

# External Meeting Notes

## October 27, 2020

### Delta Conveyance Project Annual Tribal Informational Meeting

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*Prepared by the Department of Water Resources*

#### Purpose

*These notes summarize an informational meeting conducted by the California Department of Water Resources (DWR) to provide information to the California Tribal Community on the status and next steps related to the proposed Delta Conveyance Project and associated environmental planning efforts. The Tribal Engagement Committee, which is made up of Tribal representatives from Tribes with ancestral ties to the Delta, also provided updates.*

#### Participants

*The following is a list of Tribes, state and federal agencies, NGO's, and Tribal NGO's represented at this meeting.*

- Buena Vista Rancheria of Me-Wuk Indians
- Bureau of Indian Affairs
- California Valley Miwok Tribe (Sheep Ranch Rancheria)
- El Dorado Band of Miwok Indians
- Hoopa Valley Tribe
- Lone Band of Miwok Indians
- Jamul Indian Village of California
- Lytton Rancheria
- Rosette, LLP
- Shingle Springs Band of Miwok Indians
- Table Mountain Rancheria
- United Auburn Indian Community
- Wilton Rancheria
- Winnemem Wintu Tribe
- Yocha Dehe Wintun Nation
  
- Department of Water Resources
- United State Army Corps of Engineers
- Consultants:
  - Ag Innovations
  - JB Comm
  - Lubin Olson

## List of Acronyms

AB 52	Assembly Bill 52
APE	Area of Potential Effect
CEQA	California Environmental Quality Act
cfs	Cubic feet per second
CHRIS	California Historical Resources Information System
CVP	Central Valley Project
DCA	Delta Conveyance Design and Construction Authority
DCA SEC	DCA Stakeholder Engagement Committee
DWR	Department of Water Resources
EIR	Environmental Impact Report
EIS	Environmental Impact Statement
IS/MND	Initial Study/Mitigated Negative Declaration
NAHC	Native American Heritage Commission
NEPA	National Environmental Policy Act
NOI	Notice of Intent
NOP	Notice of Preparation
SWP	State Water Project
TCR	Tribal Cultural Resource
TEC	Tribal Engagement Committee
USACE	United States Army Corps of Engineers

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## Welcome and Introductions

Anecita Agustinez, Tribal Policy Advisor for the Department of Water Resources, welcomed and thanked each of the Tribal representatives for attending the Second Annual Informational meeting. Anecita Agustinez then went over the agenda and the various topics that would be discussed regarding the proposed Delta Conveyance, including updates on associated environmental planning efforts, Tribal consultation and engagement, and the Soil Investigations for Data Collection in the Delta project. Anecita Agustinez also stated that the Tribal Engagement Committee would be providing an update as well.

## Presentations

### Delta Conveyance Project Environmental Planning Update

Presentation by Carrie Buckman, Environmental Program Manager, Department of Water Resources

*Please refer to this presentation's PDF in the meeting materials for more details on the summary below.*

Carrie Buckman provided updates on the environmental planning process for the proposed Delta Conveyance Project. Key points in this presentation included:

- A description of the Water Resilience Portfolio and the importance of the State Water Project (SWP) as well as the proposed Delta Conveyance Project
- Updates from 2020
  - In January, the draft Water Resilience Portfolio was released. DWR also released the Notice of Preparation (NOP) for a proposed single tunnel project.
  - From February to March, 8 scoping meetings occurred.
  - In April, the scoping period closed.
  - In June, DWR submitted a Section 404/10 permit application to the United States Army Corps of Engineers (USACE).
  - In July, DWR published a scoping summary report.
  - In August, USACE released a Notice of Intent (NOI) which initiated the National Environmental Policy Act (NEPA) process.
- Updates on the California Environmental Quality Act (CEQA) environmental review process
  - The proposed Delta Conveyance Project is still early in the CEQA process.
  - DWR is currently working on an agency outreach plan and developing a project definition.
- CEQA scoping updates
  - There was a 93-day public comment period.
  - More information on scoping is available in the scoping summary report, which is available on DWR's website [here](#).
- An update on current planning efforts
  - DWR is currently initiating coordination and planning on state and federal approvals.
- A description of the proposed project purpose and objectives, which reflect the reasons why the state is considering a proposed Delta Conveyance Project
- A description of proposed project facilities, capacity, and operations

