



ACTION ITEM

Consideration of Endorsement of the Delta Plan Five-Year Review Report

Summary: Staff will present the Delta Plan Five-Year Review Report (Report) summarizing the findings and recommendations of the statutorily required Five-Year Review of the Delta Plan (Water Code section 85300(c)). Staff is seeking any final comments on the report from Councilmembers and recommends the Council adopt the resolution endorsing the Delta Plan Five-Year Review Report and stating that the Report's findings are exempt from the California Environmental Quality Act (CEQA). Staff will also present a draft Five-Year Review Highlights document that summarizes the Report and can be used in Council outreach activities.

Requested Action

Following a staff presentation and public comment on the Report, staff recommends the Council adopt proposed Resolution 2019-3 endorsing the Five-Year Review Report and its recommendations. The resolution also states that the Council finds that the Five-Year Review is exempt from CEQA.

Background

The Delta Reform Act states that "(t)he Council shall review the Delta Plan at least once every five years and may revise it as the Council deems appropriate..." (Water Code section 85300, subd. (c)). To meet this requirement, Council and staff have undertaken extensive review, analysis, stakeholder outreach, and synthesis to prepare findings based on lessons learned from the first five years of Delta Plan implementation (2013-2018).

The Delta Plan Five-Year Review has three objectives: 1) to reflect on the successes and challenges of initial efforts across agencies when implementing the Delta Plan; 2) to focus and prioritize the Council's near-term future efforts to implement the Delta Plan; and 3) to identify planning topics and emerging issues that may inform future Delta Plan Amendments.

Update on Staff Activity

To date, staff has completed the following steps to support the review:

- Initial staff assessment of the Delta Plan. (*complete: presented at the May 24, 2018 Council meeting*)
- External evaluation of the Delta Plan and implementation efforts: Staff and consultants conducted individual and stakeholder focus group interviews and an online survey to understand how stakeholders view and use the Delta Plan. (*complete: presented at the March 21, 2019 Council Meeting*)
- Comprehensive review of each Delta Plan chapter. (*complete: presented at the May 23, 2019 meeting*)

- Conducted Delta Plan Interagency Implementation Committee (DPIIC) surveys and interviews. (*complete: presented at the May 23, 2019 meeting*)
- Assessed the Council's covered action process. (*complete: presented at the May 23, 2019 Council meeting*)
- Additional assessment and analysis of Delta Plan implementation efforts, including DPIIC, performance measures, and how the Council has influenced Delta funding activities. (*complete: presented at the May 23, 2019 Council meeting*)
- Developed draft findings, lessons learned, and recommendations. (*complete: presented at the May 23, 2019 Council meeting*)
- Refined draft findings, lessons learned, and recommendations based on input from Councilmembers and incorporated these items into a Draft Recommendations Report. (*complete: presented at August 22, 2019 Council meeting*)
- Incorporated Councilmember feedback from the August Council meeting, completed editing and layout of Delta Plan Five-Year Review Report. (*complete: summarized below and presented at today's Council meeting*)
- Developed a Draft Delta Plan Five-Year Review Highlights Report. (*complete: summarized below and presented at today's Council meeting*)

Delta Plan Five-Year Review Report

The Delta Plan Five-Year Review Report (included as **Attachment 1** to this staff report) summarizes the methods and results of the Five-Year Review, discusses the Council's significant accomplishments over the initial five years of the Delta Plan's implementation, describes the strengths and successes of the Delta Plan, and identifies portions of the Delta Plan where the Council can focus implementation efforts in the near-term.

Since the August 22, 2019 Council meeting, staff has made the following key revisions to the Report:

- In the Procedural Adjustments section of Chapter 4, staff added a new priority action: *Conduct a workshop on administrative procedures to elicit lessons learned and experiences from interested parties.* (page 4-6)
- In the Adaptive Management section of Chapter 4, staff added new text relating to funding for adaptive management: *The Council and stakeholders have also identified the lack of funding for ongoing and long-term adaptive management to be an additional challenge for projects. Delta Plan policy GP1(b)(4) specifically calls for "documentation of access to adequate resources...for the implementation of the proposed adaptive management process". The Council recognizes this difficulty and will continue to work with funding agencies, project proponents, and the legislature to advocate for funding and adequate resources to meet this need.* (page 4-7)

- In the Key Planning Topics and Emerging Issues section of Chapter 4, staff added new text to each sub-section to more succinctly describe the issue and frame the discussion.
- In the Environmental Justice and Disadvantaged Communities section of Chapter 4, staff added additional text and graphics to reinforce the statewide significance of this issue.
- Staff added graphics throughout the report to illustrate key ideas.
- The Executive Officer has added a foreword to the beginning of the document.

