



MEMORANDUM

TO: SLDMWA Water Resources Committee Members and Alternates

FROM: Scott Petersen, Water Policy Director

DATE: October 5, 2020

RE: Update on Water Policy/Resources Activities

BACKGROUND

This memorandum is provided to briefly summarize the current status of various agency processes regarding water policy activities, including but not limited to the (1) Reinitiation of Consultation on Long-Term Operations (“ROC on LTO”), (2) State Water Resources Control Board Action, including the Bay-Delta Water Quality Control Plan update, (3) San Joaquin River Restoration Program, (4) Delta Conveyance, (5) Delta Stewardship Council, and (6) Water Blueprint for the San Joaquin Valley.

POLICY ITEMS

Endangered Species Act Regulations

Critical Habitat Designation (Comments due Oct. 8)

On September 8, 2020, the U.S. Fish and Wildlife Service (FWS), released a proposed rule¹ to amend portions of the regulations that implement section 4 of the Endangered Species Act of 1973, as amended (Act). The proposed revisions set forth a process for excluding areas of critical habitat under section 4(b)(2) of the Act, which mandates consideration of the impacts of designating critical habitat and permits exclusions of particular areas following a discretionary exclusion analysis. The FWS’ proposed rule aims to articulate clearly when and how FWS will undertake an exclusion analysis, including identifying a non-exhaustive list of categories of potential impacts for FWS to consider. The proposed rulemaking would respond to applicable Supreme Court case law, reflect agency experience, codify some current agency practices, and make some modifications to current agency practice. The intended effect of this proposed rule is to provide greater transparency and certainty for the public and stakeholders.

¹ <https://www.federalregister.gov/documents/2020/09/08/2020-19577/endangered-and-threatened-wildlife-and-plants-regulations-for-designating-critical-habitat>

Reclamation Directives and Standards

Documents out for Comment

- [Accessibility to Information and Communication Technology: Section 508 of the Rehabilitation Act, IRM 05-08 \(comments due 10/18/2020\)](#)
- [Position Classification and Position Management, HRM 15-02 \(comments due 10/25/2020\)](#)
- [Maintenance of Auxiliary Mechanical Equipment, FIST 2-6 \(comments due 10/18/2020\)](#)
- [Bloodborne Pathogens, RSHS 35 \(comments due 10/11/2020\)](#)
- [Motor Vehicle Safety, RSHS 39 \(comments due 10/11/2020\)](#)
- [Concrete, Masonry, and Formwork, RSHS 25 \(comments due 10/25/2020\)](#)

State Water Resources Control Board (State Water Board) Activity

Documents out for Comment

- No document out for comment currently

Bay Delta Water Quality Control Plan Update

The State Water Board is currently considering updates to its 2006 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (“Bay Delta Plan”) in two phases (Plan amendments). The first Plan amendment is focused on San Joaquin River flows and southern Delta salinity (“Phase I” or “San Joaquin River Flows and Southern Delta Salinity Plan Amendment”). The second Plan amendment is focused on the Sacramento River and its tributaries, Delta eastside tributaries (including the Calaveras, Cosumnes, and Mokelumne rivers), Delta outflows, and interior Delta flows (“Phase II” or “Sacramento/Delta Plan Amendment”).

During the December 12, 2018 Water Board Meeting, the Department of Water Resources (“DWR”) and Department of Fish and Wildlife presented proposed “Voluntary Settlement Agreements” (“VSAs”) on behalf of Reclamation, DWR, and the public water agencies they serve to resolve conflicts over proposed amendments to the Bay-Delta Plan update.² The State Water Board did not adopt the proposed VSAs in lieu of the proposed Phase 1 amendments, but as explained below, directed staff to consider the proposals as part of a future Delta-wide proposal.

Phase 1 Status: The State Water Board adopted a resolution³ to adopt amendments to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary

² Available at <https://water.ca.gov/-/media/DWR-Website/Web-Pages/Blogs/Voluntary-Settlement-Agreement-Meeting-Materials-Dec-12-2018-DWR-CDFW-CNRA.pdf>.