- The proposed project, which was included in the NOP, includes two potential corridor options and 6,000 cubic feet per second (cfs) as a maximum diversion capacity. It was noted that this would be a maximum diversion capacity and not a continuous 6,000 cfs diversion. It was also noted that DWR will likely consider alternatives within the range of 3,000 – 7,500 cfs maximum capacity.
- The proposed project would be operated together with the existing south delta pumping facilities in a system of “dual conveyance”. The system would be operated with flexibility and operations would aim to increase DWR’s ability to capture water during high flow events. Initial operating criteria for the proposed project will be formulated and regulatory agencies may impose additional operational restrictions.
- At this point, the Central Valley Project (CVP) is not included in the proposed Delta Conveyance Project. Additionally, the proposed project does not include any operational changes on the Trinity or Klamath rivers. However, DWR heard concerns during scoping about indirect effects to the Trinity and Klamath rivers and will be considering this during Environmental Impact Report (EIR) development.
- A description of key contents of an EIR
- Alternatives screening updates
  - DWR is screening physical alternatives received through the scoping process, as well as any alternatives that may have been suggested during prior efforts or that technical experts may have suggested.
  - A Bethany Reservoir Alternative is also being further studied.
- 404 permit application update
  - DWR submitted this application early in the process to initiate the selection of a lead agency under NEPA. No permit will be issued until after CEQA/NEPA and other permitting processes are complete. It was noted that this application only included one alignment (eastern) per USACE’s request to include only one alignment as part of a complete 404 permit application.
- NEPA updates
  - USACE has released a NOI and the scoping comment period closed on October 20.
- Updates on the project schedule
  - The EIR and Environmental Impact Statement (EIS) are anticipated to be released as separate documents. However, DWR has worked to align the schedules of the two processes so public review periods could overlap, with the Draft EIR and EIS released in early 2022 and the Final EIR and EIS released in mid-2023.
- A summary of agency coordination and planning on state and federal approvals, such as the Endangered Species Act, Clean Water Act, water rights, Rivers and Harbors Act, and Delta Plan consistency. The proposed Delta Conveyance Project is still in the early phases of these processes.
- A description of the Delta Conveyance Design and Construction Authority (DCA) and Stakeholder Engagement Committee (SEC) role
  - The DCA is a joint powers authority focused on project design and engineering at the direction of DWR.
  - The DCA SEC is a forum for Delta stakeholders to provide input and feedback on technical and engineering issues. While there are two Tribal representatives on the SEC, this forum is not part of the CEQA process or formal Tribal consultation.

- An update that other planning efforts include soil and biological surveys, traffic counts during harvest season, GIS preparation, model development to analyze potential impacts, and outreach to agencies, Tribes, and Environmental Justice Communities
- An update on the Environmental Justice Community survey that is available
- Ways to stay informed on the project

#### Question and Discussion Session

*Please note that this section represents a summary of the discussion and is not meant to act as a transcript of the question and discussion session. Any additional responses provided by DWR after the meeting are noted as such.*

Emily Moloney of the Buena Vista Rancheria of Me-Wuk Indians of California asked who the cultural lead is for USACE.

- Zachary Simmons of USACE answered that the cultural lead for USACE is Erin Hess.

Mark Miyoshi of the Winnemem Wintu Tribe asked what the current maximum diversion is, and what the total diversion will be with Delta Conveyance.

- Carrie Buckman of DWR answered that the maximum diversion capacity is 6,000 cfs for the proposed project. Current diversion capacity at the South Delta facilities for the State Water Project is 6,680 cfs. Future operations modeling will help understand how each facility would be used.

Mark Miyoshi of the Winnemem Wintu Tribe asked if USACE Section 106 will review cultural issues for only the one tunnel alignment.

- Kristina Reese of DWR answered that this has not yet been determined related to the Area of Potential Effect (APE).
- Zachary Simmons of USACE clarified that USACE is currently initiating a Programmatic Agreement process and will be discussing how to address this.

Chief Caleen Sisk of the Winnemem Wintu Tribe asked what the wild salmon APE is, as a cultural effect.

- Zachary Simmons of USACE answered that USACE is still looking into the APE, but that it will not extend to the waterways of the CVP.

Emily Moloney of the Buena Vista Rancheria of Me-Wuk Indians asked why DWR doesn't conduct archaeological surveys as part of the planning effort.

- Carrie Buckman of DWR answered that DWR is conducting archaeological surveys if there is property access.

Rebecca Allen of United Auburn Indian Community asked if there are Tribes involved in the surveys that are happening, noting that this is a very sacred area and that Tribal resources are not the same as archaeological resources and that both need to be identified.

- Katherine Marquez of DWR answered that Tribal representatives are invited to participate in surveys for the specific areas for the Soil Investigations for Data Collection in the Delta project,

noting that archeological surveys for the Delta Conveyance Project and land parcels have not yet been initiated yet.

