housing, noise, lost recreation opportunities, traffic that impedes travel to employment, damage to cultural resources, or other impacts that cause disproportional impacts on children, the aged, racial minorities, lower-income or other protected populations, should be highlighted,

<u>Mitigate environmental justice impacts</u>. Measures should be proposed to avoid, reduce, or compensate for disproportionate impacts. The best way to do so would be to adopt the Commission's recommended alternative for continued through-Delta conveyance rather than building an isolated tunnel. Another way is to carefully mitigate community disruption, noise, traffic congestion, and damage to agriculture, housing, recreation, and cultural resources, as described in our comments on those issues. Other feasible measures could provide some project-related benefits for Delta residents. Some could

be adapted from those adopted to protect southern Californians harmed by the LAX Master Plan.

- 1. Create and utilize existing resource centers to assist historically under-represented and at-risk Delta residents to find construction and other substantive jobs with the project during both its construction and operation. Also, create a community database of project-related job opportunities by coordinating data gathering, outreach, and counseling through the following:
 - Research and assess existing specialties and current capabilities of existing workforce to assist with targeted training and outreach efforts.
 - Develop and maintain a complete data base of minority contractors
 - Produce a data base of potential jobs and specialties needed to assist in targeted training and outreach efforts.
 - Produce a data base of potential jobs and specialties needed and disseminate the information through the communities affected and to minority business enterprises
 - Commit to hiring Delta-area residents to ensure that there will be benefit to the local population.
- 2. Include community participation, including a diverse group of residents, stakeholders, environmental scientists, and community leaders, in monitoring the implementation of the project's MMRP, including regular meetings, to ensure agency compliance and accountability.
- 3. Work with local school districts to provide educational and trade training for projectrelated careers, targeting students in affected communities to provide them with increased career opportunities in water management, engineering, and environmental sciences.
- 4. Work with local school districts to offer curricula about water, engineering, agriculture, environmental sciences, and Delta history and culture at elementary schools, middle schools, and colleges of affected communities.

Finally, other local, project-related benefits could be provided by contributing funds to the Delta Investment Fund (PRC section 29778.5) to invest in public facilities, expand and implement the Commission's Delta Community Action Plan project, or support agricultural, cultural, recreational, or tourism programs and projects.

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Date:	Friday, April 17, 2020 1:42:37 PM
Attachments:	image001.png
	RD 551 NOP Comments 4.17.2020.pdf

Ms. Rodriguez:

See attached comments from Reclamation District 551. Original will follow by U.S. mail.

Thank you,

Jessica Hughey Legal Secretary to Andrea Clark, Steve Saxton, Clifton McFarland and Austin Cho



Downey Brand LLP 621 Capitol Mall, 18th Floor Sacramento, CA 95814 916.444.1000 Main 916.520.5333 Direct 916.520.5733 Fax jhughey@DowneyBrand.com www.downeybrand.com

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RECLAMATION DISTRICT No. 551 P.O. Box 523 Courtland, California 95615

April 17, 2020

VIA EMAIL (DeltaConveyanceScoping@water.ca.gov)

Ms. Renee Rodriguez Department of Water Resources P.O. Box 942836 Sacramento, CA 94236

Re: COMMENTS ON NOTICE OF PREPARATION OF ENVIRONMENTAL IMPACT REPORT FOR THE DELTA CONVEYANCE PROJECT

Dear Ms. Rodriguez:

Reclamation District No. 551 (RD 551 or the District) appreciates this opportunity to comment on the above-referenced Notice of Preparation of Environmental Impact Report (EIR) for the Delta Conveyance Project in the Sacramento-San Joaquin River Delta (NOP) posted by the Department of Water Resources (DWR) on January 15, 2020.

RD 551 encompasses approximately 8,537 acres within the Pearson District, including the town of Courtland. RD 551 was established in 1893, and is responsible for operating the Pearson District reclamation works. These works include levees bordering the Sacramento River (which levees are part of the larger Sacramento River Flood Control Project) and Snodgrass Slough, and a network of drainage canals and pumps that remove drainage water from the district and thus keep the water table low enough for productive agriculture. RD 551 raises revenue for these activities by levying an assessment against all specially benefited lands within the district, and currently with supplemental subventions reimbursements from the State for levee maintenance activities.

RD 551 submits the following comments to help ensure that the full range of environmental issues and concerns related to the development of the EIR are identified and adequately studied.

COMMENTS

The Delta Conveyance Project proposes to downsize the past iterations by reducing the number of intakes and underground tunnels to be constructed. However, like the projects before it, the Delta Conveyance Project envisions an expansion of existing State Water Project facilities, significant temporary construction impacts, and permanent water conveyance operations within and around RD 551. According to the NOP project description, the facilities will include the following:

- Two 3,000 cfs intake facilities on the Sacramento River
- Construction footprints of 40-60 acres at each intake location

- Tunnel reaches and tunnel shafts
- Intermediate and Southern Forebays
- Pumping plant
- South Delta Conveyance Facilities

The assumptions used to develop the project objective of protecting against water supply disruptions due to a major earthquake in the Delta seemingly do not consider updated levee data and recent studies that that reflect a lower probability of flooding due to an earthquake event. This objective must be re-evaluated based on the actuarial risk of extensive flooding from a seismic event causing disruptions to water supplies. The proposed project is projected to cost \$12 billion, to meet this and other objectives. This objective, as well as others, could also be met by improvements to the existing levee system for a much lower investment. Regardless, investments must be made in the levee system, as explained later.

The NOP project description says initial operating criteria will be formulated during the preparation of the Draft EIR. Preliminary operating criteria is not sufficient to fully evaluate the impacts of the whole project. Modified operations of the existing State Water Project (SWP) is the premise behind the proposed project. While construction impacts of the project will be extensive, impacts from operations will also be extensive. Operational criteria can change as a result of processes outside of CEQA and impacts will change accordingly. If final operations cannot be included within this CEQA process, they must go through a separate CEQA process to assess impacts to agricultural, environmental, and domestic water users within and outside the Delta.

The NOP also states that DWR intends to utilize certain information from prior Delta conveyance proposals, including the Bay Delta Conservation Plan (BDCP) and California WaterFix, though the proposed Project will undergo separate analysis under the California Environmental Quality Act (CEQA). RD 551 participated extensively in the environmental review process for the BDCP/California Water Fix projects and hereby incorporates by reference its prior comment letters, as well as the comments submitted by the North State Water Alliance, and North Delta Water Agency (whose area includes RD 551), where applicable. RD 551 anticipates that these entities and other Delta stakeholders may submit comments on the NOP and subsequent environmental documents, and all of those comments are likewise incorporated herein by reference.

1. Delta Conveyance Operational Parameters.

The NOP does not include a specific plan for how the proposed conveyance system will be operated, and so it is impossible to forecast the potential impacts of those operations at this stage. As DWR develops this plan, it must devote careful attention to the existing conditions within the Delta, particularly RD 551.

For example, there are areas of known seepage within RD 551 (refer to DWR Bulletin 125). Salinity intrusion in these seepage areas, as elsewhere, poses a serious risk to water quality, for both residential wells and for existing agricultural operations. Where conveyance pumping operations reserves flow or alter existing flow patterns, existing in-Delta agricultural users may be faced with sudden changes to salinity and crop damages, particularly in these high-seepage areas. (See, for example, Bulletin 125, page 99, acknowledging that seepage as a result of conveyance "could limit the use of lands to less than their full economic potential."). Any operations plan developed for the Project must identify, avoid, and/or sufficiently mitigate for these impacts.

We further note that the District is within the boundaries of the North Delta Water Agency, and its landowners hold subcontracts under the 1981 North Delta Water Agency Contract with DWR. Those protections include not only water quality protections, but a commitment by the State that it will not convey SWP water in such a way as to cause "a decrease or increase in the natural flow direction, or cause the water surface election in Delta channels to be altered, to the detriment of the Delta channels or water users" within the NDWA area. In the event that "lands, levees, embankments or revetments...experience seepage or erosion damage," the State is responsible for repairing and alleviating that damage. (1981 Contract, para. 6). These legal obligations are an integral part of any future implementation of the Delta Conveyance Project, and any operational plan developed by DWR must account for these legal requirements.

2. Drainage

a. Seepage

One of RD 551's main efforts is to remove drainage water from the district, primarily by running the district pump stations and drainage ditches. Most of the water currently comes from precipitation events, seepage through the levees, and irrigation tailwater, though district farmers recirculate and reuse water efficiently, minimizing the amount of water that must be pumped out of the district. Any seepage of water into the soils or canals of the Pearson District as a result of a water conveyance facility must be addressed in the EIR and properly mitigated pursuant to CEQA.

The proposed Project contemplates potential intake sites and north tunnels that would run through or near Snodgrass Slough and Pearson District. It is unclear whether water is anticipated to seep from an intake pipe in a way that would impact Pearson District and contribute to the local water table, possibly requiring pumping off the island. Even a very small percentage of seepage from the facilities into the District could impact the existing drainage infrastructure, increase groundwater elevations, and threaten to destroy crops and damage permanent structures. Seepage can also compound existing problems related to the buildup of salt and alkalinity in the soil, which can burn crop roots. If there is an increase in seepage, the District pumps would need to run many more hours each day, and the drainage ditches would need to be more actively maintained—all at great cost to the district. Drainage operations are expensive (e.g., electricity, repair, equipment, maintenance, labor and diesel) and are paid for by entirely the local landowners. Unlike with levee maintenance activities, there is no State contribution to pay for drainage activities undertaken by local districts.

A related concern is that seepage from Delta Conveyance Project facilities may contaminate local water supplies, with domestic drinking wells being of singular concern. The water from the Delta channels is less pure than the water drawn from drinking water wells within the District, and could not be consumed without treatment. If seepage from the proposed facilities commingles in any significant amount with the local water supply, it could contaminate wells. If that happens, the Delta Conveyance Project would need to build a water treatment and delivery system for all affected residences, at no additional cost or inconvenience to the landowners. Construction of certain proposed facilities will also involve drilling up to 190 feet below the river, which could release mercury, again posing serious potential environmental effects on the local water supply that will need to be mitigated.

To avoid the effects described above, every effort must be made to prevent seepage from the proposed conveyance facilities: the forebay, tunnels, and all other conveyance or regulating facilities will need to be lined with material that provides the lowest achievable range of seepage, regardless of cost. The Project must also include contingency measures to address incidental seepage. These measures should include, at a minimum: (1) water table and soil moisture detection devices throughout the entire district so that conditions can be constantly monitored; (2) relief wells along the tunnel alignment and forebay so that any seepage can be captured and pumped back to the forebay or the Delta channels, and (3) a response plan that will require Delta Conveyance Project operations to cease long enough to locate and fully repair any leaks or any other cause of high-water elevation conditions.

b. Need to Modify the District's Drainage System Due to Project Facilities

If any Delta Conveyance Project facilities are located on Pearson District, a sizable portion of the District's existing drainage canals and some components of the pumping stations will need to be reconfigured and relocated. The existing system has been in place for over 100 years, and takes advantage of natural land contours to provide the most efficient drainage possible. DWR will need to meet with the RD 551 trustees and engineering staff in order to design the new system modifications, which may require acquiring additional easements or real property as any new ditches or other facilities will need to cross private property and potentially pumping upgradient in some areas. The Delta Conveyance Project will need to pay for all costs associated with modifications to the drainage system, including the costs of design, engineering, construction, and equipment, and any increased costs in pumping.

3. Flooding

a. Impacts Upon RD 551 Levees

Any Delta Conveyance Project facilities built within Pearson District will require protection from tidal and seasonal flooding, and presumably will be bordered by extensive new levees. Any such levees will need to be tied in to the existing Sacramento River and Snodgrass Slough levees. As discussed above, the Pearson District's Sacramento River levees—which were originally constructed by RD 551 and its predecessor districts—are an integral part of the Sacramento River Flood Control Project, which is a Federal–State project with RD 551 responsible for local operation and maintenance. The Snodgrass Slough levees were built in part by local landowners and by RD 551, and since then have been operated, maintained, repaired, and improved by RD 551 without Federal or State oversight; therefore, any tie in to these levees will require substantial cooperation and collaboration with RD 551's engineering staff. Regardless of the degree of potential federal involvement by the Bureau of Reclamation and the Central Valley Project (CVP), the Delta Conveyance Project will need to work with the U.S. Army Corps of Engineers, the Central Valley Flood Protection Board, and RD 551 to complete any work that ties in to these Project levees.

Critically, the Delta Conveyance Project will need to ensure that the new levees are designed in a way that will not create a weak point in the adjacent, existing levees. Tie-ins, like repairs, can sometimes introduce weaknesses where the new levee segment has a different fill density than the old, making the new interface vulnerable to erosion, seepage or even failure. Some expected efforts to avoid differential settlement and related impacts may include pre-loading, stability berms, and geotechnical evaluations prior to design and construction. The Delta levees act as a system, if one levee fails the likelihood of failure of adjacent levees is increased due to increased hydraulic conditions and wave fetch. The project will be subject to flooding if improvements in surrounding levees are not made. Upgrades to levees adjacent to project facilities and those required to support construction traffic must be considered. Impacts from years of construction traffic can degrade the existing levees, thus improvements/repairs must be made prior to and after construction of the project.

RD 551 engineering staff will require a significant amount of time to review the proposed tie-ins and/or encroachments upon the District levees, and to propose comments and conditions, all for the purpose of avoiding third-party effects upon district operations and the significant environmental impacts that could otherwise result. As with any other encroachment upon the district works, RD 551 will look to the Delta Conveyance Project to pay for the hourly cost of RD 551's staff time in conducting this review.

b. Potential Flooding from Delta Conveyance Project Facilities

RD 551 has not seen a detailed description of the construction plans for the intermediate forebay, based on information from the BDCP/California WaterFix, it could potentially be constructed of levees, with water regulated and stored behind them. The design, engineering and construction of the forebay will be of substantial importance because of the grave consequences of failure. The Delta Conveyance Project should place a stronger focus on measures to protect and improve Delta levees, including a greater role in flood management planning. The levees help protect the water quality within the Delta, which is of grave concern to aquatic and terrestrial species, local landowners and water exporters alike. Any improved system of through-Delta conveyance will depend on the reliability of local levees. Stockpiling rock at strategic locations throughout the Delta will better enable local maintaining agencies to respond to emergency levee breaks. The EIR for the proposed Project must clearly describe the potential for stored water to breach the surrounding levees, with water flowing out of the forebay and onto adjacent land within Pearson District and damaging surrounding property. Given that these levees will contain millions of acre-feet of water intentionally diverted into the Pearson District, the levees will need to be constructed to achieve the lowest risk of failure technically achievable. The EIR must also describe the effectiveness of any contingency plan for remediating the damage if there is a levee break, and propose suitable mitigation to offset any identified impacts.

4. Assessment Income / Further Impact on Drainage and Flooding
As discussed above, RD 551 relies on a local assessment roll to fund drainage and flood protection services within the Pearson District. The assessment roll raises the following serious concerns for RD 551.

First, the Delta Conveyance Project would potentially remove a substantial portion of District land from local ownership, likely interfering with the District's primary funding mechanisms. Historically, some State agencies have resisted paying local assessments, despite the constitutional mandate to make payments in proportion to the benefits received from the funded services. (Cal. Const. Art. XIII D, § 4(a).) Any interruption or reduction in funding to RD 551 would necessarily cause an adverse impact on local drainage and flood protection, and therefore would be considered a significant environmental impact under CEQA. Were the Federal government to own any portion of the property within Pearson District, RD 551 would be unable to collect assessments without a waiver of sovereign immunity. The Delta Conveyance Project would also need to ensure a permanent funding mechanism to make up this portion of RD 551's annual assessment.

Second, the Delta Conveyance Project has the potential to permanently alter the District's current land uses, and to impose unacceptable environmental and economic impacts on the agricultural lands that make up the overwhelming majority of the District's assessment base. As noted above, seepage from the Project threatens not only to result in drainage issues, but presents salinity and water quality problems for the agricultural users that comprise the majority of the District's assessment base: where pumping operations, seepage, or dewatering activities raise existing salinity levels on these farms, the landowners may experience crop loss, sudden and unplanned impacts on their existing operations, and limitations on planting. The Delta Conveyance Project's environmental review must acknowledge, identify, and mitigate for or eliminate such impacts.

5. Transportation and Access

As with the California WaterFix before, it appears that certain proposed facilities' sites would effectively cut the Pearson District in half, with the north tunnels and associated levees potentially running from around Courtland, across the entire district, to and across Snodgrass Slough. RD 551 would thereafter have to operate and maintain drainage and flood control facilities that are (at least potentially) separated by the Delta Conveyance Project's own system of levees. RD 551 will, at a minimum, require access across all Delta Conveyance Project facilities within its boundaries in order to ensure effective, efficient, and uninterrupted maintenance, operation and repair of the reclamation works of the Pearson District.

Construction of the Delta Conveyance Project will also have severe transportation impacts upon the general public and landowners. Routes will need to be planned and provided to ensure there is no reduction in vehicle travel times for emergency response vehicles and schools. Traffic impacts to landowners will also be significant, particularly for farms that will be cut in half by intervening water storage and conveyance facilities. The Delta Conveyance Project must propose measures to mitigate for any and all traffic impacts, including building public access bridges and roadways, and paying to maintain them in perpetuity.

6. Farming Operations

Given the size and scope of the proposed Project, there will likely be significant impacts to productive agricultural lands and communities in the Delta. Thus, the Draft EIR must analyze the economic, social and health effects of constructing and operating the Delta Conveyance Project facilities within the Pearson District, including the devastating effect upon the local economy and the severe impacts upon the community of people who live and work in the district. These effects on the human environment must be, at a minimum, mitigated to the extent required under controlling law.

The massive proposed construction efforts within the district will have foreseeable impacts upon farming operations, and mitigation measures must be proposed accordingly. These impacts may include dust, noise, transportation, and drainage. Farming operations will be severely impacted during harvest due to increased construction traffic. Many bridges in the Delta only support one-way truck traffic, which is currently a cause of traffic conditions in the Delta. Increased trucks due to construction will only exacerbate this issue, severely disrupting agricultural operations and those who commute through and within the Delta. Dewatering for construction and changes to groundwater levels associated with project operations threaten existing spray wells. Other economic impacts include making farming operations less efficient by installing infrastructure that breaks up property, and reducing the reliability of in-Delta irrigation. Conventional farming also depends on aerial pesticide applications consistent with the product's FIFRA label and California regulations. The presence of a large forebay in the district may affect how pesticides may be applied. The Delta Conveyance Project must develop effective practical mitigation measures to ensure farming continues without financial impact or physical impediment.

A further issue which must be considered under CEQA is the effect on farming operations from birds which nest, feed, and otherwise inhabit the area of and around any new facilities. Due to the District's location along key bird migration paths, and its inclusion in the Delta, it is foreseeable that the new intermediate forebay will be a tremendous resource to a large bird population. That population will feed and roost on lands in the District that are in the vicinity of the new forebay. All of these impacts must be completely analyzed and proper mitigation must be proposed.

It is impossible to foresee the numerous potential impacts that the Delta Conveyance Project may have upon farming within the Pearson District, particularly before the project-level documents are prepared and released for comment. Nonetheless, the Delta Conveyance Project should as a general matter include a commitment to set up an administrative process for hearing and remedying complaints from landowners whose operations are affected by the eventual construction and implementation of the conveyance facilities. These complaints should be addressed with the goal of remediating every financial and other impact upon all landowners within the district.

7. Groundwater

Dewatering from construction activities will have extensive impacts on immediate and surrounding areas of the intake facilities and tunnel alignment. The Delta islands have a high groundwater table due to their proximity to the river. Dewatering activities can result in land subsidence within the District and surrounding levees. It has been observed that a quick drawdown of water can result in sloughing of the levees and create instability. The cone of depression from dewatering can extend far beyond the project area impacting domestic wells, which is the primary water source for residence within the Delta. The dewatering activities also threaten existing spray wells, which are essential to the continued agricultural operations of many of the District's landowners.

All of these impacts state above will have a devastating socio-economic impact on the Delta and its legacy communities. A proposed 13-year construction window is going to have lasting impacts on the agriculture and tourism industries that are vital to the Delta as place, one of the co-equal goals of the Delta Plan. These industries cannot survive over a decade of reduced income due to the noise and traffic nuisances, among other impacts, that project construction will inflict on the Delta. These will be direct impacts to businesses and residents in the Delta that must be mitigated, *at a minimum, to the extent required under controlling law.*

8. Alternatives

While DWR intends to draw from information and analyses of the past conveyance projects, it is not appropriate to artificially limit the range of feasible alternatives to those previously studied. The EIR for the Delta Conveyance Project must include a comprehensive discussion of the alternative locations of the water conveyance facilities that will reduce or avoid the substantial impacts expected to occur in the Pearson District if the facilities are to be located here. Alternative size and configurations must also be evaluated, and the impacts associated with each option. The current plans call for two intakes of 3,000 cfs each, or a total of 6,000 cfs. The larger the facilities and the more water to be conveyed across the District, the greater the impact and the greater the risks to adjacent landowners and to RD 551. The size of the forebay should also be seriously reconsidered, as should the need for a forebay at all, particularly in light of the local impacts of such a massive water regulating facility upon the District. Due to the extensive impacts described above and the hundreds of unmitigable impacts of the previously proposed, but similar, California Water Fix, below are other feasible alternatives that meet all of the listed objectives and must be included in the Draft EIR:

a. *Improve levees to a seismic standard.*

As discussed in the project description, any proposed conveyance project will be operated as dual conveyance, utilizing the existing pumps in the South Delta. This will require significant enhancement of the existing levee system to guard against sea level rise and major earthquakes. The levees currently act as the only water conveyance for the SWP and CVP and will continue to do so through Delta Conveyance Project planning and construction which may take 20 years, likely more. The levee system is critical to any path forward. Improvements to a seismic standard must be included in the current project description and as a stand-alone alternative in the Draft EIR.

b. Intakes at Sherman Island.

Due to extensive and unavoidable impacts on private lands within the North Delta, an alternative intake location at publicly-owned Sherman Island must be considered. The proposed project will permanently remove an already limited supply of prime agriculture in the State. The impacts of final operations to the in-Delta water users and environmental needs are also greatly reduced by

placing intakes at the western end of the Delta. Based on the objectives, the project operations must meet other existing applicable agreements, namely the North Delta Water Agency contract, existing water rights, and Decision 1641 which requires the salinity gradient, to remain downstream of Sherman Island. Currently it is unknown if the proposed project will uphold these agreements due to the lack of data on final operations. These aforementioned agreements must be upheld and enough outflow must be maintained to beyond Sherman Island to address anticipated sea level rise project or not. An intake in this location will reduce any reverse flows that could occur within the Delta due to pumping from the North or South Delta as these intake locations are placed at the natural inlet/outlet for aquatic species in the Delta. If flows were diverted when there are sufficient flows, i.e. flood flows, the impacts to aquatic species may be low due to great sweeping velocities past intakes. This intake alternative also allows for improved aquatic conditions in the Delta by allowing substantial fresh water flows to move through the Delta before they are diverted. These improvements in water conditions and movement within the Delta may ease regulatory constraints in the Delta. As previously discussed this alternative, as with the proposed alternative, relies on the existing levee system to provide full SWP operability and guard against any disruption in water supply due to flooding. Lastly, the tunneling length through the Delta will be reduced, reducing project costs and impacts to the Delta.

c. Congressman Garamendi's "Little Sip/Big Gulp."

This route places intakes at publicly owned land along the Sacramento River at the mouth of the Deep Water Ship Channel (DWSC). It utilizes the DWSC as a conveyance corridor until it terminates at the lower end of Prospect Island. At this point, it could be tunneled to the existing pumps at Tracy. This alternative would meet all of the listed objectives as it would create SWP operational flexibility and have the ability to capture water when flows are sufficient. It would have a much shorter tunneling route and associated tunneling impacts on the Delta that the current proposed solution. This removes the intake locations from the heart of the Delta, private property and prime farmland reducing overall project impacts. It also is far enough upstream on the system where there will be no impacts due to sea level rise and levee failures. That said, the existing agreements previously mentioned must continue to be upheld and the levees must still be improved and maintained to facilitate dual conveyance.

We encourage the inclusion of the listed alternatives in the Draft EIR and appreciate the opportunity to comment on the impacts of the proposed Delta Conveyance Project. Thank you for your attention to these comments.

Very truly yours,

Topper Van Loben Sels President, Board of Trustees

Douglas Chan Trustee, RD 551

Kurt Johnson Trustee, RD 551

From:	Mark Pruner
To:	DWR Delta Conveyance Scoping
Cc:	<u>Mellon, Erin@DWR; lisa.lienmager@resources.ca.gov; DWR Delta Conveyance</u>
Subject:	Delta Conveyance NOP Scoping and Review Letter from Clarksburg Fire Protection District
Date:	Friday, April 17, 2020 10:31:51 AM
Attachments:	Clarksburg Fire Protection District Scoping and Review Letter (April 17 2020).pdf
	Clarksburg Fire Protection District - District Map (April 2020).pdf

DWR:

Attached please find the Scoping and Review letter, and enclosed District Map as part of the letter, in response to DWR's January 15, 2020 Notice of Preparation regarding the proposed new single tunnel water conveyance project in the Delta.

Please contact me or our Fire Commission Secretary, Richard Babgy, with any questions, comments or concerns.

We look forward to DWR's answers in full to each of the concerns and matters expressed in the attached materials.

Mark

Mark Pruner Chair, Board of Fire Commissioners Clarksburg Fire Protection Districtg Clarksburg, CA 95612 Cell: (916) 204-9097 Fax. (916) 744-1502

Clarksburg Fire Protection District

www.clarksburgfire.specialdistrict.org

Telephone: (916) 744-1700 P.O. Box 513 Clarksburg, CA 95612

April 16, 2020

Via Email to: <u>DeltaConveyanceScoping@water.ca.gov</u>

Erin.Mellon@water.ca.gov

TO: CALIFORNIA DEPARTMENT OF WATER RESOURCES

Re: Delta Conveyance Scoping Comments to Notice of Preparation of Environmental Impact

Report for Delta Conveyance Project; re NOP Dated January 15, 2020

Attn: Rence Rodriguez and DWR Representatives

Dear Department of Water Resources,

This letter is written to provide scoping comments to the Notice of Preparation of Environmental Impact Report for the Delta Conveyance Project issued by the Department of Water Resources, dated January 15, 2020 ("NOP"). These comments are submitted by the Clarksburg Fire Protection District, a Special Independent District, organized under the laws of the State of California ("Clarksburg Fire" or the "District").

Organized in 1946, the mission of Clarksburg Fire is to provide fire protection for all properties, structures and residents of the District, to participate in beneficial mutual aid agreements with neighboring fire districts as well as with County, State, and Federal agencies, and to provide first response services in the event of accident or medical emergency within the District ("**Mission of Clarksburg Fire**"). Clarksburg Fire responded to 263 calls in 2019. As an example of the accomplishment of the Mission of Clarksburg Fire, on October 27, 2019, a high-wind event, 19 of the District's firefighters responded to 25 discrete calls answering and arriving on-scene to provide emergency responses to a wide array of requests for help. The District draws from time-to-time from water located in the Sacramento River and in the sloughs and canals running through the District.

The service district and geographical area over which Clarksburg Fire has responsibility covers approximately 33,000 acres in the southern portion of Yolo County and is generally described as the land, improvements and residents marked by Babel Slough Road on the north, the Yolo County line on the south, the Sacramento River on the east, and the Sacramento Deep Water Ship Channel on the west (the "District Area"). A map of the District Area is enclosed with these comments and this review.

Clarksburg Fire owns three parcels of real property located at 52910 Clarksburg Avenue, Clarksburg, County of Yolo, California 95612 (mailing address above) and also described as Yolo County Assessor's Parcel Numbers 043-240-013, 043-240-014, and 043-240-036 ("Clarksburg Fire District Property"). Located on the Clarksburg Fire District Property are TO: CALIFORNIA DEPARTMENT OF WATER RESOURCES
 Re: Delta Conveyance Scoping Comments to Notice of Preparation of Environmental Impact Report for Delta Conveyance Project; re NOP Dated January 15, 2020
 April 16, 2020
 Page 2 of 4

two buildings: the main fire station (originally built in 1948 and since remodeled and updated) and the fire annex.

Clarksburg Fire receives funding and support from a share of property taxes collected within the District (which requires maintenance of property values and assessments), from a Proposition 218 benefit assessment, from developmental impact fees, and from grants, members of the Clarksburg Community and the North Delta in general. The District also needs, enjoys and endeavors to maintain and keep the support of the people of the Clarksburg District and the North Delta.

In existence and functioning continuously for nearly 75 years, Clarksburg Fire is an essential part of the cultural and historical fabric of the Clarksburg community, and provides essential support as part of the cultural and rural neighborhood values of the Delta (ref. Public Resource Code § 85054). In addition to fulfilling the Mission of Clarksburg Fire, through the firefighters' association the District supports public dinners, two annual parades (4th of July and Christmas) and other community support activities.

Clarksburg Fire is an interested party (CEQA Guidelines, § 15086).

The proposed Delta Conveyance Project as described in the NOP ("**Project**") presents a series of substantial direct and indirect effects (including environmental effects), socioeconomic effects, and cumulative effects both on the Clarksburg Fire, on the Mission of Clarksburg Fire and on Clarksburg Fire District Property.

The buildings on the Clarksburg Fire District Property are vulnerable to the effects of the heavy construction pounding and other consequences anticipated to be employed to construct the Project. As an example of a direct impact, it appears from the NOP that the heavy construction methods required for the construction of the Project could cause damage, including permanent damage, to the buildings and improvements on the Clarksburg Fire District Property.

As an example of the indirect impact and socioeconomic negative effect of the Project, the District will suffer substantial disruptions, or cessations, in operation because of the Project through increased traffic, increased noise, disruption in well water operations and availability, septic and wastewater operations and availability, and on the use of the Clarksburg Fire District Property as an historical District and operation within and as part of the Clarksburg Community, the Delta Community and California.

In connection with the comments above, the following, without limitation, need to be **<u>fully analyzed</u>** in your Draft Environmental Impact Report/Draft Environmental Impact Statement:

- Construction methods must be analyzed, and alternative construction methods must be utilized, as demonstratable mitigation, which will not damage the Clarksburg Fire District Property and its ability to accomplish the Mission of the Clarksburg Fire District in any significant way.
- Impact on the Project's impact on the District, on the Mission of Clarksburg Fire and on Clarksburg Fire District Property.

- TO: CALIFORNIA DEPARTMENT OF WATER RESOURCES
- Re: Delta Conveyance Scoping Comments to Notice of Preparation of Environmental Impact Report for Delta Conveyance Project; re NOP Dated January 15, 2020

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- The impacts on the zoning and land uses authorized by law on the parcels where the Clarksburg Fire District Property is located, including complete description and analysis of all land use conflicts and mitigation for each land use conflict.
- The impacts on the continued and future support of the District, on the Mission of Clarksburg Fire and on Clarksburg Fire Property from the Clarksburg Community and the North Delta, including the impacts of any de-population in the District, the Clarksburg Community and/or the North Delta, and on the economies of these areas, as a result of the construction, operations, and management of the Project.
- Whether, and how or how-not, the Project will benefit the District, support the Mission of Clarksburg Fire, the Clarksburg Community and North Delta.
- Whether, and how or how-not, alternative locations for the proposed intakes, and all other proposed components of the Project, would lessen impacts on the District, on the Mission of Clarksburg Fire and on Clarksburg Fire District Property than the currently proposed northernmost proposed intake.
- Show how sites, other than each of the three proposed intakes, considered by the Fish Facilities Technical Team were determined to be less impactful on the District, on the Mission of Clarksburg Fire and on Clarksburg Fire District Property.
- Show how visual and noise disturbance, as well as construction-related impacts to the District, on the Mission of Clarksburg Fire and on Clarksburg Fire District Property will be minimized.
- Substantive consultation, including disclosure and discussion of all alternatives and mitigation measures for the Project, with local Clarksburg Community land use agencies and advisory bodies as applied to the District, on the Mission of Clarksburg Fire and on Clarksburg Fire District Property.
- State and analyze changes in the District, on the Mission of Clarksburg Fire and on Clarksburg Fire District Property caused by the Project, including, without limitation, changes in community cohesion, a reduction of opportunities for maintaining face-to-face relationships, and disruptions of the functions of Clarksburg Community and North Delta community organizations and gathering places, such as the Clarksburg Fire District.
- Whether, and how or how-not, traffic patterns and changes caused by the Project will impact the District, the Mission of Clarksburg Fire and the Clarksburg Fire District Property.
- Whether, and how or how-not, the Project will cause a decline in property values in the District, the Clarksburg Community and the North Delta¹.
- Whether, and how or how-not, the Project will cause blight and property abandonment in the District, the Clarksburg Community and North Delta.
- Whether the Project will invest in public facilities and infrastructure throughout the District, the Clarksburg Community and North Delta to mitigate the impacts of the Project.
- Whether, and how or how-not, the Project will enhance and protect the District, the Mission of Clarksburg Fire and on Clarksburg Fire District Property, the Clarksburg Community and the North Delta (Public Resource Code § 85054).

¹ The District notes that property values in part contribute to the fiscal sustainability of the District through the assessments on property within the District related to the share of property taxes collected by the District for its operations.

TO: CALIFORNIA DEPARTMENT OF WATER RESOURCES

Re: Delta Conveyance Scoping Comments to Notice of Preparation of Environmental Impact Report for Delta Conveyance Project; re NOP Dated January 15, 2020

April 16, 2020 Page 4 of 4

- State and analyze the socioeconomic impacts of the Project on the District, on the Mission of Clarksburg Fire, on Clarksburg Fire District Property, and on the Clarksburg Community and the North Delta.
- Whether, and how or how-now, the Project (including its construction, operation and maintenance) would conflict with the District, on the Mission of Clarksburg Fire and on the Clarksburg Fire District Property.

Each of the above are considered significant, material, important and substantial, as related to the District, to the Mission of Clarksburg Fire and to the Clarksburg Fire Property.

Please contact me if you have any questions or would like further explanation.

Mark Pruner Chair, Board of Fire Commissioners/Directors Cell: (916) 204-9097 Email: <u>mpruner@prunerlaw.com</u>

John R. (Bob) Webber

Vice Chair Board of Fire Commissioners/Directors

Nancy Kirchho

Member (Board of Rire Commissioners/Directors Email: <u>kirchhoffphoto@gmail.com</u>

Richard Bagb

Secretary/Assistant Fire Chief Board of Fire Commissioners/Directors Email: <u>rbagby@citlink.net</u>

Joe Gomes Member Board of Fire Commissioners/Directors Email: 111jgomes@gmail.com

Steve Pylman Member Board of Fire Commissioners/Directors Email: stevep@rivergrovewinery.com

Craig **H**amblin Fire Chief Email: <u>chfire@msn.com</u>

Enclosure

From:	Mark Pruner
To:	DWR Delta Conveyance Scoping
Cc:	DWR Delta Conveyance; Mellon, Erin@DWR; lisa.lienmager@resources.ca.gov; Will Middleton
Subject:	Delta Conveyance NOP Scoping and Comment Letter from Friends of the 1883 Clarksburg Schoolhouse
Date:	Thursday, April 16, 2020 3:05:36 PM
Attachments:	Friends of 1883 Clarksburg Schoolhouse NOP Scoping Letter (041620).pdf
	Friends of 1883 Clarksburg Schoolhouse Newsletter (April 2020).pdf

DWR:

On behalf of and for the Friends of the 1883 Clarksburg Schoolhouse (Friends), attached please find a scoping letter, and enclosure to the scoping letter, submitted by the Friends.

Please contact us if you have any questions or comments.

Thank you.