Today's Meeting and Next Steps

At today's meeting, staff will present the Report. Staff will then ask the Council for input and to adopt a resolution finding that the Report and its findings and recommendations are exempt from CEQA and endorsing the Report (provided as **Attachment 2** to this staff report).

Council staff will also present a draft of the Delta Plan Five-Year Review Highlights document (provided as **Attachment 3** to this staff report). This document is a high-level summary of the Five-Year Review, focusing on the Council's achievements over the past five-years and specific activities the Council will pursue over the next five years. This document can be used by Councilmembers and others as a resource to summarize what the Council has accomplished and continues to work on. Following the Council meeting, staff will incorporate comments received and publish the Highlights report.

California Environmental Quality Act Compliance

As described in the introduction of this staff report, the Five-Year Review of the Delta Plan is required by Water Code Section 85300(c). The Report describes the Council's experience implementing and amending the Delta Plan since adoption in 2013. The Report:

- Identifies both accomplishments and challenges as determined by staff, Councilmembers, interviews with stakeholders, workshops, consulting with the public, agencies responsible for Delta projects, and the DPIIC;
- Reviews the certifications of covered actions filed to date;
- Reviews progress measured by performance measures; and
- Identifies proposals for potential future revisions to the Delta Plan to facilitate achievement of the coequal goals.

Thus, the Five-Year Review recommends ways in which the Delta Plan can be strengthened, including outreach processes. These findings and recommendations are intended to assist the Council in developing potential future amendments to the Delta Plan and implementation strategies.

Staff has determined that endorsement of the Report is exempt from the California Environmental Quality Act (CEQA) under the following exemptions:

Common Sense Exemption (14 CCR section 15161(b)(3)) (State CEQA Guidelines)

Pursuant to the “common sense exemption” in the State CEQA Guidelines, “[a] project is exempt from CEQA...[w]here it can be seen with a certainty that there is no possibility that the activity in question may have a significant effect on the environment...That is because ‘CEQA only applies to projects, which have the potential for causing a significant effect on the environment.’” The Five-Year Review consists of an evaluation of the implementation of the Delta Plan since 2013, makes findings regarding the past success of the Delta Plan, and makes recommendations regarding possible changes to the Delta Plan for future consideration by the Council as part of the planning process. Because the Five-Year Review involves evaluations and recommendations for possible future planning actions, it can be seen with a certainty that the Five-Year Review will not have a significant effect, or any physical effect, on the environment. Therefore, endorsing the Report is exempt from CEQA under CEQA Guidelines Section 15161(b)(3).

Class 6 Categorical Exemption – Information Collection (14 CCR section 15306) (State CEQA Guidelines)

The Class 6 categorical exemption “consists of basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. These may be strictly for information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted or funded.” The Five-Year Review has involved consulting with other public agencies, public input, and the input of the Delta Independent Science Board. None of these activities has involved a disturbance of any sort to environmental resources, and the information obtained will be used to inform potential future planning actions by the Council. Therefore, endorsing the Report is exempt from CEQA under CEQA Guidelines Section 15306.

Statutory Exemption – Feasibility and Planning Studies (Public Resources Code section 21102; 14 CCR section 15262 (State CEQA Guidelines))

“A project involving only feasibility or planning studies for possible future actions which the agency...has not yet approved, adopted, or funded does not require the preparation of an EIR or negative declaration but does require consideration of environmental

factors.” Because the Five-Year Review involves evaluations of the adopted Delta Plan and recommendations for possible future planning actions (it is the first step in a planning study) it will not have a legally binding effect on later activities, and will not have a significant effect, or any physical effect, on the environment. There are no environmental factors to consider. Therefore, endorsing the Report is exempt from CEQA under CEQA Guidelines Section 15262 and Public Resources Code Section 21102.

Staff Recommendation for Council Action

Today, staff is recommending that the Council adopt proposed Resolution 2019-3 (provided as **Attachment 2** to this staff report) which would:

- (1) Determine that the project is exempt from CEQA pursuant to State CEQA Guidelines Sections 15161(b)(3), 15306, and 15262;
- (2) Endorse the Delta Plan Five-Year Review Report and the recommendations in the Five-Year Review Report; and
- (3) Direct the Executive Office to incorporate any changes identified at the October 24, 2019 meeting within the Delta Plan Five-Year Review Report.

Fiscal Information

Not applicable.

List of Attachments

Attachment 1: Delta Plan Five-Year Review Report

Attachment 2: Proposed Resolution 2019-03: Determination of CEQA Exemption and Endorsement of Delta Plan Five-Year Review Report

Attachment 3: Draft Delta Plan Five-Year Review Highlights (provided at the Council Meeting)

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