Mark Miyoshi of the Winnemem Wintu Tribe asked if salmon and other anadromous fish runs through Delta be included in biological surveys.

- Carrie Buckman of DWR clarified that the biological surveys mentioned in the presentation are specific to terrestrial biological surveys, noting that DWR engages in fish monitoring in the Delta through other science programs.

Chief Caleen Sisk of the Winnemem Wintu Tribe requested additional clarification regarding the APE on the Sacramento River related to Chinook salmon and Delta smelt.

- Carrie Buckman of DWR noted that this will be part of the impact analysis, which is still in the early phases.
- Zachary Simmons of USACE clarified that the APE will be developed during the Programmatic Agreement process.

Emily Moloney of the Buena Vista Rancheria of Me-Wuk Indians commented that often archaeological, cultural, and biological resources are one in the same related to Tribal resources.

- Carrie Buckman and Anecita Agustinez of DWR noted that Tribal Cultural Resources will be discussed more in the next presentation.

Rebecca Allen of United Auburn Indian Community commented that what DWR considers to be biological resources, the Tribes consider as cultural resources.

Krystal Moreno of the Shingle Springs Band of Miwok Indians commented that fish in the Delta should be included as endangered species, and that the threats this project presents will need to be known.

Anna Starkey of the United Auburn Indian Community noted that the CVP and water agencies already transfer water to Southern California and asked where this water will be transferred.

- Carrie Buckman of DWR clarified that the water conveyed through the proposed Delta Conveyance Project would be part of the State Water Project delivery system, noting that the CVP is not involved in this project.

Chief Caleen Sisk of the Winnemem Wintu Tribe asked how many months a year the maximum diversion capacity would be pumped.

- Carrie Buckman of DWR clarified that the proposed project would only operate at maximum capacity (6,000 cfs) during high flow events, noting that operations modeling will be developed and that the project will be subject to diversion criteria for fish protection.

Mark Miyoshi of the Winnemem Wintu Tribe asked if all tribes were notified of the EIS effort, and stated that the Winnemem Wintu Tribe requests Section 106 for the USACE project.

- Kristina Reese of DWR stated that it will be noted that the Winnemem Wintu Tribe is requesting Section 106.

- Zachary Simmons of USACE noted that the Winnemem Wintu Tribe was not on the outreach list, as USACE used the list that was provided by the Native American Heritage Commission (NAHC) for the counties where the project is located.

Rebecca Allen of the United Auburn Indian Community commented that the area of interest should be larger than the project footprint itself, noting that the movement of water or absence of water is important to Northern and Southern Tribes.

Chuck Jachens of the Bureau of Indian Affairs asked how the tunnel diversion will change outflows and the salinity tracking point in the Delta.

- Carrie Buckman of DWR noted that these are things that DWR will be looking at with the upcoming modeling.

Emily Moloney of the Buena Vista Rancheria of Me-Wuk Indians asked what is the estimated amount of water in acre feet per year that DWR is applying for water rights to convey.

- Carrie Buckman of DWR clarified that the water right application does not include any change in the quantity of water rights and would only be for a change in the point of diversion. DWR will follow up regarding the maximum permitted diversion amount in acre feet.
- *Additional DWR follow up information:* As stated by Carrie Buckman, the water rights petition will not include any change in the quantity of water rights and would only be for a change in the point of diversion. While the maximum capacity of the proposed project is 6,000 cfs (two intakes at 3,000 cfs each), operations for the proposed project have not yet been defined, operational criteria have not been finalized, and operations modeling has not yet been developed. However, the proposed project will be operated under various operational constraints, such as those described below.

When exporting water from the Delta, DWR must comply with all current state and federal regulatory requirements in effect at the time of the export pumping, including numerous environmental standards, laws, and regulations relating to Delta inflow and outflow, Delta water quality, fish protection, environmental needs, water rights, and the needs of other users, including in-Delta users. The laws and regulations include regulatory constraints of applicable State Water Board orders, U.S. Army Corps of Engineers permits, Biological Opinions, and any relevant judicial orders in effect at the time of the operation. The State Water Board has also established water quality and flow requirements and limits on the rate of export of water that can be pumped by the state and federal pumping plants and is currently reviewing those requirements in its Bay-Delta Water Quality Control Plan update process to ensure beneficial uses are protected.