Mark Pruner

Mark A. Pruner, Esq. Law Office of Mark A. Pruner P. O. Box 1 Clarksburg, CA 95612 Tel. (916) 744-1500 Fax. (916) 744-1502

CONFIDENTIALITY NOTICE

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DCS732



1883 CLARKSBURG SCHOOLHOUSE Restoration Project

Website: www.1883clarksburgschoolhouse.org

Date: April 15, 2020

Via Email to: <u>DeltaConveyanceScoping@water.ca.gov</u>

TO: CALIFORNIA DEPARTMENT OF WATER RESOURCES

Re: Delta Conveyance Scoping Comments to Notice of Preparation of Environmental Impact

Report for Delta Conveyance Project; re NOP Dated January 15, 2020

Attn: Rence Rodriguez and DWR Representatives

Dear Department of Water Resources,

This letter is written to provide scoping comments to the Notice of Preparation of Environmental Impact Report for the Delta Conveyance Project issued by the Department of Water Resources, dated January 15, 2020 ("**NOP**"). These comments are submitted by the Friends of the 1883 Clarksburg Schoolhouse, a California nonprofit corporation, approved as exempt under Internal Revenue Code § 501(c)(3) ("**Friends**"). Friends is the owner of the 1883 Clarksburg Schoolhouse, a two-room schoolhouse built in the town of Clarksburg in 1883 for the children of the Clarksburg Community¹ ("**Old Schoolhouse**"). The Old Schoolhouse operated as the community's school for approximately 40 years, serving a culturally diverse population, and also functioned as the location for the community church during that time period.

¹ The Clarksburg Community is defined as the town of Clarksburg and the surrounding rural lands, their residents and businesses, and the agricultural, cultural, historical and recreational activities in the North Delta. Clarksburg is a legacy community, is a natural community, and is vital for the maintenance of the cultural, recreational, historical and agricultural values of the Delta, and the unique cultural, recreational, historical and agricultural values of the Clarksburg Community.

CALIFORNIA DEPARTMENT OF WATER RESOURCES Delta Conveyance Project NOP Scoping Comments and Review Page 2 of 4

Friends is an interested party (CEQA Guidelines, § 15086).

The plans being implemented for the re-use of the Old Schoolhouse include its restoration and use as a community and public venue and gathering place designed to preserve, protect, and showcase the history of the Delta in general and the North Delta in particular ("Old Schoolhouse Project"). The Schoolhouse Project will include restoration of water supply, sanitation facilities, facilities for preservation, protection and display of Clarksburg, North Delta, Delta and California history, preservation and re-use of the Old Schoolhouse as an archeological resource and community enhancements such as recreation and tourism. The Schoolhouse Project has built significant support from the Clarksburg community (both the town, the surrounding area, and throughout the north Delta), and is reliant to a significant and material degree on continued support from these groups.

Enclosed with this scoping and review letter is a current newsletter which further describes the Old Schoolhouse Project, its status and its future development.

The Old Schoolhouse is located at the intersection of South River Road and Netherlands Avenue, on commercially zoned property, and is a short distance from the proposed possible furthest upriver intake facility as described in the NOP². It is anticipated that the Schoolhouse Project will reach full operation within two years. The Schoolhouse Project has received substantial funding (grants and gifts) of \$277,500 from governmental and non-governmental sources, including funding from the Clarksburg Community, the North Delta and the entities which are part of the State of California, and has received certain permits and planning approvals.

The Old Schoolhouse is a property of significant cultural and historical importance and resource to the Delta and California, and the Schoolhouse Project is a project to preserve important history, of great significance to Clarksburg, to the Delta, and to California. It is the policy of the State of California and of the United States to preserve and protect historical properties such as the Old Schoolhouse.

The proposed Delta Conveyance Project as described in the NOP ("**Project**") presents a series of substantial direct and indirect effects (including environmental effects), socioeconomic effects, and cumulative effects both on the Old Schoolhouse and on the Schoolhouse Project.

The Old Schoolhouse is a fragile structure, vulnerable to the effects of the heavy construction pounding and other consequences anticipated to be employed to construct the Project. As an example of a direct impact, it appears from the NOP that the heavy construction

² The specific parcel on which the Old Schoolhouse is located is composed of three parcels, totaling approximately 1.13 acres in size, specifically described as Yolo County Assessor's Parcel Numbers 043-284-003, 004, and 005.

CALIFORNIA DEPARTMENT OF WATER RESOURCES Delta Conveyance Project NOP Scoping Comments and Review Page 3 of 4

methods required for the construction of the Project could cause the Old Schoolhouse to collapse.

As an example of the indirect impact and socioeconomic negative effect of the Project, the Schoolhouse Project will suffer substantial disruptions, or cessations, in operation because of the Project through increased traffic, increased noise, disruption in well water operations and availability, septic and wastewater operations and availability, and on the use of the Old Schoolhouse as an historic structure by the Clarksburg Community, the Delta Community and the general public.

In connection with the comments above, the following, without limitation, need to be <u>fully analyzed</u> in your Draft Environmental Impact Report/Draft Environmental Impact Statement:

- Construction methods must be analyzed, and alternative construction methods must be utilized, as demonstrable mitigation, which will not damage the Old Schoolhouse in any significant way.
- Impact on the Project's impact on the Schoolhouse Project.
- The impacts on the zoning and land uses authorized by law on the parcels where the Old Schoolhouse is located, including complete description and analysis of all land use conflicts and mitigation for each land use conflict.
- The impacts on the continued and future support of the Old Schoolhouse Project from the Clarksburg Community and the North Delta, including the impacts of any depopulation in the Clarksburg Community and the North Delta, and on the economies of these areas, as a result of the construction, operations, and management of the Project.
- Whether, and how or how-not, the Project will benefit the Clarksburg Community and North Delta.
- Whether, and how or how-not, the pre-construction, construction, operations and maintenance of the Project will have a substantial impact on the views from and operations, fundraising, rehabilitation, reconstruction and reuse of the Old Schoolhouse which substantially impact the Schoolhouse Project.
- Whether, and how or how-not, alternative locations for the proposed intakes, and all other proposed components of the Project, would lessen impacts on the Old Schoolhouse and the Old Schoolhouse Project than the currently proposed northernmost proposed intake.
- Show how sites, other than each of the three proposed intakes, considered by the Fish Facilities Technical Team were determined to be less impactful on the Clarksburg Community where the Old Schoolhouse and Old Schoolhouse Project are sited.
- Show how visual and noise disturbance, as well as construction-related impacts to the Old Schoolhouse and the Old Schoolhouse Project will be minimized.

Friends of the 1883 Clarksburg Schoolhouse Board

Will Middleton (916) 744-1100	Steve Heringer (916) 665-2752
Karen Coffee (916) 715-7751	Mike Campbell (916) 744-1540
Gilbert Lopez, Jr. (916) 665-1122	Don Fenocchio (916) 744-1642
Steve Hiromoto (916) 233-6725	Mark Pruner (916) 207-9097
Sharon Pylman Brown (916) 775-18	870 Richard Hunt (916) 343-6731
Dan Salazar (9	16) 776-4112

CALIFORNIA DEPARTMENT OF WATER RESOURCES Delta Conveyance Project NOP Scoping Comments and Review Page 4 of 4

- Substantive consultation, including disclosure and discussion of all alternatives and mitigation measures for the Project, with local Clarksburg Community land use agencies and advisory bodies as applied to the Old Schoolhouse and the Old Schoolhouse Project.
- State and analyze changes in the Clarksburg Community, the Old Schoolhouse and the Old Schoolhouse Project caused by the Project, including, without limitation, changes in community cohesion, a reduction of opportunities for maintaining face-to-face relationships, and disruptions to the functions of Clarksburg Community and North Delta community organizations and gathering places, such as the Old Schoolhouse.
- Whether, and how or how-not, traffic patterns and changes caused by the Project will impact the Old Schoolhouse and the Old Schoolhouse Project.
- Whether, and how or how-not, the Project will cause a decline in property values in the Clarksburg Community and the North Delta³.
- Whether, and how or how-not, the Project will cause blight and property abandonment in the Clarksburg Community and North Delta.
- Whether the Project will invest in public facilities and infrastructure throughout the Clarksburg Community and North Delta to mitigate the impacts of the Project.
- Whether, and how or how-not, the Project will enhance and project the Old Schoolhouse, the Old Schoolhouse Project, the Clarksburg Community and the North Delta (Public Resource Code § 85054).
- State and analyze the socioeconomic impacts of the Property on the Old Schoolhouse Project, and Clarksburg Community and the North Delta.
- Whether, and how or how-now, the Project (including its construction, operation and maintenance) would conflict with the Old Schoolhouse Project.

Each of the above are considered significant, material, important and substantial, as related to the Old Schoolhouse and the Old Schoolhouse Project.

If you have any questions, please contact the undersigned.

FRIENDS OF THE 1883 CLARKSBURG SCHOOLHOUSE

11244 By:

Will Middleton, President Email: <u>wmiddle662@gmail.com</u>

Enclosure

³ Friends notes that property values in part contribute to the fiscal sustainability of the Old Schoolhouse Project.

 Friends of the 1883 Clarksburg Schoolhouse Board

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 Richard Hunt (916) 343-6731

 Dan Salazar (916) 776-4112
 Dan Salazar (916) 776-4112

From:	Tom Williams
To:	<u>DWR Delta Conveyance Scoping; renee.rodique@water.ca.gov; Buckman, Carolyn@DWR; Yee, Marcus@DWR</u>
Subject:	Delta Conveyance DEIR/DEIS NOP/Scoping - Public Comments
Date:	Friday, April 17, 2020 2:56:45 PM
Attachments:	0417Delta conveyance Scoping CommentsFin.docx

DATE: April 17, 2020

TO: Department of Water Resources

DeltaConveyanceScoping@water.ca.gov

Attn.: Renee Rodriguez, Dept. of Water Res., P.O. Box 942836, Sacramento, CA 94236

Renee.rodrique@water.ca.gov

CC: Marcus Yee, 916-651-6736 marcus.yee@water.ca.gov

Carolyn Buckman, DWR Env.Mngr. 03/19/20 Item No. 10c Env.Mgr.Rept.

carolyn.buckman@water.ca.gov

FROM: Dr. Tom Williams, Snr.Techn.Adviser, ctwilliams2012@yahoo.com, 323-528-9682

- **SUBJECT:** Delta Conveyance DEIR/DEIS NOP/Scoping
- **RE:** Public Comments for Scoping

The primary purpose of the scoping process is to identify important issues raised by the public and responsible and trustee public agencies related to the issuance of regulatory permits and authorizations and natural environment and resources protection. Public scoping comments below are focused on:

Public accessible and understanding,

Significant Environmental Impacts,

Mitigation/Compensation of SEI, and

Alternatives

More detail can be provided.

See attached

DCS733

DATE: April 17, 2020 TO: **Department of Water Resources** DeltaConveyanceScoping@water.ca.gov Renee Rodriguez, Dept. of Water Res., P.O. Box 942836, Sacramento, CA 94236 Attn.: Renee.rodrigue@water.ca.gov CC: Marcus Yee, 916-651-6736 marcus.yee@water.ca.gov Carolyn Buckman, DWR Env.Mngr. 03/19/20 Item No. 10c Env.Mgr.Rept. carolyn.buckman@water.ca.gov FROM: Dr. Tom Williams, Snr.Techn.Adviser, ctwilliams2012@yahoo.com, 323-528-9682 SUBJECT: Delta Conveyance DEIR/DEIS NOP/Scoping

RE: Public Comments for Scoping

The primary purpose of the scoping process is to identify important issues raised by the public and responsible and trustee public agencies related to the issuance of regulatory permits and authorizations and natural environment and resources protection. Public scoping comments below are focused on:

Public accessible and understanding, Significant Environmental Impacts, Mitigation/Compensation of SEI, and Alternatives

Comments:

Provide Scoping Summary Report within 60 days of closing Scoping period and provide monthly online updating of the draft SSR.

Environmental Manager's Report Contact: Carolyn Buckman, DWR Environmental Manager Date: March 19, 2020 Item No. 10c Subject: Environmental Manager's Report

Summary: The Department of Water Resources (DWR) is conducting scoping to begin the California Environmental Quality Act (CEQA) process to analyze a single-tunnel solution to modernizing and rehabilitating the water distribution system in the Delta.

Detailed Report:....After the comment period closes, DWR will compile comments into a **Scoping Summary Report** and use information received to formulate alternatives to the proposed project....

Provide Public with a standard Definitions/Glossary of terms used and their numerical use. Provide definitions and quantification of specific terms: practical, feasible, reasonable, and adequate. Provide Publicly Accessible information through direct WWW-links, appendices, and responses to Scoping comments.

Provide dictation in an appendix or direct link via DWR webpages involving any "personal communications" references.

Provide all footnotes to be included in a bibliography or list of references, with appropriate linkages for direct Public access.

Provide Qualifications of all "Preparers" and their corporate affiliations for 2010-2021.

Provide quantitative and explicit current Project Goals/Objectives/Policies and Purposes/Needs for Public proposing of mitigative/compensatory alternatives.

Provide direct numerical relations for current proposed Project, any current alternatives, and current GOP/PNs.

Provide numerical/quantified definitions of "reliability" and for "potentially" for this review and previously for water resources reviews by DWR during 2015-2021.

Withdraw and revise current CEQA documents (NOP, IS, and Assessment of Significance) and recirculate as combined EIR/EIS with appropriate state and federal documents. As indicated below, provide the inclusive document for Public Scoping Review and Scoping.

NOP 1/2 The Delta Conveyance Project **will also involve** federal agencies that **must comply** with the National Environmental Policy Act (NEPA), **likely requiring** the preparation of an environmental impact statement (EIS)....To assist in the anticipated federal agencies' NEPA compliance, **DWR will prepare an EIR that includes relevant NEPA information where appropriate.** Once the role of the federal lead agency is established, that federal lead agency **will** publish a Notice of Intent to formally initiate the NEPA process.

NOP 1/4 "...develop new diversion and conveyance facilities in the Delta necessary to restore and protect the **reliability** of State Water Project...water deliveries and, **potentially**, Central Valley Project (CVP) water deliveries south of the Delta, consistent with the State's Water Resilience Portfolio.

https://water.ca.gov/Programs/State-Water-Project/Delta-Conveyance/Environmental-Planning Current Activities:

- <u>Delta conveyance NOP released</u>, public scoping meetings scheduled and scoping comments due by April 17, 2020. Comments may be submitted in several ways:
 - **Email:** <u>DeltaConveyanceScoping@water.ca.gov</u>.
 - Mail: Department of Water Resources, Attn: Renee Rodriguez, P.O. Box 942836, Sacramento, CA 94236
 - Fillable online form: <u>View form</u>
 - **At a public meeting:** Verbal comments will be reported by a court reporter. Written comments may also be submitted at a meeting.

Alternatives reducing reliance on the Delta required by Delta Reform Act **Flood flows vs median/modal flows**

Public Trust Doctrine Analysis in modelling/Quantification Work for Delta Reform Act and the Alternatives Analysis Required by CEQA

Draft EIR (DEIR) and CEQA-required range of flood and modal flows and channel and inlet/conveyance physical requirements to achieve and limits of such flows

DEIR and CEQA-Required Full Environmental Disclosure

Provide public access to all referenced/cited document. Prohibit or provide dictation of any referenced/cited "personal communications"

DEIR Process with DWR's other related processes

Provide draft Mitigation, Monitoring, and Reporting Plan and assure that quarterly reporting shall be done until operations begin.

DEIR must evaluate and assess the Tunnel Project in light of Climate Change, including changes of flood flows and sea-level rise (>+1 SD and >+2SD.

DEIR must assess impacts of providing flood And non-flood waters/flows to the Entire Project

Accurate Statewide Benefit-Cost Analysis and Disclosed in the Draft EIR

Provide and assess alternatives for flow diversions at Mean, Median, and Modal flows and for flood(s) (>+1 SD and >+2SD) flows

DEIR must provide both overall and segmented environmental assessments and provide a "Programmatic DEIR and provide a Draft Mitigation, Monitoring, and REPORTING Plan in the DEIR

DEIR(/DEIS) must assess all elements and aspects required of a Federal Partner requirements (=DEIS) for proposed and physical maximized exports for Flood and Modal/Median/Mean flows.

DEIR must Disclose and Assess the future Reduction in Claimed Needs for the Tunnel Project as a result of New Technologies and Curtailed Exports

https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Delta-Conveyance/DC NOP QA Final.pdf?la=en&hash=3967A433CAD79D37B91E0EDB6EB3BFC30F5FAA43

and https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Delta-

Conveyance/Delta Conveyance Project NOP 20200115 508.pdf?la=en&hash=74B80DAAE5B9C4BC2EB0 619B6A252011F72D1087

Providing two NOP statements causes confusion and distractions within the Public and perhaps agencies. Withdraw current Initial Study and Q&A, merge, and recirculate as appropriate as Subsequent NOP.

Provide quantitative, numerical, and explicit definitions and comparisons for those areas with and those areas without SWP/CVP pumping stations within the Project region by northern, central, and southern sectors of the Delta regarding a) the risks and the damages excepted by earthquakes and b) by inundation of brackish and freshwaters.

NOP 1/2 The Delta Conveyance Project **will also involve** federal agencies that **must comply** with the National Environmental Policy Act (NEPA), **likely requiring** the preparation of an environmental impact statement (EIS)....To assist in the anticipated federal agencies' NEPA compliance, **DWR will prepare an EIR that includes relevant NEPA information where appropriate. Once the role** of the federal lead agency **is established**, that federal lead agency **will** publish a Notice of Intent to formally initiate the NEPA process. *Combination of conditional and declarative phrases renders the entire paragraph meaningless and without foundation for public comments now or later.*

Provide detailed, quantitative assessment of and mitigated/compensated measures for all elements of a typical EIS for federal compliance as part of the DEIR and draft MMRP.

1/2 Federal agencies with roles with respect to the project may include approvals or permits issued by the Bureau of Reclamation (Reclamation) and United States Army Corps of Engineers. Provide more consistent abbreviations for agencies. US Department of Interior, Bureau of Reclamation (e.g., BoR or USBOR).

Provide all prospective permits and approvals through the USCoE for the Delta Conveyance and how CoE may be involved.

NOP 1/4 "...develop new diversion and conveyance facilities in the Delta necessary to **restore and protect** the **reliability** of **State Water Project**...water deliveries and, **potentially**, Central Valley Project (CVP) water deliveries south of the Delta, consistent with the State's Water Resilience Portfolio.

Provide a quantitative, numerical review and analyses for the reliability of all elements of the State Water Project and the proposed Project and any connections between the two and potential threats and risks for each and their combination.

Define and quantify potential, 1/100, 1/250, 1/500...etc.

NOP 1/5 • To minimize the potential for public health and safety impacts...**resulting from a major earthquake that causes breaching of Delta levees and the inundation of brackish water** into the areas in which the existing SWP and CVP pumping plants operate in the southern Delta.

Provide a complete and thorough analyses of seismicity, ground movement, for all "major earthquakes (e.g., >4 RM at 10 mi and 10,000ft depth).

Provide a thorough, numeric, and quantitative analyses of any earthquake which would cause damage to and breaching of any levee between the inlet and outlet points of the proposed Project. Define and assess public health and safety impacts for the above damages and breaches of levees.

2/2 ... Here... underlying, or fundamental, purpose in proposing the project is to develop new diversion and convevance facilities in the Delta necessary to

restore and protect the reliability of State Water Project (SWP) water deliveries and. potentially, Central Valley Project (CVP) water deliveries south of the Delta, consistent with the State's Water Resilience Portfolio.

2/3 The above stated purpose...gives rise to several project objectives. ...are:

• To address anticipated rising sea levels and other reasonably foreseeable consequences of climate change and extreme weather events.

• To minimize the potential for public health and safety impacts from reduced quantity and quality of SWP water deliveries, and **potentially CVP** water deliveries, south of the Delta resulting from a **major earthquake** that causes breaching of Delta levees and the inundation of brackish water into the areas in which the existing SWP and CVP pumping plants operate in the southern Delta.

• To protect the ability of the SWP, and potentially the CVP, to deliver water when hydrologic conditions result in the availability of sufficient amounts, consistent with the requirements of state and federal law..., as well as the terms and conditions of water delivery contracts and other existing applicable agreements.

• To provide operational flexibility to improve aquatic conditions in the Delta and better manage risks of further regulatory constraints on project operations. 1

FN1 These objectives are subject to refinement during the process of preparing a Draft EIR.

Provide all objectives known but not included herein.

Include CVP and its assessment in the DEIR/Draft MMRP.

Define quantify "major earthquake" (RM, duration, distance, and depths) and probable river flow conditions causing a breach.

Provide delineation and requirements for "inundation of brackish water" and "areas in which...SWP and CVP...operate".

Define and provide direct public access to specific "other existing agreements", state/federal laws, and relevant "terms and conditions of...contracts". Provide linkage between relevant structures and operation with the appropriate agreements, laws, and terms and conditions.

Don't use footnotes, use and provide publicly accessible citations/references/links/appendices. Define numerical/quantified measures for each objective and use in numerical/quantitative comparisons of alternatives in DEIR.

NOP/Q&A-3/1/NOP 1/2 10. Will the federal government have a role in this process? In the NOP, DWR states that the Delta Conveyance Project **will also involve federal agencies** that **must comply** with the National Environmental Policy Act (NEPA), **likely requiring the preparation of an Environmental Impact Statement (EIS).** Federal Agencies with roles in the **project may include approvals or permits** issued by the United States Bureau of Reclamation (Reclamation) and United States Army Corps of Engineers. To assist in the **anticipated federal agencies' NEPA compliance**, DWR will prepare an EIR that includes **relevant NEPA information** where appropriate. **Once established**, the **federal lead agency** will publish a Notice of Intent to formally initiate the NEPA process. **DWR will coordinate with the federal Lead Agency**. **NOP 1/2 Once** the role of the federal lead agency is established, that federal lead agency will publish a Notice of Intent to formally initiate the NEPA process.

Provide clear and thorough definitions, numerical ranges, and specific quantified terms for: More reliably capture, Water during and after storm events, Protect existing supplies, Threats, Climate change, Sea level rise (averaged, HHT and LLT), Earthquakes (RM -1 - 7, 0.1 - 0.5 G), Pursuing, and Local supply resiliency projects

NOP/Q&A 3/2 11. Which public water agencies are participating in the Delta Conveyance Project? DWR is conducting preliminary contract negotiations with State Water Project contractors to determine **a methodology for cost allocation...** The Delta Conveyance Project EIR **will assess,..., potential environmental impacts** associated with **reasonably foreseeable potential contract modifications** that were **discussed during the preliminary contract negotiations**. *Provide complete and thorough Financial analyses and assessments and costs/benefits analyses*

Provide clear and thorough clarified glossary and definitions, numerical ranges, and specific quantified terms for:

NOP 3/3 Construction and commissioning of the **overall conveyance project**,...would take approximately 13 years, but the duration of construction at most locations would vary and would not extend for this full construction period.

Provide an anticipated construction schedule for all components, including having all tunnels being construction simultaneously, e.g., 7-10 TBMs and 5+ shafts, and sequentially by a single TBM from inlets to Clifton Forebay.

NOP 3/3 Under....DWR would operate the proposed north Delta facilities and the existing south Delta facilities in compliance with all state and federal regulatory requirements and would not reduce DWR's current ability to meet standards in the Delta to protect biological resources and water quality for beneficial uses. Operations...to increase DWR's ability to capture water during high flow events. Although initial operating criteria...formulated during the preparation of the upcoming Draft EIR in order to assess potential environmental impacts and mitigation, final project operations...after completion of the CEQA process, obtaining appropriate water right approvals through the State Water Resources Control Board's change in point of diversion process,....

NOP/Q&A 3/4 For the Delta Conveyance Project..., there **will be opportunities** for public input for **other permits or environmental review...4/1**...**processes**, including those with the State Water Resources Control Board and the Delta Stewardship Council

NOP/Q&A 3/3 12. Are water agencies looking for more water? The implementation of the proposed Delta Conveyance Project will not involve any new water rights. The goal of modernizing Delta conveyance is to more reliably capture water during and after storm events, and to protect existing supplies from the threats posed by climate change, sea level rise and earthquakes....agencies throughout California are pursuing local supply resiliency projects...recycling, groundwater recharge, storage and conservation to reduce reliance on the Delta....

Provide clear and thorough clarified glossary, listings, and definitions, numerical ranges, and specific quantified terms for:

More reliably, capture, during, after storm events (?flows or precipitations), Provide complete definition and enumeration/quantification for (with statistics of long -term mean/median/modal plus 1-2-3 Std.Dev.) existing and flood/Project flows.

"Background information", DW Roundtable, Conveyance, "Major issues facing the Delta", Levees, Flood protection, Water quality, Farmland preservation, and Invasive species.

NOP/Q&A 3/4 13. Is the state committed...will be hosting a number of public engagement venues to gain the input of the public on issues related to the Delta Conveyance Project....DWR will also provide **background information** on its website and is available to brief groups locally and statewide about the proposed project....planning a series of technical workshops during development of the EIR and public meetings...California Natural Resources Agency, has formed the Secretary's **Delta Water Roundtable** to

provide a forum for...conveyance as well as major issues facing the Delta including but not limited to levees, flood protection, water quality, farmland preservation and aquatic invasive species. Provide an online schedule of all meeting related to the project (subject to revision) and attendees as

committed/revised. Also clearly identify the association of all member and attendees for the meetings. Include the schedule as part of the ongoing draft/later MMRP.

Provide list of all SWP contractors, current allocation and future allocation with 7500cfs, Cost Allocation Methodology, Assess, potential, associated, Reasonably foreseeable potential, Contract modifications, and Preliminary contract negotiations.

Provide online collection/data base for opportunities and "Other permits and environment review processes". As required through the NOP/Q&A provide cost estimates, B/C Analysis, Financial Analysis, and Operations; assure that such includes the "less-than-flood flow" to "flood flows" and Project diversions.

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NOP-Q&A 4/6 18. What will the project cost be? There will be a **cost estimate**, as well as both a **Benefit-Cost Analysis** and a **Financial Analysis**, developed during the planning process. At this point, the NOP is a start of the environmental review,...economic issues. Cost analyses will come later in the process, after a preferred alternative has been selected....

Provide an updated draft of the Costs, Benefits, Cost Analysis, and Financial Analyses commensurate with the staged assessment and mitigation for the proposed Project.

Provide an updated draft of the MMRP with the staged assessment and mitigation for the proposed Project.:

NOP/Q&A 5/2 20. How can the public get engaged in Delta flow and water quality impacts? When will there be an operations plan made available?

The State Water Resources Control Board is currently working on updating Water Quality Control Plan standards....**Final operational plans** specifically for the proposed Delta Conveyance Project will not be determined until **after the other permitting processes are complete** (including CEQA, **CESA**, and the Change in Point of Diversion before the State Board). However, **preliminary operational assumptions** will be...in the EIR to assist in the assessment of water quality, aquatic resources, hydrodynamic effects on **non-project water users**, etc.

Provide descriptions and flow charts for all and "other permitting processes" and provide criteria and results expected for their "completions"

Provide definition and examples of CESA.

Provide access to an example of contents of a current, "preliminary" and "Final Operational Plan" and assumptions for each.

Provide a Draft Mitigation, Monitoring, and Reporting Plans with specific provision for publicly accessible reporting and coordination with the Public.

NOP 3 / 4 Reclamation is considering the potential option to involve the **CVP** in the Delta Conveyance Project....the connection to the existing **Jones Pumping Plant** in the south Delta is included in the proposed facility descriptions below....may include a portion of the overall capacity dedicated for CVP use, or it may accommodate **CVP use of available capacity (when not used by SWP participants**). If Reclamation determines that there could be a role for the CVP in the Delta Conveyance Project, this role would be identified in a separate NEPA Notice of Intent issued by Reclamation.

Provide detailed descriptions, PFDs/P&IDs, and links to equipment suppliers and certification authorities for fish screens and sources for designation of "state of the art" fish screens.

Provide definitions for state-of-the-art and practical/reasonable/effective fish screens. Provide alternative descriptions and assessments for single, highest intake for 6000 and for 7500cfs flows. Provide definition of "ancillary facilities", e.g., chemical additives and mixing. Provide definition and description of "tunnel shaft" and its relationship to the intake (northern) forebay and alternatives for cut-&-cover, shallow, and deep intake tunnels.

NOP 5/1 The proposed project would include two intakes with a maximum diversion capacity of **about 3,000 cfs each**. The size of each intake location could range from 75 to 150 acres, depending upon **fish screen selection**, along the Sacramento River and include a **state-of-the-art fish screen**, sedimentation basins, **tunnel shaft**, and **ancillary facilities**.

Provide list of "reasonably foreseeable potential contract modifications", e.g., increased diameter, multiple diversions (intakes), additional TBM Shafts, etc., and additional assessment, mitigation, and monitoring, and reporting plans, including recirculation of Amended DEIR/DEIS) for any "Contract Amendment (Project Description, changes).

NOP 6/4 Contract Amendment for Delta Conveyance...may involve modifications to one or more of ... SWP...water supply contracts to incorporate the Delta Conveyance Project. Therefore, if modifications move forward, the Delta Conveyance Project EIR will assess, as part of the proposed project, potential environmental impacts associated with **reasonably foreseeable potential contract modifications**.

\$\$ and time limits

NOP 4/1 Legend: • Pumping plant *but* Figure 1 shows: Jones and Banks Pumping Plants Clarify minima/maxima number/sites for pumping stations and functional/maximum capacities, sources, and discharge recipients.

NOP 5/1 Intake Facilities

The proposed intake facilities would be located along the Sacramento River between Freeport and the confluence with Sutter Slough,.... The proposed project would include two intakes with a **maximum diversion capacity** of about 3,000 cfs each. The size of each intake location could range from 75 to 150 acres, depending upon fish screen selection, along the Sacramento River and include a **state-of-the-art** fish screen, sedimentation basins, tunnel shaft, and ancillary facilities. An additional 40 to 60 acres at each intake location would be temporarily disturbed for staging of construction facilities, materials storage, and a concrete batch plant, if needed.

NOP 5/2 Tunnel and Tunnel Shafts The proposed project would construct up to two north connecting **tunnel reaches** to connect the intakes to an Intermediate Forebay..., a single main tunnel from the Intermediate Forebay to a new Southern Forebay, and two connecting south tunnel reaches as part of the proposed project's South Delta Conveyance Facilities...to connect to the existing SWP and, **potentially** CVP,....The proposed **single main tunnel** and **connecting tunnel reaches** would be constructed underground with the bottom of the tunnel at approximately 190 feet below the ground surface. Construction for the tunnel would require a **series of launch shafts and retrieval shafts**. Each launch and retrieval shaft site would require a permanent area of about four acres. Launch sites would involve temporary use of up to about 400 acres for construction staging and material storage. Depending on the location, the shafts may also require flood protection facilities to extend up to about 45 feet above the existing ground surface to avoid water from entering the tunnel from the ground surface if the area was flooded.

Provide diversion (0.0-mile, 10-mile, and 20-mile downstream points from Forebay) hydrographs of flows (velocities, volumes, elevations, etc.), temperatures (at -10% and -90% depths), and TDS (at -10 and -90% depths).

Provide channel hydrographs at 0.1-, 10-, 20-, 50-, and 100-mile downstream of Forebay discharge point(s) (velocities, volumes, elevations, etc.), temperatures (at -10% and -90% depths), and TDS (at -10 and -90% depths) prior to discharge for local uses along the Valley Conveyance.

Provide simplest physical alternative for the Project alignment, dead-straight path from uppermost diversion on Sacramento River to the Intake facility for the Clinton Forebay with at least one shaft (mid point) and not more than four equally space shafts for tunnel-boring-machine drives/starters and reception/receivers, excluding any shafts at start and finish.

Provide text, graphical, numeric and Process Flow Diagrams (PFD/P&ID) descriptions including connections to all districts and end-users of water through the tunnel(s) and Delta Fore Bay. Provide text, graphical, numeric and Process Flow Diagrams (PFD/P&ID) descriptions for identified components (e.g., inlets, inlet-forebay tunnels and shafts, shafts for both forebays, Define, delineate, and describe specifically "connecting tunnel reaches. Provide definitions, delineation, and description specifically for "launch" compared to "retrieval" shafts and alternatives of double launch, of double retrieval shafts, and of combined retrieval/launch shafts. Provide description of Site recovery including demolition/removal of 45ft high concrete shaft freeboard and earthen reuse.

NOP 5/3 The proposed single main tunnel and connecting tunnel reaches would be constructed underground with the bottom of the tunnel at approximately 190 feet below the ground surface.

Provide alternative depths of 40ft $x^3 = 120$ ft to top/160ft to bottom. Require that shafts include 20-40ft below the elevations of the tunnel bottoms.

Construction for the tunnel would require **a series of launch shafts and retrieval shafts**. Each launch and retrieval shaft site would require a permanent area of about four acres. Launch sites would involve temporary use of up to about 400 acres for construction staging and material storage....

Provide alternatives which minimize the number of shafts along the tunnel with each shaft providing at least two launches or two retrievals per shaft or one launch and one retrieval. Total number L > R/L > R/L > R = 5, Meet-Middle and Dismantle

R < L/L > R/L > R/L > R = 5

Earthen material would be removed from below the ground surface as tunnel construction progresses; this **reusable tunnel material** could be reused for embankments or other purposes in the Delta or **stored** near the launch shaft locations.

5/4 Forebays The proposed project would include an Intermediate Forebay and **a** Southern Forebay. The Intermediate Forebay would provide potential operational benefits and would be located **along the tunnel corridor between the intakes** and the **pumping plant**. The Southern Forebay would be located at the **southern end of the single main tunnel** and would **facilitate** conveyance to the existing SWP pumping facility and, potentially the CVP pumping facilities. The forebays would be constructed **above the ground**, and not within an existing water body. The size of the Intermediate Forebay would be

approximately...additional 150 acres disturbed during construction for **material** and equipment storage, and **reusable tunnel material storage**. The embankments would be approximately 30 feet above the existing ground surface. Additional appurtenant structures, including a permanent crane, would extend up to 40 feet above the embankments.

The tunnel is proposed to be >150ft below the surface and thereby the forebay cannot be provided along the tunnel route.

The DEIR must assess the seismic risk/stability of the 30ft "above ground" levees/walls of the forebay(s).

6/2 Pumping Plant The proposed project would include a **pumping plant** located at the new Southern Forebay and would receive the water through the **single main tunnel** for discharge in the Southern Forebay. ...approximately 25 acres along the side of the Southern Forebay and would include **support structures**, with a permanent crane for maintenance.... The temporary and permanent disturbed area for the pumping plant is included in the Southern Forebay area,....

6/3 South Delta Conveyance Facilities The proposed project would include **South Delta Conveyance Facilities** that would extend from the new Southern Forebay to the **existing Banks Pumping Plant inlet channel**.

The connection to the existing Banks Pumping Plant would be **via canals with two tunnels** to cross under the Byron Highway.

The canals and **associated control structures** would be located over approximately 125 to 150 acres. Approximately 40 to 60 additional acres would be disturbed temporarily during construction.

These facilities could also be used to connect the Southern Forebay to the CVP's Jones Pumping Plant.

6/5 PROJECT AREA The proposed EIR project area for evaluation of impacts consists of the following three geographic regions,..., as shown in Figure 2, [1] • Upstream of the Delta region [2] • Statutory Delta (...) [3] • South-of-Delta SWP Service Areas, and, potentially, South-of-Delta CVP Service Areas. The study areas will be specifically defined for each resource area evaluated in the EIR.

6/5 Figure 3 shows the SWP South-of-Delta water **contractors**

6/6 The study areas will be specifically defined for each resource area evaluated in the EIR.

Figure 3 shows the SWP South-of-Delta water contractors.

7/ Figure 2. Project Area

8/ Figure 3. SWP South-of-Delta Service Areas More than 15 receiving beneficial districts. Figure and herein includes water bodies upstream of Delta, and should include all water bodies above the prospective inlet sites, not just the Delta boundaries.

Figure shows four areas, CVP must be included as an alternative or as part of the Project.

