



**Delta
Stewardship
Council**

A CALIFORNIA STATE AGENCY

September 6, 2023

Chris Wilkinson

Department of Water Resources

P.O. Box 942836

Sacramento, CA 94236-0001

Delivered via email: SWPDeltaOps@water.ca.gov

RE: Comments on Notice of Preparation of an Environmental Impact Report for the Long-Term Operations of the State Water Project facilities in the Sacramento-San Joaquin Delta, Suisun Marsh and Suisun Bay, SCH# 2023060467

Dear Chris Wilkinson:

Thank you for the opportunity to review and comment on the Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the Long-Term Operations of the State Water Project facilities in the Sacramento-San Joaquin Delta (Delta), Suisun Marsh and Suisun Bay (project). The Delta Stewardship Council (Council) recognizes that the objective(s) of the project as described in the NOP, are approved long-term operations of State Water Project (SWP) facilities to supply water for agricultural, municipal, and industrial uses, as well as provide additional recreational benefits in compliance with applicable laws, regulations, and contractual obligations.

The project's operations would be coordinated with the Department of Water Resources' (DWR) implementation of the proposed Voluntary Agreements, which are meant to provide an alternative approach to meeting the requirements of the

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Long-Term Operations of the State Water Project facilities in the Sacramento-San Joaquin Delta, Suisun Marsh, and Suisun Bay

September 6, 2023

Page 2

revised State Water Resources Control Board's (SWRCB) Bay-Delta Water Quality Control Plan.

The NOP states that the EIR will evaluate potential impacts associated with long-term operations of the SWP, including the following:

1. Updated operating criteria, including operations of SWP facilities in the Delta such as pumps, the Suisun Marsh Salinity Control Gates, and the North Bay Aqueduct.
2. Measures that may be adopted to avoid, minimize, or mitigate impacts to listed species resulting from SWP long-term operations.

The Council is an independent state agency established by the Sacramento-San Joaquin Delta Reform Act of 2009, codified in Division 35 of the California Water Code, sections 85000-85350 (Delta Reform Act). The Delta Reform Act charges the Council with furthering California's coequal goals of providing a more reliable water supply and protecting, restoring, and enhancing the Delta ecosystem. (Water Code, § 85054.) The Delta Reform Act further states that the coequal goals are to be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place. The Council is charged with furthering California's coequal goals for the Delta through the adoption and implementation of the Delta Plan. (Wat. Code, § 85300.)

Pursuant to the Delta Reform Act, the Council has adopted the Delta Plan, a comprehensive long-term management plan for the Delta and Suisun Marsh that furthers the coequal goals. The Delta Plan contains regulatory policies, which are set forth in California Code of Regulations, Title 23, sections 5001-5015. Through the Delta Reform Act, the Council was granted specific regulatory and appellate authority over certain actions of State or local public agencies that take place in whole or in part in the Delta. (Wat. Code, §§ 85210, 85225.30.) A state or local agency that proposes to undertake a covered action is required to prepare a written Certification of Consistency with detailed findings as to whether the covered action is consistent with the Delta Plan and submit that certification to the Council prior to implementation of the project. (Wat. Code, § 85225.)

Chris Wilkinson

Long-Term Operations of the State Water Project facilities in the Sacramento-San Joaquin Delta, Suisun Marsh, and Suisun Bay

September 6, 2023

Page 3

COVERED ACTION DETERMINATION AND CERTIFICATION OF CONSISTENCY WITH THE DELTA PLAN

Based on the project location and scope, as provided in the NOP, the project may meet the definition of a covered action. Water Code section 85057.5(a) states that a covered action is a plan, program, or project, as defined pursuant to Section 21065 of the Public Resources Code that meets all of the following conditions:

(1) Will occur, in whole or in part, within the boundaries of the Delta or Suisun Marsh. The project would occur within the boundaries of the Delta and Suisun Marsh.

(2) Will be carried out, approved, or funded by a State or a local public agency; The Project would be carried out by DWR, a State agency.

(3) Is covered by one of the provisions of the Delta Plan. Additional details about the proposed modifications to the SWP and an assessment of potential environmental impacts in the Delta beyond what is provided in the NOP are needed to determine the applicability of one or more Delta Plan regulatory policies.

(4) Will have a significant impact on achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and State interests in the Delta. The project may have a significant impact on the achievement of the coequal goals to provide a reliable water supply for California and to protect, restore, and enhance the Delta ecosystem.

The State or local agency approving, funding, or carrying out the project must determine if that project is a covered action and, if so, file a Certification of Consistency with the Council prior to project implementation. (Wat. Code, § 85225; Cal. Code Regs., tit. 23, § 5001(j)(3).) Additional project details and impact assessments contained in the forthcoming Draft EIR will be helpful in determining applicable Delta Plan policies supporting this determination.

Chris Wilkinson

Long-Term Operations of the State Water Project facilities in the Sacramento-San Joaquin Delta, Suisun Marsh, and Suisun Bay

September 6, 2023

Page 4

CLOSING COMMENTS

As DWR proceeds with the design, development, and environmental impact analysis of the project, the Council invites DWR to engage Council staff in early consultation (prior to the submittal of a Certification of Consistency) to discuss project features and mitigation measures that would promote consistency with the Delta Plan.

More information on covered actions, early consultation, and the certification process can be found on the Council website, <https://coveredactions.deltacouncil.ca.gov>. Council staff are available to discuss issues outlined in this letter as DWR proceeds in the next stages of its project and approval processes. Please contact James Edwards at James.Edwards@deltacouncil.ca.gov with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Henderson", with a long horizontal flourish extending to the right.

Jeff Henderson, AICP

Deputy Executive Officer

CC

Cindy Messer (cindy.messer@water.ca.gov)

Kris Jones (kristopher.jones@water.ca.gov)