Please note that actual annual water allocations and real-time diversions/exports are dependent on a variety of factors such as real-time biological/environmental conditions, overall water year hydrology, and meeting other water rights needs/requirements. Therefore, the amount of water which can be diverted varies from year to year. As an example, the total SWP Annual Delivery for 2018 was approximately 1,605 thousand acre feet (approximately 1,134 thousand acre feet in Table A water, 2 thousand acre feet in Article 21 water, and 469 thousand acre feet in



carryover water). While the amount of water diverted in any particular year will vary, the quantities of water diverted through existing and proposed new intake facilities under the proposed project will be consistent with existing SWP water rights and permits.

Emily Moloney of the Buena Vista Rancheria of Me-Wuk Indians asked for information on the mitigation measures DWR will put in place related to operating the existing south Delta water intakes under dual conveyance.

- Carrie Buckman of DWR clarified that the south Delta facilities are managed through existing permits and Biological Opinions. DWR is not looking at upgrades or changes to the south Delta intakes as part of the proposed Delta Conveyance Project, which would add operational flexibility under a system of dual conveyance.

Chief Caleen Sisk of the Winnemem Wintu Tribe asked what is planned for the Delta smelt recovery.

- Carrie Buckman of DWR clarified that Delta smelt recovery is managed through the United States Fish and Wildlife Service and California Department of Fish and Wildlife and not through the proposed Delta Conveyance Project.

Chief Caleen Sisk of the Winnemem Wintu Tribe asked what the results are of studies done on the contamination of the Delta soils at tunnel depth and if the tunnel is to be 35 miles long.

- Carrie Buckman of DWR stated that examination and characterization of soils is part of the soil investigations project, and that the tunnel length varies between the different alternatives, with the central alignment being approximately 35 miles and the eastern and Bethany being slightly longer.

Chief Caleen Sisk of the Winnemem Wintu Tribe stated that the south gate was supposed to be temporary and that it would make sense to move it. Chief Sisk also commented that the south gate is one of the major problems for chinook salmon, and asked why this is not being fixed. Chief Sisk also recommended for DWR to include a broader fix for the Chinook salmon and Delta smelt.

- Carrie Buckman of DWR clarified that moving the southern pumps is not part of the proposed project. Carrie Buckman also stated that there are other efforts to study what is going on in the south Delta and it is not something being included in this proposed project at this point.

Rebecca Allen of the United Auburn Indian Community asked for clarification on if the NAHC list included counties in the project footprint or counties that would be affected by the project. Rebecca Allen recommended looking at areas to the north and south, noting that water is a primary resource and access to water and changes to the current land use and water footprint directly affect the ecological and cultural resources that Tribes use.

- Zachary Simmons of USACE confirmed that it included the counties where the project footprint would be located, and noted that this can be expanded based on review of the impacts.

Krystal Moreno of the Shingle Springs Band of Miwok Indians commented that it seems a bit backward that a new project would be proposed in lieu of addressing the problems that currently exist.

Mark Miyoshi of the Winnemem Wintu Tribe commented that the USACE APE should be the same as DWR's Delta Conveyance Project and asked if the APE will be changed.

- Zachary Simmons of USACE clarified that the APE has not been set at this time and will be further developed during the Programmatic Agreement process.

Anna Starkey of the United Auburn Indian Community asked if the EIR will detail who the water is for and who will be profiting from the sale of the water.

- Carrie Buckman of DWR clarified that this project will be paid for by the water agencies that would be receiving the water, and that the water agencies will determine if they want to be involved in the project. After construction, the proposed Delta Conveyance Project would be part of the State Water Project system.

Kimberly Petree of the El Dorado Band of Miwok Indians provided comments regarding how her Tribe is struggling to support this project as the watershed is piecemealed out in sections. Kimberly Petree commented that water is a body, connecting species and regions, and noted that as caretakers we need to address the whole, and everything within. Kimberly Petree also commented that the project is likely going to lead to problems, that it will impact the world long after we are gone, and that money will not solve the potential harm.

## Delta Conveyance Project Tribal Engagement Update

Presentation by Anecita Agustinez, Tribal Policy Advisor, Department of Water Resources

*Please refer to this presentation's PDF in the meeting materials for more details on the summary below.*

Anecita Agustinez provided updates on Tribal engagement for the proposed Delta Conveyance Project. Key points in this presentation included:

- Acknowledgement that annual updates and informational meetings do not replace Government-to-Government consultation meetings.
  - The Government-to-Government process is greatly needed and also an opportunity for Tribes to discuss concerns and issues that may be confidential.
- The formal Tribal engagement process for the proposed Delta Conveyance Project began in January with the release of the NOP and project notification letters sent to Tribes.
- The COVID-19 pandemic has caused challenges with conducting Tribal consultation.
- A description and overview of state Tribal consultation policies, Assembly Bill 52 (AB 52) requirements, and recent Executive Orders
- Delta Conveyance Project CEQA and AB 52 consultation milestones
  - This handout is available on DWR's website [here](#).
  - Tribes may continue to request consultation for the proposed project under DWR's Tribal Engagement Policy.
- Tribal Cultural Resources under AB 52
  - Governance agreements cannot be communicated and determined until Tribes engage in the Government-to-Government process and communication is set up.
  - If Tribal partners are not at the table as part of a Government-to-Government consultation, the definition of Tribal Cultural Resources under AB 52 is statutorily defined. It is up to the Tribes to advocate their perspective of the cultural resource if it

goes beyond this definition. As a state agency, these statutory definitions are foundational pieces and DWR looks to the Government-to-Government consultation process in developing the Tribal perspective of cultural resources and definitions.

- Consultation with Tribes regarding the identification of Tribal Cultural Resources is an important current and next step.
  - DWR will be conducting ethnographic research to identify locations with potential significance and consulting with Tribes to identify places with cultural significance to these Tribes.
  - The objective is to learn more about the cultural values that significant and sacred places represent, including how they represent important events in Tribal cultural histories, as well as cultural and contemporary significance to understanding the Tribal heritage of the Delta. This will also be under the umbrella of the California Register criteria for significance and integrity.
  - For resources and places identified by consulting Tribes as culturally significant, DWR will have to determine whether they qualify as a Tribal Cultural Resource by applying the California Register criteria. These are important steps that DWR cannot take alone, and will need Tribal communication and collaboration to make these determinations.
- A list of Tribes who have requested consultation under AB 52 and DWR's Tribal Engagement Policy:
  - AB 52: Lone Band of Miwok Indians, North Valley Yokuts, Shingle Springs Band of Miwok Indians, United Auburn Indian Community, Wilton Rancheria, Winnemem Wintu, Wintu Tribe of Northern California, Yocha Dehe Wintun Nation
  - DWR's Tribal Engagement Policy: Buena Vista Rancheria of Me-Wuk Indians, Rincon Band of Luiseño Indians, Viejas Band of Kumeyaay Indians, Yurok Tribe
- DWR has received some requests from Tribes to pause consultation due to COVID-19.
- Discussion of Federal and State Agency roles and actions
  - This handout is available on DWR's website [here](#).
- A description of the Tribal Engagement Committee (TEC), which meets monthly, as coordinated by Shingle Springs Rancheria.
  - DWR and the DCA have been invited to these meetings to present technical updates and clarifications on the topics that are discussed during DCA SEC meetings. DWR greatly appreciates the opportunity to provide these updates to the TEC.
- The Delta Conveyance Project Tribal Engagement website is located [here](#).

#### Question and Discussion Session

*Please note that this section represents a summary of the discussion and is not meant to act as a transcript of the question and discussion session. Any additional responses provided by DWR after the meeting are noted as such.*

Rebecca Allen of the United Auburn Indian Community noted that not all statements are confidential and asked if Tribes could specify documents that they would want to be included in public documents.

- Anecita Agustinez of DWR answered yes, noting that it is important for the public to understand Tribal issues while also protecting confidential information.

Rebecca Allen of the United Auburn Indian Community commented that many Tribes may want to conduct their own ethnographic and historical research, noting that UAIC would prefer this alternative. Rebecca Allen asked if DWR is willing to engage, hire, and pay for Tribes to conduct their own research.

- Anecita Agustinez of DWR noted that this has been a topic discussed and requested for other projects. DWR would like to explore this option and welcomes this level of participation. DWR would need to look into how funding can be supported. DWR is open to receiving any best practices that Tribes know of from other projects.

Pete Ramirez of the California Valley Miwok Tribe (Sheep Ranch Rancheria) commented that they submitted an AB 52 letter but are not on the list of Tribes that was presented.

- Anecita Agustinez of DWR stated that DWR will follow up on this and make the correction.

Mark Miyoshi of the Winnemem Wintu Tribe stated that the Winnemem Wintu Tribe would like to provide input into the extent and areas of DWR literature search, and asked how they can give input.

- Anecita Agustinez of DWR stated that DWR would like to do this through Government-to-Government consultation to maintain the confidentiality of the information shared, and looks forward to continuing this process with the Winnemem Wintu Tribal Government.