Provide definitions, tabular, and graphical/numeric delineations for "Project Area", "Study Areas", "Regions", "Service Areas", "Resource Areas", and all water recipients and contractors for local distributions. Provide a hierarchal

9/2 ALTERNATIVES

As stated in CEQA Guidelines Section 15126.6(a),..."...describe a range of **reasonable** alternatives to the project, which would **feasibly** attain **most of the basic objectives** ...would avoid or substantially lessen any of the significant effects of the project, and evaluate the **comparative merits** of the alternatives....consider every conceivable alternative to a project...must consider a **reasonable range** of **potentially feasible** alternatives that will **foster** informed decision making and public participation. An EIR is not required to consider alternatives which are **infeasible**."

Provide definitions and numerical/quantified ranges for reasonable, feasibly/infeasibly, potentially feasible/infeasible, foster, and most and basic vs all objectives.

9/3 The scoping process will inform preliminary locations, corridors, **capacities and operations of new conveyance facilities** to be evaluated in the EIR. In identifying the possible EIR alternatives to be analyzed in detail, DWR is currently considering alternatives with capacities that range from 3,000 to 7,500 cfs,

with varying degrees of involvement of the CVP, *zero, 25%, 50%, 75%, and 100%...* DWR will make its final choice of potentially feasible alternatives to include in the Draft EIR after receipt of scoping comments

The Scoping documents and accessible background documents do not provide information regarding the modelling and diversion of flood flows from channel flows and allocation/uses of such flows (SWP vs CVP). Statements in 3/3 and 5/1 use 3000cfs/intake x 2 or 6000cfs for project and then 9/2 goes up to 7500cfs without clarifications as what physical changes are involved.

This renders this alternatives considerations mute; provide such and recirculate NOP.

Provide a clear, thorough, and quantitative setting/Project and alternatives considerations by number of intakes, maximum diversion volumes for intakes, and channel flows before and during diversions.

Provide alternatives including straight line route for tunnel from intake-south pumping station, boring with only two TBMs (meeting in between), and depths of 120-160ft (rather than 190ft).

10/1 Public Services and Utilities: effects to regional or local utilities.

• Growth Inducement and Other Indirect Effects: changes to land uses as a result of changes in water availability resulting from changes in water supply deliveries

changes to land uses

as a result of changes in water availability resulting from changes in water supply deliveries Flood Flows diversion – climate changes

Provide maps, graphic, and quantitative modeling of all area which could receive Project water at any time by month and seasons, and annual medians and +/- 1Standard Deviations.

Provide definition and quantification of "Other Indirect Effects".

Provide thorough, complete, and quantitative impact assessment and mitigation for growth/user areas receiving any significant derived project waters (e.g., >10 acre-feet/year) and incorporate California Dept. Finance projections with and without such project waters to 2045 (using 2020 census).

10/2 Where the **potential** to cause significant environmental impacts are identified, the EIR will identify avoidance, minimization, or mitigation measures that avoid or **substantially** lessen those impacts.

Provide definitions and quantitative measures and assessment models for all major environmental sectors, e.g., hydrology, land uses, and cost/benefits, "potential" and "substantially".

11/2 On January 23..., DWR submitted an addendum summarizing proposed project modifications to California WaterFix associated with refinements to the transmission line corridors proposed by the Sacramento Municipal Utility District...design of the applicable modified California WaterFix power features, proposed modifications to those power features (including an explanation of the need for the modifications), the expected benefits of the modifications to the transmission lines, and potential environmental effects as a result of those power related modifications (as compared to the impacts analyzed in the certified Final EIR).
11/3 On July 18, 2018, DWR released the California WaterFix Draft Supplemental EIR.....evaluated proposed changes to the certain conveyance facilities of the approved project....WaterFix Draft Supplemental EIS, including an alternatives comparison.

These inclusions in the single tunnel Delta Conveyance appear to be distractive at best, and perhaps purposeful confused/confusing.

Provide power requirements for all facilities within 5x5mi gridded base or by transformer stations over the entire Project area.

Provide definitions of "certain" facilities vs all facilities.

NOP 9/1 ALTERNATIVES As described above, the proposed project has been informed by past efforts taken within the Delta and the watersheds of the Sacramento and San Joaquin Rivers, including those undertaken through the Bay Delta Conservation Plan (BDCP)/California WaterFix. As stated in CEQA Guidelines Section 15126.6(a), the "EIR shall describe a range of **reasonable** alternatives to the project, which would **feasibly** attain **most** of the **basic objectives** of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every **conceivable** alternative to a project. Rather it must consider a **reasonable** range of **potentially feasible** alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are **infeasible**."

Please provide clear and complete definitions along with quantitative applications for: Reasonable, feasibly/feasible/infeasible, most, basic (vs all) objectives, conceivable, and potentially. As these terms have economic associations, provide as part of the DEIR/DEIS quantified economic analyses of alternatives, including construction, initial operations (Yr 1-5), and later operations (Yr 10-12).

NOP 9/2 The scoping process will inform **preliminary** locations, corridors, capacities and operations of new conveyance facilities to be evaluated in the EIR. In identifying the **possible EIR alternatives** to be analyzed in detail, DWR is currently considering alternatives with capacities that range from 3,000 to 7,500 cfs, with varying degrees of involvement of the CVP, including no involvement. DWR will make its final choice of **potentially feasible alternatives** to include in the Draft EIR **after receipt of scoping comments**. *"Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account <u>economic</u>, environmental, social, and technological factors. <i>Ca. Pub. Res. Code* § 21061.1 Therefore provide economic setting and assessment of Project on the economic development through 2045 for all areas receiving any Conveyance waters.

Provide impact assessment and mitigation for "Geology and Seismicity: changes in risk of settlement during Life of Project, during construction and operations".

NOP 9/3 • Geology and Seismicity: changes in risk of settlement during construction.

Provide thorough, quantitative, and mapped production for temporary storage, treatment, and ultimate "reuse" or "disposal" of tunnel muck debris (>30% fluids) and its impacts and mitigation/monitoring on impact sectors below, through 0-10 years.

NOP 9/3 • Soils: changes in topsoil associated with construction of the water conveyance facilities.

• Terrestrial Biological Resources: effects to terrestrial species due to construction of the water conveyance facilities.

- Land Use: incompatibilities with land use designations.
- Agricultural and Forestry Resources: preservation or conversion of farmland.
- Recreation: displacement and reduction of recreation sites.
- Aesthetics and Visual Resources: effects to scenic views because of water conveyance facilities.
- Cultural/Tribal Cultural Resources: effects to archeological and historical sites and tribal cultural resources.

Provide objectives for DC and for WaterFix and clearly identify those that differ between the two projects. DWR Q&A 2/1 5. How does this...differ from the previous California WaterFix project? The objective of the proposed project **is...largely the same as WaterFix**: to **restore and protect the reliability** of water supplies that move through the Delta by adding flexibility with a new point of diversion and new infrastructure.

Provide clarification regarding the Scoping for this Project (DC) and an unexpanded Scoping for other projects.

The Scoping process is expanded beyond the simple NOP via related links/documents, including <u>https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Delta-</u> Conveyance/DC_NOP_QA_Final.pdf?la=en&hash=3967A433CAD79D37B91E0EDB6EB3BFC30F5FAA43.

Provide definitions and clarification for use of vague terms used throughout the NOP, such as: will also involve, likely requiring, may include, anticipated...NEPA compliance, relevant NEPA information, once established, federal lead agency vs Lead Agency, and if appropriate.

Provides:

Provide definitions and quantification of "seismic event(s)" along with distances, depths, periods, intensities, and surface responses and probable damages to levees and other infrastructure facilities. Provide definitions and quantification of current levees stability responses to a "design seismic event". Provide definitions and quantification of lowest intensity likely (1/500) to produce a breaching of a levee under "normal" flows and in the event of "Plus 5-foot flows" (flood or sea rise).

Provide in the DEIR/DEIS a Draft Mitigation. Monitoring, and Reporting Plan for the Project.

Provide definitions and quantification of seismicity and risks for the Forebay, named water conveyance facilities, and pump stations.

Provide clear definitions and procedural estimations for "risks", "threats", "likely", "could's, would's and should's", and "can's, will's, shall's, and must's"

Provide quantitative estimates of "Climate Changes" for the life-of-project (e.g., 50 years) and increased variability (Coefficients of variation, standard deviations/errors for norms, +/- 4-5-6thSD for Higher-Storm/Lower-Drought flows.

Provide definitions and quantifications for "reliability", "reliably", "flexible", and "flexibility".

Provide review of all eligible/suitable areas of Groundwater Resources for recharge and production using "Delta-Conveyance waters" – Sources and Destinations.

Provide quantitative records (maximum, flows, duration, elevations, etc.) for 2010-date bypassing all "Flood Flows".

Provide and quantify the most probable recipient of averaged, base, and one-month periodic flows and whether for direct use or indirect reuse after underground or surface storage.

Provide maps of all measurable, recordable seismic events 0 - +7 RM within 50 miles of any proposed tunnel alignments and within 100 miles of any Project shaft. Provide map with correlations of events with most probable fault plane (including surface traces and subsurface projections).

Provide map of any known or suspected "blind fault plane" within 25 miles of any alignment.

Provide a map of all known breaches of levees within the Project region and 50 miles above and below planned physical facilities and a map of known areas of inundation.

Provide a map and description of all levee reinforcements conducted and placed within the Project region from 1930-Date. Distinguish between earthen works and others (e.g., slurry/grout walls and treatments, cutoff walls, crown barriers, etc.).

Provide technical, numeric, and quantitative reviews and analyses of structural behaviors and movements of: fixed air-filled vertical shafts without any tunnels,

single empty/air-filled tunnels within 300ft of the shafts, twin empty/air-filled tunnels within 300ft of starter shafts, single-/twin empty/air-filled within 300ft of receiver shafts, fixed air-filled vertical shafts with air-filled tunnels with 0.0, 0.5, 0.7, and 1.0 G accelerations; fixed partially water-filled vertical shafts with water-filled tunnels with 0.0, 0.5, 0.7, and 1.0 G accelerations;

Provide numeric, quantitative assessment/definitions for any use of cost-effective, efficient, economic, financial, or other non-physical describer.

Provide a Draft Mitigation, Monitoring, and Reporting Plan (Program) as part of the DEIR/DEIS, including all related/tiered reporting for the Public and specifically all Public commenters for scoping and DEIR/DEIS review.

Provide review and facility and operational requirements for Peak/Off-Peak flow diversions from Delta, and through all related facilities, provide locations and facilities required to access diverted flows and those which maybe be required to receive, hold, and recharge underground storage capacities.

Provide review and assessment of secondary, growth induced impacts with expansion/changes of annual and perennial land uses, both agricultural and structured.

Provide list of specific quantified conditions for the EIR and for the EIS Project conditions and operations and require Amended DEIR/DEIS recirculation and review/comment with any physical or operation (flows) involvement of the federal CVP or other such projects.

Provide technical, quantitative and numerical description of source materials, boring related changes, and discharge conditions, and probable treatments and conditions of the RTM ("reusable tunnel material") within 1, 10, and 30 days from discharge beyond the shaft.

Provide technical, quantitative and numerical description of potential reuses for embankments Provide technical, quantitative and numerical description of other purposes.

Provide technical, quantitative and numerical description of "stored purposes", especially including water contents and strengths.

Provide a separate summary with web-links to sources for all specific details provided by agencies within 60 days of closure of Scoping, including scopes, significant issues and impacts, reasonable and unreasonable alternatives, and all mitigations, monitoring, reporting recommendations, and responsibilities. NOP 12/3 As required by the CEQA Guidelines,...each responsible and trustee agency is required to provide the lead agency with specific detail about the **scope, significant environmental issues, reasonable alternatives, and mitigation measures**...should indicate their respective **level of responsibility** for the project.

Provide alternative description and assessment for the shortest practical tunnel route as shown below (deadstraight route) without turns/curves in the tunnel portion and two shafts (two starter/launch shafts with double TBM meeting within the "middle" of the tunnel line).

A: 37 miles/white line Courtland-Hood-Clarksburg miles C: 42 east/bottom B: 39 middle



Provide Non-Tunnel Alternative for improved reliability of Delta flows, Improved Levee Alternative, including slurry/grouted cut-off walls within levees and at least 50% of levee height beneath the levee (e.g., 50ft levee height with 75ft deep/height cut-off walls.

Provide in the Improved Levee Alternative additional provision of "High K-Rail" for raising top of levee by 3-5ft on temporary and then permanent basis.

From:	Richard Denton
To:	Office of the Secretary CNRA; DWR Delta Conveyance Scoping
Cc:	Nemeth, Karla@DWR; Esquivel, Joaquin@Waterboards; Tatayon, Susan@DeltaCouncil; Blumenfeld, Jared@EPA
Subject:	Comments on Notice of Preparation of EIR for the Delta Conveyance Project
Date:	Friday, April 17, 2020 3:03:39 PM
Attachments:	Denton Scoping Comments on Single Tunnel NOP 17Apr20.pdf

Dear Secretary Crowfoot and Ms. Renee Rodriguez,

Please find attached my comments on DWR's January 15, 2020 Notice of Preparation of an Environmental Impact Report for the Delta Conveyance Project.

Richard Denton Richard Denton & Associates Oakland, CA (510) 3389-3618

Richard Denton & Associates 6667 Banning Drive Oakland, CA 94611-1501 Tel: (510) 339-3618

April 17, 2020

Wade Crowfoot California Secretary for Natural Resources California Natural Resources Agency 1416 Ninth Street, Suite 1311 Sacramento, CA 95814 Email: secretary@resources.ca.gov

Delta Conveyance Scoping Comments Attn: Renee Rodriguez Department of Water Resources P.O. Box 942836 Sacramento, CA 94236 Email: DeltaConveyanceScoping@water.ca.gov

Re: Notice of Preparation of EIR for the Delta Conveyance Project

Dear Secretary Crowfoot,

Thank you for the opportunity to review the Department of Water Resources' (DWR) January 15, 2020 Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the Delta Conveyance Project and have the following scoping comments on this modified but basically unchanged proposal.

This proposal is best described by the well known quote: *The definition of insanity is doing the same thing over and over again and expecting a different result*.

This single tunnel version is a barely different, somewhat smaller (up to 7,500 cfs compared to 9,000 cfs), version of the seriously flawed California WaterFix project.

On May 2, 2019, DWR Director Nemeth withdrew the project approval of the WaterFix project and rescinded DWR's accompanying California Environmental Quality Act (CEQA) notice of determination. DWR in coordination with the U.S. Bureau of Reclamation (Reclamation) also notified the State Water Resources Control Board (SWRCB) they were withdrawing the pending Petition for Change in Points of Diversion and Rediversion (CPOD Petition) for the State Water Project (SWP) and Central Valley Project (CVP) and the related application for Section 401 certification for WaterFix. The applications for a Department of the Army permit under Section Secretary Wade Crowfoot Scoping Comments on NOP of EIR for Delta Conveyance Project April 17, 2020 Page 2

10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act were also officially withdrawn (May 3, 2019).

These withdrawals were necessary in large part because the Delta Stewardship staff had made a draft finding that WaterFix was not consistent with the Delta Plan¹.

The DSC staff draft determination found that DWR's Certification of Consistency was <u>not</u> supported with respect to the five Delta Plan policies:

- Full consistency infeasible, but on the whole the covered action is consistent with the coequal goals (23 CCR § 5002, subd. (b)(1)) ("G P1(b)(1)")
- Best Available Science (23 CCR § 5002, subd. (b)(3)) ("G P1(b)(3)")
- Reduce Reliance on the Delta Through Improved Regional Water Self Reliance (23 CCR § 5003) ("WR P1")
- Delta Flow Objectives (23 CCR § 5005) ("ER P1")
- Respect Local Land Use When Siting Water or Flood Facilities or Restoration Habitats (23 CCR § 5011) ("DP P2")

Similarly, the SWRCB had received substantial credible testimony from protestants in the CPOD Petition hearings demonstrating that WaterFix would significantly harm Delta, Bay and Central Valley beneficial uses including endangered and threatened fish species, Delta water quality and Delta water supplies.

DWR would not have taken the drastic step of abandoning the WaterFix project, withdrawing the water right change petition and throwing out a very expensive certified environmental impact statement, if DWR had not recognized the twin tunnel proposal and its operations were seriously flawed and likely to receive embarrassing and potentially project-ending regulatory agency denials.

The NOP at the top of page 9 states: "As described above, the proposed project has been informed by past efforts taken within the Delta and the watersheds of the Sacramento and San Joaquin Rivers, including those undertaken through the Bay Delta Conservation Plan (BDCP)/California WaterFix." This is clearly incorrect. DWR has apparently learnt nothing from its narrowly focused studies of the past about the need for additional south-of-the-Delta storage and completely different operations to ensure a true "Big Gulp, Little Sip" solution.

¹ Determination Regarding Appeals of the Certification of Consistency by the California Department of Water Resources for California WaterFix. Staff Draft. November 19, 2018 <u>https://coveredactions.deltacouncil.ca.gov/Services/download.ashx?u=018bccad-02c2-4b2c-a8bd-6264896014f1</u>

Starting over again, essentially from scratch, with the same flawed conveyance-only concept is indeed madness and is **doomed to fail, again**.

My scoping comments are listed below followed by a detailed discussion of each comment.

- 1. The EIR must analyze a full range of alternatives
- 2. The EIR must analyze a holistic Delta solution comprising of a portfolio of actions.
- 3. The EIR must extends the previous modeling period for reservoir and Delta operations and Bay & Delta water quality
- 4. CalSim operations modeling for the EIR must meet SWRCB urban water quality standards
- 5. Analysis of the water quality impacts of the proposed project in the EIR must use the full available historical period, 1922-2019
- 6. The presentation of modeling data and disclosure of environmental impacts in the EIR must be in a form that is usable and useful for decision makers and the public
- 7. The EIR must fully mitigate any significant water quality impacts of the proposed project
- 8. The EIR must fully model the infrastructure required to comply with the settlement agreement with the Contra Costa Water District
- 9. The EIR must analyze alternatives that implement enhanced Delta outflows consistent with the SWRCB's 2010 Delta Flow Criteria Report
- 10. The EIR alternatives must include Fall X2 objectives
- 11. The EIR should use a Daily Operations model
- 12. DWR should establish a technical workgroup to provide input to development of the EIR and make modeling data available to the public as early as possible
- 13. The EIR must include alternatives where the SWP export diversions to Clifton Court Forebay are fully screened
- 14. Other EIR Modeling Requests

Detailed Discussion

The EIR must analyze a full range of alternatives

As stated in CEQA Guidelines Section 15126.6(a), the "EIR shall describe a range of reasonable alternatives to the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible
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alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible."

The January 15 NOP states that "the scoping process will inform preliminary locations, corridors, capacities and operations of new conveyance facilities to be evaluated in the EIR."

However, the previous October 2006 – April 2015 Bay-Delta Conservation Plan (BDCP) and May 2015 - May 2019 WaterFix projects failed because they focused on a Delta-conveyanceonly solution. Without additional storage in the south-of-Delta export areas, these two proposed projects were consistently unable to capture, export and store significant amounts of water during periods of high Delta flows (wet months), i.e., they were unable to consistently take a Big Gulp. During storm events, San Luis Reservoir filled and then there was nowhere to use (wet fields, low demand) or rapidly store any more exported water and export pumping was cut way back. This isn't a biological opinion restraint, an operational issue, or a conveyance limitation. It is due to a lack of export area surface storage.

Similarly, because a conveyance-only project is unable to capture sufficient water when it is plentiful and less harmful to the Delta ecosystem and Delta water quality meant the BDCP and WaterFix had to rely on (i.e., continue and increase) exports from the Delta during periods of low Delta flow when the Delta ecosystem was most vulnerable and Delta salinities were already high (dry months), i.e., they were unable to limit themselves to taking a Little Sip and reducing SWP and CVP reliability on the Delta for their water supply (Cal. Water Code §85021).

The current NOP states that "*DWR is currently considering alternatives with capacities that range from 3,000 to 7,500 cfs, with varying degrees of involvement of the CVP, including no involvement.*" DWR also proposes to consider two different tunnel routes under the Delta, one of which, in December 2019, was found by a group of engineers from major tunneling companies around the world to be infeasible. This Independent Technical Review Panel convened by the Delta Conveyance Design and Construction Authority (DCA) recently found that constructing the main tunnel in the original WaterFix project footprint was impractical due to access issues, and that the tunnel muck was likely not reusable².

The NOP proposes only one feasible tunnel route and a range of tunnel capacities, but does not consider any meaningful alternatives such as water conservation and local water supply actions to reduce export water demand from the Delta, joint storage-conveyance alternatives that would allow actual "Big Gulp, Little Sip" operations, or any enhanced through-Delta alternatives. It is frustrating and unacceptable that the NOP does not discuss any holistic Delta solution alternatives that include water use efficiency actions, groundwater recharge, local water supply projects and joint storage-conveyance.

The EIR must analyze and disclose the environmental impacts of joint storage-conveyance alternatives, enhanced through-Delta alternatives, operations based on the SWRCB's Bay-Delta

² See <u>https://www.dcdca.org/pdf/2020-02-20DCABoardPkgV2.pdf</u>, ITR report, page 6.

Water Quality Control Plan update enhanced flow requirements (outflows and inflows as a percentage of unimpaired flow) as well as operations based on the most current voluntary agreement proposal and the new SWP Incidental Take Permit and Federal Biological Opinions.

The EIR must analyze a holistic Delta solution comprising of a portfolio of actions.

DWR's mission is:

To sustainably manage the water resources of California, in cooperation with other agencies, to benefit the state's people and protect, restore, and enhance the natural and human environments.

This includes improving the water resources supply for those within the Delta and in the upstream tributaries. It also includes improving the Delta ecosystem and water quality in the Delta for drinking water supply, irrigation, fish and wildlife and recreation. This is also State policy per California Water Code sections 85020 and 85054.

DWR is failing to fulfill its mission by using State resources to pursue a Delta conveyance-only solution that will only benefit water users in export regions south of the Delta. To achieve a sustainable solution to the multiple problems of the Delta, the State of California should be fully analyzing a holistic solution along the line of the *Portfolio-Based BDCP Conceptual Alternative*³ suggested in January 2013 by Barry Nelson (then of the Natural Resources Defense Council) and Governor Brown's 2014 California Water Action Plan⁴.

The EIR should focus instead on a portfolio of actions, fully developed, analyzed and disclosed, that consists of the following actions:

- 1. Develop and fund actions to enhance **water use efficiency** and **water reuse** throughout California
- 2. Develop and fund local **water supply projects** throughout California, including desalination projects
- 3. Develop and fund **groundwater recharge projects**, especially in areas with serious groundwater overdraft and subsidence. These could involve flood storage systems to enhance recharge from storm flows, as well as recharge using exported water (as was promised with the original State Water Project)

⁴ 2014 California Water Action Plan

https://resources.ca.gov/CNRALegacyFiles/docs/california_water_action_plan/2014_California_ Water_Action_Plan.pdf

³ <u>https://www.nrdc.org/resources/portfolio-based-conceptual-alternative-bay-delta</u>

- 4. **Strengthen levees** in the Delta and upstream tributaries. This is needed anyway to protect the large proportion of export water still conveyed through the Delta to the south Delta export pumps
- 5. Implement ecosystem habitat restoration projects such as those being carried out under the auspices of California EcoRestore. The BDCP analyses shows significant adverse water quality impacts due in large part to the proposed habitat restoration actions. Any such ecosystem projects are part of the whole Delta solution and must be part of the current Delta conveyance project and disclosed in the new EIR. Otherwise the EIR will be inadequate under CEQA because would piecemeal the full project (*See* 14 C.C.R. §15378(a) (defining "project" for CEQA purposes as "the whole of the action"); *see generally Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal.3d 376.)
- 6. Increase minimum inflow and outflow requirements in the Delta, consistent with the recommendations of the SWRCB (2010 "Delta Flow Criteria Report"⁵), the Cal. Department of Fish and Wildlife⁶ (2010 "Quantifiable Biological Objectives and Flow Criteria for Aquatic and Terrestrial Species of Concern Dependent on the Delta."⁷) This is currently being carried out by the SWRCB as part of their update of the Bay-Delta Water Quality Control Plan. It is important to first determine how much water needs to remain as flow through the Delta to the Bay to restore and sustain the key fish species and the Delta ecosystem. This was a requirement of the 2009 Delta Reform Act (Cal. Water Plan §85320(b)(2)(A).) Designing a project in advance of knowing the conditions under which it may reliably operate makes no sense and is a huge waste of resources and renders the CEQA review meaningless. Only after the baseline flow needs for the Delta ecosystem are known will it be possible to determine the best combination and size of storage and conveyance facilities to optimize water supply reliability for California. Note that the WaterFix project, a conveyance-only proposal, was incompatible with the need to capture more water during high flow months and reduce exports during dry months when more water is needed for the Delta ecosystem.
- 7. Capture water when there is high flow in the Delta and its upstream tributaries in excess of the needs of the Delta ecosystem. This will require additional storage in or close to the Delta and in the south of Delta export areas. Additional north of Delta storage may provide some benefits but will not directly address the current need to capture and deliver more "new" water south of the Delta.
- 8. Exporting and storing more captured water in wet periods will **reduce the pressure on the SWP and CVP to rely on the Delta for exports in drier periods**. This would represent a

⁵ 2010 Delta Flow Criteria Report <u>https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/deltaflow/fina</u> <u>l_rpt.shtml</u>

⁶ Previously called Department of Fish and Game (DFG)

⁷ 2010 DFG Quantifiable Biological Objectives and Flow Criteria Report <u>http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentVersionID=43063</u>

win-win solution (actual benefits to water supply, the ecosystem and Delta water quality) compared to the current lose-lose situation where "balancing beneficial uses" means continued heavy export pumping is drier months to the detriment of the Delta ecosystem and Delta water quality.

This approach will directly address the requirement for Bay-Delta projects to contribute to achievement of the co-equal goals (Water Code §85020, §85304, Public Resources Code §29702(a)). A conveyance-only proposal with none of the above associated portfolio actions will fail to make any meaningful contribution to either of the coequal goals and would be unable to protect and enhance the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.

If increases in exports are focused on periods of high Delta outflow, water quality may often be good enough in the western Delta to meet export needs. The EIR should also include an alternative that includes **new intakes in the western Delta** in the vicinity of Sherman Island. That would reduce the number of intakes needed in the north Delta and reduce the size of the tunnel from the north Delta. Taking some water from the western Delta and less from the north Delta would maintain much needed flow through the Delta for the out-migration and return of anadromous fish species. This western Delta alternative, like DWR's proposed Delta conveyance(-only) alternative allows up to 10,300 cfs to be exported at the SWP Banks Pumping Plant and 4,600 cfs at the CVP Jones Pumping Plant (total of 14,900 cfs).

The EIR should also include an alternative with additional upstream-of-the-Delta-pumps storage. That would allow water to be captured during high outflows at a rate higher than 14,900 cfs. Water captured in excess of 14,900 cfs could be stored, temporarily, immediately upstream of the Delta pumps and moved south of the Delta later when Banks and Jones pumping plant capacity becomes available.

For more information on the western Delta intake alternative please read Dr. Robert Pyke's December 2012 white paper: "A Self-Regulating, Inclusive and Sustainable Solution for the Sacramento San Joaquin Delta." http://nebula.wsimg.com/3c6d6f90274da0db82d946bcf7831fc3

Tom Zuckerman in July 2007 discussed in detail the need for additional storage south of the Delta to increase the CVP and SWP's ability to carry over more exported water into subsequent years during dry periods. <u>http://nebula.wsimg.com/595e6fbcbe2738977a5973a0e478cbb1</u>

The NOP at the top of page 9 states: "As described above, the proposed project has been informed by past efforts taken within the Delta and the watersheds of the Sacramento and San Joaquin Rivers, including those undertaken through the Bay Delta Conservation Plan (BDCP)/California WaterFix." This is clearly incorrect. DWR has apparently learnt nothing from its narrowly focused studies of the past about the need for additional south-of-the-Delta storage and completely different operations to ensure a true "Big Gulp, Little Sip" solution.

To paraphrase George Santayana: Those who do not learn from the mistakes of the past are condemned to repeat them.

The EIR must analyze in detail joint storage-conveyance alternatives, with and without new intakes in the western Delta, to make the "Big Gulp" concept a reality, and with a portfolio of other actions to reduce the SWP and CVP's reliance on exports from the Delta in dry months.

The EIR must extends the previous modeling period for reservoir and Delta operations and Bay & Delta water quality

The EIR must model both the operations and water quality, with and without the project alternatives, for the full historical hydrologic period, water years 1922-2019. The operations modeling performed for the BDCP and WaterFix proposals was for the 82 years from October 1921 through September 2003. This simulation period must be updated to include the subsequent 16 years of historical hydrology. The water quality simulations for WaterFix only used a 16-year period (water years 1976-1991). As discussed elsewhere in this letter, this brief 16-year period is not representative of the range of adverse water quality impacts for the longer 82-year period. The new single-tunnel EIR must simulate water quality over the full available historical hydrology period October 1921 through September 2019.

CalSim operations modeling for the EIR must meet SWRCB urban water quality standards

The salinity-outflow calculations for previous CalSim modeling for BDCP and WaterFix was based on an Artificial Neural Network (ANN) model that underestimated the amount of Delta outflow needed to meet the SWRCB's municipal and industrial chloride concentration objectives at Contra Costa Water District's intake at the entrance to the Contra Costa Canal off Rock Slough. When the effects of the project on Delta water quality were simulated using DWR's DSM2 model, the estimated chloride concentrations at Pumping Plant #1 and in Old River at the entrance to Rock Slough were frequently well in excess of 250 mg/L chloride concentration in violation of the SWRCB's daily January-December, standard. This mean that the proposed project operations did not meet SWRCB standards, obscured the potential water quality impacts of the project, and overestimated the amount of water available for export.

As discussed in Contra Costa County and Solano County's joint written testimony in the WaterFix water rights change petition hearing [WaterFix Hearing Exhibit CCC-SC-51], the simulated daily salinities in Old River at Bacon Island at the entrance to Rock Slough regularly exceeded the SWRCB year round daily standard of 250 mg/L chloride (equivalent to 1,053 μ S/cm EC) and during one seawater intrusion event reached the equivalent of 761 mg/L chloride concentration (Figure 1).



Figure 1: Daily-averaged Old River at Bacon Island EC for November for the proposed WaterFix project CWF H3+ plotted as a function of the No Action Alternative (NAA). The data are from the full 82-year CALSIM II modeling period, October 1, 1921 through September 30, 2003. Because this location is close to a D-1641 Municipal and Industrial water quality compliance location (the intake to the Contra Costa Canal), equivalent chloride concentrations of 250 mg/L and 150 mg/L are also shown. For many days in November, the chloride concentrations for both CWF H3+ and the NAA are well in excess of the 250 mg/L year-round maximum. [from SWRCB WaterFix Hearing Exhibit CCC-SC-60]

A recent technical paper by Nimal Jayasundara, Sanjaya Seneviratne, Erik Reyes and Francis Chung (all DWR) titled "Artificial Neural Network for Sacramento–San Joaquin Delta Flow– Salinity Relationship for CalSim 3.0," showed the poor agreement between simulated CalSim and DSM2 salinity at Rock Slough and Jersey Point in previous CalSim modeling.⁸ They

⁸ American Society of Civil Engineers Journal of Water Resources Planning and Management, Vol. 146, Issue 4 (April 2020), <u>https://ascelibrary.org/doi/abs/10.1061/%28ASCE%29WR.1943-5452.0001192</u>

described the results of a new ANN salinity-outflow model that much more accurately reproduces the DSM2 model simulations.

The EIR analyses must use a salinity-outflow model that is able to accurately simulate the amount of Delta outflow needed to meet existing SWRCB water quality standards.

Analysis of the water quality impacts of the proposed project in the EIR must use the full available historical period, 1922-2019

The water quality impact analyses for the WaterFix project focused on a short 16 year period, 1976-1991, rather than the 82-year period, 1922-2003, used for the CalSim operations studies. As shown in WaterFix Hearing Exhibit CCC-SC-28 (reproduced below as Figure 2), the 16-year period gave very different results than the 82-year period.

In March, the 82-year average suggests the WaterFix project would have degraded water quality (expressed as EC) by 97 μ S/cm, which is 3.5 times larger than the 16-year average (28 μ S/cm). Similarly, in November, the average improvement in water quality for the full 82 years (-160 μ S/cm) is appreciably less than the 16-year average (-210 μ S/cm). In other words, using a 16-year average underestimated the adverse impacts on water quality of the WaterFix project and exaggerated the improvements.

Note that the Old River at Bacon Island location is representative of the water quality influencing the chloride concentrations at the SWRCB's D-1641 municipal and industrial compliance location at the intake to the Contra Costa Canal.

Because the current year is now 2020, both the operations and water quality simulations for the EIR should be for the full available historical hydrology period 1922-2019.



Figure 2: Increases in specific conductance (EC) in Old River at Bacon Island for water years 1922-2003 and 1976-1991 (82-years and 16-years, respectively). The water quality data are from the WaterFix Biological Assessment (BA) Proposed Action (PA) and No Action Alternative (NAA) at Early Long Term (ELT). Using only a 16-year average underestimates the adverse impacts in February-June and overestimates the simulated benefits in November-January. [from WaterFix Exhibit CCC-SC-28]

The presentation of modeling data and disclosure of environmental impacts in the EIR must be in a form that is usable and useful for decision makers and the public

The long-term (16- and 82-year) averages previously used by DWR to present the WaterFix modeling data masked potentially serious adverse impacts in individual months within the full 1922-2003 period. These long-term averages also hide the fact that the water quality modeling studies for the WaterFix project exceed the SWRCB's D-1641 water quality standards by a very large margin (See, Figure 1 above). The long-term averaging for each month of the year also means there are only 12 data points for each alternative. Long-term averaging by water year type means the range of future flows and water quality changes for a given alternative are reduced to being represented by only five data points (one each for critical, dry, below normal. above normal and wet water year types).

To clearly disclose the full range of environmental impacts and the details regarding the timing and magnitude of these impacts, the simulation data for the EIR should also be presented in the form of scatter plots like Figure 1.

A major flaw of the earlier proposed WaterFix project, and presumably, the barely-modified new single tunnel proposal, was that a conveyance-only alternative will be unable to capture and export sufficient "new" water during wet months to allow exports to be reduced and Delta flows increased during dry months when the Delta ecosystem is most vulnerable.

The EIR should include plots of monthly (preferably daily) total south-of-Delta exports via Banks and Jones pumping plants as a function of the corresponding Delta outflow for each alternative. Without a Delta tunnel and additional north or western Delta intakes, the maximum export capacity is typically 4,600 + 6,680 = 11,280 cfs. The new single-tunnel proposal would allow Banks Pumping Plant to operate up at up to 10,300 cfs, beyond the current limits imposed by an Army Corps of Engineers permit for Clifton Court Forebay.

With the single-tunnel project, it would be possible to export at 4,600 + 10,300 = 14,900 cfs even during drier months. However, State policy (California Water Code §85021⁹) requires that Bay-Delta projects reduce reliance on the Delta in meeting water supply needs and this is most important during dry months when Delta outflows are low and the Delta ecosystem is most vulnerable. Any project that increases rather than decreases exports during periods of low Delta outflow is not consistent with this State policy, the 2009 Delta Reform Act and, like the WaterFix proposal, would be inconsistent with the Delta Plan.

Figure 3 below shows WaterFix monthly exports as a function of Delta outflow during lower outflow months (outflow < 12,000 cfs). The now-withdrawn WaterFix project would have increased exports beyond the typical 11,280 cfs existing level up to 14,900 cfs (more than a 30% increase). The EIR must analyze and disclose alternatives, such as a joint storage-conveyance alternative, that reduce reliance (exports) from the Delta during dry periods.