³Available at https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2018/rs2018_0059.pdf.

and adopt the Final Substitute Environmental Document during its December 12, 2018 public meeting.

Phase 2 Status: In the State Water Board’s resolution adopting the Phase 1 amendments, the Water Board directed staff to assist the Natural Resources Agency in completing a Delta watershed-wide agreement, including potential flow and non-flow measures for the Tuolumne River, and associated analyses no later than March 1, 2019. Staff were directed to incorporate the Delta watershed-wide agreement as an alternative for a future, comprehensive Bay-Delta Plan update that addresses the reasonable protection of beneficial uses across the Delta watershed, with the goal that comprehensive amendments may be presented to the State Water Board for consideration as early as possible after December 1, 2019. As the State Water Board further refines this update, there will be opportunity for public comment.

The effort has made significant progress since an initial framework was presented to the State Water Board on December 12, 2018.

On March 1, 2019, the California Department of Water Resources and the Department of Fish and Wildlife submitted documents⁴ to the State Water Board that reflect progress since December to flesh-out the previously submitted framework to improve conditions for fish through targeted river flows and a suite of habitat-enhancing projects including floodplain inundation and physical improvement of spawning and rearing areas.

Since the March 1 submittal, significant work has taken place to develop the package into a form that is able to be analyzed by State Water Board staff for legal and technical adequacy. On June 30, 2019, a status update with additional details was submitted to the Board for review. Additionally, on February 4, 2020, the State team released a framework for the Voluntary Agreements to reach “adequacy”, as defined by the State team.

Further work and analysis is needed to determine whether the agreements can meet environmental objectives required by law and identified in the State Water Board’s update to the Bay-Delta Water Quality Control Plan.

Delta Conveyance

U.S. Army Corps of Engineers Issues Notice of Intent

The U.S. Army Corps of Engineers (USACE) issued a Notice of Intent (NOI) for the development of an Environmental Impact Statement for the Delta Conveyance Project. Publication of the NOI initiates the environmental review process under the National Environmental Policy Act (NEPA). The NOI also signals the start of the federal scoping period, providing an opportunity for public

⁴ Available at http://resources.ca.gov/docs/voluntary-agreements/2019/Complete_March_1_VA_Submission_to_SWRCB.pdf

and agency comment on the scope and content of the NEPA review. Information related to the NEPA scoping period, including details on how to comment, can be found on the USACE website.

[Preliminary Cost Assessment Prepared](#)

The Delta Conveyance Design and Construction Authority has prepared a preliminary cost assessment for the Delta Conveyance Project. Cost information developed at this early stage provides a starting point to understand the program's probable costs based on industry standard methodologies. While planning and design of the program are in the very early stages, this information is intended to aid the beneficiary public water agencies who are ultimately responsible for funding the planning, environmental review, permitting and, if approved, design and construction of a proposed Delta conveyance facility. This information will be refined over time as planning and environmental review proceed and more precise design and engineering become available. Find the presentation material [here](#) and the meeting video archive will be located [here](#) when available.