## Tribal Engagement Committee Update

Update by Malissa Tayaba of the Shingle Springs Band of Miwok Indians and Chairman Jesus Tarango, Jr. of Wilton Rancheria

Malissa Tayaba of the Shingle Springs Band of Miwok Indians provided an update on the monthly TEC meetings:

- These include consistent participation from seven Delta Tribes – Shingle Springs Band of Miwok Indians, Wilton Rancheria, Lone Band of Miwok Indians, United Auburn Indian Community, Yocha Dehe Wintun Nation, Buena Vista Rancheria of Me-Wuk Indians, and California Valley Miwok Tribe (Sheep Ranch Rancheria).
- Any other Tribal participation in these monthly TEC meetings is welcome. Please email [matayaba@ssband.org](mailto:matayaba@ssband.org) if you are interested in participating.

Malissa Tayaba also described concerns regarding the proposed project. These included:

- Impacts to traditional lands and disturbance/destruction of sacred sites, resting places of Tribal ancestors, cultural resources, fish, wildlife, and plant life.
- Impacts to gathering places for traditional foods, medicines, and basketry materials, including impacts due to air, water, and ground pollution.
- Impacts to fish species, as there are six fish species in the Delta that are currently endangered. This includes the Winter-Run and Spring-Run Chinook salmon, which were noted as significant traditional foods.

Regarding the DCA SEC process, Malissa Tayaba commented that they have not yet seen how Tribal concerns are being addressed.

Chairman Jesus Tarango, Jr. of Wilton Rancheria described concerns regarding the proposed project. These included:

- Disturbance of the remains of ancestors and destruction of village sites, cultural resources, landscapes, and other historical and traditional items.
- Request for a no project alternative.
- Concerns regarding project funding.
- Impacts to the entire watershed.
- Studies and consultation occurred during previous versions of this project, and Tribes have repeated the Tribal value and ecological significance of the Delta region during current consultation and are not being heard.
- DWR project managers and engineers are not considering the significance of Tribal Cultural Resources as constraints for engineering and siting.
- Much of the wetland region is sacred for its religious, cultural, biological, ecological and archaeological resources.

Chairman Tarango also stated that, because of this, the information conveyed by DWR during the TEC meetings is not responsive, useful, or reciprocal.

Chairman Tarango opened up this portion of the meeting to any other Tribal representatives that would like to make statements at this time.

Rebecca Allen of the United Auburn Indian Community described concerns regarding the proposed project. These included:

- Tribal voices are not being heard during DCA SEC meetings.
- From UAIC's perspective, the project objectives have a fatal flaw, as they do not acknowledge the value of cultural perspectives and current land use or state that the project will protect those values or land uses.
- Many studies from previous iterations have been done, and therefore DWR is aware of the number and significance of sites. To date, there has been no consideration of this and it is not reflected in the engineering and siting.
- Disturbance of ancestors, village sites, and other evidence of Native American occupation in addition to the current uses of the Delta.
- This area is part of the Sacramento-San Joaquin Delta National Heritage Area.

Emily Moloney of the Buena Vista Rancheria of Me-Wuk Indians described concerns regarding the proposed project. These included:

- Buena Vista Rancheria feels strongly that DWR has not been hearing Tribes and concerns related to impacts to sacred lands in the Delta.
- DWR and consultants do not provide meaningful answers and defer to consultation process related to cultural resources.
- Request for a no project/no tunnel alternative, or other alternatives provided by Tribes during scoping.
- A flawed alternatives selection process.
- After years of studies and Tribal consultation that occurred during previous iterations of the project, DWR project managers and engineers are not considering the importance and significance of Tribal Cultural Resources as constraints for engineering and siting.

- During TEC efforts, Tribes have repeated the Tribal-valued cultural and ecological significance of the region, especially at the intake locations, without being heard.
- DWR defers studying cultural sites to the Tribes during consultation which has not been taking place.
- The information conveyed during TEC meetings from DWR is not responsive, useful, or reciprocal to Tribal concerns.

Mark Miyoshi of the Winnemen Wintu Tribe described concerns regarding the proposed project. These included:

- Request for a no project alternative.
- The goals and objectives should be met by changes in how the water is used downstream and on the consumption end.
- Impacts to salmon.

Chief Caleen Sisk of the Winnemem Wintu Tribe described concerns regarding the proposed project. These included:

- Tribal rights and preservation issues in the Delta, as well as at the top of the watershed.
- Impacts to freshwater springs on the bottom floor of the Delta that will be disturbed, noting that these springs allow fish to acclimate and are important for the estuary to function.
- Contaminant concerns.
- The waterway should be part of the APE.
- Impacts to fish and flows from south Delta pumping operations.
- Recommendation to fix or move south Delta pumps.
- The tunnel needs to leave more than 20% of the freshwater going into the Delta.
- Connection between the Shasta Dam Raise, Sites Reservoir, and the Delta Conveyance Project.
- Tribes that are participating need to be compensated for these issues.