Figure 3 also shows a reasonable limit on exports as a function of Delta outflow, maximum export ≤ 1.5 times Delta outflow, which would help ensure operations do indeed reduce reliability on the Delta and are consistent with the "Little Sip" concept. The EIR should include alternatives using this important restraint on exports at very low Delta outflow.

⁹ 85021. The policy of the State of California is to reduce reliance on the Delta in meeting California's future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency. Each region that depends on water from the Delta watershed shall improve its regional self-reliance for water through investment in water use efficiency, water recycling, advanced water technologies, local and regional water supply projects, and improved regional coordination of local and regional water supply efforts.



Figure 3: Monthly-averaged total South-of-Delta exports for the previously proposed WaterFix project CWF H3+ as a function of the corresponding Delta outflow. The data represent the modeling period, October 1, 1921 through September 30, 2003. Only data for outflows less than 12,000 cfs are plotted to highlight the proposed WaterFix operations during drier months. The WaterFix project increases exports beyond existing levels when Delta outflows are very low and the Delta ecosystem is most vulnerable. This is the exact opposite of the "Little Sip" concept. The suggested 1.5 times Delta outflow limit would help ensure operations consistent with the "Little Sip" concept. [from WaterFix Hearing Exhibit CCC-SC-63]

The Delta Independent Science Board, in a September 30, 2015 comment letter to the Chair of the Delta Stewardship Council and Director of the California Department of Fish and Wildlife, described the partially Recirculated Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement for the Bay Delta Conservation Plan/California WaterFix as *"sufficiently incomplete and opaque to deter its evaluation and use by decision makers, resource managers, scientists and the broader public."* [WaterFix Hearing Exhibit CCC-SC-20, p. 1.]

The proposed single-tunnel EIR must present the modeling data in forms such as scatter plots of daily water quality and monthly (preferably daily) flow and export data to make the EIR usable

and useful for decision makers, resource managers, Bay-Delta stakeholders, and the general public. Merely summarizing the data as long-term (16- or 82-year) averages is not acceptable.

The EIR must fully mitigate any significant water quality impacts of the proposed project

The original BDCP project had significant adverse water quality impacts that DWR declared were "unavoidable." The next version of the Delta conveyance project, WaterFix, also had significant water quality impacts (see Figure 1 above) but the primary mitigation proposal was to meet and confer with impacted water rights holders after the project had been constructed and brought on line. DWR did, however, recognize that this was not a defendable position so, in March 2016 entered into a water rights settlement agreement with the Contra Costa Water District (WaterFix Hearing Exhibit DWR-334). Under this settlement agreement, DWR would provide high quality water to CCWD via EBMUD's Freeport project or by a direct connection to the tunnel(s) to offset the water quality impacts of the WaterFix project.

The EIR must use the water quality significance criteria of 5 mg/I chloride or 5% increase, whichever is greater. In the case of specific conductance (EC) the corresponding criterion should be 20 μ S/cm. These significance criteria were developed as significance screening criteria by CCWD for the September 1993 *Los Vaqueros Project Final EIR/EIS* (SCH #91063072, Volume 1, page 5-9). These significance criteria were also used by East Bay Municipal Utility District (EBMUD) for the July 2003 *Freeport Regional Water Project EIR/EIS* (see *Draft EIR/EIS Modeling Technical Appendix*, page 4-228).

In the December 2019 Lookout Slough Tidal Habitat Restoration and Flood Improvement Project Draft EIR, DWR argued that whether a change is considered "significant" depends on whether there would be an exceedance of a standard set forth in the State Water Resources Control Board's (SWRCB's) Bay-Delta Water Quality Control Plan (Bay-Delta Plan) and/or Water Rights Decision 1641 (D-1641). This is incorrect. According to CEQA Appendix G, Environmental Checklist Form, under VIII. Hydrology and Water Quality, term (f), water quality impacts must be deemed significant if they "otherwise substantially degrade water quality." This term recognizes there can still be significant adverse water quality impacts when water quality is well below any regulatory standard such as those in the SWRCB's D-1641.

The single-tunnel EIR must include graphs showing the daily percentage increases in chloride concentration or EC as a function of time to fully disclose to decision makers and the public whether significant water quality degradation would occur.

Notwithstanding a lead agencies requirements under CEQA to fully mitigate the significant environmental impacts of a proposed project, the 2009 Delta Reform Act (Water Code §85021¹⁰) found that improving water quality to protect human health and the environment in the Delta is inherent in the State policy of achieving the coequal goals for management of the Delta. Logically, any degradation of water quality would be inconsistent with the 2009 Delta Reform Act and the Delta Plan.

Significant water quality impacts can be avoided by selecting a joint storage-conveyance preferred alternative that is able to capture, export then store more water during wet months (Big Gulp) and increase Delta flows, reduce exports and decrease salinity and other water quality contaminants during dry months (Little Sip).

If significant water quality impacts are still identified, they must be clearly disclosed and fully mitigated in the EIR.

The EIR must fully model the infrastructure required to comply with the settlement agreement with the Contra Costa Water District

In March 2016, DWR entered into a water rights settlement agreement with the Contra Costa Water District [WaterFix Hearing Exhibit DWR-334]. Under this settlement agreement, DWR agreed to provide high quality water to CCWD via EBMUD's Freeport project or by a direct connection to the new Delta tunnel(s) to offset the water quality impacts of the WaterFix project on CCWD and the residents of Contra Costa County. DWR has recently entered into a new settlement agreement with the City of Antioch.

The EIR must include these settlement agreement infrastructure and mitigation operations as part of the proposed project operations, and fully disclose the corresponding water supply impacts on other water users.

The EIR must analyze alternatives that implement enhanced Delta outflows consistent with the SWRCB's 2010 Delta Flow Criteria Report

The SWRCB is currently in the process of updating the Bay-Delta Water Quality Control Plan (WQCP) and has proposed new enhanced Delta inflow (Sacramento and San Joaquin River) and outflow objectives to help restore and sustain key Delta fish species. These minimum flow objectives are based on a percentage of unimpaired flow during part of the winter and spring as well. The SWRCB also proposed Fall X2 objectives (September, October and some Novembers) to help restore the Delta ecosystem.

¹⁰ 85020. The policy of the State of California is to achieve the following objectives that the Legislature declares are inherent in the coequal goals for management of the Delta:

⁽e) Improve water quality to protect human health and the environment consistent with achieving water quality objectives in the Delta.

The EIR must include, analyze and disclose the environmental impacts and benefits of alternatives that have enhanced Delta inflow and outflow objectives consistent with the SWRCB's recommendations and adopted objectives for the WQCP.

The WaterFix modeling and environmental review, for example, not only suggested that the now-withdrawn WaterFix proposed project would reduce the Sacramento River flow through the Delta (downstream of the proposed north Delta intakes) but would also, in many months, reduce the Sacramento inflow at Freeport (Figure 4). The months when Sacramento inflow is decreased include many during the SWRCB's January-June regulatory period (Figure 5). This is exactly the opposite of what was recommended in 2009 by the SWRCB. [WaterFix Hearing Exhibit CCC-SC-64]



Figure 4: Monthly-averaged Sacramento River flows into the Delta at Freeport for the proposed WaterFix project CWF H3+ as a function of the corresponding No Action Alternative (NAA) flows. The data are for the period, October 1, 1921 through September 30, 2003. Only flows less than 35,000 cfs are plotted. The WaterFix project would reduce inflows to the Delta at Freeport by as much as 30% in some months. [from WaterFix Hearing Exhibit CCC-SC-64]



Figure 5: Monthly-averaged Sacramento River flows into the Delta at Freeport for the proposed WaterFix project CWF H3+ as a function of the corresponding No Action Alternative (NAA) flows. Monthly data for **January-June** for water years 1922-2003 and flows less than 35,000 cfs are plotted. The WaterFix project would reduce inflows to the Delta at Freeport during the key January-June period by as much as 30%.

For all alternatives, the EIR must present the Sacramento inflow at Freeport, San Joaquin at Vernalis flow and Delta outflow as a percentage of unimpaired flow so that the EIR is usable and useful for decision makers like the SWRCB, Bay-Delta stakeholders and the general public. If the EIR includes alternatives operated according to a WQCP voluntary agreement, for example, it is important to fully disclose whether those operations actually increase any of the key Delta flows and whether the corresponding percentages of unimpaired flow are consistent with the SWRCB's original 2009 Delta Flow Criteria recommendations.

The EIR alternatives must include Fall X2 objectives

Figure 6 show the historical monthly-averaged X2 data for the month of October as a function of the Sacramento 40-30-30 water year index for the period 1955-2016 [Figure 3 from WaterFix

Hearing Exhibit CCC-SC-74]. The data are categorized into four historical periods: Pre-SWP (1956-1967); Pre-Bay-Delta Accord (1968-1994), Post Accord (1995-2008); Post 2008-2009 Biological Opinions (2009-2017).

The historical October Fall X2 data after the Bay-Delta Accord is significantly different than the early trend in X2 as a function of water year index. X2 values after 1994 during above normal and wet years are much higher and are more consistent with Fall X2 values in drier historical years. This period also represents the time when there was a significant decline in pelagic organisms in the Delta.

Figure 6 also compares these data with the current Fall X2 limits of 74 km in wet years and 81 km in above normal years (USFWS 2008 Biological Opinion) [WaterFix Hearing Exhibit SWRCB-87] and SWRCB Delta Flow Criteria Report [WaterFix Hearing Exhibit SWRCB-25]. These Fall X2 limits are consistent with historical trends prior to 1994. Note that the SWRCB's Spring X2 standards were developed based on restoring Delta flow and salinity conditions to those that existed during the period 1968-1975 to protect and restore key fish species. The Fall X2 objectives have a similar effect of restoring 1968-1975 flow and salinity conditions in the Delta.

There have been recent efforts by export water contractors to argue away the need for Fall X2 limits or replace them with other operational requirements. The EIR should still fully analyze alternatives that comply with these Fall X2 objectives so that decision makers and the public can understand the benefits to key Bay-Delta fish species of restoring fall salinities back to pre-1994 conditions.



Figure 6: Historical monthly-averaged X2 for the month of October as a function of the Sacramento 40-30-30 water year index for the period 1955-2016. The data are categorized into four periods: Pre-SWP (1955-1967); Pre-Bay-Delta Accord (1968-1994), Post-Accord (1995-2008); and Post-2008-2009 Biological Opinions (2009-2016). The Fall X2 limits for wet and above normal years (74 km and 81 km, respectively) from the USFWS Biological Opinion is also shown. There were a number of years after 1994 when the October X2 was much higher than the previous historical trend.

The EIR should use a Daily Operations model

The modeling of reservoir operations, Delta flows and exports using CalSim have typically been carried out using a monthly time step. Because the SWRCB's M&I water quality objectives and Spring X2 standards are daily objectives and other operational requirements are based on running averages of less than one month, the operations modeling for the proposed project should be performed using a daily timestep. This request has been made since the start of the BDCP and WaterFix processes allowing plenty of time to develop a daily timestep model.

The EIR should use a daily time step for both operations and water quality modeling for the full historical hydrology time period 1922-2019.

DWR should establish a technical workgroup to provide input to development of the EIR and make modeling data available to the public as early as possible

The BDCP process included a Steering Committee consisting of project proponents and key Bay-Delta stakeholders. There were also a number of technical committees that met and provided valuable input to DWR and Reclamation. This process of involving stakeholders in the planning of the project was unfortunately dropped just before the start of the WaterFix environmental review process which resulted in DWR losing its way.

DWR should establish, at a minimum, a technical steering committee to help guide the modeling process and selection and analysis of alternatives for the EIR.

During the Water Fix Change Petition hearing, DWR withheld the modeling for its CWF H3+ alternative until after the SWRCB deadline for other hearing parties to submit their water rights hearing exhibits. This meant that these exhibits were obsolete the moment they were submitted while DWR's were not. This conflicts with the need for transparency in the planning process and was a waste of the SWRCB and hearing participants' time. DWR should regularly make modeling data available in electronic form to the public during the planning process, and well in advance of any decisions that will be predicated on the modeling, especially when specifically requested by a stakeholder.

The EIR must include alternatives where the SWP export diversions to Clifton Court Forebay are fully screened

The proposed project must include state-of-the-art fish screens for the intake to the Clifton Court Forebay. Although the current diversions can be as high as 10,300 cfs as a daily average, and even higher when the intake gates are open for only half of the tidal cycle, there are feasible solutions for screening Clifton Court. One such design was presented in DWR's November 2009 Conceptual Engineering Report – Through-Delta Facility Conveyance Option. This detailed Conceptual Engineering Report recommends a new screened intake on Victoria Canal and a siphon to convey the diverted screened water into Clifton Court Forebay. [WaterFix Hearing Exhibit CCC-SC-31 which reproduced Figures 7-5 and 20-1 from the Conceptual Engineering Report.]

The proposed WaterFix project still relied on diversions from the south Delta into Clifton Court for approximately half of the total WaterFix south-of-Delta exports. The current single tunnel proposal will likely also rely on continued south Delta diversions for the SWP. A Delta project that fails to screen the largest diversion point in the Delta is not in the public interest. The EIR must analyze south Delta exports through fully screened intakes.

Other EIR Modeling Requests

- 1. The EIR must accurately model the conveyance of CVP water, if any, through any new Delta conveyance. The WaterFix CWF H3+ assumed approximately 40% of the water diverted at the north Delta intakes was CVP water even though the U.S. Bureau of Reclamation was no longer agreeing to participate in the project.
- 2. The EIR must simulate the actual proposed project operations. In the WaterFix modeling, a Rio Vista minimum flow requirement of 3,000 cfs was assumed for January-August to ensure modeling stability, but DWR did not intend to operate the project with that minimum flow constraint.
- 3. The EIR must include alternatives that operate to the existing SWRCB Bay-Delta standards, state and federal biological opinions and U.S. Army Corps of Engineers permits. Art various times during the BDCP and WaterFix environmental review processes, DWR assumed the Emmaton D-1641 agricultural water quality standard compliance location would be relocated to Three Mile Slough, ignored the Army Corps limits on inflows to Clifton Court Forebay and ignored the biological opinion limit on the ratio of San Joaquin River inflow to south Delta exports. If such changes are going to be part of the future project operations, they must be clearly stated in the project description and then modeling studies should be performed with and without each of the individual changes so that decision makers and the public can fully understand the environmental impacts of such changes.
- 4. The EIR must simulate the operations of the proposed project with and without climate change. The EIR should not only simulate project operations at early long-term but also late long-term when the effects of climate change and sea level rise will be most significant. The original BDCP modeling looked at year 2025 and 2060, but the WaterFix simulations were only disclosed to the public for early long term (year 2025). The WaterFix construction period was considered to be about 17 years. The twin tunnels would not have been completed and on line by the year, DWR was using to represent the future operations of the project. For the BDCP, 2060 represented about 45 years in the future. The late long term for the new EIR should be for year 2020 + 45 = 2065.
- 5. The EIR must analyze and disclose the effect of the new intakes on the flow through Sutter and Steamboat Sloughs and the corresponding effect on the passage of migrating anadromous fish, and smelt, through the Sacramento River and Delta Cross Channel system. Flow measurements in these sloughs by USGS suggest that reducing the flow in the Sacramento River below the proposed north Delta intakes could also reduce the percentage of outmigrating fish taking the safer route to the ocean via Sutter and Steamboat Sloughs. This could have a significant adverse impact on already threatened Bay-Delta fish species.

Thank you for considering my scoping comments. If you have any questions, please contact me at (510) 339-3618.

Sincerely,

1A.R

Richard A. Denton

Attachment: Compilation of Cited WaterFix Hearing Exhibits

Cc: Karla Nemeth, DWR Director E. Joaquin Esquivel, SWRCB Chair Susan Tatayon, DSC Chair Jared Blumenfeld, Cal EPA Secretary

Attachment

Compilation of Joint Contra Costa County and Solano County exhibits in the WaterFix Change Petition Hearing plus DWR Exhibit 334

- 1. CCC-SC-20 Delta Independent Science Board to DSC 30Sep2015 RDEIR-SDEIS comments
- 2. CCC-SC-28 Difference Between 16-year and 82-year Analyses of Water Quality Impacts
- 3. CCC-SC-31 November 2009 Conceptual Engineering Report Design for Screened Intake to Clifton Court Forebay
- 4. CCC-SC-51 Written Rebuttal Testimony of Dr. Richard A. Denton
- 5. CCC-SC-60 Daily Old River at Bacon Island EC in November for CWF H3+
- 6. CCC-SC-63 Proposed WaterFix Project Increases Exports during Drier Periods
- 7. CCC-SC-64 Proposed WaterFix Project Reduces Sacramento Inflows at Freeport
- 8. CCC-SC-74 Historical Trends in Fall X2 from DAYFLOW
- 9. DWR-334 2016 CCWD Agreement

From:	James Sarmento
То:	Nemeth, Karla@DWR; DWR Delta Conveyance Scoping
Cc:	Agustinez, Anecita S.@DWR; Treadway, Debbie@NAHC; Crowfoot, Wade@CNRA; KathrynMAllon@dcdca.org; Small, Nadine@DWR; Christina.Snider@gov.ca.gov; Malissa A. Tayaba; Krystal Moreno; Daniel Fonseca; Kara Perry; Matthew Adams
Subject:	Delta Conveyance NOP Comment Letter
Date:	Friday, April 17, 2020 4:21:10 PM
Attachments:	top-shadow_0b897832-fd88-4832-a843-c9d22532cc56.gif ssbmi-logo-signature-sm_b52da26e-65c9-4e13-aec9-43d90d7e6300.jpg bottom-shadow_9be901c6-21ec-48cc-acc3-ac5d15072117.gif Shingle Springs Letter re timing of NOP comments_Final.docx Shingle Springs Letter re timing of NOP comments_Final.pdf

Greetings,

Attached is the Tribe's comment letter asking for an extension during this unprecedented times. Please contact me if there are any questions.

Respectfully,

James Sarmento

?	
	James Sarmento Executive Director of Cultural Resources Cultural Resources Department
?	Phone: (530) 698-1559 Mobile: (530) 957-6261 Fax: (530) 558-2034 Email: <mark>jsarmento@ssband.org</mark>
2	-

Shingle Springs Band of Miwok Indians | P.O. Box 1340, Shingle Springs, CA 95682

SSBMI Disclaimer: This email (Delta Conveyance NOP Comment Letter) is from Shingle Springs Band of Miwok Indians: Cultural Resources Department and is intended for Karla.Nemeth@water.ca.gov;DeltaConveyanceScoping@water.ca.gov. Any attachments thereto may contain private, confidential, and privileged material. Any review, copying, or distribution of this email (or any attachments thereto) by parties other than the Shingle Springs Band of Miwok Indians (and its affiliated departments or programs) or the intended recipient(s) is strictly prohibited. If you properly received this e-mail as an employee of the Shingle Springs Band of Miwok Indians (and of Miwok Indians) and of Miwok Indians (and privilege that may be available to protect confidentiality.

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April 17, 2020

Attn: Karla Nemeth, Director of Director, California Department of Water Resources Via Email: <u>Karla.Nemeth@water.ca.gov</u> <u>DeltaConveyanceScoping@water.ca.gov</u>

Re: Shingle Springs Band of Miwok Indians Delta Conveyance Scoping Comments

Dear Ms. Karla Nemeth:

I write, on behalf of the Shingle Springs Band of Miwok Indians ("Shingle Springs" or "Tribe"), to follow up on the Tribe's numerous requests for a pause in all planning, design, and environmental review processes relating to the Delta Conveyance Project ("Project").

As you know, in light of the COVID-19 pandemic Governor Newsom has issued a State of Emergency and ordered Californians to shelter at home until further notice. Consistent with that order, the California Judicial Council has ordered a suspension of all civil law statutes of limitation, including deadlines applicable to the California Environmental Quality Act ("CEQA").

You may also be aware that Shingle Springs has ordered all employees, including those responsible for working on the Project, to refrain from in-person work and to limit their personal contacts until further notice. The Tribe's government offices — and, in fact, the Shingle Springs Rancheria as a whole — are essentially closed down in order to curb the spread of COVID-19.

Under these circumstances, we think it would be highly inappropriate to insist on maintaining existing deadlines relating to the Project's Notice of Preparation ("NOP") and scoping process. The Tribe is currently focusing its limited resources on immediate health and safety issues facing its citizens, and we expect to continue that focus until the emergency has passed. With that in mind, we have repeatedly requested that Project deadlines be temporarily suspended. Although other stakeholders (most notably the Delta Protection Commission) have joined those requests, we have yet to receive any response from the Department of Water Resources ("DWR").

The January 15, 2020 Notice of Preparation appears to be focused on physical alternatives to maximize water deliveries for consumptive purposes south of the Delta while largely ignoring environmental impacts of the coordinated operations with the Central Valley Project ("CVP"). However, one of the essential purposes of the CVP, as approved by Congress, is to mitigate, restore, preserve, and propagate fish and wildlife. Central Valley Project Improvement Act Section 3406(a). Consequently, the description of the purpose of the proposal as well as subordinate objectives must also include protection of fisheries, particularly those in the Trinity and Klamath rivers, from which much of the water comes. To ensure full disclosure of environmental impacts, inclusion of fisheries protection to the EIR statement of purpose is required as a benchmark against which EIR alternatives will be measured. Moreover, federal reclamation law establishes a first priority for use of the CVP water developed by the Trinity River Division (TRD) for restoration, preservation and propagation of Trinity River fish and wildlife, and economic development of the

Hoopa Valley Tribe and other tribes of the Klamath Basin. Any alternatives considered for longterm operation with the CVP must consider ways to fully implement the mitigation, restoration, preservation, and propagation of fish and wildlife and tribes' economic development as mandated by Congress and required by the United States' and the State's obligations.

Our Tribe's ancestral homelands include territory that spans north up the Sacramento River from the Delta with village sites located on both the east and west banks, to the Feather and Bear rivers, and east into the sierras. According to the information included in the 2016 Final EIR of the California Waterfix Project, anthropologists, such as Kroeber, list several ethnographic Nisenan villages documented along the eastern and western banks of the Sacramento River and along the northern and southern banks of the American River, with additional village sites along the Consumnes and Feather Rivers. Along with Maidu and Konkow, the languages of the Nisenan people's northern neighbors, the Nisenan language forms the Maiduan language family of the Penutian linguistic stock (Shipley 1978: 83). Wilson and Towne (1978) defined three main subgroups within the Nisenan tribe: Northern Hill Nisenan, Southern Hill Nisenan, and Valley Nisenan. The Valley Nisenan resided adjacent to the northernmost extent of the Plan Area before Euroamerican contact. Valley Nisenan located their permanent settlements along the riverbanks on elevated natural levees near an adequate food and water supply, in fairly open terrain, with southern exposure preferred (Johnson and Johnson 1974; Beals 1933). Villages ranged from "tribelets" of small extended families consisting of 15 to 25 individuals to larger communities with more than 100 people (Kroeber 1925). Village sizes ranged from 3 houses up to 40 or 50. Houses were domed structures covered with earth and tule or grass. Brush shelters were used in the summer and at temporary camps during food-gathering rounds (Kroeber 1925:407-408). Larger villages often had semi-subterranean dance houses, which were covered in earth and tule or brush and had a central smoke hole at the top. Other common village structures were the sweathouse, used for curing and purification, and the granary, used for storing acorns (Wilson and Towne 1978: 388–389). The smallest Nisenan social and political unit was the family. Each extended family was represented by a family leader, who was called to council by a headman. The headman of the dominant village in a cluster of villages (tribelet) had the authority to call upon the aid of surrounding villages in social and political situations. The headman also served as village adviser, directed special festivities, arbitrated disputes, and acted as an official host (Wilson and Towne 1978: 393; Beals 1933: 360). Early Nisenan contact with Europeans appears to have been limited to the southern reaches of their territory, beginning in the early 1800s. Unlike the Valley Nisenan, the groups in the foothills remained relatively unaffected by the European presence until the discovery of gold at Coloma in 1848. In the years following the gold discovery, Nisenan territory was overrun by settlers. Gold seekers and the settlements that sprang up to support them were nearly fatal to the native inhabitants. Survivors worked as wage laborers and domestic help and lived on the edges of foothill towns. Despite severe depredations, descendants of the Nisenan still live in the northern Central Valley and maintain their cultural identity (Wilson and Towne 1978: 396-397).

We assume you have not yet responded to our requests because your team, like ours, has been disrupted by the COVID-19 emergency. DWR has previously expressed interest in developing a meaningful government-to-government relationship with tribal stakeholders, and we cannot imagine that you would ask us to choose between addressing the immediate health and safety needs of our citizens (on one hand) and providing input on a future project that threatens the environmental and cultural resources on which those citizens depend (on the other).

DCS735

While the Tribe will aim to respond to the NOP at the earliest reasonable opportunity, we do not expect to be in a position to do so until the end of this month. We trust this will not materially impact the years-long schedule for environmental review of the Project, and we appreciate your understanding.

Please contact our Executive Director of Cultural Resources, James Sarmento, directly at (530) 957-6261 or jsarmento@ssband.org if you have any questions or concerns.

Sincerely,

26 Crelle

Regina Cuellar Chairperson Shingle Springs Band of Miwok Indians

cc:

Debbie Treadway, Chief Deputy Executive Secretary, Native American Heritage Commission Nadine Small, Department of Water Resources Anecita Agustinez, Tribal Policy Advisor, Department of Water Resources Kathryn Mallon, Director, Delta Conveyance Design and Construction Authority Wade Crowfoot, Secretary, California Natural Resources Agency

From:	Michelle Bracha
To:	DWR Delta Conveyance Scoping
Cc:	Kelley Taber; Office of the Secretary CNRA; Tatayon, Susan@DeltaCouncil; Gibson, Thomas@CNRA; Michael Roberts; Burke, William; Aaron Ferguson
Subject:	County of Sacramento Comments on Notice of Preparation for Environmental Impact Report – Delta Conveyance Project
Date:	Friday, April 17, 2020 9:09:31 AM
Attachments:	04172020 Sac Co Comments on NOP for Delta Conveyance w Exh A (00082420xD2C75).pdf

Good morning,

The attached correspondence is submitted on behalf of Kelley Taber for the County of Sacramento.

Thank you.

Michelle Bracha

Legal Secretary Somach Simmons & Dunn | Attorneys at LAW 500 Capitol Mall | Suite 1000 | Sacramento, CA 95814

(916) 446-7979 | OFFICE (916) 469-3816 | DIRECT (916) 446-8199 | FAX

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A PROFESSIONAL CORPORATION ATTORNEYS AT LAW 500 Capitol Mall, Suite 1000, Sacramento, CA 95814 Office: 916-446-7979 Fax: 916-446-8199 Somachlaw.com

April 17, 2020

VIA ELECTRONIC MAIL (DELTACONVEYANCESCOPING@WATER.CA.GOV) Delta Conveyance Scoping Comments Attn. Renee Rodriguez, Department of Water Resources P.O. Box 942836 Sacramento, CA 94236

Re: County of Sacramento Comments on Notice of Preparation for Environmental Impact Report – Delta Conveyance Project

Dear Ms. Rodriguez:

These comments in response to the Department of Water Resources' (DWR) Notice of Preparation (NOP) for an environmental impact report (EIR) for the Delta Conveyance Project (Project) are submitted on behalf of the County of Sacramento (County). This letter supplements the County's February 14, 2020 comments regarding its responsible agency status under the California Environmental Quality Act (CEQA).

I. <u>COUNTY CONCERNS WITH DELTA CONVEYANCE</u> <u>PROCESS AND PROJECT</u>

The County is deeply disappointed and discouraged that DWR once again is proceeding with a Delta tunnel in lieu of more environmentally sensitive, cost-effective alternatives for improving water supply reliability. The Project as described in the NOP is virtually identical to its predecessor, the California WaterFix, despite Governor Newsom's express direction less than nine months before the NOP was released to assess new Delta conveyance as part of a comprehensive approach to water resource management. DWR's recycling of this ill-conceived north-Delta diversion separate from and in advance of any other specific projects to reduce south of Delta exporters' reliance on the Delta, is inconsistent with the Delta Reform Act's "coequal goals" of "providing a reliable water supply for the State while restoring the Delta's ecosystem," the Delta Plan, and Delta-specific policies and principles adopted by the Sacramento County Board of Supervisors.

Re: County of Sacramento Comments on Notice of Preparation for Draft Environmental Impact Report: Delta Conveyance Project

April 17, 2020 Page 2

The County is ground zero in terms of the numerous devastating physical, environmental, and socioeconomic impacts of the proposed water infrastructure facilities, identified to be constructed in/near the communities of Freeport, Hood, and Courtland. The Project, if approved and constructed, will impact County residents, public facilities, and businesses in myriad and far-reaching ways. The residents and communities of the County will bear a disproportionate burden of the likely numerous significant unavoidable environmental impacts, which will benefit only agricultural and urban water users south of the Delta. The proposed water infrastructure facilities will slow or prevent the realization of the Delta National Heritage Area's economic development, tourism, and historic preservation goals that are critical to maintaining the "Delta as a Place."

The County is well aware that maintaining a reliable water supply is extremely critical, of statewide significance, and a statutory mandate. As a result, the County has never opposed finding solutions to address these issues. However, to date DWR has not effectively addressed the County's significant local concerns with any new Delta conveyance project. These concerns, reiterated to DWR many times, include:

- Lack of enforceable assurances or protections for the
- County
- Significant negative impacts to the short- and long-term livability, prosperity, economic structure, and historic character of the communities in the Delta
- Uncertainty for long-term water right holders upstream of the Delta
- Lost agricultural production and loss of prime agricultural land due to facility construction and reasonably foreseeable socioeconomic impacts
- Significant health impacts to County residents
- Significant impacts on recreational opportunities
- Significant impacts to existing infrastructure; for example, the Freeport Regional Water Project (FRWP), Sacramento Regional Wastewater Treatment Plant (SRWTP), roadways and bridges, historic buildings, rail lines, natural gas wells, groundwater wells, and water lines

The County reiterates its long-standing position that, at a minimum, any water supply reliability plan for areas south of the Delta must:

- 1. Not redirect unmitigated adverse environmental, social, or economic impacts to the County;
- 2. Honor and adhere to water right priorities and area-of-origin protections;
- 3. Have no adverse effect on the existing and future operations of the Sacramento Regional County Sanitation District facilities or the FRWP;

Re: County of Sacramento Comments on Notice of Preparation for Draft Environmental Impact Report: Delta Conveyance Project

April 17, 2020

Page 3

- 4. Fully mitigate any other adverse impacts of water conveyance facilities routed through the County, with County staff fully involved with the routing and operational issues for such facilities within the County;
- 4. Protect the County's governmental prerogatives in the areas of its local land use and permitting authority, public health and safety, and agricultural stability;
- 6. Be consistent with the County's land use planning, economic development, including agriculture, and the South County Habitat Conservation Plan (HCP);
- 7. Commit financial resources to maintain and enhance vital transportation, flood control infrastructure, and emergency response resources within those areas of the Sacramento County Delta, and
- 8. Account for the multiple causes of the Delta's decline and not simply focus on one or a limited number.

II. ISSUES TO ADDRESS IN DRAFT EIR

Because the Project is essentially the same as the WaterFix project in terms of facilities, it presents the same essential concerns with respect to physical environmental effects. DWR is well familiar with the County's concerns both about potential impacts, mitigation, and the appropriate methodology for the EIR's analysis. In developing the proposed Project operations and associated modeling and EIR impact analyses, DWR should carefully consider the issues raised in the County's comments on the WaterFix EIR, including the following, all which were previously provided to DWR and are incorporated herein by reference:

- Sacramento County Comments on Draft Bay Delta Conservation Plan (BDCP), Implementing Agreement and Draft EIR/EIS (July 28, 2014)
- Sacramento County Comments on Partially Recirculated Draft EIR/EIS for BDCP/California WaterFix (October 30 2015)
- Sacramento County Comments on BDCP/WaterFix Final EIR/EIS (January 30, 2017)
- Sacramento County Comments on BDCP/WaterFix Final EIR/EIS (June 6, 2017)
- Sacramento County Comments on BDCP/WaterFix Supplemental EIR/EIS (September 17, 2018)

Re: County of Sacramento Comments on Notice of Preparation for Draft Environmental Impact Report: Delta Conveyance Project

April 17, 2020 Page 4

• Sacramento County Comments on BDCP/WaterFix Supplemental EIR/EIS (November 5, 2018)

DWR also should consider the information in the County's Appeal to the Delta Stewardship Council (DSC) of DWR's Certification of Consistency with Delta Plan for California WaterFix (August 27, 2018), and the County's supplemental responses to the DSC and DWR related to the appeal, all of which were previously made available to DWR, and are incorporated herein by reference.

Finally, DWR also should consider the evidence submitted by the County in the WaterFix water rights change petition hearing before the State Water Resources Control Board (SWRCB). All of this information was previously provided to DWR, is available to DWR through June 30, 2020 on the SWRCB website at https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/exhibits/saco.html, and is incorporated herein by reference.¹ DWR should contact the County if it is unable to locate or access any of the above-described information.

In addition to the issues raised in the County's prior submittals to DWR, the County has the following comments on the proposed Project and EIR:

A. Project Objectives

The Project objectives (NOP, p. 2.) are too narrowly drawn, focusing only on benefits to State Water Project (SWP) operations and south of Delta water deliveries. The objectives reference providing "operational flexibility to improve aquatic conditions in the Delta" but the Project does not commit to improving aquatic conditions, nor does it include any objectives that would protect water supplies for water users in and upstream of the Delta. Framing Project objectives so narrowly could discourage consideration of alternatives to the Project that would protect and restore the Delta environment and thus are inconsistent with CEQA as well as with the Delta Reform Act's *co-equal* goals of improving water supply reliability *and* protecting, restoring, and enhancing the Delta ecosystem. The Project objectives also should be expanded to include a specific objective to protect and enhance the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place, which is one of the Legislature's directives for achievement of the "co-equal goals." Finally, the Project objectives should be expanded to include prevention of water quality degradation in the Delta and avoidance of adverse impacts to water users in and north of the Delta, including

¹ The County also jointly submitted Exhibits SDWA 265 and 321, as well as LAND 130, 240, and 266.

Re: County of Sacramento Comments on Notice of Preparation for Draft Environmental Impact Report: Delta Conveyance Project

April 17, 2020 Page 5

impacts to Delta public facilities (which would include the SRWTP and FRWP) and Delta surface and groundwater users, consistent with the Delta Plan.

B. Project Description

The NOP describes two potential tunnel alignments. The "Central Corridor" option would run through the heart of the Delta agricultural communities and have devastating impacts to agriculture, recreation, wildlife (including sand hill cranes at Staten Island), not to mention significant community disruption from 16 years of construction traffic, noise, and pollutant emissions. The County is mystified as to why DWR elected to release the NOP with the Central Corridor as a Project option, given that well before the NOP was released, an independent technical review panel of leading tunnel experts engaged to evaluate the Project (ITRP) concluded that the Central Corridor alignment is "impractical" and thus the panel "does not recommend that it be studied further." (See Exhibit A, p. 6.) The ITRP found the alignment so fraught with problems as to prevent development of cost estimates, indicating DWR could not issue revenue bonds to pay for it, and no qualified contractor would bid to build it. It thus appears that the Central Corridor is merely a strawman that stands no chance of being adopted, and thus including it in the EIR would be fundamentally misleading and hinder, rather than promote, informed decision making, and prejudice the formulation of a reasonable range of alternatives.

C. Alternatives

CEQA requires that DWR consider a reasonable range of alternatives to the Project capable of avoiding or substantially lessening its significant impacts. As demonstrated by the WaterFix EIR and the County's evidence submitted in the WaterFix water rights change petition hearing, the Project facilities are all but certain to result in dozens of significant unavoidable impacts both from facility construction and diversion of substantial amounts of water in the north Delta. The NOP includes no information about how the proposed Project would be operated, merely identifying a potential range of diversion routes. However, given its similarity to the WaterFix, the Project has the potential for significant impacts to the quality and reliability of water supplies for Delta water users. A robust evaluation of alternatives is essential.

