

# External Meeting Notes

## November 12, 2019

### Delta Conveyance Tribal Informational Meeting #2

*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 invited Tribal Government Leaders, Tribal Cultural Resources Staff, and Tribal Representatives about the status and next steps related to modernizing conveyance infrastructure in the Delta. The main goals of the meeting were to:*

- *Follow up on the September 11, 2019 Tribal Informational Meeting #1*
- *Discuss the status and next steps related to Delta conveyance and associated environmental planning efforts including future CEQA and AB 52*
- *Discuss the creation of a Tribal Engagement Committee*

#### Participants

*The following is a list of Tribes and agencies represented at this meeting.*

- California Valley Miwok Tribe (Sheep Ranch Rancheria of Me-Wuk Indians of California)
- Lone Band of Miwok Indians
- Northern Valley Yokuts Tribe
- Shingle Springs Band of Miwok Indians
- United Auburn Indian Community of the Auburn Rancheria
- Wilton Rancheria
- Yocha Dehe Wintun Nation
- Department of Water Resources

#### List of Acronyms

CEQA	California Environmental Quality Act
CHRIS	California Historical Resources Information System
CVP	Central Valley Project
DCA	Delta Conveyance Design and Construction Authority
DCA-SEC	DCA Stakeholder Engagement Committee
DCO	Delta Conveyance Office
DWR	Department of Water Resources
EIR	Environmental Impact Report
IS/MND	Initial Study/Mitigated Negative Declaration
NAHC	Native American Heritage Commission
NOD	Notice of Determination
NOP	Notice of Preparation

PWA	Public Water Agencies
SWP	State Water Project
TEC	DWR Tribal Engagement Committee

## Upcoming Tribal Informational Meetings

January 21, 2020 (to be hosted by DWR)

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## Action Items

- DWR to look into the feasibility of a future Tribal boat tour of the Delta for early Spring 2020
- Tribal Engagement Committee to meet in December or January
- Tribes to consider developing cultural competency training and/or sharing cultural histories and their relation to the Delta
- DWR to schedule additional informational meetings with the Tribes

## Welcome and Introductions

Anecita Agustinez, Tribal Policy Advisor for the Department of Water Resources, welcomed and thanked the Tribes for coming. Anecita then went over the agenda and the various topics DWR will be discussing regarding Delta Conveyance – including CEQA and the future Notice of Preparation, the DCA, DCA Stakeholder Engagement Committee, a potential Tribal Engagement Committee, and an update on soil investigations. Anecita requested that the Tribes let DWR know if there is anything else that they would like to discuss.

## Presentations on Delta Conveyance

### Delta Conveyance Environmental Planning

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

Carrie Buckman, Kristina Reese, and Katherine Marquez provided information on the status and next steps of the Delta conveyance and gave an update on associated environmental planning and review. Key points in this presentation included:

- CEQA Process and Overview and Schedule
  - Of note, DWR is planning on completing environmental compliance by the end of 2022
  - Notice of Preparation (NOP) & Scoping
    - The NOP is coming out later this year.
    - Before, or concurrent with, release of the NOP, DWR will initiate AB 52 consultation
    - Carrie presented the AB 52 list and discussed that there isn't much time to get on this list for Delta conveyance, and encouraged everyone to get on it if they would like to be consulted with under AB 52 for Delta Conveyance
    - Scoping will occur through early 2020
    - Public input on the scope of the analysis, alternatives, etc. will be considered during the refinement of the project description and environmental impacts
  - Draft Environmental Impact Report (EIR)
    - Anticipated to be released at the end of 2020
    - Will identify and analyze potential impacts and mitigation measures of those impacts
    - DWR would like to have AB 52 consultation completed during this time