Kimberly Petree of the El Dorado Band of Miwok Indians commented that El Dorado Band of Miwok would like to see a No Project Alternative as well.

Anecita Agustinez of DWR expressed appreciation for these statements from the Tribal leaders and representatives.

## Soil Investigations for Data Collection in the Delta Update

Presentation by Katherine Marquez, Program Manager III, Department of Water Resources

*Please refer to this presentation's PDF in the meeting materials for more details on the summary below.*

Katherine Marquez provided updates on the Soil Investigations for Data Collection in the Delta project. Key points in this presentation included:

- This is a separate CEQA project from the proposed Delta Conveyance Project. Its purpose is to determine the composition, location, and geotechnical properties of soil materials commonly found in the Delta which would inform the design, environmental analysis, and development of

alternatives for a potential Delta conveyance project and contribute to DWR's overall understanding of Delta geology.

- The Initial Study/Mitigated Negative Declaration (IS/MND) was developed by DWR as the lead agency and was approved on July 9, 2020.
- A description of the proposed project, which includes 103 Cone Penetration Tests, 167 on-land soil borings, 56 over-water borings, and 5 geophysical testing arrays on Bouldin Island.
- IS/MND Consulting Tribes
  - AB 52 consulting Tribes: Wilton Rancheria, United Auburn Indian Community, Lone Band of Miwok Indians
  - Tribes consulting under DWR's Tribal Engagement Policy: California Valley Miwok Tribe (Sheep Ranch Rancheria), North Valley Yokuts Tribe
  - Additional Tribal participation for project coordination: Shingle Springs Band of Miwok Indians and Yocha Dehe Wintun Nation
- A brief summary of cultural/Tribal mitigation measures
  - The overall idea for this project was to maximize avoidance of impacts as much as possible.
    - DWR reviewed existing records and moved locations based on these records.
    - Consulting Tribes identified concerns with locations which DWR moved these to be outside of acceptable buffers.
    - Next steps include pre-activity site clearance surveys to move soil investigation locations based on existing conditions. Tribal representatives from coordinating Tribes are invited to these pre-activity site clearance surveys to identify any Tribal concerns which would result in moving locations.
- An update on near-term planning efforts on Bouldin Island, public rights of way, and other locations which have been discussed with coordinating Tribes for this project.
- Tribal coordination meetings occur monthly. DWR also provides biweekly update emails to coordinating Tribes.
- An update on overall permit statuses for on-land and over-water work.

#### Question and Discussion Session

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Chief Caleen Sisk of the Winnemem Wintu Tribe asked if this includes testing soil samples near gas lines and sewer lines for contamination.

- Katherine Marquez of DWR answered that soil properties are being looked at as part of this project, and therefore specific elevated environmental properties would be identified in the soil investigation. Additionally, it was noted that gas line identification would likely be part of future geophysical surveys.

## Additional Question and Discussion Session

*Please note that this section represents a summary of the discussion and is not meant to act as a transcript of the question and discussion session. Any additional responses provided by DWR after the meeting are noted as such.*

Chief Caleen Sisk of the Winnemem Wintu Tribe asked why the proposed project becomes part of the SWP now and CVP later, if there is another tunnel route that could be considered, and for clarification on if the maximum export of water right now is more or less than 6,000 cfs.

- Kristina Reese of DWR answered that, at this time, the proposed project does not include the CVP. The proposed project would become part of the SWP if it was constructed because one of the goals of the project is to upgrade the existing water conveyance system. Related to the tunnel alignment, there are several different alignments that were considered and are being looked at in the alternatives development process. Certain alignments may be screened out for various reasons. DWR can provide more information on this as alternatives are being developed. Kristina Reese also noted that the existing south Delta facilities have the capacity to export more than 6,000 as a maximum, and that additional operational information will be developed regarding dual conveyance.
- Additional DWR follow up information: The SWP Banks Pumping Plant has a maximum physical capacity of 10,300 cfs.

Krystal Moreno asked how DWR and the DCA is working with fisheries scientists, and if there are discussions being had with the Delta Protection Commission and the Delta Science Board.