The proposed intake locations threaten significant impacts to cultural and historic resources, community health and welfare, the SRWTP, FRWP, Town of Hood wells, and surface and groundwater supplies. DWR staff have represented in Project scoping meetings that there are no available alternative intake locations due to fish concerns. This is inaccurate and contradicted by information developed in the WaterFix CEQA process. Moreover, such

Re: County of Sacramento Comments on Notice of Preparation for Draft Environmental Impact Report: Delta Conveyance Project

April 17, 2020 Page 6

statements suggest that DWR has improperly prejudged the scope of its alternatives analysis such that the Draft EIR may be no more than a post-hoc rationalization for the Project.

Information in the WaterFix EIR Appendix 3F, Intake Location Analyses (pp. 3.F.6 - 3.F.8), relying on the Fish Facilities Technical Team report, indicates that there are suitable intake locations farther downstream below Steamboat Slough (identified as intakes 6 and 7). Moving intakes farther south on the Sacramento River would reduce the potential for conflicts with and significant impacts to SRWTP operations, and thus the FRWP operations, as well as Town of Hood wells, and have the benefit of being better for salmon. Moving the intakes to avoid impacts to the FRWP and SRWTP also would avoid significant impacts to tribal cultural resources identified by Miwok Tribal government representatives at the February 26, 2020 Delta Stakeholder Engagement Committee meeting, where DWR staff was informed that all three intakes are highly sensitive to the Miwok and include several village sites and more than 5 burial grounds. At a minimum, the draft EIR alternatives must include a robust analysis of alternative locations for the intakes that avoid these significant impacts.

The ITRP identified significant problems with feasibility, including road and transportation impacts, from both of the tunnel corridor options described in the NOP. The panel thus recommended an alternative tunnel alignment, much closer to Interstate 5, indicating this alignment is potentially feasible. (See Exhibit A, p. 8.) This alternative should be fully evaluated in the EIR.

Given the many impacts, and Delta Reform Act mandates, the EIR also should fully evaluate both a non-structural alternative that includes water reclamation, localized desalination and increased capture and storage of localized rainfall in lieu of continued or increased Delta exports, as well as a reasonable range of alternative intake locations

III. CONCLUSION

Less than a year ago Governor Newsom announced a new direction with respect to California water management intended to "break down the old binaries of north versus south." Unfortunately, the proposed Project offers nothing new or different from the abandoned twin tunnels project that generated statewide opposition. The Project threatens the same devastating impacts to the County, Delta environment, residents and economy, and the Delta National Heritage Area, as prior proposals. If it is to achieve the Governor's objectives, Delta Reform Act and Delta Plan mandates, DWR will need to return to the drawing board and

DCS736

Delta Conveyance Scoping Comments

Re: County of Sacramento Comments on Notice of Preparation for Draft Environmental Impact Report: Delta Conveyance Project

April 17, 2020 Page 7

propose a substantially different solution for south of Delta export water supply reliability that avoids, rather than repeats, the mistakes of the past.

Sincerely,

Kelley M Jaka

Kelley M. Taber Attorney for Sacramento County

Enclosure

KMT:mb

Cc: The Honorable Wade Crowfoot, Secretary, California Natural Resources Agency (*Via Electronic Mail Only: secretary@resources.ca.gov*)

Susan Tatayan, Chair, Delta Stewardship Council (Via Electronic Mail Only: susan.tatayon@deltacouncil.ca.gov)

Thomas Gibson, Undersecretary for Natural Resources (Via Electronic Mail Only: Thomas.gibson@resources.ca.gov)

Karla Nemeth, Director, Department of Water Resources (Via Electronic Mail Only: Karla.nemeth@water.ca.gov)

Michael Roberts, Special Assistant for Delta Restoration (Via Electronic Mail Only: michael.roberts@resources.ca.gov)

Chase Mccormick
DWR Delta Conveyance Scoping
Delta Convenience project comments
Thursday, April 16, 2020 10:09:26 PM

Dear to whom it make concern,

This project would result in millions of gallons of water be diverted away from the Delta each year. My uncle has a house on the delta and we go out there every two to three weeks on his boat, and this plan could cause the water height to impact his boats ability to go out on the water considering there's is a lot a sea weed and kelp and such in the delta. We obviously haven't gone as of lately due to the pandemic. But also how can this plan accommodate for the amount of habitat loss for animals the live in the delta? As well as possible food sources for other fish if not food sources themselves for us. This plan cannot go through!!

a Conveyance Scoping
veyance
ıy, April 15, 2020 2:47:46 PM

As a home owner on Long Island, I am writing to ask that you delay the Delta Conveyance Project public process for at least 45 days. This process must be delayed until Delta communities can fully participate in these processes. I ask you to pause its processes that requires public participation, including Stakeholder Engagement Committee meetings, so that the Delta tunnel engineering design can be informed by the meaningful public input. The COVID impact does not allow proper time for involvement.

Regards,

Ray Brant

17400 Grand Island Rd.

Isleton, CA 95690

From:	Ryan A. Hernandez
To:	DWR Delta Conveyance Scoping
Subject:	Contra Costa County Comments on the Notice of Preparation for the Delta Conveyance Project
Date:	Friday, April 17, 2020 1:57:43 PM
Attachments:	Contra Costa County Comments on NOP for DCP 17April2020.pdf

Ms. Rodriguez-

Attached are Contra Costa County's and Contra Costa County Water Agency's comments on the Notice of Preparation for the Environmental Impact Report on the Delta Conveyance Project. Best, Ryan

Ryan Hernandez Contra Costa County Water Agency 30 Muir Road Martinez, CA 94553 925-674-7824 ryan.hernandez@dcd.cccounty.us Department of Conservation and Development

Water Agency

30 Muir Road Martinez, CA 94553

Phone: 925-674-7824



John Kopchik Director



April 17, 2020

Via Email: DeltaConveyanceScoping@water.ca.gov

Delta Conveyance Scoping Comments Attn.: Renee Rodriguez Department of Water Resources P.O. Box 94236 Sacramento, CA 94236

Re: Contra Costa County Comments on the Notice of Preparation for the Draft Environmental Impact Report for the Delta Conveyance Project

Dear Ms. Rodriguez:

This letter is written on behalf of the County of Contra Costa ("County") and the Contra Costa County Water Agency ("Water Agency"), and is in addition to the County and the Water Agency response letter dated February 14, 2020 to describe the County's role as a responsible agency, among other things, pursuant to CEQA Guidelines sections 15082, subdivision (b) and 15103.

We appreciate the opportunity to comment on the project described in the California Department of Water Resources' January 15, 2020 Notice of Preparation ("NOP") of Environmental Impact Report ("EIR") for the Delta Conveyance Project ("Project").

Contra Costa County agrees with the request by the Delta Counites Coalition ("DCC"), and others, to temporarily pause the processing of the Project as many of our County employees are now serving as Disaster Response Staff during the 2019 Novel Coronavirus incident. We also agree with the DCC NOP letter dated April 17, 2020 and incorporate this comment letter by reference.

Additionally, it should be noted that due to both the massive scale of the Delta Conveyance Project, and the lack of detail in the NOP regarding the location and description of all project components, including ancillary facilities, the County and Water Agency are disadvantaged
Contra Costa County Comments on the Notice of Preparation for the Delta Conveyance Project April 17, 2020 Page 2

in our ability to provide specific comments about the scope and content of the Project's potential impacts to the environment in and around Contra Costa County.

The eastern portion of Contra Costa County is located within the Delta and the County's entire northern border is bounded by waterfront that flows from the Delta to the Bay. Thus, Contra Costa County lies at the heart of the Bay-Delta region and the future of this nationally significant resource substantially influences the future of the County. Restoring the health of the Delta also protects the Bay which is linked to the long-term success of the County as a whole.

A healthy Delta requires enough water supply of good quality along with habitat to maintain healthy populations of fish and other native aquatic, terrestrial and avian species, both migratory and year-round. A healthy Delta would protect people and property (through strong levees, comprehensive emergency response and a water supply of good quality). A healthy Delta would promote economic health of the region and sustain agriculture (managed for habitat and food production), recreation activities (recreational fishing, boating, camping, hiking) and commerce (industry, ports, shipping and commercial fishing).

With this in mind, the Draft EIR for the Delta Conveyance Project should, at a minimum, comprehensively analyze the following:

- 1. A full range of alternatives including a through Delta Conveyance, improving existing facilities with a smaller conveyance system and a realistic evaluation of the No Project alternative.
- 2. A full range of the water quality impacts and Delta Operations and Bay & Delta Water Quality with focus on:
 - a. Presenting modeling data and disclosure of environmental impacts in a form that is usable and useful for decision makers and the public
 - b. Using the full historical period, 1922-2019, in the analysis of the water quality impacts from the proposed project
 - c. Mitigating any significant water quality impacts of the proposed project including the potential buildup of contaminants in south and central Delta
- 3. Impacts to the East Contra Costa Groundwater Subbasin.
- 4. Impacts to the planned development of commercial solar facilities within eastern Contra Costa County and the project area.
- 5. Impacts to the permanent increase in Vehicle Miles Traveled and the corresponding mitigation.
- 6. Impacts to the creation of permanent roadway maintenance obligations and corresponding mitigation.

As part of the County's NOP comments please refer to the memos from the Public Works Department, Transportation Engineering, dated March 23, 2020 and from the Contra Costa County Flood Control District dated March 4, 2020, attached.

As with past isolated conveyance projects, the County and Water Agency will continue to participate in the process of the Delta Conveyance Project by attending hearings and submitting written comments.

Thank you for considering Contra Costa County's and Contra Costa County Water Agency's preliminary comments. Please feel free to contact my office with any questions about these comments at (925) 674-7824.

Sincerely,

Hyr Km

Ryan Hernandez, Manager Contra Costa County Water Agency

- Att: Contra Costa County Public Works Department Memo Dated March 23, 2020 Contra Costa County Flood Control District Memo Dated March 4, 2020
- Cc: John Kopchik, Director Conservation and Development Brian Balbas, Director Public Works Department Stephen M. Siptroth, Deputy County Counsel



Contra Costa County Public Works Department Brian M. Balbas, Director Deputy Directors Stephen Kowalewski, Chief Allison Knapp Warren Lai Carrie Ricci Joe Yee

Memo

March 23, 2020

TO:	Ryan Hernandez, Department of Conservation and Development
FROM:	Mary Halle, Senior Civil Engineer, Transportation Engineering
SUBJECT:	Delta Conveyance Project NOP Comments

The Transportation Engineering Division of the Contra Costa County Public Works Department has reviewed the Notice of Preparation (NOP) for the Delta Conveyance Project (DCP). We understand that the document is a notice of preparation for an environmental impact report for the proposed construction of an aqueduct with two potential routes.

Both potential routes would deliver water to the area designated as the "Pumping Plant, Southern Forebay, and South Delta Conveyance" (herein referred to as the South Delta facilities). The South Delta facilities are located in an area beginning east of Discovery Bay near Indian Slough, continuing southwesterly to the existing pumping plants in the Byron area. The Central Tunnel Corridor includes a segment that appears to enter Contra Costa County near the BNSF Railway, continuing in a southerly direction to where it meets the South Delta facilities. The Eastern Tunnel Corridor does not appear to enter Contra Costa County; it appears to meet the South Delta facilities in San Joaquin County. The proposed project is predominantly located within unincorporated Contra Costa County.

Transportation & Traffic Engineering provides the following comments:

- 1. The proposed project represents a variety of impacts to the area as it relates to land use planning in an agriculturally rich area, drawdown of groundwater and related subsidence, and potentially adverse impacts to the transportation network, both temporary and permanent. The remaining comments do not imply that we support the project, but if an environmental study of the project continues forward, we expect that the following will be addressed within the DEIR document.
- The relocated Byron Highway and the traffic circle appear to conflict with the SR239 project. The Environmental Impact Report (EIR) should address this apparent conflict. It is important to note the desire to have grade separated intersections with the railroad. Grade separation at all major roadway intersections should also be studied.

Ryan Hernandez March 17, 2020 Page 2 of 3

- 3. The NOP is necessarily vague as it is issued in the preliminary phases of the project. The information provided in the NOP is not sufficient to determine specific impacts, however information provided in the mapbook at https://www.dcdca.org/pdf/2020-03-11-MapBook.pdf shows considerable road realignment of Byron Highway and the construction of a traffic circle at the intersection of Byron Highway and Armstrong Road. The County is a partner with the Contra Costa Transportation Authority (CCTA) and Caltrans to develop the State Route 239 (SR239) project, which includes the Vasco Road-Byron Highway Connector. SR239 is a legislatively adopted but unconstructed route in the state highway system between State Route 4 (SR4) in Brentwood to Interstate 580 west of Tracy in San Joaquin County. It is the intent that when the project is complete, it will become the new SR239. The DEIR for the Delta Conveyance must recognize SR239 as an approved project and address potential impacts to SR239.
- 4. Caltrans does not allow longitudinal utility encroachments in the state highway right-of-way. Utility encroachments at interchanges could impact whether the State will adopt the Byron connector as a future state route. The EIR should address the need to coordinate the location of the project facilities with the appropriate agencies.
- 5. The proposed project is located near the Byron Airport. The project shall comply with any Federal Aviation Administration (FAA) regulations and requirements for construction in proximity to the airport and assure that the project is compatible with current usage and future expansion currently under consideration at the Byron Airport.
- 6. DWR should include the County early in the planning and design process to coordinate this project with the County's adjacent capital improvement projects. California Department of Water Resources (DWR) must address any impacts that could potentially increase costs or constrain the County's future capital road improvements.
- 7. The DEIR should address impacts to local roads during the construction phase and how this impact will be mitigated.
- 8. The proposed project may also affect Byron Airport's Habitat Management Lands and lands that are part of the East Contra Costa County Habitat Conservancy's Preserve System. These lands are conserved for the conservation of habitat for State and Federal special status species. The EIR should address the need to prevent permanent and temporary impacts to these lands.

Ryan Hernandez March 17, 2020 Page 3 of 3

- 9. The DEIR should identify how the proposed realignment of Byron Highway will be completed while maintaining circulation and viability of local businesses during the construction phase.
- 10. Byron Highway is designated as "J4" by Caltrans as a route of regional significance and heavy commerce. The DEIR should address this fact and impacts to trucking and regional commerce and conveyance of goods and services.
- 11. Please provide an exhibit to identify the relationship of the proposed pipeline, pump, intake, forebay layout etc. in relation to county roadways to evaluate the compatibility of the facilities to existing and ultimate roadway needs.
- 12. The DEIR should include construction phasing for the Byron Highway Road Improvement that includes traffic impact analyses for each phase of construction. If detours are considered for any phase of construction, the detour routes shall be STAA Truck accessible for the detour routes to be viable.
- 13. The southern end of the haul route will utilize a segment of Byron Highway that is under the jurisdiction of Contra Costa County. The DEIR should analyze truck volume (50 - 150 trucks per day) impacts for each phase of construction. In addition to truck volume impact, the trucks entering Byron Highway shall be cleaned to ensure that debris from the trucks is not carried onto Byron Highway. Using existing rail lines as an alternative to truck hauling should be considered to lessen the construction traffic impacts to Byron Highway.
- 14. There is not enough detail at this time to evaluate impacts to existing traffic during and after construction, at this NOP level. However, these impacts shall be thoroughly addressed in the DEIR. Degradation of the roadway surface and traffic impacts shall be fully mitigated post-construction.
- 15. It should be noted, that Camino Diablo has been closed to trucks over 7 tons. This cannot be identified as a haul route.

MH:et:

\\pw-data\grpdata\transeng\EIR\DWR\2020 Delta Conveyance Project NOP\Comments on 2020 Delta Conveyance Project NOP.docx

- J. Fahy
- N. Wein
- M. Sen S. Gospodchikov
- T. Rie
- J. Stamps

c: S. Kowalewski



Interoffice Memo

DATE:	March 4, 2020
TO:	Ryan Hernandez, DCD—Community Development Division
FROM:	Joe Smithonic, Flood Control District
SUBJECT:	Department of Water Resources Delta Conveyance Project
FILE:	3045-06 (various APNs), Delta Conveyance

The Contra Costa County Flood Control and Water Conservation District (FC District) has reviewed the Notice of Preparation (NOP) of Environmental Impact Report, dated January 15, 2020, for the Department of Water Resource's Delta Conveyance Project, partially located in Contra Costa County. We appreciate the opportunity to coordinate on the Draft Environmental Impact Report (DEIR) for this project to address potential adverse impacts to Contra Costa County communities and FC District property and drainage facilities. We submit the following comments for incorporation into Contra Costa County's collaborative response:

- 1. The DEIR should include a map of the project area and show the extent of the impacted areas within Contra Costa County.
- 2. We request that the DEIR provide a map of the watersheds where the project is located, including watershed boundaries within Contra Costa County, and FC District drainage area boundaries.
- 3. The Hydrology Section should identify and show all existing watercourses, tributaries, and man-made drainage facilities within and around the project site that could be impacted by this project within Contra Costa County. The discussion should include an analysis of the capacity of the existing watercourses. If improvements or work within the natural watercourses is proposed, the DEIR should discuss the scope of improvements.
- 4. The Hydrology Section should quantify the amount of runoff that would be generated by the project and discuss how the runoff entering and originating from the site would be distributed between the natural watercourses, the detention basins (if proposed), and the man-made drainage facilities. The DEIR should discuss the adverse impacts of the runoff from the project site to the existing drainage facilities and drainage problems in the downstream areas.
- 5. We recommend that the DEIR address the design and construction of storm drain facilities to adequately collect and convey stormwater entering or originating within the project area to the nearest adequate man-made drainage facility or natural watercourse, without diversion of the watershed, per Title 9 of the Contra Costa County Ordinance Code. The DEIR should discuss all proposed on-site and off-site drainage improvements and include maps or drawings for the improvements.

- 6. Construction of new roads to serve the proposed project may result in altered drainage patterns and may increase stormwater runoff due to additional impervious surfaces. New culverts may be needed to convey the additional stormwater, which concentrates the flow, but may potentially cause erosion, if not mitigated. The DEIR should address the impacts of new conveyance facilities, including erosion, from newly concentrated flows resulting from the project and its ancillary facilities and propose mitigation measures including new culverts, channel widening, erosion protection, energy dissipaters, and vegetation restoration within Contra Costa County.
- 7. The proposed pumping plant, southern forebay, and central tunnel corridor shown on Figure 1 of the NOP appear to be located within Contra Costa County limits near unincorporated Byron and Discovery Bay. The central tunnel corridor extends northerly near the outer edge of Contra Costa County limits. The southern portion of the project is partially located in Drainage Area 45 (DA 45) and partially in Drainage Area 110 (DA 110). These drainage areas define the watersheds for the East County Delta Drainages and Brushy Creek watersheds. The DEIR should discuss how the project would impact these drainage areas.
- 8. The FC District owns several properties and operates major drainage facilities in east Contra Costa County including channels and reservoirs for Marsh Creek, Sand Creek, Dry Creek, Deer Creek, and Kellogg Creek. If the project and its proposed facilities impact the capacities and operation of FC District facilities, or if the project needs access to any FC District property, the DEIR should note that a Contra Costa County Drainage and/or FC District Encroachment Permit might be required. At a minimum, the DEIR should list the FC District as an agency to notify.
- 9. The DEIR's analysis of adverse impacts should include potential drainage impacts caused by all construction activities including tunneling, dredging, construction of new conveyance facilities and access roads, and storage of borrow material. Tunneling may create an abundance of excess material that may require off-site storage, and the DEIR should analyze the changes in drainage patterns and flows caused by both temporary and permanent storage of excavated materials.
- 10. When the DEIR analyzes impacts in Contra Costa County, the Hydrology Section of the DEIR should include a study that uses Contra Costa County's hydrology method (HYDRO6) for unincorporated areas impacted by the project. Other commonly accepted hydrology methods were developed using runoff patterns of other regions that do not accurately model the Pacific Coast storm patterns experienced in Contra Costa County. The runoff results of other methods have proven to be significantly less than field observations of local storms made by the FC District and the United States Army Corps of Engineers (USACE).
- If detention basin facilities are proposed, the DEIR should include a discussion of the basin design information (i.e., capacity, sizes of inlet and outlet structures, routing, etc.). A discussion of how maintenance of these facilities would be performed and funded should also be included.

- 12. The DEIR should address the impacts of this project's runoff due to the increase in duration (length of time) of flows and the effect on creeks and channels downstream of the project. Whereas detention basins are capable of mitigating peak flows to pre-project levels, they increase the duration (length of time) of flows in the downstream watercourses, which saturate the channel banks and increase the potential for stream and channel erosion.
- 13. DA 45 and DA 110 have inadequate maintenance funding. The construction of this project should not result in added costs or reduction of revenue for Contra Costa County or the FC District. As one of the mitigation measures for the adverse drainage impacts of this project, this project should be required to identify a perpetual funding source for maintenance of the drainage area facilities required to serve the project and its ancillary facilities, such as access roads and fuel stations.
- 14. The DEIR should discuss how the project would comply with the current NPDES (National Pollutant Discharge Elimination System) requirements under the Stormwater Management and Discharge Control Ordinances and the C.3 Guidebooks for the project's various local jurisdictions.
- 15. We recommend the project sponsors request that the appropriate environmental regulatory agencies, such as the USACE, the State Department of Fish and Wildlife, and the State Regional Water Quality Control Board, explore the permits, special conditions, and mitigation that may be necessary for construction within the project area.
- 16. Portions of the project are situated in a Special Flood Hazard Area (SFHA) designated by the Federal Emergency Management Agency (FEMA) as Zone A or Zone AE. In addition, the project area incorporates areas designated by FEMA as "Areas with Reduced Flood Risk due to Levee." The DEIR should also analyze potential adverse impacts on nearby levees due to construction activities.
- 17. The DEIR should discuss the impacts of grading in a floodplain and whether a Conditional Letter of Map Revision will be required.
- 18. The proposed intake locations between Courtland, Hood, and Clarksburg would reroute a portion of flows from the Sacramento River south to the Clifton Court Forebay, which may result in decreased flows through the Delta. The reduction in flows could result in increased sedimentation throughout the Delta tributaries in the eastern regions of Contra Costa County, which in turn could increase water surface elevations and create additional flood hazards. East Contra Costa County already has multiple areas designated as SFHAs, so the DEIR should include a thorough analysis on increased risks of flooding in all impacted tributaries along the eastern Contra Costa County limits.
- 19. The DEIR should consider the effects of anticipated rising sea levels on the Delta tributaries and cumulative effects with the Delta Conveyance Project due to the diversion of water out of the delta. Sea level rise in the delta could lead to increased frequency, duration, and extent of flooding, shoreline erosion, and increased salinity intrusion further

into the delta. Adapting to Rising Tides, a program of the San Francisco Bay Conservation and Development Commission, is currently modeling effects of rising water surface elevations between 12 inches and 83 inches in eastern Contra Costa County during this century. The DEIR should address the impacts of the project with cumulative impacts from rising tides in the Delta and eastern Contra Costa County and propose mitigation measures.

20. Contra Costa County and the FC District should be included in the review of all drainage facilities that have a region-wide benefit, that impact region-wide facilities, or that impact FC District-owned facilities. The FC District is available to provide technical assistance during the development of the DEIR, including hydrology and hydraulic information and our HYDRO6 method, under the FC District's Fee-for-Service program. In addition, the FC District can provide copies of drainage area maps, upon request.

We appreciate the opportunity to coordinate our comments on the NOP for the Delta Conveyance Project. If you have any questions, please contact me by phone at (925) 313-2348 or by e-mail at <u>Joe.Smithonic@pw.cccounty.us</u>.

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c: Brian Balbas, Chief Engineer Allison Knapp, Deputy Chief Engineer Tim Jensen, Flood Control Michelle Cordis, Flood Control Teri E. Rie, Flood Control To the Department of Water Resources,

It is very unfortunate for residents that's going to be affected if these meetings push through. At the moment almost everyone although at home are not focusing on what our local governments, much less your department are trying to achieve. I strongly suggest delaying these meetings until after the lockdown...This is not the time to be moving forward with agendas or meetings where the residents and their representatives cannot even have a say in it. I would love to be included but being an essential worker, I am a nurse and I work at the hospital, I cannot attend those meetings since I will be working during those times...

It is a time of uncertainty, of fear and anxiety for most people...It is only prudent and fair for such meetings to be on hold until life has gone back to some sense of normalcy.

Sincerely yours, Michelle Botor

Sent from my iPad

From:	Victor Rosasco
То:	DWR Delta Conveyance Scoping
Subject:	Comments on tunnel planning
Date:	Friday, April 17, 2020 2:16:26 PM
Attachments:	IMG 0804.jpg
	<u>IMG_0806.jpg</u>
	<u>IMG 0834 (1).jpg</u>

To Dept. of Water Resources;

Thanks for the opportunity to speak with you about this project, I have a number of concerns about going forward with this tunnel before longstanding problems with the flow of water in the Delta are worked out.

First the flows to restore native fish to sustainable levels have not been worked out. By your own scientific research it has been established that 60% of the unimpeded flow would have to go through the Delta to restore fisheries, but that has been backed away from in lieu of voluntary agreements that are nowhere near forthcoming.

Second there is no guarantee that less water will be removed from the system with this pipe, there are no guarantees that the pumps will take less.

Third the new Biological Opinions pumping regulations have left the Delta with very little inflow this winter, the only storm surge came with the storms of early April when dam operators were forced to release water to make room for snowmelt - all winter reservoir levels were maintained at approximately 80%, migrating downstream salmon smolts need these flows to make it to the ocean.

Fourth with these insufficient flows the Delta does not get flushed out. This winter for the first time in the 27 years I have lived in the Delta the floating algae of late summer lasted through the winter. This does not bode well for the increasing threat of Harmful Algal Blooms. This alone is such a health hazard that it should stop the tunnel planning until a remedy is worked out. In the slough behind my house, [Burn's Cutoff] invasive weeds have all but choked out the channel, again a result of no flushing flows this winter. See attached pictures.

Fifth in these times of pandemic with such an uncertain financial future is it wise to burden the State with billions in debt? Also with the upcoming litigation involved with Governor Newsom's and the Administration's opinions of water diversions and the disagreements between the water users groups is it wise to build this infrastructure before all that is worked out?

In closing I feel that a predetermined path has been chosen by the agencies involved if this procedure moves forward without looking at alternatives and addressing the above concerns.

Sincerely,

Victor Rosasco

From:	<u>Alexandra Reagan</u>
To:	DWR Delta Conveyance Scoping
Subject:	Comments re Delta Conveyance NOP from ECOS and H2020
Date:	Friday, April 17, 2020 10:23:05 AM
Attachments:	2020 04 April 17 Comments re Delta Conveyance NOP from ECOS and H2020.pdf

To California Department of Water Resources:

On behalf of the Environmental Council of Sacramento and Habitat 2020, I am submitting by way of this email our comments on the Notice of Preparation of Environmental Impact Report for the Delta Conveyance Project. Please see the attached letter.

Please respond to this email to confirm receipt of our letter.

Regards,

Alexandra Reagan

Director of Operations¦ECOS The Environmental Council of Sacramento P.O. Box 1526, Sacramento, CA, 95812 Cell: (916) 765-4977 Office: (916) 444-0022 Email: office@ecosacramento.net Website: www.ecosacramento.net Visit us on Facebook or Twitter





Environmental Council of Sacramento P.O. Box 1526, Sacramento, California 95812 Phone: 916-444-0022

April 17, 2020

California Department of Water Resources DeltaConveyanceScoping@water.ca.gov

Subject: Notice of Preparation of Environmental Impact Report for the Delta Conveyance Project

To California Department of Water Resources:

The Environmental Council of Sacramento (ECOS) is a 501(c)(3) nonprofit organization working to achieve regional and community sustainability and a healthy environment for existing and future residents. ECOS member organizations include: 350 Sacramento, Breathe California Sacramento Region, Friends of Stone Lakes National Wildlife Refuge, International Dark-Sky Association, Physicians for Social Responsibility Sacramento Chapter, Sacramento Citizens' Climate Lobby, Sacramento Electric Vehicle Association, Environmental Democrats of Sacramento County, Sacramento Housing Alliance, Sacramento Natural Foods Coop, Sacramento Audubon Society, Sacramento Valley Chapter of the California Native Plant Society, Sacramento Vegetarian Society, Save Our Sandhill Cranes, Save the American River Association, Service Employees International Union (SEIU) Local 1000 and the Sierra Club Sacramento Group.

Members of Habitat 2020, a committee of ECOS, include: Friends of Stone Lakes National Wildlife Refuge, Friends of Swainson's Hawk, International Dark-Sky Association Sacramento Chapter, Sacramento Area Creeks Council, Sacramento Audubon Society, Sacramento Valley Chapter California Native Plant Society, Save Our Sandhill Cranes, Save the American River Association, Sierra Club Sacramento Group and Sacramento Heron and Egret Rescue.

ECOS and Habitat 2020 have extensively reviewed the impacts on terrestrial species associated with each version of the Delta Conveyance, including participation in the terrestrial species stakeholder process for the Bay Delta Conveyance Project (BDCP), comments on the environmental documents, and testimony as a protestant for the CA WaterFix hearings. We have a representative participating on the Stakeholder Engagement Committee (SEC) for the Delta Conveyance Design and Construction Authority (DCA) covering terrestrial species concerns.

Project needs to be defined clearly

A significant concern with recent versions of this project (CA WaterFix, BDCP, etc.) was lack of clarity for what the project is. This culminated in an 11th hour series of such substantial changes that the Phase 2 WaterFix hearing needed to be extended in order to address them. DWR claimed that no additional environmental analysis was needed for these substantial changes because they had already provided such extensive analysis of possible permutations of the project. However, throughout the CA WaterFix and BDCP efforts, the actual project was not defined.



Environmental Council of Sacramento P.O. Box 1526, Sacramento, California 95812 Phone: 916-444-0022

A complete engineering level design needs to be prepared before any environmental analysis is undertaken. Continuing to design the project during and after environmental review will perpetuate the lack of clarity engendered previously.

Appropriate alternatives must be considered for the project as a whole

The "no project" alternative should not be the only one considered and analyzed. Alternatives are circulating that would either remove the need for the Delta Conveyance or dramatically decrease its impacts. The Sierra Club's Sensible Water Management Portfolio Smart Tunnel Alternative should be included as an alternative for analysis. This alternative would provide equivalent benefits without the need for expensive new infrastructure and avoid the significant and unavoidable impacts of the tunnel infrastructure.

Other appropriate alternatives to analyze should include: John Garamendi's "Little Sip, Big Gulp", Robert Pyke's Western Delta Intake concept, reverse osmosis of brackish water currently conveyed to Southern California water districts via the California Water Project, and extensive water conservation efforts so that that the tunnel is not needed.

Appropriate Alternatives must be considered for infrastructure components

The extraordinary scale and complexity of this project requires analysis of alternatives to individual components of the planned infrastructure. At a minimum, this includes the intakes, launch shafts, access shafts, and forebays. These alternatives need to include geographic placement, engineering design, and timing of construction. As an example, the three intakes that the SEC was requested to provide feedback on were not balanced with other possible geographic placements or discussions about the tradeoffs involved in selecting those particular placements. Different designs and geographic placements for these intakes could result in greatly reduced impacts and need to be considered.

Similarly, the other infrastructure components also need analyses of alternatives that could avoid and minimize environmental impacts. Engineering and technical concerns have largely driven the geographic placement, design, and construction timing of the infrastructure components. Different geographic placements, designs, and construction timing, that have fewer significant and unavoidable environmental impacts, need to be included in the selection and analysis of alternatives to the specific infrastructure components.

Impact of mechanically assisted flows in the tunnels need to be analyzed

Pressurized pumping of water into and through the Delta Conveyance needs to be analyzed. It cannot be assumed that the Conveyance will continue to utilize gravity flow in perpetuity.



Analysis needs to assume that all Reusable Tunnel Material (RTM) will need to be disposed, rather than repurposed

The chemical composition of the surfactants used in the tunnel boring process has not been disclosed, and given the proprietary nature of that information, it is reasonably foreseeable that will remain the case. Analysis must be included for the impacts associated with the disposal of all of the RTM – testing the RTM as it comes out will be too late to adjust the environmental analysis if it is determined that the RTM is not usable, even though the analysis assumes that some or all of it could be repurposed.

Accurate transportation impacts must be provided

Prior iterations of the Delta Conveyance utilized a worst-case scenario for traffic impacts. There needs to be a concerted effort to provide the most accurate assessment of traffic flows, which should include the calculations for those flows.

Impacts to Stone Lakes National Wildlife Refuge need to be avoided

Because of the sensitive nature of the Refuge, the project needs to do its utmost to avoid impacts to the refuge. This includes avoiding infrastructure placement in the Refuge as well as roads and transmission lines. The EIR needs to identify how to avoid these impacts in the Refuge.

The full impacts of transmission lines need to be included

The locations of all new transmission lines need to be clearly described and identified as permanent or temporary. A complete analysis of impacts then needs to be provided based on those descriptions and identifications.

Transmission line strikes need to be analyzed for foraging Sandhill Cranes

Prior versions of the Delta Conveyance addressed power line impacts for roosting Sandhill Cranes but did not adequately consider the potential for foraging cranes that are flushed by constructionrelated activities to also hit transmission lines. Analysis of foraging cranes that are flushed and then flying into transmission lines, both new and old lines, needs to be provided.

Sincerely,

Ralph Kroppen

Ralph Propper President, ECOS

Sean Wirth Co-Chair, Habitat 2020

From:	Cathleen Pieroni
To:	DWR Delta Conveyance Scoping
Cc:	Cathleen Pieroni
Subject:	Comments on NOTICE OF PREPARATION OF ENVIRONMENTAL IMPACT REPORT FOR THE DELTA CONVEYANCE PROJECT
Date:	Friday, April 17, 2020 4:23:16 PM
Attachments:	IEUA70thAnniversaryLogo-Raster_7ff5b224-3a87-407f-aae9-b392b419fe55.jpg Twitter_b4b2e095-3238-475c-a92d-814dc6dcdf15.png Facebook_95d75ac3-9f4b-4a29-8d70-db397fdb0375.png 2020-04-17_IEUA_Comments on Delta_Conveyance_NOP.pdf

To Whom it May Concern,

Attached please find comments from the Inland Empire Utilities Agency on the Notice of Preparation for the Delta Conveyance Project's EIR.

Thank you,

Cathleen Pieroni

Cathleen Pieroni

Manager of Government Relations

	?	

"Water Smart - Thinking in Terms of Tomorrow" 6075 Kimball Ave / Chino, California 91708 Tel: 909-993-1940 / Fax: EMail: cpieroni@ieua.org Website: <u>www.ieua.org</u> **Connect with us**





6075 Kimball Avenue • Chino, CA 91708 P.O. Box 9020 • Chino Hills, CA 91709 TEL (909) 993-1600 • FAX (909) 993-1985 www.ieua.org

April 17, 2020

Submitted electronically to: DeltaConveyanceScoping@water.ca.gov

Ms. Renee Rodriguez California of Department of Water Resources P.O. Box 942836 Sacramento, CA 94236

Re: Comments on Delta Conveyance Notice of Preparation/Scoping

Dear Ms. Rodriguez:

The Inland Empire Utilities Agency (IEUA) is a regional wholesale distributor of imported water from the Metropolitan Water District of Southern California (MWD) and wastewater treatment provider, serving approximately 875,000 people over 242 square miles in western in San Bernardino County. IEUA operates four regional water-recycling facilities with the capacity to treat approximately 50 million gallons of wastewater per day, providing high-quality recycled water that is available to recharge the Chino Basin and for non-potable direct uses, such as landscape irrigation.

IEUA appreciates the opportunity to provide comments on the Delta Conveyance Scoping process and is supportive of efforts to improve the State Water Project's (SWP) water delivery system. IEUA's service territory is one of the fastest growing areas in California. In order to meet demands for water, IEUA purchases about 70,000 AFY of imported water from MWD, providing about a third of the water supply for the service area. It's important to note, however, how our service territory makes the most of every drop of imported water and how it serves a critical role as the baseline supply that makes local supply projects possible.