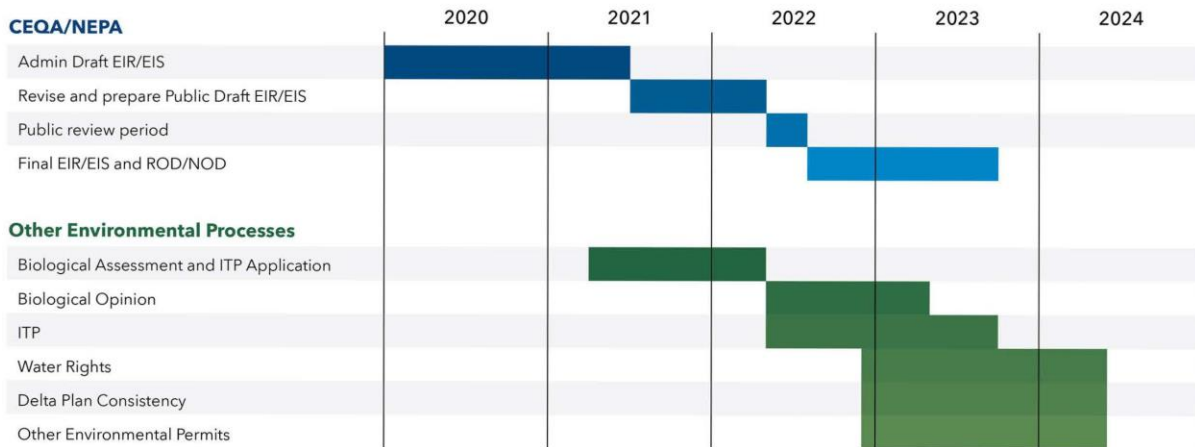
This cost assessment is related to the proposed project as it was identified in the Notice of Preparation and is not an indication of any type of project approval by the Department of Water Resources (DWR). DWR has made no decisions as to the selection of a specific alternative as the program planning and design are still in the "Initial Conceptual Design Phase" and alternatives are still being studied. A final decision regarding whether to approve the proposed Delta Conveyance Project or an alternative, including the no project alternative, will not occur until after completion of the environmental review under the California Environmental Quality Act and NEPA, and other environmental permitting processes have been completed.

[Updated Schedule Now Available](#)

An updated program schedule is available on the Delta Conveyance Project website⁵. The schedule has been modified to align the state and federal environmental review processes, as well as to accommodate additional time needed for modeling. DWR expects permitting to be complete in mid-2024.

⁵ https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Delta-Conveyance/DC_Schedule_August2020_508.pdf?la=en&hash=9069D624DB200C0BC9C8B57BAA51DB7FC3CCB19B

Delta Conveyance Project Schedule



Water Blueprint for the San Joaquin Valley

The Water Blueprint for the San Joaquin Valley (Group) will hold its Executive Committee meeting on October 13 and the large Group meeting on October 15. Some 70 participants make up the Blueprint large group including Farm Bureaus, Water Authorities, Districts, Growers, Trade Associations, Fresno State, GSAs, Grasslands, Reclamation and white land interests. A comprehensive and collaborative plan is under development that the San Joaquin Valley (broad coalition) can support and advocate for with a focus on solutions in coordination with key stakeholders.

Annual 2020 invoices have been sent out and the finance committee is following up on payments. The Steering Committee for Phase II is developing a solution set. The Group and the following committees listed below are pursuing the goals of Blueprint, including funding opportunities and working in conjunction with other stakeholders.

Socio-Economic Impact Analysis (EIA) Phase I completed, Phase II being developed: A number of presentations and events have been completed while others have been rescheduled. Prior to the shelter in place order the Blueprint group had been implementing a communications plan to highlight the EIA and the impacts under a status quo approach. Phase II of the plan will look at a solution set being developed with the Technical Committee and others.

Project Status: Stantec and MBK have been engaged for Planning and Engineering services to support the development, evaluation, and selection of activities that will be pursued with the support of the Blueprint entity, including: Implementation of SGMA in the San Joaquin Valley, Development of a water supply plan to minimize loss of working lands, degradation of groundwater quality, loss or jobs, and other regional economic impacts, Development of an environmental plan to manage land use changes for agricultural lands that unavoidably must come out of production, and Develop safe, clean affordable water supplies for disadvantages communities.

DAC/SDAC Drinking Water Feasibility Study: The objective of the Project is to identify the technical, financial, and institutional feasibility of providing surface water deliveries from the Madera Canal and Friant-Kern Canal to recharge basins, or other types of facilities, to improve drinking water conditions (accessibility, affordability, quality and quantity) for DACs and SDACs located in the Study Area. After a pilot study is implemented, expansion of projects to other areas is anticipated.