- Public comment period expected to extend to early 2021
- DWR is currently still identifying federal lead agency
- Section 106 will likely be initiated, by the federal lead agency, during this time
- Final EIR
  - Includes responses to public comment
  - Section 106 ongoing
- Notice of Determination (NOD)
  - Expected to be released early to mid-2022
  - Lead Agency approves project for implementation
- Update on Notice of Preparation (NOP)
  - This new project will be subject to AB 52.
  - AB 52 consultation did not occur during BDCP/California WaterFix because these projects did not fall within the statutory timelines of AB52 and pre-dated AB52
  - DWR is also looking at lessons learned from the previous effort
  - DWR intends to reach agreements with consulting Tribes during the consultation process
    - The consultation process will maintain confidential information that will be shared with DWR
  - NOP Purpose
    - Include early description of the proposed project
    - Obtain early input on the proposed project
    - Development of alternatives
  - Public scoping meetings purpose
    - Provide the public with information on the proposed project and to solicit input
    - Scoping meetings to be held in February
  - NOP Contents
    - Will generally discuss the proposed project, facilities, background information, and project area
    - Solicit input on alternatives
    - List potential environmental effects (resource areas)
    - Include potential areas of effect – not only the physical footprint of the project, but also include State Water Project and Central Valley Project services areas and upstream areas.
      - Note that DWR requests a Tribal contact list from NAHC based on associated counties and project map.
    - Information on public scoping meetings
    - How to comment
      - Important for the Tribes who want to submit formal comments to do so during the scoping process
- Delta Conveyance Design and Construction Authority (DCA) Role
  - DWR Role with the DCA
    - DWR will lead the environmental review/planning/outreach
    - DWR oversees the work of the DCA
  - DCA Role in Delta Conveyance

- Will work under oversight of DWR
  - Formed Joint Powers Authority (JPA) to work together on the design of the project
  - Conduct engineering and design work to inform environmental review process
  - DCA is currently gathering information to inform design and try and minimize construction impacts (engineering)
- Public Water Agency (PWA) Role
  - Part of the JPA
  - Provide technical expertise to DWR and the DCA
  - Collaborate on and contribute to public participation and outreach
- DCA Stakeholder Engagement Committee Updates
  - DWR advocated for the need for a Tribal representative on this committee and that it was also important to have an alternate
  - Malissa Tayaba (Shingle Springs) has been appointed a standing member on the DCA-SEC committee
  - Jesus Tarango (Wilton Rancheria) has been appointed an alternate on the DCA-SEC committee
  - First meeting will be held on November 23, 2019
  - DWR recognizes importance of these meetings and will be in attendance as much as possible
  - Committee provides critical input for design processes, engineering, construction effects
- Tribal Engagement Committee
  - Approach has worked well in the past and would provide opportunities for regular updates and communication
  - Use Tribal expertise
  - Potentially include a cultural and technical advisory arm of the committee
  - Develop committee
    - DWR proposed: 3 regularly scheduled meetings during the year that DWR can help facilitate/plan – committee can meet as often as it wants to outside of these times, raise issues to DWR at regularly scheduled meetings
  - Does not waive any Tribe's ability to meet individually with DWR
- California Historical Resources Information System (CHRIS) Data Requests Update
  - The CHRIS agreement has recently been amended
    - DWR is able to share CHRIS Data as follows: "Access by individuals acting as either designated contacts or tribal representatives of California Native American tribes for purposes of notification and/or consultation pursuant to Public Resource Code Section 21080.3.1" [Tribal contacts on DWRs AB 52 list]
    - Security / Confidentiality
      - Hard copy records shall be safe and secure when not in use.
      - Digital data must be stored and managed consistent with State IT policies.
      - Tribal letter designating individuals permitted access shall also identify that Tribe will comply with State Information Technology Security Requirements

- This will be helpful for Tribes to not be required to go through the NDA process
- Benefit: DWR and the Tribes can be working from the same set of data
- New record searches will be happening with the future conveyance project
- Delta Conveyance Tribal Engagement Website (<https://water.ca.gov/Programs/State-Water-Project/Delta-Conveyance/Tribal-Engagement>)
  - Will contain:
    - AB 52 list
    - Delta Conveyance monthly updates
    - FAQs
    - Meeting materials
- Update on the On-Land and Over-Water Soil Investigations in the Sacramento-San Joaquin Delta
  - The CEQA process and consultations are currently ongoing
  - A public draft of the Initial Study/proposed Mitigated Negative Declaration (IS/MND) will be released on November 20

## Workshop Discussion

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

Carrie Buckman discussed that the purpose of this workshop discussion is to get preliminary input on Delta Conveyance from the Tribes. DWR will continue to have follow-up discussions with Tribes.

Carrie discussed that DWR has previously received feedback and requests for engaging earlier with the Tribes and not after decisions are made. Regarding past alignments, DWR is trying to reuse material where relevant as a starting place for discussion. For this meeting, DWR provided the Tribes a map of historic alignments as a handout. DWR wants to identify potential issues as early as possible.