Beginning in the mid-1990s, the region identified recycled water as one of the critical components to provide a resilient supplemental water supply for the region, a climate-independent and reliable local supply source. IEUA, its member agencies and the Chino Basin parties have invested over \$500 million in local water supply initiatives such as recycled water, groundwater recharge and storage of imported, recycled and stormwater. Recycled water currently provides approximately 15% of the region's urban water supply.

Water Smart - Thinking in Terms of Tomorrow

Kati Parker President Jasmin A. Hall Vice President Steven J. Elie Secretary/Treasurer Michael E. Camacho Director Paul Hofer Director Ms. Renee Rodriguez April 17, 2020 Page 2

The lower salinity imported water from the State Water Project actually makes our regional recycled water program possible. Absent the availability of imported water, our recycled water supplies would exceed NPDES permit limits, rendering locally developed supplies unusable; it will also lead to potential exceedances of Chino Basin water quality objectives, further hindering groundwater recharge programs. To date, the Chino Basin region has used over 350,000 AF in recycled water. The recharge of recycled water is possible only with the contiguous recharge of



IEUA Regional Groundwater Recharge Program Volume Contributions (2013-2019)

high-quality water with low TDS such as imported water, as depicted in the chart above.

In an effort to further contribute to statewide water supply sustainability, IEUA is pursuing the implementation of the Chino Basin Program (CBP), an innovative and first-of-its-kind approach for delivering benefits to both the northern and southern parts of the State through water exchange, new recycled water supply development, and valuable new infrastructure and upgrades. In 2018, IEUA was awarded conditional funding of \$206.9 million from a chapter of Proposition 1, a state water bond approved by voters in 2014 that provided funding for new water storage projects. The CBP involves the construction of an advanced water treatment facility and distribution system that will treat and store up to 15,000 acre-feet per year of recycled water in the Chino Basin, thus creating a new local water supply. In partnership with a State Water Project Contractor, this water would be exchanged in blocks of up to 50,000 acre-feet per year towards ecosystem benefits north of the Delta for 25 years.

With innovative approaches like the CBP, southern Californian water agencies like IEUA are committed to finding sustainable pathways for future water supply reliability. Imported water remains the backbone system, however, that allows the region to invest in local supply projects and to maintain vital water storage reserves for dry years. As such, IEUA supports the proposed single-tunnel Delta Conveyance Project conveying a minimum of 6,000 cubic-feet-per-second (cfs) of water supply to ensure the ongoing reliability of State Water Project deliveries to our region via MWD.

Ms. Renee Rodriguez April 17, 2020 Page 2

Because water agencies will fund the costs of the proposed project, IEUA emphasizes the importance of achieving cost-effective approaches and requests that the Department of Water Resources consider explicitly stating a commitment to a cost-effective project in the end of project purpose statement. Additionally, if the capacity of the tunnel were reduced below 6,000 cfs, IEUA is concerned that the costs would outweigh the benefits. As such, IEUA supports conveyance approaches promoting maximum conveyance capacity.

Thank you for considering our comments. Please contact Ms. Cathleen Pieroni, Manager of Government Relations, at (909) 993-1940 or cpieroni@ieua.org if you have any questions or would like additional information.

Sincerely, INLAND EMPIRE UTILITIES AGENCY

Stiviaji Deshmuth

Shivaji Deshmukh, P.E. General Manager

From:	Bob Wright
To:	Friend, Janiene@DWR; Mellon, Erin@DWR; DWR Delta Conveyance Scoping
Subject:	Comments on Notice of Preparation and Scoping for EIR for the Delta Conveyance Project
Date:	Tuesday, April 14, 2020 10:31:47 AM
Attachments:	4 14 20 FINAL for pdf.pdf

Dear Director Nemeth (through Janiene Friend), Assistant Director Mellon, and Department of Water Resources:

Attached please find our 20 page comment letter of today, April 14, 2020, on the Department of Water Resources' Notice of Preparation and Scoping for the EIR for the Delta Conveyance Project. Our comment letter is on behalf of eight public interest organizations. There are three attachments to the letter which I will send separately this morning because of size. I will only send those to the <u>DeltaConveyanceScoping@water.ca.gov</u> address (or to anyone at DWR who requests same by reply email.)

Please do not hesitate to call or email if you have any questions about our comments.

Finally, I would appreciate receiving by reply email from one of you, confirmation that our comments have been received.

Sincerely,

Bob Wright, Counsel Sierra Club California (916) 557-1104













April 14, 2020

DeltaConveyanceScoping@water.ca.gov via email

Re: Comments on Notice of Preparation of Environmental Impact Report for the Delta **Conveyance Project and the Scoping Process**

Dear Department of Water Resources:

By this letter our public interest organizations, AquAlliance, California Water Impact Network, California Sportfishing Protection Alliance, Center for Biological Diversity, Environmental Water Caucus, Planning and Conservation League, Restore the Delta, and Sierra Club California, comment, pursuant to the California Environmental Quality Act (CEQA), on the Department of Water Resources' (DWR) Notice of Preparation (NOP) of Environmental Impact Report (EIR) for the Delta Conveyance Project (hereinafter "Project or Tunnel Project"") and the Scoping process.

Our Table of Contents is on the next page.

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Introduction

The Draft EIR must have a much larger scope than is set forth in the NOP. A foundational deficiency is the apparent intention evidenced by the NOP to violate the CEQA requirement to set forth a range of reasonable alternatives to the project and evaluate comparative merits of the alternatives. The NOP also evidences apparent intention to violate the Delta Reform Act and California's public trust doctrine, in the course of evading consideration of obvious and required alternatives that would protect California's rivers and restore freshwater flows through the San Francisco Bay-Delta Estuary (Delta) by reducing exports. The Delta is in a state of crisis. The crisis and CEQA require no-Tunnel alternatives.

In its January 30, 2020 *Comments on Draft Environmental Impact Report for the Long-Term Operation of the State Water Project [SWP]* (Copy attached), The State Water Resources Control Board (Water Board) explained harms to the Delta. There is "broad agreement in the scientific community that increased freshwater flows through the Delta and aquatic habitat restoration are needed to protect Bay-Delta ecosystem processes and native fish species." (Water Board comments 4.)¹ The Water Board continued:

As stated in the [2017 Water Board staff] Scientific Basis Report: It is widely recognized that the Bay-Delta ecosystem is in a state of crisis....

The Scientific Basis Report concluded that increased Delta inflows and outflows, and cold-water habitat and constraints on pumping in the interior Delta are necessary in order to reasonably protect at-risk fish species. Accordingly, it is not clear how the proposed project will not further degrade conditions for fish and wildlife species that are already in poor conditions, some of which are on the verge of functional extinction or extirpation. Given this, it is also not clear how the proposed project is consistent with existing obligations, including the California Delta Reform Act, CESA, the California Porter-Cologne Water Pollution Control Act (Porter-Cologne Act), various provisions of the California Water Code governing water rights, and the public trust doctrine. (Water Board comments 4.)

In addition to the threats posed to endangered and threatened species of fish by water exports, there are also adverse impacts on water flows, water quality and public health. The NOP only vaguely addresses these impacts by reciting probable significant environmental effects of the Project as including, among other things:

•Water Supply: changes in water deliveries.

¹ Unless otherwise indicated, the number in document cites refers to the page number.

•Surface Water: changes in river flows in the Delta.

•Water Quality: changes to water quality constituents and/or concentrations from operation of facilities.

•Public Health: changes to surface water could potentially increase concerns about mosquito-borne diseases (NOP 9-10.)

The NOP is oblivious to the fact that Delta urban waterways are stagnant and thick with algal scum and toxins, resulting in Harmful Algal Blooms (HABs). HABS can be easily found from Stockton to Discovery Bay with smaller ones becoming visible in sloughs between the cities. According to the EPA, HABs can:

- Produce extremely dangerous toxins that can sicken or kill people and animals
- Create dead zones in the water
- Raise treatment costs for drinking water
- Hurt industries that depend on clean water

(<u>https://www.epa.gov > nutrientpollution > harmful-algal-blooms).</u> Reducing freshwater flows by the Proposed project will increase the buildup of these dangerous algal blooms.

The State is well aware of the increased frequency of these substances: according to the Draft Water Resilience Portfolio (Draft Portfolio) (<u>Copy attached</u>), released by the California Natural Resources Agency, CalEPA, and the California Department of Food & Agriculture on January 3, 2020, "[a] warmer climate provides optimal conditions for worsening harmful algal blooms, which can force the closure of beaches, rivers, and lakes due to health risks for people and pets." (Draft Portfolio 13) "Waterways are becoming increasingly prone to harmful algal blooms and low dissolved oxygen levels." (Draft Portfolio 13)

So, to protect endangered species and public health, the Draft EIR must accurately and honestly disclose and assess the public health risks posed by the Project. Real alternatives must be developed and considered that would not cause or worsen these significant adverse impacts because freshwater flows would *not* be diverted into a Tunnel Project. Unfortunately, the NOP does not signal that DWR intends to do this, as it includes no real alternatives whatsoever. The NOP declares,

The scoping process will inform preliminary locations, corridors, capacities and operations of new conveyance facilities to be evaluated in the EIR. In identifying the possible EIR alternatives to be analyzed in detail, DWR is currently considering alternatives with capacities that range from 3,000 to 7,500 cfs, with varying degrees of involvement of the CVP, including no involvement.

(NOP 9.) These are not "alternatives." They are simply the same Tunnel Project dressed up in different outfits. The Draft EIR must include real alternatives, specifically a "no tunnel" alternative, that analyzes the state's use of and investment in local programs and projects relating to water conservation and efficiency measures, along with others, that achieve the same water reliability goals as the proposed project and increase freshwater flows through the Delta by reducing exports. Such alternatives would keep the freshwater flowing through the Sacramento River and the Delta instead of diverting significant flows into an underground Tunnel for export.

I. Alternatives Reducing Reliance on the Delta are Required by the Delta Reform Act

The Sacramento-San Joaquin Delta Reform Act of 2009 (Delta Reform Act) establishes the policy of the State of California "to reduce reliance on the Delta in meeting California's future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency." (Water Code § 85021.) The Act establishes co-equal goals "of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem," (Water Code § 85054) and expressly requires that a new conveyance process (previously called the BDCP) evaluate "[a] reasonable range of Delta conveyance alternatives, including through-Delta," as well as new dual or isolated conveyance alternatives. (Water Code § 85320(b)(2)(B.)

The Tunnel Project is antithetical to these provisions of the Delta Reform Act. Its purpose would be to divert enormous quantities of freshwater flows out of and away from the Sacramento River and Delta. The Project would do the opposite of *reducing* reliance on the Delta as required by the Delta Reform Act. The massive Project and expenditures would instead *increase* reliance on the Delta.

The NOP states that DWR's purpose in proposing the Project "is to develop new diversion and conveyance facilities in the Delta necessary to restore and protect the reliability of State Water Project (SWP) water deliveries and, potentially, Central Valley Project (CVP) water deliveries south of the Delta, consistent with the State's Water Resilience Portfolio."(NOP 2.) However, The NOP does not set forth how the proposed project is consistent with state policy as established by the Delta Reform Act.

A central issue in a legally sufficient Draft EIR would be consideration of the trade-offs between delivery of full contract quantities, and reduction of deliveries in order to improve water quantities and quality in California's rivers and the Delta. DWR must comply with law by including alternatives in the Draft EIR that would reduce reliance on

the Delta and include through-Delta, not just tunnel "alternatives," as required by the Delta Reform Act.

II. Public Trust Doctrine Analysis Will be of Critical Importance in Doing the Quantification Work Required by the Delta Reform Act and the Alternatives Analysis Required by CEQA

The California Supreme Court has held that under California's public trust doctrine, "[t]he state has an affirmative duty to take the public trust into account in the planning and allocation of water resources." (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419, 446). The Delta Reform Act incorporates this principle as it mandates, "[t]he longstanding constitutional principle of reasonable use and the public trust doctrine shall be the foundation of state water management policy and are particularly important and applicable to the Delta." (Water Code § 85023.)

In accordance with this, DWR must consider the public trust doctrine during all stages of the proposed project, especially when assessing the quantity of water that will be allocated to flow through the Project. But the NOP fails to mention the public trust doctrine altogether, even though the doctrine is crucial in understanding the state's water supply availability.

The Draft Portfolio admits that "[i]mproved understanding is needed about the amount of water that must stay in rivers and streams to protect fish, wildlife, habitat, and water quality....Drastic loss of fish and wildlife habitat makes it important to restore and connect habitat where feasible. (Draft Portfolio 13.) The Draft Portfolio goes on to state that:

The projected statewide water needs of California fish, wildlife, and natural ecosystems have not been quantified, given the diversity of the state's river systems and evolving understanding of both the biological needs of species and future climate-driven conditions. However, it is clear that each river system requires adequate season-by-season water flow to protect the natural functions fish and wildlife need. Such flows also support healthy water quality and temperatures and should be complemented by adequate habitat and removal of invasive species to enable fish and wildlife to thrive. (Draft Portfolio 15.)

Given the Draft Portfolio's admission that a quantitative analysis of water supply is necessary, the Draft EIR must include an analysis of the 26 rivers of the Delta watershed that conforms with the public trust doctrine and allows decision makers to make informed, rational decisions about whether the Project is a reasonable or even a feasible alternative. Having a real public trust analysis that includes all non-market public trust resources, including clean water, healthy flowing rivers, healthy abundant fish, and recreational opportunities, is also critical information for a holistic alternatives analysis.

III. The Draft EIR Must Include the CEQA-Required Range of Reasonable Alternatives

"Evaluation of project alternatives and mitigation measures is 'the core of an EIR."" (*Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 937.) An EIR must "describe a range of reasonable alternatives to the project . . . which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." CEQA Guidelines § 15126.6(a). "[T]he discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly." § 15126.6(b).

However, there is no indication that DWR intends to comply with the law stated above. The NOP does not mention alternatives that would reduce reliance on the Delta as required by the Delta Reform Act, nor does the NOP address Delta Reform Act-required "through-Delta" as opposed to "dual conveyance" alternatives. There are no mentions of alternatives that would increase freshwater flows through the Delta and protect California's rivers by reducing exports. And the NOP does not state an intention to give a "hard look" at trade-offs between maintaining or increasing exports by way of the Tunnel Project as opposed to reducing exports to protect the Delta and California's rivers.

The founders of our nation and our State created governments of laws not rulers. Whether California Executive Branch officers wish to consider real alternatives to the Project, is not the standard. The standard is set by CEQA, the Delta Reform Act, and the public trust doctrine. To comply with these laws, the Draft EIR must meaningfully consider and include alternatives that attain most of the proposed project's lawful objectives and are less environmentally degrading. Meaningful consideration of a "no tunnel" alternative would comply with both CEQA and, the Delta Reform Act policy of "reduc[ing] reliance on the Delta in meeting California's future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency." (Water Code § 85021.)

The Governor's April 2019 *Executive Order N-10-19* called for the water resilience portfolio and required state agencies to "embrace innovation and new

technologies" and "incorporate successful approaches from other parts of the world." Implementing such modern water measures would reduce the claimed need for the Project, and thus improve water quality in California's rivers and the Delta.²

But when government agencies refuse to meaningfully consider less environmentally harmful alternatives due to policy reasons, and offer no explanation as to why they are refusing to do so, courts have regularly invalidated certification of environmental review documents. In Pacific Coast Federation of Fishermen's Assn's v. U.S. Dept. of the Interior, the U.S. Court of Appeals for the Ninth Circuit reversed a district court decision denying environmental plaintiffs' summary judgment because the challenged environmental document issued by the Bureau of Reclamation under NEPA (National Environmental Policy Act), "did not give full and meaningful consideration to the alternative of a reduction in maximum water quantities." (655 Fed.Appx. 595, 2016 WL 3974183*3 (9th. Cir., No. 14-15514, July 25, 2016) (Not selected for publication).) "Reclamation's decision not to give full and meaningful consideration to the alternative of a reduction in maximum interim contract water quantities was an abuse of discretion and the agency did not adequately explain why it eliminated this alternative from detailed study." (Id. at *2.) The Court noted that Reclamation's "reasoning in large part reflects a policy decision to promote the economic security of agricultural users, rather than an explanation of why reducing maximum contract quantities was so infeasible as to preclude study of its environmental impacts." (Id. at *3.)

The requirement under NEPA, also true under CEQA, to consider the alternative of reducing exports to increase flows through the Delta is so obvious that the Ninth Circuit's decision was not selected for publication because no new legal analysis was required to reach the decision. The decision pertained to interim two-year contract renewals. If the alternative of reducing exports must be considered during renewal of two-year interim contracts, it most assuredly must be considered in the Draft EIR for the Project.

² As for examples of such alternatives, our organizations have presented DWR numerous times, *A Sustainable Water Plan for California* (Environmental Water Caucus, May 2015) (<u>Copy attached</u>.) The *Sustainable Water Plan* alternative includes reducing exports out of the Delta to 3,000,000 acre-feet, or other variants on that quantity. Also included are: spending funds on such modern water measures as water conservation, water recycling, groundwater treatment and desalination and agricultural water conservation including conversion to drip irrigation in export areas, annual crops in export areas that can be fallowed in drought years, and staged removal from production of drainage-impaired lands in export areas that worsen water quality by such consequences as selenium discharge.

So, alternatives reducing exports must be considered pursuant to CEQA and under the mandates of the Delta Reform Act., which, again, requires the State of California "to reduce reliance on the Delta in meeting California's future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency." (Water Code § 85021.) DWR must comply with CEQA by developing and including real alternatives including "through-Delta/no Tunnel" alternatives in the Draft EIR.

IV. The Draft EIR Must Make CEQA-Required Full Environmental Disclosure

"While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can.' (Guidelines, § 15144.)" (*Banning Ranch Conservancy*, 2 Cal.5th 918, 938). A primary goal of CEQA is "transparency in environmental decision-making." (*Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, 136.) "CEQA requires full environmental disclosure." (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 88.)

As such, the Draft EIR must accomplish full environmental disclosure pursuant to CEQA, meaning the Delta Reform Act mandate to reduce, not increase, reliance on the Delta in meeting California's water supply needs must be set forth front and center when preparing responsive alternatives. The danger to public health posed by worsening harmful algal blooms in the Delta and other adverse water quality impacts exacerbated by the proposed project must be disclosed and assessed.

Adequate quantification is necessary to carry out an informed analysis of how much water is actually available for export and how much water can be exported while restoring the Delta. *Moreover, it is an undeniable fact that consumptive water rights claims are 5 ¹/₂ times more than available supply.* Additionally, quantification is necessary to determine how much claimed water needs can be reduced by such means as conservation and recycling. But the NOP indicates that instead of actually conducting the quantification and impact analysis required by CEQA, the Delta Reform Act, and the Governor's Executive Order, DWR intends to cherry pick a proTunnel Project statement or two from the Draft Portfolio to substitute for this study. This will not be legally sufficient.

Quantification is required by the both the Delta Reform Act and the Governor's Executive Order. Water Code section 85320(b)(2) requires "a comprehensive review and analysis of all of the following:"

(A) A reasonable range of flow criteria, rates of diversion, and other operational criteria required to satisfy the criteria for approval of a natural community conservation plan as provided in Section 2820 of the Fish and Game Code, *and other operational requirements and flows necessary for recovering the Delta ecosystem and restoring fisheries under a reasonable range of hydrologic conditions, which will identify the remaining water available for export and other beneficial uses.*

(B) A reasonable range of Delta conveyance alternatives, including through-Delta, dual conveyance, and isolated conveyance alternatives and including further capacity and design options of a lined canal, an unlined canal, and pipelines.

(C) The potential effects of climate change, possible sea level rise up to 55 inches, and possible changes in total precipitation and runoff patterns on the conveyance alternatives and habitat restoration activities considered in the environmental impact report.

(D) The potential effects on migratory fish and aquatic resources.

(E) The potential effects on Sacramento River and San Joaquin River flood management.

(F) The resilience and recovery of Delta conveyance alternatives in the event of catastrophic loss caused by earthquake or flood or other natural disaster.

(G) *The potential effects of each Delta conveyance alternative on Delta water quality.* (Emphasis added.)

And the *Executive* Order requires the subject agencies to "first inventory and assess" eight subjects, including, "[e]xisting demand for water on a statewide and regional basis and available water supply to address this demand." (*Executive Order N-10-19* ¶ 2a.) Other required subjects include, "[e]xisting water quality of our aquifers, rivers, lakes and beaches" (¶ 2b); "projected water needs in coming decades for communities, economy and environment" (¶ 2c), and "anticipated impacts of climate change to our water systems, . . . (¶ 2d.)

Paragraph 3 of the *Executive Order* further requires that the "water resilience portfolio" established by the agencies embody seven principles including, "Utilize natural infrastructure such as forests and floodplains" (¶ 3(b); "Embrace innovation and new technologies" (¶ 3(c); and "Incorporate successful approaches from other parts of the world." (¶ 3 (e.) The *Executive Order* establishes a goal of restoring and maintaining the health of our watersheds.

So to fully comply with CEQA, the Delta Reform Act, and the Governor's Executive Order, the Draft EIR must disclose and analyze all significant upstream and downstream impacts as well as all cumulative impacts and growth inducing impacts of the Project. To do so requires adequate quantification.

The possibility that an honest, accurate, and comprehensive Draft EIR on the Project may show the Project is undesirable, infeasible, and/or the death knell for the Delta does not justify a document that amounts to a cover up as opposed to full environmental disclosure. If DWR wishes to attempt to proceed with the Tunnel Project, DWR must proceed in the manner required by CEQA. Sometimes, the truth hurts. The public is, however, entitled to the truth. And the law requires the truth.

V. This Draft EIR Process Must be Integrated with DWR's Other Related Processes

CEQA requires that the EIR project description include "A list of related environmental review and consultation requirements required by federal, state, or local laws, regulations, or policies." (Guidelines § 15124(d)(1)(C)). The second sentence in that subsection goes on to require, "*To the fullest extent possible, the lead agency should integrate CEQA review with these related environmental review and consultation requirements.*" (Emphasis added.) CEQA's policy is to conduct integrated review. (*Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 939, 942.) Moreover, "Lead agencies in particular must take a *comprehensive* view in an EIR." (*Banning Ranch Conservancy*, 2 Cal.5th 918, 939, citing Public Resources Code § 21002.1(d).)

The NOP makes no mention of DWR's other related processes that affect the proposed project. Instead of integrated CEQA review, key environmental review processes are going ahead separately, each in its silo. With one hand, DWR is proceeding to prepare a Draft EIR on the Tunnel Project. With another hand, DWR released its Draft EIR for Long-Term Operation of the SWP on November 21, 2019. DWR closed the public review period on that Draft EIR on January 6, 2020. Though the SWP is the stated reason for the Tunnel Project, the SWP Draft EIR failed to even mention or disclose, let alone analyze, the addition and inclusion of the Tunnel Project. Moreover, through the Delta Conveyance Design and Construction Authority process DWR and the State Water Contractors have already been designing the Proposed project in the absence of any CEQA compliance whatsoever. And with an extra hand, DWR is already negotiating cost allocations with the water exporters for the Project.

This "silo" approach is puzzling given that the Draft Portfolio emphasizes that addressing new challenges such as climate change requires reflection, innovation, communication, and coordination. "*This cannot take place in silos but must be integrated within and across regions*." (Draft Portfolio 25) (Emphasis added.)

To proceed in the manner required by CEQA, DWR must prepare a new Draft EIR on the SWP Long-Term operation including environmental analysis of the Project, and recirculate it for public review and comment. An accurate water availability and needs analysis, quantification, and disclosure and analysis of the Project and its causal relationship with SWP Long-Term operations must be central focuses of the new Draft EIR. And this analysis should have been conducted prior to the commencement of any design processes or negotiations for cost allocations.

VI. DWR Must Not Segment Environmental Analysis

CEQA Guidelines § 15378(a), in relevant part, states: "Project' *means the whole of an action*, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment...." (Emphasis added.) Guideline § 15378(c) adds that "[t]he term 'project' *refers to the activity* which is being approved and which may be subject to several discretionary approvals by government agencies. The term 'project' does not mean each separate governmental approval." (Emphasis added.)

The court in *Burbank-Glendale-Pasadena Airport Authority v. Hensler* noted CEQA's broad definition of "project" avoids potential piecemealing or segmentation of environmental analysis the definition, ensuring "that environmental considerations not become submerged by chopping a large project into many little ones, each with a potential impact on the environment, which cumulatively may have disastrous consequences." (233 Cal.App.3d 577, 592 (1991)). As such, a lead agency must not piecemeal the analysis of several smaller projects that are part of a larger project.

Unfortunately, DWR's actions relating to the Tunnel Project are contrary to this legal obligation. DWR and others are designing the construction and operations of the Project in the absence of any CEQA compliance whatsoever, and negotiating an agreement in principle for the specific project without the project ever being approved or evaluated. The Draft EIR on Long-Term SWP operations conceals rather than analyzes the Project and those ongoing DWR activities. In *separate* processes during the same timeframe, DWR seeks to conduct the environmental analysis of SWP Long-Term operation as well as the environmental analysis of the Tunnel Project which is intended

"to restore and protect the reliability of State Water Project (SWP) water deliveries...." (NOP 2).

Instead of dealing with the whole of the action as required by CEQA, these processes are all being done separately and segmented from each other. DWR is failing to proceed in the manner required by CEQA.

VII. DWR Must Analyze the Impacts of Providing Water to the Entire Project

Pursuant to CEQA, an EIR "must assume that all phases of the project will eventually be built and will need water, and must analyze, to the extent reasonably possible, the impacts of providing water to the entire proposed project." (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 431.) Moreover, "[t]he future water supplies identified and analyzed must bear a likelihood of actually proving available; speculative sources and unrealistic allocations ("paper water") are insufficient bases for decision-making under CEQA." (*Vineyard Area Citizens,* 40 Cal.4th at 432.)

Thus, the inventory and assessment in the water resilience portfolio required by the Governor's *Executive Order* are also the type of information required by CEQA to be in an EIR. The Draft EIR must provide this information regarding water needs and the impacts of taking the water. "Speculative sources and unrealistic allocations ("paper water") are insufficient bases for decision-making under CEQA.

VIII. DWR Must Evaluate the Reality that DWR's Federal Partner is Committed to Maximizing Exports Regardless of the Environmental Consequences

In *Banning Ranch Conservancy v. City of Newport Beach*, the court noted that certain governmental actions not only conflicted with CEQA obligations, "but also ignored the practical reality...." (2 Cal.5th 918, 941 (2017)). The integrity of the process of decision making under CEQA is to be ensured "by precluding stubborn problems or serious criticism from being swept under the rug...." (*Id.*)

To comply with the above principle, the Draft EIR needs to address the "practical reality" in which the proposed project is being considered by evaluating the proposed project in light of the actions by DWR's federal counterpart, the U.S. Bureau of Reclamation.

Until recently, there was understanding that federal and state agencies would act in good faith to work together to protect water quality while operating the SWP in the case

of the State, and the Central Valley Project (CVP) in the case of the U.S. Bureau of Reclamation. Unfortunately, there is no longer any basis for this understanding with respect to the federal government, as it has continuously abdicated its legal obligation to protect endangered species in the Delta.

Former Secretary of the Interior Ryan Zinke issued his August 17, 2018, memorandum to his staff on the subject "California Water Infrastructure," in which he stated that within 15 days, the Assistant Secretaries "shall jointly develop and provide to the Office of the Deputy Secretary an initial plan of action that must contain options for: maximizing water supply deliveries...." That same memorandum included a directive to develop a plan of action for "preparing legislative and litigation measures that may be taken to maximize water supply deliveries to people...."

On October 19, 2018, the President issued the *Presidential Memorandum on Promoting the Reliable Supply and Delivery of Water in the West.* (83 Fed.Reg. 53961, October 25, 2018), which ordered the Secretary of the Interior and the Secretary of Commerce to within 30 days designate one official to

identify regulations and procedures that potentially burden the [California water infrastructure] project and develop a proposed plan, for consideration by the Secretaries, to appropriately suspend, revise, or rescind any regulations or procedures that unduly burden the project beyond the degree necessary to protect the public interest or otherwise comply with the law. For purposes of this memorandum, 'burden' means to unnecessarily obstruct, delay, curtail, impede, or otherwise impose significant costs on the permitting, utilization, transmission, delivery, or supply of water resources and infrastructure.

(Section 2(a)(ii). And on March 28, 2019, the federal government brought two lawsuits against the State Water Board challenging the Water Board's new flow requirements set forth in the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta estuary and seeking to divert more water for the CVP.³

On July 1, 2019, biologists with the National Marine Fisheries Service (NMFS) concluded in a 1123-page biological opinion that Reclamation's plan would likely jeopardize listed salmon and steelhead, along with Southern Resident killer whales, and would be likely to destroy or adversely modify critical habitat, all in violation of the

³ One federal lawsuit seeks a writ of mandate in state court, the Superior Court, County of Sacramento, while the other federal lawsuit seeks declaratory and injunctive relief in federal court, in the Eastern District of California.

federal Endangered Species Act.⁴ The federal government subsequently replaced these biologists with political appointees, and on October 21, 2019, NMFS released a biological opinion that concluded Reclamation's plan was not likely to jeopardize the continued existence of the subject species or destroy or adversely modify their critical habitats. Also, on October 21, 2019, the U.S. Fish and Wildlife Service issued a biological opinion concluding Reclamation's plan was not likely to jeopardize the continued existence of Delta Smelt or destroy or modify its critical habitat.

On December 2, 2019, several public interest organizations filed a complaint in the United States District Court for the Northern District of California seeking to set aside the October 2019 biological opinions as being unlawful under the Administrative Procedure Act and the Endangered Species Act (ESA). (*Pacific Coast Federation of Fishermen's Associations et al. v. Wilbur Ross et al.*, Case No. 19-cv-07897.)⁵ And on February 20, 2020, California agencies and the State Attorney General filed suit in the Northern District of California contending the biological opinions are unlawful under the ESA and NEPA. (*The California Natural Resources Agency et al. v. Wilbur Ross et al.*, Case No. 20-cv-01299).

The Draft EIR must honestly disclose and assess the kind and degree of damage to freshwater flows and water quality that could result from developing and operating the Project given the federal policy to maximize water exports regardless of the environmental consequences. The Project cannot be evaluated or determined in a vacuum from the federal efforts to maximize project exports. These new federal policies are a practical reality that cannot be swept under the rug by the State in deciding whether to develop the proposed project.

IX. The Draft EIR Must Evaluate the Tunnel Project in light of Climate Change

The Draft Portfolio notes some impacts Climate Change will have on the Delta. "Rising winter temperatures will reduce mountain snowpack in the Sierra Nevada and Cascade ranges by 65% on average by the end of the century, increasing flashy winter run off and flood risks while reducing spring and summer stream flow." (Draft Portfolio 14.) Additionally, "San Francisco Bay and the Sacramento-San Joaquin Delta will face salinity intrusion as sea level rises" due to climate change. (Draft Portfolio 14.) "Although

⁴ The July 2019 biological opinion is available at: https://www.documentcloud.org/documents/6311822-NMFS-Jeopardy-Biop-2019-OCR.html.

⁵ The facts in this and the preceding paragraph are taken from the filed complaint.

the Delta is not one of the state's ten major hydrologic regions, it plays a complex role in the water resilience of California and faces particularly acute climate risks." (Draft Portfolio 110.)

The new federal policy to maximize exports will further decrease freshwater flows, and the Tunnel Project will further reduce freshwater flows through the Delta. So the proposed project will worsen the Delta's poor freshwater flows, water quality, and harmful algal blooms.

These issues need to be addressed in the Draft EIR to allow informed development and consideration of alternatives responsive to the problems. That will include reducing exports and staying with through Delta conveyance to by that way increase freshwater flows through the Delta to compensate for declining watershed runoff and worsening salinity intrusion.

X. DWR Must Disclose and Assess the future Reduction in Claimed Needs for the Project as a result of New Technologies and Curtailed Exports

Paragraph 3 of *Executive Order N-10-19* requires any water resilience portfolio adopted by state agencies to embody the following principles, inter alia:

- "Utilize natural infrastructure such as forests and floodplains" (¶ 3(b);
- "Embrace innovation and new technologies" (¶ 3(c); and
- "Incorporate successful approaches from other parts of the world." (¶ 3) (e.)"

This type of information should be assessed and evaluated prior to developing the Project as it would be invaluable in understanding, and likely lessening, the claimed need for the proposed project. For example, the City of Los Angeles has established steps to reduce its imported water supply by 50% by the year 2025. According to Water Replenishment District President John Allen, "Water recycling is the wave of the future." (Release, August 22, 2019). Increasing water recycling and efficiency is enshrined in state law: SB 606 and AB 1660, enacted in 2018, emphasize efficiency and stretching existing water supplies in our cities and on farms. Moreover, "[m]any Southern California water districts are building regional self-sufficiency but do not expect to be able to feasibly replace *all* water supply diverted from the Delta over the next couple of decades. (Draft Portfolio 113)(Emphasis added).

The Draft Portfolio embraces this approach and notes that diversifying water supply resources "has helped many communities effectively weather drought." (Draft Portfolio 12). "The most cost-effective, environmentally beneficial way to stretch water
supplies is through better water use efficiency and eliminating water waste....Recycled water is a sustainable, nearly drought-proof supply when used efficiently, and the total volume of water California recycles today could triple in the next decade." (Draft Portfolio 17.)

As a result, water exports will be reduced: "[t]he trade-off to manage salinity could reduce the amount of water available to support an ecosystem already under stress and for export from the Delta. Exports could be naturally curtailed by about 10% under mid-century climate projections, and by about 25% by 2100." (Draft Portfolio 111). By 2050, the amount of water used by agriculture is expected to decline. And utilizing natural infrastructure would mean continuing to use the Sacramento River and Delta channels for conveying water as opposed to diverting large river flows into an expensive underground tunnel.

Understanding the degree of need, if any, for the Project is pertinent information that the Draft EIR must fully assess. In the absence of a full understanding, the Draft EIR would simply be a stacking of the deck in favor of the Tunnel Project and prevent a fair, adequate comparative analysis of it with through Delta conveyance alternatives not including a tunnel.

XI. An Accurate Statewide Benefit-Cost Analysis Must be Prepared and Disclosed in the Draft EIR

Accurate economic information is required by both NEPA and CEQA. In *Natural Resources Defense Council v. U.S. Forest Service*, the Ninth Circuit held that "[i]naccurate economic information may defeat the purpose of an EIS by 'impairing the agency's consideration of the adverse environmental effects' and by 'skewing the public's evaluation' of the proposed agency action." (421 F.3d 797, 811 (9th Cir. 2005)). Accurate economic analysis is required "to allow an informed comparison of the alternatives considered in the EIS." 421 F.3d at 813.⁶

Thus, to proceed in the manner required by CEQA, DWR must provide an accurate benefit-cost analysis to allow informed comparison by the public of alternatives to the proposed project that must be available throughout the period for public and decision-maker review of the Draft EIR.

Unfortunately, DWR does not intend to proceed this way. DWR's *Delta Conveyance Notice of Preparation and Public Scoping: Q&A* states:

⁶ California courts often cite NEPA decisions in deciding such issues under CEQA.

There will be a cost estimate, as well as both a Benefit-Cost Analysis and a Financial Analysis, developed during the planning process. At this point, the NOP is a start of the environmental review, which focuses on the relative environmental impacts rather than economic issues. *Cost analyses will come later in the process, after a preferred alternative has been selected* (which may or may not be similar to the "proposed" project defined in the NOP). (Emphasis added.) (No. 18 at p. 4).