- Kristina Reese of DWR answered that DWR is currently working with various fisheries scientists both internally and in other agencies regarding informing and refining analysis. DWR will have to go through various permitting efforts as it relates to Endangered Species Act compliance and through those processes, DWR will also coordinate with fisheries scientists from those agencies.
- Katherine Marquez of DWR also noted that DWR is currently coordinating with the Delta Protection Commission on the National Heritage Area and other ongoing efforts. DWR has regular coordination meetings with both the Delta Protection Commission and the Delta Stewardship Council.

Rebecca Allen of the United Auburn Indian Community, Emily Moloney of the Buena Vista Rancheria of Me-Wuk Indians, and Mark Miyoshi of the Winnemem Wintu Tribe expressed interest in reviewing and commenting on draft meeting notes developed for this meeting.

- Anecita Agustinez of DWR confirmed that DWR can prepare a draft to provide to Malissa Tayaba and Chairman Tarango to circulate to for Tribal comments and edits for meeting notes in order to ensure that everything has been accurately captured.

Pete Ramirez of the California Valley Miwok Tribe (Sheep Ranch Rancheria) asked if Tribal monitors are involved with the soil investigations.

- Katherine Marquez of DWR answered that there are no Tribal or archaeological monitors present during the boring work, as there were several levels of avoidance in the pre-planning, consultation, and Tribal representation during site clearance surveys.

Pete Ramirez of the California Valley Miwok Tribe (Sheep Ranch Rancheria) asked for clarification on why archeologists or Tribal representatives/monitors aren't involved during soil samples. Pete Ramirez



recommend that, due to inadvertent findings, Tribal monitors should be involved with all ground disturbances.

- Katherine Marquez of DWR noted that there is information on this within the ISMND, which DWR will provide to Pete Ramirez via email. Katherine Marquez further clarified that this has to do with the way the samples are taken and the size of the samples, as it is a small hole and not a large excavation area. Additionally, the samples themselves need to maintain integrity for engineering tests that need to occur.

Chief Caleen Sisk of the Winnemem Wintu Tribe stated that the Delta Conveyance Project is a part of the Shasta Dam raise.

- Carrie Buckman of DWR clarified that this project is not connected to Shasta Dam Raise, and that the CVP is not participating in this effort.

Chief Caleen Sisk of the Winnemem Wintu Tribe noted that it sounds like the possibilities of water export could be 6,000 in the existing facilities and another 6,000 cfs in the tunnel.

- Carrie Buckman of DWR stated that the interconnection between the two facilities is not yet fully defined, as DWR is still working on operations. There will be times where both facilities would be operating to some extent but it is not likely that they would both be operating to maximum capacity. DWR would like to further develop the operations modeling to discuss this further at a future meeting.

Krystal Moreno of the Shingle Springs Band of Miwok Indians asked where the tunnel activity will be tracked, related to flows.

- Carrie Buckman of DWR noted that DWR is developing details on how the facilities would be managed and operated. DWR is planning on developing this information as part of the environmental planning process regarding how to share details on how the facility is working when it is operational.

Carrie Buckman of DWR provided additional information on a no project alternative, as various people have suggested during scoping that DWR include an alternative that does not include a tunnel, but instead include things such as water recycling and desalination. As DWR went through the screening process for these options, these alternatives did not meet project objectives related to the SWP. However, DWR recognizes that those options are likely what water agencies would do absent a Delta Conveyance Project to provide continued supplies to their customers, so DWR is trying to develop a rigorous no project alternative that includes these things, which is currently in development.

Rebecca Allen of the United Auburn Indian Community commented that, as stated earlier, UAIC is concerned that the project objectives have a fatal flaw, as they do not acknowledge the value of cultural perspectives and current land use. Nor do the objectives state that the Project will protect those cultural values and land use in any way, shape, or form.

Emily Moloney of the Buena Vista Rancheria of Me-Wuk Indians commented that Tribal Cultural Resources definitions under AB 52 are in conflict with how Tribes view cultural resources and pin holes in them as historic cultural resources when in fact they often include living ecosystems and flora and fauna which cannot be listed as a historical resources.

Isaac Bojorquez of Yocha Dehe Wintun Nation stated that the Tribal community has concern over the project and its impacts to the landscape and to cultural and natural resources. Isaac Bojorquez

acknowledged that this meeting is not consultation and would like to ensure that each sovereign government has its opportunity for Tribal consultation. Yocha Dehe is looking forward to continuing consultation.

## Closing Statements and Adjournment

Anecita Agustinez of DWR thanked all Tribal participants for their attendance, and stated that DWR looks forward to the next opportunity to provide another update. DWR will be connecting with the Tribes that have requested consultation.

Malissa Tayaba of the Shingle Springs Band of Miwok Indians thanked everyone for participating during this meeting.

The meeting was then adjourned.