Carrie also discussed previous comments received, such as:

- Engagement: DWR received a lot of comments that we didn't engage significantly or early enough with the Tribes
- The cultural significance of the Delta to the Tribes
- Requests for surveys, site visits, monitoring, and pre-construction training
- Requests for information sharing – Tribes requested access to reports, samples, etc.
  - In the future, this will be easier if Tribes are on the AB 52 list, which will ensure they are engaging in AB 52 consultation with DWR.

Carrie then requested any additional input/discussion on the historic alignments or any other comments.

At this time, the Tribes did not have any additional comments. Carrie stated that DWR will continue to have continued discussion with the Tribes. She encourages the Tribes to email any thoughts/ideas/comments to DWR.

## Discussion, comments, and questions

*Please note that this section represents a summary of the discussion and is not meant to act as a transcript of the discussion.*

### Discussions between and after the presentations included:

1. Tribal Representatives questioned how it was being determined who was being invited to these meetings.
  - a. This meeting was designed to get direction from Tribes that have historical ties to the Delta to see what the best approach is moving forward with Delta Conveyance from the Tribes in the Delta. DWR is open to facilitate another meeting about who should be in these discussions. DWR also discussed AB 52 obligations for the Department.
2. Tribal Representatives discussed concerns regarding Tribes speaking on behalf of other Tribes, as well as the knowledge the Tribes have for who comes from certain locations/villages. Representatives discussed the Tribes' need to come to an understanding and determine these things, with the recommendation of sitting down together to determine Tribal boundaries.
3. DWR emphasized the importance of Tribal representation in the future Delta Conveyance process. Additionally, DWR discussed that the importance of cultural competency training. DWR requested for Tribes to think about developing a training for the community/public. DWR understands sovereignty and the importance of that, but the public needs to as well. DWR discussed that Tribes need to have voice in initial discussions (such as during February scoping meetings for Delta Conveyance by submitting comments during scoping). DWR would like to support this Tribal voice in early discussions.
4. Tribal Representatives recommended doing a watershed analysis for Delta Conveyance.
5. Tribal Representatives voiced concerns over deferred cultural studies and recommended that mitigation measures be included in the CEQA document regarding Tribal participation in surveys/site visits.
  - a. DWR clarified that the biggest constraint for cultural studies is that DWR does not have access to a lot of the potential footprint areas. DWR discussed that early studies for cultural resources will be developed from record searches and from working with the Tribes, but not from access to the potential locations. DWR wants to look at how Tribes can be engaged with future survey efforts. Prior to release of the draft CEQA document, DWR wants to have AB 52 consultation complete to include mitigation measures in the document that the Tribes feel comfortable with.
6. DWR discussed that the Tribes in the Tribal Engagement Committee could determine who should be involved in the Committee and could also outreach to the broader Tribal group. The Committee could open up the Tribal perspective, and this would be an opportunity for the Tribes to meet and work together. DWR envisions the Tribal Engagement Committee to be made up of Delta-specific Tribes. However, it will be up to the Tribes and what they think will be most useful.
7. Tribal Representatives noted that, regarding identifying Tribal Cultural Resources, it is unfair to the Tribes and not possible for them (without access to the land) to disclose everything within the large potential project area.

- a. DWR discussed that this is where the Tribal Engagement Committee could help with identifying procedures for identifying these things. DWR discussed that it is difficult on both sides of the table for a project of this magnitude, and that developing procedures and firm commitments to following these procedures will provide checks and balances along the way. This can be developed through future consultation discussions with the Tribes. DWR could have individual agreements with the Tribes and include mitigation measures in the CEQA document.
8. DWR emphasized that it will be up to the Tribes on how they want to consult for Delta Conveyance. DWR will send out AB 52 consultation letters to the Tribes on the AB 52 list. Once the Tribe lets DWR know they want to consult under AB 52, DWR will reach out for initial meetings (1 on 1) and then it will be up to the Tribe on how they want to consult (for example, there could be multiple Tribes in a joint meeting, but this will be up to the Tribes). DWR could also have meetings with the Committee, follow up consultation meetings, etc.
9. Tribal Representatives requested that the Tribes be able to do their own studies on their resources, to get their Tribal voice across.
  - a. DWR discussed that the Tribal Engagement Committee would be a great platform to raise the awareness that this is needed.

## DWR Closing

Carrie Buckman and Anecita Agustinez thanked the Tribes for coming to the meeting and their participation in the discussion and the questions raised. DWR appreciates the Tribes' time today. DWR is looking forward to the development of a Tribal Engagement Committee for Delta Conveyance.

### Tribal Only Session

A Tribal-only meeting followed immediately after the informational meeting.