To select the preferred alternative *before* doing cost analyses would be to intentionally stack the deck in favor of the proposed project, and makes it impossible to fairly and adequately compare the proposed project with through Delta and no tunnel alternatives which are less environmentally degrading. The financial advantages of the through Delta and no tunnel alternatives are clear: through Delta conveyance already exists and studies show that investment in urban water conservation is generally less expensive that reliance on importing water.⁷ Conversely, the Tunnel Project would cost billions of dollars to construct over a 13-year period.

Moreover, DWR has *never* prepared a statewide benefit-cost analysis consistent with DWR's economic analysis guidelines. Instead, DWR's consultants prepare economic analyses narrowly focused on participating water agencies, a practice that has been going on for years. The State now has the opportunity to require an accurate statewide benefit-cost analysis. Up until now, Californians have been told that the beneficiaries of the proposed project would pay all costs. But even the State's own concealed economic analyses show that a substantial public subsidy would be required because the project costs would greatly exceed project benefits.

And accurate economic analyses are good public policy as they are essential to informed decision-making. The billions of dollars spent on the proposed project would *not* be available for modern 21st century alternatives such as increased water efficiency and demand reduction programs, including urban and agricultural water conservation, recycling, and storm water recapture and reuse. Money spent on the proposed project would not be available to provide the clean drinking water for more than a million Californians called for by Governor Newsom in his February 12, 2019 State of the State Address.

There are numerous other issues that must be addressed in the Draft EIR. Examples of such issues include adverse water quality and air quality impacts on Delta

⁷See https://pacinst.org/wp-

 $content/uploads/2016/10/PI_The Cost of Alternative Water Supply Efficiency Options in CA.pdf$

residents including environmental justice communities. Another example is analysis of how operating the tunnel would likely increase the state's energy footprint, in direct contradiction of state policy directing otherwise. Finally, we adopt and incorporate by this reference the written Delta Conveyance Scoping Comments of Restore the Delta, et al., dated March 20, 2020.

Conclusion

The Draft EIR must include real alternatives to the Proposed Project. The Draft EIR must provide environmental full disclosure of the adverse impacts that would result from Proposed Project operations.

Contacts for this comment letter are Conner Everts, Facilitator, Environmental Water Caucus (310) 804-6615 or <u>connere@gmail.com</u>, Brandon Dawson, Policy Advocate, Sierra Club California (916) 557-1100 ext. 1090 or <u>brandon.dawson@sierraclub.org</u>, or Robert Wright, Counsel, Sierra Club California (916) 557-1104 or <u>bwrightatty@gmail.com</u>. We would do our best to answer any questions you may have.

Sincerely,

6. Mober Will

E. Robert Wright, Counsel Sierra Club California

Barbara Barrigan-Parrilla, Executive Director, Restore the Delta

John Buse, Senior Counsel Center for Biological Diversity

Kathryn Phillips

Kathryn Phillips, Director Sierra Club California

Conner Everts, Facilitator Environmental Water Caucus

Carolee Frieger

Carolee Krieger, Executive Director California Water Impact Network

DCS745

Jones Minton

Jonas Minton, Senior Water Policy Advisor, Planning and conservation Leagues

Bell conninges

Bill Jennings, Executive Director California Sportfishing Protection Alliance

B. Vlanna

Barbara Vlamis, Executive Director AquAlliance

Attachments:

SWRCB January 30, 2020 comments on DWR's DEIR on SWP Long-Term Operation Draft Water Resilience Portfolio (January 3, 2020) *A Sustainable Water Plan for California* (Environmental Water Caucus, May 2015)

From:	Bob Wright
То:	DWR Delta Conveyance Scoping
Subject:	attachments to Comment letter on Notice of Preparation of EIR and Scoping for the Delta Conveyance Project
Date:	Tuesday, April 14, 2020 10:49:29 AM
Attachments:	1 30 20 SWRCB cmts DEIR SWP L T Opns.pdf
	5 8 15 EWC sustainable water plan.pdf

Dear Department of Water Resources:

A few minutes ago, we transmitted to you our 20 page comment letter of today, April 14, 2020, on behalf of eight public interest organizations, on the Notice of Preparation of EIR and Scoping for the Delta Conveyance Project. We appreciate your automatic confirmation reply email that our letter was received. We said in our email transmittal of our comment letter that due to size, we would send the three attachments to the letter separately.

Attached to this email please find two of the three email attachments to our comment letter:

SWRCB January 30, 2020 comments on DWR's DEIR on SWP Long-Term Operation *A Sustainable Water Plan for California* (Environmental Water Caucus, May 2015)

Our computer responded that due to size, the Draft Water Resilience Portfolio (January 3, 2020), would be sent by a link, so we shall try that next.

Please call or email if you have any questions. Also, please confirm by reply email your receipt of the attachments.

Sincerely,

Bob Wright, Counsel Sierra Club California (916) 557-1104

From:	ROBERT BURNESS	
To:	DWR Delta Conveyance Scoping	
Cc:	Meserve, Osha; info@dcdca.org	
Subject:	Comments on NOP for Delta Conveyance Project	
Date:	Friday, April 17, 2020 10:29:22 AM	
Attachments:	ments: 2020 04 17 Attach1 DCA NOP comments re tunnel launch placements.do	
	2020 04 17 Attach2 DCA NOP comments Stone Lakes NWR map.pdf	
	2020 04 17 Revised Draft DCA tunnel NOP comments docx	

Dear Ms Rodriguez,

Attached please find the comments of the Friends of Stone Lakes National Wildlife Refuge regarding the NOP for the proposed Delta Conveyance Project, along with the two attachments referenced in the letter.

Rob Burness Conservation Committee Chair Friends of Stone Lakes NWR <u>rmburness@comcast.net</u> 916-956-0362



April 17, 2020

Delta Conveyance Scoping Comments Attn: Renee Rodriguez Department of Water Resources PO Box 942836, Sacramento, CA 94236 Via email: <u>DeltaConveyanceScoping@water.ca.gov</u>

RE: Comments on the Notice of Preparation for the Delta Conveyance Project

The Friends of Stone Lakes National Wildlife Refuge herewith submit our comments on the preparation of an Environmental Impact Report for the Delta Conveyance Project. Stone Lakes National Wildlife Refuge (Stone Lakes NWR) is essentially ground zero for the project. The three intakes, the forebay and the haul roads will have major impacts on Stone Lakes NWR and its wildlife.

The Friends are a nonprofit organization dedicated to preserving and protecting the Stone Lakes NWR. The Stone Lakes NWR is the single largest complex of natural wetlands, lakes and riparian areas remaining in the Sacramento-San Joaquin Delta, and provides critical habitat for waterfowl and other migratory birds of international concern, as well as a number of endangered plant and animal species. Location at the south end of a large urban area increases the Refuge's importance as a stop on the Pacific Flyway migratory route. Stone Lakes NWR and its surrounding agricultural areas are home to several special status

Friends of Stone Lakes National Wildlife Refuge, 1624 Hood Franklin Road, Elk Grove, CA 95757 www.friendsofstonelakes.org

(916) 775-4418

species, including the tri-colored blackbird, greater sandhill crane, white-face ibis, DCS746 long-billed curlew, Swainson's hawk, burrowing owl, giant garter snake and valley elderberry longhorn beetle.

The Stone Lakes NWR is recognized as one of the most threatened refuges in the country. Crop conversion to habitat unfriendly vineyards, high voltage power lines, a high-rise structure and a heliport at the refuge boundary, sea level rise, increased flooding and, most importantly, urbanization of foraging habitat loom large among those threats. The refuge is already imperiled and constrained by urbanization close to its northern and part of its eastern border. A project of the magnitude of the Delta Conveyance has the very real potential of diminishing the geographic range of some of the species the refuge is designed to protect, like the greater sandhill crane.

The Friends of Stone Lakes NWR has engaged with the Delta tunnels projects from the outset, beginning with negotiations on mitigation and enhancement measures for the Bay Delta Conservation Plan, then with the WaterFix project as a protestant during State Water Resources Control Board hearings, and now its successor, the equally euphemistic Delta Conveyance Project.

As we respond to this incomplete and premature Notice of Preparation, we are troubled by the still evolving project design. We are observing an inherent inconsistency in the way the various infrastructure components are handled. The launch shafts apparently went through a more involved effort to avoid impacts while also maximizing access to transportation corridors. Specific criteria to avoid refuges or preserved habitat were part of that effort. In contrast, the intakes continue to be located where the engineering worked best with seemingly no concern about avoiding any egregious impacts, and the haul roads transecting the Stone Lakes NWR are further evidence of that. The comments that follow elaborate on these and other concerns. We urge the preparers to give them serious deliberation.

A complete detailed description of the project should be prepared, including an engineering-level design of all necessary components of the entire proposed conveyance system, prior to initiation of any environmental review. Work of the Delta Conveyance Design and Construction Authority (DCA) with stakeholders reveals that the tunnel design continues to be evolving. Environmental analysis should not be initiated until project design is finalized enough to disclose and analyze the probable environmental effects.

The project alternatives must be expanded to include alternative means of achieving project objectives. Given the huge scope and considerable environmental impacts of the Delta Conveyance Project, the need to seriously evaluate alternatives that would accomplish most, if not all, of the tunnel proponents' objectives, remains imperative. Governor Newsom's call for development of a Water Resiliency Portfolio was a hopeful step in that direction. Unfortunately, the resulting, hastily prepared document fell well short of expectations, and the tunnel project remains as one on a list of several projects and programs.

We urge the Project proponents and the Department of Water Resources to provide a balanced analysis of alternative strategies and projects put forward in recent years. These would include, but not necessarily be limited to 1) the Sierra Club's Sensible Water Management Portfolio Smart Tunnel Alternative, particularly the strategies to increase irrigation efficiency and reduce San Joaquin Valley ag water demand; 2) John Garamendi's Little Sip, Big Gulp Alternative utilizing the Sacramento Deep Water Ship Channel and a shorter, pressurized pipeline to Franks Tract; 3) Robert Pyke's Western Delta Intake Concept; and 4) brackish water treatment in the south Delta prior to delivery to points south.

Alternatives to infrastructure components of the Delta Conveyance Project must be evaluated. The scope of the project is of such huge magnitude that individual tunnel intakes, the forebay, the tunnel alignment, the tunnel construction launching sites, the southern terminus infrastructure and the electrical transmission lines—all have alternatives with varying degree of environmental impact. The alternative sites for and design of these components should be informed not just by engineering and cost considerations, but by their relative environmental impacts. The analysis of alternatives in the EIR should reflect this, particularly with respect to intake alternatives and alternative tunnel construction launching sites

Site and Design Alternatives to the Tunnel Intakes Must Be Evaluated.

Information disclosed during the DCA Stakeholder Meetings reveals that the intake locations were solely determined by engineering considerations. In particular, no consideration has been given to terrestrial impacts in conjunction with the placement of fish intakes. The environmental analysis needs to evaluate location and design alternatives that take into account both terrestrial and aquatic impacts as opposed to optimizing engineering considerations.

For example, the current project design places all intake infrastructure immediately behind a levee surfaced on both sides with concrete. Setting the road, intake support structures and settling ponds back from the levee would allow retaining and/or reestablishing the riparian corridor.

DCS746

Site alternatives to the tunnel construction launches must be evaluated.

Discussion at the DCA Stakeholder Meetings reveals that ongoing analysis is underway to determine where tunnel boring stations will be placed along the alignment. Disregarding for the moment our concerns in Paragraph 1 regarding preparing the EIR in advance of a still-evolving project, the environmental analysis needs to consider alternatives that fully take into account the terrestrial species impacts of these alternatives. See the attachment on criteria and methodology for conducting this analysis.

Impacts of pressurized flow in tunnels must be evaluated. The proposed project currently proposes one tunnel with capacity for up to 6000 cfs of water that would apparently not be pressurized. It is reasonably foreseeable that post-environmental review modifications will be sought to increase potential water volumes by pressurizing the water flow. The environmental document must recognize that the proposed tunnel could be pressurized in the future to increase the amount of water pumped from the Sacramento River and evaluate the environmental impacts of the increased amount of water drawn through the intakes.

WaterFix environmental commitments must be included as part of project. The WaterFix tunnel project included a number of environmental commitments that were a product of extensive discussions with stakeholder groups associated with Stone Lakes NWR. These measures provided significant mitigation for impacts on terrestrial species, most notably greater sandhill cranes and Swainson's hawks. These environmental commitments must be included as part of the project, preferably as mitigation measures for the current tunnel project.

Approach to traffic impact analysis must be reconsidered. The traffic analysis for the Waterfix project postulated the "worst case scenario" for trip generation, the peak level of construction related trips on any one segment. That analysis resulted in significant levels of trips on some segments, as much as ten trips per minute, or one trip every 6 seconds. The study did not distinguish between heavy trucks and other vehicles, though it is presumed that heavy trucks would

constitute the majority of vehicles. The analysis did not provide any information regarding the length of time that peak traffic periods would be expected over the many years of tunnel construction. The analysis focused on congestion levels without giving adequate consideration to the impacts associated with a preponderance of semi-trailer trucks on the two-lane rural environment.

These inadequacies need to be addressed in a more refined and complete traffic analysis for the Delta Conveyance Project. It is encouraging that presentation materials at the DCA Stakeholder meetings provide more specific information regarding the daily volume of traffic sequenced over the 15-year construction period. This information needs to be included in the EIR. The assumptions for generation of heavy truck traffic and the duration of peak traffic also need to be included in the analysis of impacts.

In addition, we are very concerned that the DCA Stakeholder meeting materials identify Hood Franklin Road as a main haul road for project construction activities. The Friends have provided detailed comments regarding the significant effects on both wildlife and recreation that using Hood Franklin Road for this purpose would cause, given that it bisects the refuge and is the access to Refuge Headquarters and the Blue Heron Trail. These impacts must be evaluated along with a greater range of mitigation measures.

New haul roads must be fully described and evaluated. The DCA is considering the construction of new haul roads to support the construction of the intake structures along the Sacramento River. Several of these roads would be within or adjacent to the legislative boundary of the Stone Lakes NWR. The proposed roads must be accurately mapped. Details regarding the construction of these roads must be provided including road width, proposed surfacing, right-of-way acquisition, timing of construction, and post-construction use of roads and right-of-way.

The new haul roads would dramatically shift construction-related traffic away from the River Road to lessen impact on properties and communities along the river and transfer it to the terrestrial species the Stone Lakes NWR is trying to protect. The tradeoffs between these impacts must be fully acknowledged and identified.

The new haul roads would transect the Sone Lakes NWR and adjacent waterfowl foraging areas. Based on the experience of Stone Lakes NWR staff, the new haul roads will flush many waterfowl. As one example, sandhill cranes fly between

roost sites on the refuge to foraging areas adjacent to the proposed haul road as well as foraging areas farther west in Yolo County. The EIR must identify waterfowl roosting and foraging sites, particularly with respect to the fully protected greater sandhill cranes, and evaluate the potential impact of haul road traffic on their movement. This analysis should be conducted in conjunction with the potential impact of birds being flushed into any proposed new power lines along the road

Reusable tunnel material surfactant issues must be addressed. The NOP indicates that the project will sample reusable tunnel material (RTM) as it is removed during the boring process to determine if it can be reused, and if not, how it will be disposed. The project proponents have to date refused to disclose the composition of chemical surfactants used with the boring machines. In the absence of any information as to whether or not the surfactants pose a hazard to humans or wildlife, it must be assumed that all RTM is hazardous and will need to be transported to safe disposal areas. This conclusion is consistent with the independent technical review panel of leading tunnel experts' (retained by the DCA) findings in December 2019. The project must include information that satisfactorily demonstrates that the surfactants will not pose a significant adverse impact, or analyze the environmental effects of disposing all RTM outside of the Delta.

Transmission line impacts must be included. The prior EIR/EIS for the WaterFix project did not include a full analysis of the impacts associated with providing electrical power to the project, both during construction and tunnel operation. This was left to a supplemental analysis. The EIR for this project needs to include a full description of both the temporary and permanent transmission facilities for the project and evaluate their impacts.

Crane foraging habitat must be included in transmission line impacts. In evaluating the impacts of transmission lines on waterfowl, particularly greater sandhill cranes, foraging habitat is equally important as roosting habitat. The analysis must use mapped data on moderate to high probability foraging areas proximate to roosting sites in considering the potential for species take associated with power line contact.

Impacts of tunnel muck material storage site on adjacent Swainson's Hawk preserve must be evaluated. The "RTM Storage area" shown in DCA Stakeholder meeting materials between Franklin Blvd and Interstate 5 is just to the south of a Swainson's Hawk mitigation site. Activity at this site could impact hawk nesting and foraging and must be evaluated.

Growth inducing aspects of freeway interchange improvements must be evaluated. The DCA is also contemplating improvements to Interstate 5 interchanges at Hood Franklin Road and Twin Cities Road, as well as a completely new Interchange at Lambert Road. Any proposed improvements must be evaluated for their growth inducing impacts, particularly in relation to freeway related commercial development such as truck stops.

Impact of tunnel facilities within Stone Lakes NWR boundary must be considered. We continue to be concerned about the potential placement of the forebay, pumping facilities and, particularly, transmission lines within the legislative boundary of the Stone Lakes NWR. (See 57 Fed.Reg. 33007 (July 24, 1992).) It is the longstanding goal of the Fish and Wildlife Service and Refuge supporters to acquire and restore habitat within the entire boundary. The proposed conveyance facilities within the boundary would interfere with the ability of the Fish and Wildlife Service to implement its goals for the Refuge, as described in the Stone Lakes National Wildlife Refuge Comprehensive Conservation Plan. The EIR must identify and evaluate the potential impact of the project on realizing these goals and plans, and mitigate accordingly. Please see attached map of Stone Lakes NWR.

Instead of showing the boundary approved by Congress, maps by DWR and the DCA appear to only show the areas of Stone Lakes NWR that are already in public ownership. Maps in the Draft EIR that show the location of refuges, preserves and habitat conservation plan areas in the document must show the Stone Lakes NWR legislative boundary, not just lands in fee or easement ownership. All lands within the Refuge boundary may be managed to carry out the approved purposes of the Refuge, and thus could be potentially bought for public ownership.

Encroachments, development and disturbances within the Refuge boundary undermine Congressionally approved directives as well as the ability to carry out the Stone Lakes National Wildlife Refuge Comprehensive Conservation Plan. Permanent conversion of land within the Refuge's legal boundary by the project prevent the future use of Refuge lands for wildlife conservation. All analysis of impacts on the Refuge must begin with a correct boundary, not a truncated partial map. We also note also that the map in the Stakeholder Engagement Meeting documents for February 26, 2020 inappropriately identifies the vernal pool complex within the Stone Lakes NWR boundary as being west of Interstate 5. It is east of the interstate highway.

In conclusion, we urge the Department of Water Resources as lead agency to acknowledge the importance of Stone Lakes National Wildlife Refuge, its wetlands and wildlife; to take heed of our comments; to thoroughly assess alternatives and impacts; and to fully mitigate those impacts.

The Friends of Stone Lakes NWR will continue to engage with DWR and the DCA as this project moves through the review process. We remain available to provide information and discuss our concerns regarding this major project.

Sincerely,

this Joahn

Chris Tooker President, Friends of Stone Lakes National Wildlife Refuge

cc: Delta Conveyance Design and Construction Authority Osha Meserve, Soluri and Meserve Law Corporation

From:	Jan McCleery
То:	DWR Delta Conveyance Scoping
Subject:	Comments for the NOP Scoping due April 17
Date:	Wednesday, April 15, 2020 7:28:00 PM
Attachments:	CommentsOnMarch11-SEC-Materials-2-JM.pdf

Attached are my official comments on the NOP Scoping. They are actually a copy of comments sent in to the DCA regarding their most current March 11 design briefing. The Scoping information in the February meeting I attended in Brentwood had no detail, so I assume the DCA's information is the current thinking. Regardless, these comments are relevant to what I understand the current NOP to describe.

I have requested via your Online Form that the comment period be extended. It is inappropriate to be asking for input from Delta folks impacted by the pandemic.

My feedback strongly backs up the ITRC's feedback (and the Independent engineering board's feedback to DWR in 2010) that the Central Corridor is no place for this construction project. In addition, the NOP Eastern Corridor is not as far east as the WaterFix eastern route so is still on Delta Islands and goes through wetlands - both are issues. Regardless, any of the routes (Central Corridor, Eastern Corridor or the ITRC's far Eastern I-5 Route) doesn't address the significant damage the intake locations will do to the legacy communities in the North. (That impact is detailed in testimonies presented to the SWRCB's Permit Hearings and the DSC's Consistency Hearings). And doesn't address the long-term impact of reducing Delta Flows through the Delta, which will ruin the estuary.

I don't see how any project could move ahead without resolving those issues.

Feel free to email me if you have questions.

Jan Janet McCleery, Past President Save the California Delta Alliance (STCDA) 925-978-6563 www.noDeltaTunnels.com | www.facebook.com/SaveTheCaliforniaDelta

Together we can make a difference !

Thank you for the opportunity of submitting my comments on the current Delta Conveyance Design & Construction Authority (DCA) single tunnel design, as presented in the March 11 SEC Meeting. What is my background? I have spent significant time boating on the Delta for 30 years. I now live in Discovery Bay, with a home on the water and a boat in my "backyard" bay. I have been heavily involved in these projects for over ten years. I think I have a valuable insight to share. My comments here concern construction, although other concerns raised in the past, such as long-term in-Delta water quality and Delta flows, must also be addressed.

First, it seems that when I now meet new California Department of Water Resources (DWR) and DCA folks, they often don't seem to know the pertinent background about the prior WaterFix twin tunnel project. Therefore, I'll start by briefly recapping the history of WaterFix and why was withdrawn in 2019. Hopefully that will help you identify and avoid the same showstoppers.

I am glad that the new single tunnel project design is now no longer planning on putting construction traffic on the Contra Costa County Scenic Highway 160 and the western portions of Highway 12. However, our concerns remain about Highway 4. My detailed information backs up the Independent Technical Review (ITR) Committee saying that if the project remains with the Central Corridor or Eastern Corridor, Highway 4 would require significant upgrades and bridge replacements. It is now a very busy, congested, important road.

I appreciate the changes DCA made to the plans to address boating and recreation. The plan no longer includes the barge traffic in narrow sloughs that is so dangerous for boating, nor building many barge docks throughout the waterways, blocking recreation and boat traffic. **Thank you!** Although other boating issues remain, some of which I detail in this document, I appreciate DCA's willingness to address identified issues, like they did in the last meeting where DCA was willing to move the Little Potato Slough dock closer to the channel and recommend there not be barge activity in that area on weekends to minimize impact on boating at "The Bedrooms."

about boating and recreation, traffic concerns, etc. will be similarly addressed. Thank you.

After the section on impacts on recreation from some shaft locations, I point out a significant error in your map concerning fire stations and emergency services. That error exposes even more strongly the ITR Committee's emergency and safety concerns about the Central Corridor.

Two other alternatives need to be considered for the NOP EIR: The Far Eastern I-5 Route recommended by technology experts in 2010 and again this year, and the "No Tunnel" alternative (in conjunction with Governor Newsom's Portfolio projects). Last but not least, the location of the intakes in the North impacting legacy towns cannot be mitigated.

I appreciate your taking time to read this. Feel free to reach out if you have questions.

Jan McCleery

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Important WaterFix Events

WaterFix Remanded to DWR in November 2018

After many years of Delta folks submitting comments on the Bay Delta Conservation Plan (BDCP) and going to Workshops, the BDCP morphed into the California WaterFix twin tunnel project. During those nine years, Delta residents attended meetings, wrote comments, traveled to Sacramento and stood up to say our comments in person, to explain why Delta residents were so concerned about the tunnel plans. Groups were formed to represent the Delta people who would be affected. Save the California Delta Alliance (STCDA), a small non-profit based in Discovery Bay, was one of those. STCDA bussed citizens to Sacramento to attend meetings, sold lawn signs, encouraged citizens to march and rally. STCDA held fundraisers to raise donations and hired expert witnesses give credence to our concerns with the WaterFix tunnel plan. Delta boating experts and technical experts testified to the State Water Resources Control Board (SWRCB) Permit Hearings about issues with the proposed project.

During the SWRCB Permit Hearings, after listening to the substantive concerns, the SWRCB did not feel comfortable with issuing a permit until the Delta Stewardship Council (DSC) approved the WaterFix Project as "consistent" with the Delta Plan – a requirement for any project affecting the Delta. The DSC held a serious of Consistency Hearings where the evidence was once again presented. Before the DSC took their final vote, they asked for their Staff's recommendation. Here is the part of it the DSC Staff Recommendations dealing with construction:

Respect Local Land Use When Siting Water or Flood Facilities or Restoring Habitats No DP P2 Summary: The Department [DWR] fails to demonstrate substantial evidence in the record to support its findings that the project is consistent with respect to compatibility with local land use plans, conflicts with land uses in existing Delta communities, conflicts with existing land uses due to impacts on cultural and historical resources, conflicts with existing Delta parks and recreation uses, traffic impacts, and conflicts with existing land uses due to noise

At the end of 2018, the WaterFix plan was remanded back to the Department of Water Resources (DWR) to resolve the issues. At about the same time, the idea of a single tunnel came up.

In 2019, WaterFix was Withdrawn

In 2019, DWR attempted to reuse the WaterFix EIR for the "new" single tunnel and claimed they didn't need to write a new EIR. There were lawsuits. When the Judge was obviously going to rule against DWR, DWR withdrew their attempt to move forward and stated they were writing a new EIR.

Now we Citizens of the Delta Wring our Hands

So, we wring our hands and sit down to communicate to the DCA, a new group designing the tunnel. We sent in detailed comments on the BDCP and WaterFix for years and provided testimonies. Yet all of that background and information seems to be lost. We start again.

At the SWRCB Permit Hearings and the DCS Consistency Hearings, one of our expert witnesses was a traffic engineer, one a noise engineer, and several were boating representatives. So the question is this: Shouldn't the DCA evaluate their current plan against prior significant impacts? Do we need to raise money and re-hire witnesses all over again?

I am surprised that the first step the DCA took was not to review the testimonies from the SWRCB Permit Hearings and from the DSC Consistency Hearings that caused the DSC Staff to say the WaterFix was inconsistent with the Delta Plan and therefore could not go forward. That review should have included studying the Save the California Delta Alliance testimonies (those were prefaced by "SCDA" when uploaded to the SWRCB website and the organization was referred to as "The Alliance" in testimonies provided) concerning:

- 1. Noise pollution and other impacts on Legacy Towns in the North
- 2. Recreation impacts
- 3. Transportation expert evaluation of Highway 4 Gridlock

Other testimonies to the SWRCB included a tunneling expert opposing tunneling through the Delta due to soft alluvial soils. That expert testified that tunneling in soft soils has many issues, particularly under a train trestle and EBMUD water pipes. The ITR Committee experts agreed that the Central Corridor soils are not suitable for tunneling.

Regardless, the new plan still has the rejected intake locations in the North. And the new plan is still considering the through-Delta (now "Central Corridor") route.

The new Central Corridor route still contains huge issues as did WaterFix. I will elaborate those later in this document but to summarize they include:

- 1. Highway 4 gridlock
- 2. Recreation noise and construction lighting impacts
- 3. New noise and pollution impacts due to new Byron Tract Maintenance Shaft
- 4. New tunneling concerns as the tunnel practically goes under Discovery Bay
- 5. Emergency services issues

New Byron Tract Maintenance Shaft

Right when we think DCA has listened to concerns expressed about noise and trying to minimize the impact on citizens, we see a decision to plop a maintenance shaft in Discovery Bay, less than a half mile from the Discovery Bay waterfront homes! From a personal standpoint, I will see and hear that shaft from my back deck and will hear the pounding all night for years.

[Side-note: That shaft has never been on the plans before. It makes me wonder, cynically, if the strong turn-out of Discovery Bay citizens over the years protesting the tunnels gave someone the idea to get back at the community. I hope not, that isn't a pleasant thought.]

STCDA's noise expert witness at the SWRCB Permit Hearings testified how noise pollution is more noticeable in rural areas and more amplified around water. This construction will severely impact the citizens of Discovery Bay and impact their home values.



In addition, the tunnel route now comes dangerously close to Discovery Bay homes. As commented above, a tunneling expert's witness testimony during the SWRCB Permit Hearings raised many issues that could occur tunneling through soft, alluvial soil. The new plan shown in the "Byron Tract Maintenance Shaft" illustration shows the tunnel route dangerously close to Discovery Bay homes.

Please move or remove this shaft and alter the tunnel route. Prior plans didn't have a shaft anywhere near Discovery Bay and the tunnel route wasn't this close. The WaterFix plan had the tunnel route going directly south from Bacon Island with a shaft on Victoria Island before the tunnel angled over to the Southern Forebay. Then the tunnel wouldn't go under a corner of Discovery Bay, potentially impacting homes there due to tunneling through soft soils.



WaterFix Through-Delta Route

Highway 4

I was taken aback when Phil Ryan, I believe it was, at the March SEC meeting said that Highway 4 didn't need any upgrades. Later, when talking about a new haul road next to Discovery Bay, he stated no new intersections were planned because traffic on Highway 4 is low.

I had been pleased when in earlier meetings I saw the two Highway 4 bridges circled as needing to be replaced and Highway 4 as needing upgrades.

If you travel Highway 4 between Discovery Bay and Stockton, you know that is not the case, most of the time and particularly during commute hours. But don't take it from me, take it from an expert. STCDA hired a traffic consultant that provided expert testimony during the SWRCB Permit Hearings. The same information was given to the DSC during their hearings. Highway 4 is a very heavily used road. It is the only road between Stockton and Contra Costa County and is filled with trucks and cars. During commute hours it is a commuting nightmare. The traffic expert's analysis was that adding construction traffic would bring Highway 4 to "gridlock." Please review that information.

The Independent Technical Review (ITR) Committee correctly pointed out:

"The consensus among the ITR was that the Central Corridor is logistically impractical and the ITR does not recommend this corridor be further studied. The shaft locations are located a significant distance from Interstate 5, accessible by only farm roads with hindrances such as narrow weight-restricted bridges and single lanes. This makes supporting large operations, which requires a constant transfer of materials and people in and out, impractical and expensive as well as difficult to price."

In the latest DCA plans, Highway 4 remains a roadway that will be heavily used, more so for the Central Corridor than the Eastern, but both have additional construction traffic. The ITR Committee stated the assumption it would be upgraded. That would include improved road with emergency shoulders, new bridges, and improved, raised intersections where construction traffic would go on and off.

A Levee Road and Two Old Bridges

The narrow two-lane levee road between the Old River Bridge and the Middle River Bridge and further east to Bacon Island Road would need major upgrades with either the Central or Eastern Corridor. Only the ITR Committee's recommended I-5 route could avoid significant impacts to Highway 4. Check out these google pictures – does it look like a good place to add a column of construction trucks?



Highway 4 approaching Union Point and the Middle River Bridge



Dangerous curve just before the bridge



Narrow Bridges – single-lane for trucks and trailers

Damage from Construction Traffic

In addition, since it is a levee road, construction traffic would cause much damage. There was a segment on a Bay Area TV station a couple of years ago that highlighted the construction issues from the WaterFix project. It was focused on the highway and traffic issues. It would be great if you found that and watched it. It talked both about the Highway 4 gridlock and the issues with the segment of Highway 4 that is the levee road and how additional construction trucks would be so damaging to it.

Accident Risks

There are often serious accidents on that stretch of narrow road. Just last month a semi jackknifed (once again) when approaching one of the bridges. It was probably due to the sharp curve before the bridge and the truck driver not being able to see that there was another truck or a boat on a trailer already on the bridge. (Two large vehicles cannot pass. They are one-at-atime.) Trying to stop while making the sharp turn likely caused it to jack-knife into the bridge columns.

The same month, a husband was trailering a boat and being followed by his wife and children in the car behind when he was hit head-on on the narrow section of Highway 4. He was killed and his sons were helicoptered to the hospital. I didn't read any updates about the family.

Tragedies like that happen far too often. Cars attempt to pass slow trucks. Accidents often result in one of the cars ending up in the sloughs. People die.

Why is it such a risky stretch of road?

- 1. Heavy commute traffic: A combination of commuters plus large trucks being used to transport goods and fuel from Stockton to Contra Costa County and produce from Delta farms to market.
- 2. Narrow road no emergency shoulder.
- 3. Levee road sloughs (water) on one or both sides of the road. Steep grade from the road down the sides causing rollovers.
- 4. Tule fog in the winter is commonplace.
- 5. Sharp curves before and after both bridges.
- 6. The bridges are one-at-a-time for trucks and trailers.

Central Corridor - New Haul Road for Byron Tract Maintenance Shaft

As mentioned earlier, this shaft should be removed, and the tunnel should go straight south from Bacon Island to Victoria and then angle to the Southern Forebay. That way the tunnel then stays away from houses.



That being said, if that shaft does remain, Phil Ryan said that no new intersections would be built for the two new haul roads. That isn't feasible. Phil had discussed trucks coming from the south, turning right on Highway 4, then turning left onto what is now the farm road. Highway 4 is not wide enough at that point for turn lanes. The picture below shows the road that is planned for the haul road where trucks would be turning left from Highway 4.



Byron Tract Farm Road Turn-off

Also, the "new" haul road shown on the map is the existing farm road for the Discovery Bay farm there. So, are we talking about a "new haul road" or removing the existing farm road from use, taking Byron Tract out of production? The site is also right next to the farmhouse.

Obviously, if there is a "new haul road" the north/south haul roads at one spot and an overpass built over Highway 4 to avoid those trucks coming onto Highway 4 at all. Or link the north/south haul roads at one spot and add a traffic light. The approach depends on if trucks are always going just to/from the Byron Tract to the Southern Forebay, in which case the best would be an overpass. That stretch has heavy traffic. Accidents are common at the Old River Bridge and at the Discovery Bay Boulevard intersection, so adding another light could exacerbate the situation. The haul road location and overpass should be constructed to minimize disruption of traffic and of the existing farm activities, if possible. A better solution is not to put a maintenance shaft in Discovery Bay on Byron Tract.

Victoria Island

There is a map for a Victoria Island Maintenance Shaft as part of the Eastern Corridor. I contend the same should be used for the Central Corridor. (That being said, I am not familiar with the impact on Victoria Islands Farms.)

Either way, Highway 4 would need to be upgraded for that shaft.



Here is what Highway 4 looks like traveling west to make the turn into Victoria Island:



Note there are no emergency strips wide enough for a vehicle to pull off. On each side, there is a thin amount of asphalt, then the side of the levee slants down at a steep angle. On the left side, the "greenery" is actually weeds floating on top of the slough – several feet of water. The same is true on the right side. We can't have trucks pulling out often onto Highway 4 there. Trucks slowing down to turn on the farm road are also a hazard. Cars behind them could end up tryinig to go around them and having a head-on or end up in the sloughs.

Preferably, an interchange should be built that bridges over the slough.



Eastern Corridor - Lower Jones Maintenance Shaft

That route, again, puts construction traffic on Highway 4. There are at least turn lanes at Whisky Slough Road to access the new haul road. I hope a traffic expert takes a look to see, based on the number of construction trucks and frequency, if stopping to turn there would require an improved intersection or, at a minimum, a longer turn lane.



Highway 4 - Summary

These issues point again to the fact that to have construction trucks in this area requires a major upgrade to the Highway 4 and the two old, narrow bridges at Old River and Middle River, and explains clearly why the ITR Committee said the Central Corridor should be dropped from consideration and even the Eastern Corridor wasn't feasible from an access point of view. DCA/DWR should consider a far eastern route, from an infrastructure perspective.

Byron Highway



I was glad to see the Byron Highway is being considered for upgrades to accommodate an increase in construction traffic.

Excelsior Middle School

I can't tell what the construction traffic would be north of the Southern Forebay. A concern Is that north of the Southern Forebay on the Byron Highway is Excelsior Middle School, the only middle school for both Discovery Bay and Byron. An analysis of the impact of the added pollution and noise on that school needs to be considered and mitigated.

Central Corridor Shaft Issues and Recreation

The Importance of Boating and Recreation

I am very pleased that the DCA moved away from barges in small sloughs, recognizing that they are a safety issue for boats. Thank you. Barges may be useful in the main channel, but use elsewhere should be avoided. Karen Mann, SEC member, related in an SEC meeting the nearmisses she had as did several other boaters during a few weekends while a single barge was being maneuvered on Old River to do levee work around Woodward Island. From a boating and recreation standpoint, eliminating barges being used in significant way WaterFix planned and going to rail instead is very welcome. Barge landings pose other risks. We know pile driving impacts fish, and there is also risk for recreational boaters – pulling water skiers and wake boarders. Barge landings prohibit waterways from being used as recreational use. Those sloughs would have to be closed down or limited to 5 MPH zones. There was extensive testimony about barges and barge landings at the SWRCB Permit Hearings and the DSC Consistency Hearing. Testimony was given that the barge traffic would virtually shut all boating down in the Delta, seriously impacting the marinas and boat-related businesses. Most of these are small mom and pop businesses.

Why Is boating and recreation important for the Delta? Boating and recreation businesses comprise the bulk of the economy of the communities in the Delta. Boating and recreation is what brings tourists to the area. Take Discovery Bay, for example. Boat-related businesses make up, by far, the majority of the town's economy. When the housing crisis of 2008 hit, in Mountain House, a town south of DB providing an easier commute to the tech centers like Silicon Valley, nine out of ten homes went into foreclosure. Discovery Bay wasn't as hard hit because of the desirability of the location for boating, even though commute times are greater. In addition, water-front homes command even higher prices. To have boating stopped for ten or more years would destroy the community, people would lose their homes. In addition, causing gridlock on Highway 4 would negatively impact people from getting their boats into the Discovery Bay Marina.

For Bethel Island, there are marinas that ring the island interspersed with restaurants and small boat-related businesses. Waterways full of barges would result in boaters not wanting to keep their boats at Bethel Island or launch their boats there, that economy would crash, and the mom and pop businesses would fail as would marinas throughout the Delta.

That is why there was a focus in the Reform Act and Delta Plan that boating and recreation is important to preserve. That, plus the only way to really see and enjoy everything the Delta has to offer is by boat.

Committing to not use barges or build barge landings is a significant step in working to maintain the Delta for boating and recreation. However, construction issues still remain due to the noise and pollution from shaft sites impacting places to anchor in the Delta. The Bedrooms Anchorage is one that is affected by noise and construction lights for boats anchoring out to enjoy the peace and quiet. The other significant anchorage is Mildred Island.

The remaining issue is one of noise. The reason boaters like to anchor out is to enjoy an evening of peace and quiet, in nature, being lulled to sleep by the sound of water ripples lapping softly at the hull. 24x7 construction pounding and construction lights are incompatible. I would hope the work could be shut down entirely, not just the barges restricted, from Friday through Sunday during the boating season (June through the end of September) to allow boating and recreation to continue.

I don't know if the suggestions I offer can solve the noise and pollution issues sufficiently for boating to continue if the Central Corridor route is chosen, but I'd like to elaborate on them to help you see why that route should not be selected.

The Bedrooms Anchorage versus Bouldin Island Launch Shaft

As stated earlier, the barge location in Little Potato Slough would conflict with a popular boating area referred to as "The Bedrooms." DCA stated they would review moving the dock closer to the channel and recommend there not be barges activity around that area on weekends. Thank you!



The pin drop below is the approximate location of "The Bedrooms" on Little Potato Slough where the "New Barge Landing" is shown above.



"The Bedrooms" – a common anchorage for weekends. Besides being used heavily by local Delta boaters, "The Bedrooms" are a popular anchorage in the summer for folks from the Bay area. Bringing in people from other areas supports local marinas and businesses.

One of the ongoing frustrations with this project is that when three Delta boating experts testified at the SWRCB Permit Hearings, they brought up what a bad spot for a barge anchorage that would be....so much of the information that has already been prepared and presented continues to be ignored or lost.

Besides a lot of boats in The Bedrooms on weekends, there is the issue of the 4th of July.

4th of July Hilton Firework Display – Mandeville Island Shaft

Referring again to a similar picture as above showing The Bedrooms Anchorage as the pin drop, the map below shows where one of the biggest events on the Delta occurs during the 4th of July holiday.



The Hilton Fireworks Barge

The Hilton Family used to own a hunting lodge on Venice Island. Every year they hire a barge filled with one of the most awesome fireworks and put on the best 4th of July fireworks displays in Northern California. The barge is anchored between Mandeville Tip and Venice Island as shown above. The weekend before the event, boats head out to secure a place to tie up, raft, anchor, etc. as shown in the photographs below.



Note: Photos are from the Internet and may be subject to Copyright

If the 4th of July falls on a Wednesday, the boaters will be out on Saturday and not leave until Thursday or later. They'll fill the waterways on three sides of Mandeville Tip, the area the other side of the channel that is labeled above as the "San Joaquin River" and is referred to as "Three Mile Reach." They fill Middle River and "The Bedrooms" and all waterways nearby. Sheriffs patrol on jet skis. A floating hot dog stand is often seen. Typically, 2,000 to 3,000 boats are in the area nearby, each with at least two people aboard. Recreational boats will also come into the area during the day and stay for the fireworks at night.

Although the Hiltons have sold their hunting lodge, Barron Hilton left an endowment to continue the fireworks in perpetuity.

Similar to the earlier comments about The Bedrooms Anchorage, since the Mandeville Island Maintenance Shaft is so close to where this activity occurs, it is very important that that work be shut down there also during the July holiday timeframe. I'd recommend working with yacht clubs each year to coordinate the best schedule to not impact thousands of boaters with evening noise and objectionable lights while they anchor out.



Mildred Island Anchorage and the Bacon Island Reception Shaft

An area that is never recognized or talked about in any of the tunnel documents is the Mildred Island Anchorage, even though we have discussed it ad nauseum with DWR representatives. I even took photos to give the BDCP when I was in Sacramento at my first workshop meeting and have done so in comments, writing, etc. repeatedly ever since then.

So, what is the importance? Mildred Island is a flooded island situated in the center of the South Delta waterways. Mildred Island is about halfway between Bethel Island and Discovery Bay, in the center of the South Delta. Mildred Island flooded in the early '80s and was never reclaimed, making it the perfect anchorage spot. Mildred is the best-known anchorage spot in the South Delta. Having boats anchoring out is important for the marinas in the South Delta and is why we kept our boat for years at Bethel Island before we moved to Discovery Bay, so we could commute from Silicon Valley with our family and anchor at Mildred on the weekends.

An anchorage draws boaters from all over Northern California. We've met people anchored at Mildred from Benicia, the San Francisco Grand Banks Club, sail boats from Stockton. People anchor out for the weekend and then during the day they water ski or wake board in the nearby sloughs. The best, most popular slough for that is the slough between Bacon Island and Mildred.



Mildred Island and Horseshoe Bend Anchorages – and distance from Bethel/DB

Mildred is a well-known anchorage. On Labor Day, the Sea Ray Club brings 40 to 100 boats and forms a complete, perfect circle: quite an engineering feat. Numerous boating and yacht clubs use the Mildred Island anchorage regularly. In addition, numerous other groups and single boats anchor at Mildred Island for a weekend, a week, or more. No other South Delta location can provide an anchorage for so many boats.

Mildred is the only place in the Delta large enough for the Labor Day Sea Ray Circle shown to the left. You can see all of the other boats anchored around throughout Mildred Island.

The importance is that all of these boats that have been drawn into the South Delta to anchor out use their runabouts during the day. They will run over to Bull Frog Marina for gas and an ice



What began 20 years ago as an offhand suggestion has grown into a beloved occasion-and a remarkable photo opp.

cream, or to Tiki Lagoon, or to other small marinas while they spend the day out water skiing or wake boarding throughout the favorite recreational sloughs.

Or they go to Discovery Bay for gas and to the Chandlery to buy forgotten items. They may eat lunch at The Boardwalk Grill in Discovery Bay, or the Union Point Grill on Middle River, or jaunt over to Bethel Island to one of the restaurants there.

It is important for the small marinas and business throughout the South Delta to have a nice large anchorage to lure boaters in.

But there is the Bacon Island Reception Shaft – right next to the doggy beach where people like to anchor to paddle their dogs ashore.



A noisy, lit up construction site is incompatible with an anchorage. Mildred fills up on Labor Day and the 4th of July for the fireworks display. Although it's further away from the Hilton Barge,

many of us have tired of the partying and melee that can happen with thousands of boats anchored close together, especially if a high wind comes up. These days, we anchor in Mildred and still "ooo" and "ahh" watching the fireworks show from further away. The Mildred Island boats are in addition to the thousands in the Hilton Firework count. So, in addition to the other launch shafts, the Bacon Island work should be shut down during the July 4th holiday timeframe.

Objectionable noise and lights near Mildred should be restricted during the weekends (Friday through Sunday, since everyone goes out to anchor on Friday to get a good spot) throughout the summer months (June to the end of September). Especially over Labor Day the "quiet time" should be extended through Monday and include a span of days surrounding the 4th of July.

This further points out why the Central Corridor, even with the decision to not fill it with barges, construction noise will still ruin the boating experience.

The other concern is that boaters anchored in Mildred Island enjoy the sunsets, watching the sun set over Mt. Diablo to the west. A raised shaft, electrical transmission wires, etc. across the view are yet another way this project will ruin the enjoyment of the Delta for many, many years.

It "may" help if the Bacon Island shaft could be positioned for minimum impact on the Mildred Island anchorage, preferably moved to the far south end of Bacon or over to Woodward Island. Woodward Island has a new, 30-foot high bridge and upgraded levees to protect it from risk of levee failure.

Emergency Services

The ITR Committee correctly noted that the Central Corridor was not suitable because: "addressing safety, including hospital access and tunnel safety duplication, creates a costly layer or redundancy without definitive costs." They were so correct. This is a big deal.

The map in the March 11 materials showing emergency services is incorrect.


Map of fire stations, etc. posted on the DCA website with March 11 materials.

As you can see from the chart below, the three shown above closest to Clifton Court Forebay and to both corridor construction sites in the South Delta have been closed since 2008.



East Contra Costa Fire Protection District

What the lack of fire stations in the area currently means is that for residents that live on the Discovery Bay east side waterways and golf course, emergency help (e.g. paramedics) cannot get to our homes within the eight minutes required to prevent a coma in the case of a heart attack or similar. I lost our neighbor two houses away from my house due to exactly that scenario. In case of a house fire, the fire department often can only save nearby structures. The house on fire is left to burn. The lack of sufficient emergency services in East Contra Costa County is a failure of Prop 13 and the Delta being classified as a "rural" area.

The existing three to four stations have to cover 249 square miles and 128,000 residents. In addition, they cover accidents on Highway 4, the Byron Highway, and Vasco Road. And would be responsible for responding to any construction emergencies at the Southern Forebay and the shafts south of the channel, especially if the Central Corridor is selected. The Eastern Corridor may have some support from Stockton.

It would be an extreme risk to locate this huge construction project within the jurisdiction of ECCFPD without paying to reopen Discovery Bay's fire station on DB Blvd, Byron's, and perhaps adding a new one on Highway 4. You should talk to the ECCFPD Fire Chief about what would be needed to support an accident, rescue, or other emergency aid at any of the South Delta construction sites.

Muck (aka "RTM")

Every expert I've heard on the subject is in alignment with what the ITR Committee stated: "Based on ITR experience, soft ground tunnel material is not a commodity (has no residual value) and is difficult to dispose or find a use for. These two factors were part of the reasons the ITR recommends (above) moving the alignment closer to industrialized land, close to multiple modes of transport, to handle removal of it in the most economical manner. "

In addition, when considering the central Delta soils, those have reported to have significant mercury and arsenic. Plus there are RTM treatment chemicals that were stated to not be harmful to humans but are hare on the eyes. I heard an SEC member comment quietly, "Don't fish have eyes?" And we know humans and dogs who may be swimming nearby do.

Instead of muck ponds in the central islands of the Delta, where run-off can flow into the Delta waters, muck should be hauled off, or at least stored far from the Delta waterways where it can be properly treated.

I was surprised that the DCA so quickly discounted the ITR input.

Northern Intake Locations

The current intake locations were rejected by the DSC Staff and were about to be rejected by a Judge subsequently. Other intake locations and configurations must be reasonably evaluated. Having an existing water right is not the legal criteria for evaluating intake locations.

This was brought up in an earlier SEC meeting but deserves repeating. The noise impacts from expert testimony about the effect of building the intakes so close to the legacy towns in the North and the total ruin of the town of Hood. Similar impacts occur across the waterways at Clarksburg and Courtland. I appreciate how the DCA is working with the Stakeholder Engagement Meeting. But unless the location is moved and not just "pick 2 of the previous 3" unacceptable locations, it is still unacceptable.

SEC member Karen Mann read this statement at a prior SEC meeting about the impact on the towns in the north:

"It is clear that the intakes cannot be placed in any of the locations shown on the preliminary drawings for discussion purposes (that is in 2 of the 3 locations of previous intakes 2, 3, and 5 of California WaterFix). Extensive evidentiary showings in the prior State Water Resources Control Board hearings and Delta Stewardship Council hearings show that neither of these agencies can approve intakes in these locations because it would not be consistent with the Public Trust Doctrine (Water Board) or the Delta Reform Act (Delta Stewardship Council). It is unacceptable to locate the intakes in close proximity to Delta Legacy communities. We understand that DWR wants to put the intakes in these locations only because they claim they have an existing water right at

these locations. DWR will just have to accept the reality that they are going to have to put the intakes somewhere else and initiate a new water right in order to do so.

"The question is: When will begin a realistic consideration of intake locations? That is, locations other than currently being considered. Talking about intakes at the current locations is a waste of time because it cannot happen."

Step one needs to be to find a new location and start applying for a new water right in a more acceptable location.

Longer-Term Water Quality Issues

The longer-term issues raised at the SWRCB Permit Hearings and DSC Consistency Hearings need to be addressed with a single tunnel. The DSC staff accepted one of STCDA's main arguments: that WaterFix is not consistent with D-1641 water quality requirements (meaning acceptable salinity in the Delta, particularly that it violates the Export to Inflow ratios). I do not see how a single tunnel will significantly reduce that issue since the goal is to maintain current export levels.

Route Alternative Summary

For the EIR, four alternatives deserve consideration:

- 1. Central Corridor
- 2. Eastern Corridor
- 3. Far Eastern I-5 Route
- 4. No Tunnel

A "No Tunnel" alternative should not be the alternative that was in the BDCP/WaterFix EIR, a do nothing alternative. It should be analyzed as combined with Governor Newsom's portfolio approach, to reduce reliance on the Delta and to provide alternative sources of water.

Central Corridor

It would see obvious that the Central Corridor is an unacceptable alternative for all of the reasons outlined in this document. Yet the Central Corridor remains in the plan and seems to continue to be preferred alternative by DWR. It was not preferred by Phil Ryan, who said he prefers the Eastern Corridor given the two choices, or by the ITR Committee, who prefers the far east I-5 route. [Pessimists must wonder if the reason for DWR's continued focus mainly on the Central Corridor is that Metropolitan Water District unwisely purchased Bacon Island and Bouldin thinking they were on the tunnel route and so to reduce some of the eminent domain issues.]

The Central Corridor Issue Summary:

- 1. More infrastructure upgrades: Requires more significant upgrades to Highway 4, longer new haul roads, and multiple bridge replacements because construction will be occurring on Delta islands.
- 2. Has more risk:
 - a. Shaft sites are on islands that are severely subsided and digging borrow pits on them to get fill dirt to build up the shaft site would further increase the potential of a levee failure.
 - b. In case of a levee break, the new haul roads would be under water and shaft sites inaccessible. Since the risk of earthquakes and levees being breached is a significant part of the cost/benefits analysis of a tunnel, ignoring that risk seems imprudent. That is why people in the Delta have always been surprised that the tunnel wouldn't follow the I-5 corridor and be far away from the fragile Delta islands.
 - c. Soils are the worst for tunneling through. They are soft, alluvial soil. Tunnel experts witness testimony during the SWRCB and DSC Hearings raised many issues that could occur tunneling under the railroad where it is on a trestle, under EBMUD's water and gas line, exacerbated by soft soils. The new plan shown in the "Byron Tract Maintenance Shaft" illustration shows the tunnel route dangerously close to Discovery Bay homes.
- 3. Wetlands Impacts: Besides reasons already stated, the destruction of wetlands for the construction and operation of project facilities appears to be a significant impact. A shaft on Staten Island, which is a large bird preserve seems unimaginable. In fact, the entire route with its noise and air pollution is the antithesis of preserving wetlands.
- 4. Safety: The central corridor does not have adequate infrastructure (Fire Stations) to respond to any emergency issues during construction
- 5. Muck ponds on Delta islands threatens in-Delta water quality.
- 6. Boating Issues: It has the most negative impact on boating and recreation and the economy of communities and small business supporting boating.

Eastern Corridor

This route is not as far east as the BDCP/WaterFix "Eastern Alternative." This route has shaft sites on islands. One wonders if the reason the Eastern Corridor isn't further east and further out of the Delta is to leverage MWD's purchase of Bouldin Island. I hope not – those aren't good reasons.

- 1. Less infrastructure upgrades than the Central Corridor but still requires improved roads (including Highway 4), longer haul roads since it is far away from highway infrastructure, and bridges (replacement of Hwy 4 Old and Middle River Bridges and other new bridges because construction will be occurring on Delta islands.)
- 2. Still has risk:
 - a. Here the islands that are not as subsided as the Central Corridor, but it still means in the case of a levee break, the new haul roads and shaft sites would be under water. In 2004, Jones Tract suffered the largest recent levee failure. It was expensive and took months to reclaim the land. Building further east seems more prudent to get the construction out of the Delta island area.

- b. Soils are better than the Central Corridor for tunneling through, but still worse than the I-5 area.
- c. Note: At least this route would mean the tunnel wouldn't go under the railroad trestle and near Discovery Bay homes.
- 3. Wetlands Impacts: Since it goes through Delta islands, there is still destruction of wetlands.
- 4. Safety: The southern part of the corridor does not have adequate infrastructure (Fire Stations) to respond to any emergency issues during construction, but further north may have more access via I-5.
- 5. Muck ponds on Delta islands threatens in-Delta water quality.
- 6. Boating Issues: It may still have impacts I am not aware of (I do not boat in that area). But that area is less used for boating and recreation.

ITR's I-5 Far Eastern Route

In February 2010, the Independent Technical Review Panel for the twin tunnels project made the same recommendation, because further east would "yield better conditions both for constructing tunnel shafts (portals) and for boring the tunnels." Obviously, DWR has chosen to



Figure 4. Recommended Far East Alignment Corridor

ignore those recommendations, but a real analysis is warranted.

First, the State already owns land on both sides of I-5 with future plans to widen that road. Adding construction lanes and intersections would cause no additional traffic impacts and has the advantage the separate lanes could be used after the construction period as separate carpool lanes, per the State's long-term plan.

Emergency services can be better provided for this far eastern route. There are many fire stations and better emergency support in Stockton than ECCFPD. In addition, the town of Lodi (population 66,000) is not far from the I-5 corridor, but has more fire stations than all of ECCFPD (population 128,000).

It seems to me that the impact of air pollution or noise would be insignificant for a corridor where there already is a six-lane freeway. Locating the construction near the busy I-5 corridor seems much better than either the Central or Eastern Corridor which go through the wetlands and Delta islands and where necessary infrastructure and emergency services do not exist.

The project could leverage the Port of Stockton. Tunnel segments could easily be delivered there.

That route would significantly reduce the impact of traffic on Highway 4, hence that roadway may not need to be upgraded (depending on traffic to/from the Southern Forebay.) In addition, new replacement bridges may not be needed.



I have heard that there is an impact on Stockton's environmental justice and disadvantaged communities with that route, but am unaware of the details. The closest it comes to Stockton is the upscale Brookside Golf and Country Club and the Stockton Country Club homes. The new Byron Tract shaft is closer to Discovery Bay than the Stockton Shaft is to Stockton. It appears the Stockton Shaft could be moved quite a bit further north to lesson impacts on Stockton. Obviously, impacts on any community need to be studied and minimized.

Stockton nearest the Stockton Shaft

Far East I-5 Summary

- 1. Much less infrastructure upgrades because it is close to I-5, shorter haul routes, no new bridges.
- 2. Lowest risk:
 - a. Not building on islands prone to levee breaks.
 - b. Soils are best for tunneling through.
- 3. Wetlands Impacts: Lower.
- 4. Safety: Lodi and Stockton are near and have many more fire stations.
- 5. Muck ponds Nearness to I-5 supports hauling the muck to a more appropriate location.
- 6. No boating issues.

I'm not recommending it. I oppose any tunnel and instead believe the State needs to reduce reliance on the Delta as stated by the Delta Reform Act and Delta Plan. **But if a tunnel is built, this route should be analyzed as it appears to have significantly less issues than the Central or Eastern Corridors.**

No Tunnel

This is the best alternative; the only acceptable choice.

Conclusion

First, the Central Corridor (previously named the "Through-Delta Alternative") is, and always has been, the worst alternative route proposed for the tunnel(s). I strongly doubt the boating and recreation issues from noise and pollution can be mitigated sufficiently to not significantly impact Delta community economy and South Delta small businesses that are mainly boating-related.

The Central Corridor plan was recently made worse by a new maintenance shaft planned right next to Discovery Bay, bringing air and noise pollution to our community. Personally, I will hear the construction at the Byron Shaft in Discovery Bay for years, since it is right across the slough from my waterfront home!

Second, I am not as familiar with the Eastern Corridor, but from an access standpoint, impact on wetlands, impact on boating and recreation, and the Delta economy and communities, the Eastern Corridor seems to have less issues. That being said, it also has enough issues that I could not support it either except as the lesser of two evils.

The ITR Committee's recommended Far Eastern I-5 route has the least impacts and deserves an analysis. It is interesting that both independent technology groups – in 2010 and again in 2020 – recommended that route due to accessibility, better emergency services, better soil for tunneling through, and less air and noise pollution impacts because it would be located in an existing super-freeway beltway rather than through rural wetlands.

Last, with any route, the North Intake locations are appalling.

The longer-term issues raised at the SWRCB Permit Hearings and DSC Consistency Hearings need to be addressed with a single tunnel.

From:	Frances Brewster	
To:	DWR Delta Conveyance Scoping	
Subject:	Comments on NOP for Delta Conveyance Project EIR	
Date:	Wednesday, April 15, 2020 1:07:42 PM	
Attachments:	its: <u>image003.png</u>	
	ValleyWater DCP NOP Comments 04152020.pdf	

Ms. Rodriguez,

On behalf of the Santa Clara Valley Water District, attached please find comments on the Notice of Preparation of an Environmental Impact Report for the Delta Conveyance Project.

Sincerely, Frances

FRANCES BREWSTER

SENIOR WATER RESOURCES SPECIALIST Water Supply Division – Imported Water Unit <u>FBrewster@valleywater.org</u> Tel. (408) 630-2723 / Cell. (831) 539-9568



5750 Almaden Expressway, San Jose CA 95118 www.valleywater.org



Clean Water • Healthy Environment • Flood Protection

April 6, 2020

Delta Conveyance Scoping Comments Attn: Renee Rodriguez Department of Water Resources P.O. Box 942836 Sacramento, CA 94236

SENT VIA EMAIL: DeltaConveyanceScoping@water.ca.gov

Re: Comments on Notice of Preparation of an Environmental Impact Report for the Delta Conveyance Project

Dear Ms. Rodriguez,

The Santa Clara Valley Water District (Valley Water) appreciates the opportunity to comment on the Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the Delta Conveyance Project (Proposed Project). Valley Water supports the Department of Water Resources' (DWR) fundamental purpose for proposing to develop new diversion and conveyance facilities in the Delta "to restore and protect the reliability of the State Water Project (SWP) water deliveries and, potentially, Central Valley Project (CVP) water deliveries south of the Delta, consistent with the State's Water Resilience Portfolio". We also support the stated objectives of 1) addressing sea level rise and other foreseeable consequences of climate change and extreme weather events, 2) minimizing impacts to SWP and CVP water deliveries resulting from a major Delta levee failure event, 3) protecting the ability of the SWP and CVP to deliver water when it is available and consistent with state and federal law, and 4) providing operational flexibility to improve aquatic conditions.

Valley Water is the primary water resources management agency for Santa Clara County, providing wholesale water supply, stream stewardship, and flood protection for 1.9 million residents and thousands of job-creating Silicon Valley businesses. Daily commuters to Santa Clara County number over 200,000, with workers coming from other parts of the Bay Area and from the San Joaquin Valley. Valley Water also serves agricultural water users in the southern portion of the county.

Valley Water has water service contracts with both DWR and the U.S. Bureau of Reclamation (Reclamation) for water supplies from the SWP and CVP. These imported water supplies support many beneficial uses in Santa Clara County, and are critical to prevent the return of historic groundwater overdraft and land subsidence in San Jose and adjacent cities. SWP and CVP water supplies are the primary sources of supply for Valley Water's three drinking water treatment plants, and provide, on average, half the water delivered to the groundwater recharge system. During dry and critically dry years, more than 90 percent of the County's surface water supply is imported.

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Valley Water has determined that if no action is taken, Valley Water's SWP and CVP supplies will be vulnerable to risks from declining ecosystem conditions, increasing regulatory restrictions, seismic risks, climate change, and sea level rise, resulting in reduced water supply reliability for Santa Clara County. DWR's Proposed Project has the potential to protect Valley Water's water supply reliability by upgrading aging infrastructure, thereby reducing the vulnerability of SWP and CVP water supplies to seismic events in the Delta and climate change impacts. It also has the potential to improve access to transfer supplies and increase the yield of storage projects while conveying water across the Delta in a way that is safer for the environment.

Since one of the key potential benefits of the Proposed Project is to protect water supply reliability from the impacts of sea level rise on water quantity and quality, Valley Water requests that DWR analyze both a no action alternative and a project alternative using the most up-to-date, but not too speculative, projections for sea level rise. We understand it is too speculative, and therefore, inappropriate to analyze sea level rise scenarios that would overtop existing levees, for example, in a CEQA/NEPA context due to the vast number of unknowns, such as whether levees will be raised and how beneficial uses may be reassessed.

In addition to modeling Proposed Project impacts under the less speculative climate change projections for the EIR and Environmental Impact Statement, separately, for purposes of assessing the potential benefits of the Proposed Project, and to ensure facilities are sited and designed to be able to adapt and continue to provide benefits in the event sea level rise is greater than assumptions used to model the Proposed Project impacts, we encourage DWR to qualitatively evaluate up to 10.2 feet of sea level rise at the Golden Gate Bridge in 2100.

Because Valley Water receives supplies from both the SWP and CVP, we request that DWR evaluate the full range of conveyance alternatives that meet the Proposed Project objectives, including costeffective tunnel sizes and operations up to a 7,500 cfs capacity, single-tunnel alternative and full involvement of the CVP. To that end, we also encourage DWR, the Newsom Administration, and the federal government to quickly resolve their differences regarding the long-term, coordinated operations of the SWP and CVP, and find a path forward for Reclamation and CVP contractors' participation in the Proposed Project.

Valley Water also requests that DWR analyze the impacts of the proposed project on storage levels in San Luis Reservoir. Although Reclamation is currently considering a project to address the San Luis Reservoir low point issue that negatively impacts Valley Water's CVP supplies in dry years, the Proposed Project is likely to have impacts on San Luis Reservoir storage levels. When San Luis Reservoir is drawn down too low, the reliability and water quality of deliveries to the CVP San Felipe Division, which includes Valley Water, are adversely affected. When storage levels drop below an elevation of 369 feet, about 300,000 acre-feet (AF) in storage, known as "low point" conditions, algal blooms occurring during the summer can enter the lower intake of the Pacheco Pumping Plant and deliveries of Valley Water's CVP supplies can be adversely affected; water quality within the algal blooms is not suitable for municipal and industrial water users relying on existing water treatment facilities in Santa Clara County. Deliveries to the San Felipe Division may be severely or completely interrupted when storage levels are drawn down such that there is insufficient hydraulic head to effectively operate

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Pacheco Pumping Plant. While Valley Water is actively working with Reclamation and the State on a long-term solution to the low point problem, we request that the EIR provide a detailed description of the existing San Luis Reservoir low point issue, and operational protocols designed to minimize low point conditions. The EIR should also provide analysis and detail on the impacts of the action alternatives on storage levels, and on Valley Water's water supplies due to low point conditions.

Valley Water takes public input seriously. Stakeholder engagement within the Delta, as well as outside the Delta, is paramount for the success of the proposed project; therefore, public engagement throughout the duration of project planning is necessary. Valley Water supported the formation of the Stakeholder Engagement Committee to provide technical and related advisory input to the Delta Conveyance Authority during the planning phase activities. We appreciate DWR's involvement in this committee and DWR's other efforts to solicit meaningful stakeholder input. We encourage these efforts to continue and expand.

Valley Water recognizes that substantial local investments in water use efficiency and conservation, recycled water, and groundwater management are essential, and we remain committed to pursuing these actions; however, these actions cannot cost-effectively replace our imported water supplies. It is critical that we modernize our state's aging water delivery system, making it more resilient to climate extremes, sea level rise, and seismic events. We further recognize that improved Delta conveyance is only one piece of a portfolio of actions required to ensure water supply reliability and improve Delta ecosystem health. Like the State of California, Valley Water is committed to attaining the dual goals of reliable water supplies and healthy ecosystems. We continue to encourage DWR to develop solutions that meet both these objectives. Please do not hesitate to call Cindy Kao, Imported Water Manager, at 408-630-2346 if you have any questions regarding our comments.

Sincerely,

Norma J. Camacho Chief Executive Officer

Dear Sirs and Madams:

DWR must remove any shaft or tunnel route in proximity of residential developments, in particular the proposed shaft near Discovery Bay and Byron in Contra Costa County. Alternative routes must be considered to avoid potentially very harmful impacts to communities in and near the Delta.

Impacts if a tunnel path is built in the "Central Corridor":

- Long term issues with removing water north of the Delta instead of allowing it to flow through the Delta. The ecological systems created by the Delta waterway system can not, should not be disrupted.
- New impacts to communities like Discovery Bay and Byron where thousands reside from the new, closer shaft.
- Central Corridor impacts on boating & recreation and resulting economic loss to boating communities, marinas, and boating-based mom & pop businesses due to noise and construction through the middle of the favorite boating waterways and anchorages.
- Impacts on Delta communities and businesses from the gridlock that will occur on Highway 4 due to construction traffic. I have travelled this route for 6 years, I know the current traffic levels and patterns at all times of day. These have continued to grow as East Contra Costa and San Joaquin are bedroom communities of the SF Bay Area.
- Impacts on Delta farmers. With the recent status of our world, reliance on US grown food will continue and likely increase. We cannot disrupt our farmers.
- Horrible impacts on the historic legacy communities in the north where they are planning on building the intakes practically on top of those communities.
- Muck piles left on Delta islands, what will be the environmental impacts of these to plant, marine, animal, and human life?
- Impact to wetlands.
- Lack of emergency services (ECCFPD only has 4 fire stations, and as we know that isn't sufficient already. And ECCFPD already has to cover traffic and emergency on Highway 4 and the Byron Highway).

BUT, many issues remain if the tunnel path is built in the "Eastern Corridor":

- Long term issues with removing water north of the Delta instead of allowing it to flow through the Delta. The ecological systems created by the Delta waterway system can not, should not be disrupted.
- Impacts on Delta communities and businesses from the gridlock that will occur on Highway 4 due to construction traffic.
- Impacts on Delta farmers.
- Horrible impacts on the historic legacy communities in the north where they are still building the intakes practically on top of those communities.
- Muck piles left on Delta islands.
- Impact to wetlands.

The ITRC recommended against both these plans and said a route further East, near I-5 would take advantage of existing spaces and go around the Delta instead of through it. Of course this route would still.

- Horrible impacts on the historic legacy communities in the north where they would still be building the intakes practically on top of those communities.
- Long term issues with removing water north of the Delta instead of allowing it to flow through the Delta.

The BEST plan for the future of ALL of California (norther, central, and south) is NO TUNNEL!

A portfolio of multiple, better solutions for the state should be the focus:

Groundwater recharge, desalination, recycling, innovative water storage and management, water conservation focused farming methods, research into improved use of technology to manage water for farms and industrial use, and good old conservation (like replacing non-essential lawns and landscaping with native/appropriate landscaping in ALL parts of California).

Let's stop spending money and resources on a poor, destructive solution, and instead focus on reducing the need for it!

Augostina Duncan Life-long Californian 21 year Delta resident Agricultural Economics, BS, UC Davis 1988

From:	David Guy
To:	DWR Delta Conveyance Scoping
Subject:	Comments on Delta Conveyance
Date:	Friday, April 17, 2020 1:33:30 PM
Attachments:	image001.jpg
	DWRDeltaConveyance.apr2020.pdf



David J. Guy President Northern California Water Association (916) 442-8333



To advance the economic, social and environmental sustainability of Northern California by enhancing and preserving the water rights, supplies and water quality.

April 17, 2020

Via Email (DeltaConveyanceScoping@water.ca.gov)

Delta Conveyance Scoping Comments Attn: Renee Rodriguez Department of Water Resources P.O. Box 942836 Sacramento, CA 94236

Re: Notice of Preparation of Environmental Impact Report for the Delta Conveyance Project

Dear Ms. Rodriguez:

The Northern California Water Association (NCWA) provides the following comments on the Notice of Preparation of Environmental Impact Report for the Delta Conveyance Project issued by the Department of Water Resources (DWR). NCWA and its members throughout the Sacramento River Basin work collaboratively to deliver vital water supply and water quality for millions of Sacramento Valley residents, farms and businesses, while at the same time stewarding ecosystems to benefit fish and wildlife.

NCWA recognize the importance to California's future of a healthy Bay-Delta and providing high quality and reliable water supplies for all beneficial uses. NCWA, the North State Water Alliance, and Sacramento Valley Water Users (SVWU) have all been active participants in previous planning and projects regarding conveyance in the Bay-Delta and we look forward to continuing a productive dialogue on DWR's proposal for a new Delta Conveyance Project.

Sacramento River Basin water resources managers encourage the Administration and project proponents to collaborate with them on a solution for modern Delta conveyance that does not redirect impacts (water supply, environmental and financial) to the Sacramento River Basin, thus avoiding impacts to the region's special mosaic of farms, cities and rural communities, fish, birds, and recreation. To achieve these objectives, it will be essential to demonstrate how the Central Valley Project and State Water Project can be operated to support modern Delta conveyance, the co-equal goals, and protecting the Delta as a place--while continuing to serve multiple beneficial uses in the Sacramento River Basin and promote regional water sustainability for all of these beneficial purposes.

As DWR embarks on its environmental review and planning for the Delta Conveyance Project, it should carefully develop criteria for operation of the proposed diversion facility that fully protects water supplies in Northern California, the supporting water rights and contracts, and area of origin protections firmly founded in California law. In addition, the Delta Reform Act of 2009 states that water rights shall not be impaired or diminished as a result of its provisions, including projects such as the Delta Conveyance Project. To adequately inform the public and decision-makers about the environmental impacts of the proposed project, the draft EIR should provide sufficient information about operations to demonstrate that the proposed project will not impact water rights or contracts, and will not reduce available water supplies, both surface and groundwater, for the economy and environment in the Sacramento River Basin. In addition, the draft EIR must demonstrate that the Delta Conveyance Project can avoid significant impacts to salmonids, pelagic fish, and birds in the Sacramento Valley.

NCWA and water resources managers throughout the Sacramento River Basin are prepared to fully engage with DWR and proponents of the Delta Conveyance Project as they develop operational criteria to ensure that operation of the proposed Delta Conveyance Project does not re-direct impacts to this region. We look forward to the opportunity to review the draft EIR and its proposed operations criteria.

NCWA appreciates your attention to these comments as DWR prepares the draft EIR for the proposed project.

Sincerely yours,

David J. Guy President