



## INFORMATION ITEM

### Tribal and Environmental Justice Issue Paper Public Review Draft Release

#### Summary

The 2019 Five-Year Review of the Delta Plan (2019 Review) adopted by the Delta Stewardship Council (Council) identified environmental justice (EJ) as a key issue for Council focus. The 2019 Review recommended that staff prepare an issue paper to inform potential future policy actions to address EJ and better serve disadvantaged communities in the Council's mission of furthering and achieving the coequal goals of "providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem... in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place" (Wat. Code, § 85054.). Since initiating this effort, Council staff's understanding of EJ has evolved, resulting in an expansion of the issue paper to include tribal justice.

At today's Council meeting, the Council will host a discussion regarding the findings and recommendations in the draft tribal and environmental justice issue paper (issue paper) released for public review on September 3, 2024. Council staff will provide an overview of the process staff undertook to develop the issue paper as well as each section of the public review draft. Staff will also outline the next steps for finalizing the paper. Representatives from an EJ expert group that participated in this initiative will share their perspectives. Today's discussion aims to inform Councilmembers and the public around the contents of the draft issue paper. Specifically, Council staff is seeking engagement regarding tribal justice and EJ issues and associated recommendations. Ideas generated during the discussion will be considered along with other public comments and tribal consultation on the draft issue paper for inclusion in the final issue paper. The public comment period closes November 4, 2024.

## Background

California was one of the first states in the nation to codify EJ in statute in 1999 as part of a program establishing the Governor's Office of Planning and Research as the coordinating agency in State government for EJ programs. Pursuant to Government Code section 65040.12, subd. (e), EJ means "the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins, with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies." As the issue paper notes, the concept of EJ primarily describes the disproportionate burden of environmental impacts, such as air, land, or water contamination, borne by certain communities, and calls for ensuring that the communities most vulnerable to pollution are included in the development and implementation of laws, programs, and policies that affect the environment.

Over the past two decades, the State has worked to incorporate EJ principles into policy, planning, and funding priorities. Many of the Council's peer state agencies have recently adopted or are developing EJ policies, principles, or guidelines.

Similarly, the State has attempted to address, acknowledge, and apologize for the long-term injustice experienced by California Native American Tribes. In his June 2019 Executive Order No. N-15-19, Governor Gavin Newsom described this history as "fraught with violence, exploitation, dispossession, and the attempted destruction of tribal communities" and recognized it as "historically sanctioned over a century of depredations and prejudicial policies against California Native Americans." In that executive order, Governor Newsom also publicly apologized on behalf of the citizens of California for "the many instances of violence, maltreatment, and neglect California inflicted on tribes."

The Council's 2019 Review identified EJ as a key issue, noting a specific need for more information and analysis to inform potential future actions. The Council adopted a recommendation that an issue paper be prepared "to investigate the potential need for additional strategies or responses within the Delta Plan to address disadvantaged communities and environmental justice."

## Tribal and Environmental Justice Issue Paper

### ISSUE PAPER OBJECTIVES

In response to the Council's recommendation, Council staff developed the following objectives for the issue paper:

- Build a network of community leaders and organizations to inform and support the Council's EJ work
- Identify EJ issues within and around the Sacramento-San Joaquin Delta
- Identify policy options to address those issues

The issue paper presents Council staff's understanding of past tribal and environmental injustices in the Delta and current tribal and EJ issues and recommends actions to better address issues within the scope of the Council's mission, authority, and influence. The issue paper focuses on tribal justice and EJ within and around the present-day legal boundaries of the Sacramento-San Joaquin Delta and Suisun Marsh (Wat. Code, § 85058; Delta) and the mission, duties, and responsibilities set forth in the Sacramento-San Joaquin Delta Reform Act of 2009 (Wat. Code, § 85000 et seq.).

Council staff recognizes that tribes view the legal Delta as an artificial construct. It's important to acknowledge that this paper is not a full exploration of all tribal justice and EJ issues in the watershed and how tribal and environmental issues manifest upstream (e.g. cultural significance and damage to tribes from damming the tributaries in the upper watershed) and downstream (e.g. access to clean, affordable water in tribal and EJ communities in the Central Valley and southern California) of the Delta, which is a topic deserving rigorous study, but beyond the scope of this issue paper.

Furthermore, the issue paper expresses Council staff's evolving understanding of tribal justice and EJ issues, and provides foundational context from which the Council can build and grow its tribal justice and EJ work into the future.

### ISSUE PAPER DEVELOPMENT PROCESS

To the greatest extent possible, Council staff developed the issue paper using peer-reviewed literature and empirical data on EJ issues in the Delta. Council staff supplemented these limited resources by drawing upon multiple data sources,

including new primary interview data collected following established social scientific methods, past public comments submitted to the Council, tribal consultations, the Council’s April 2023 tribal listening session, community outreach events, EJ expert group meetings, as described further on the following page, and an EJ webinar series. These data are woven together following a mixed methods approach, widely accepted and applied in health and social sciences, to integrate rigorously collected quantitative and qualitative data sources. In addition to the objectives noted above, with this issue paper, Council staff seeks to make significant contributions to further both original data and synthesis of many existing, disparate data sources on the topic of tribal justice and EJ in and around the Delta.

<b>Data Sources</b>
Analysis of past public comments received by the Council
Literature review  <i>Review of peer-reviewed EJ literature, agency reports, and publicly available data and analysis tools</i>
EJ webinar series (in partnership with California Sea Grant)  <i>Four-part series in Fall 2021 to hear from experts in water justice, government EJ reforms, Tribal justice, and climate justice</i>
22 interviews (in partnership with California Sea Grant)  Summary of interview results: <a href="https://deltacouncil.ca.gov/pdf/council-meeting/meeting-materials/2022-08-25-summary-of-delta-environmental-justice-interviews.pdf">https://deltacouncil.ca.gov/pdf/council-meeting/meeting-materials/2022-08-25-summary-of-delta-environmental-justice-interviews.pdf</a>  <i>Utilized snowball sampling; started with a list of 60+ community-based organizations and list of Tribes; then asked everyone interviewed or contacted if they had recommendations for whom to contact. No one was turned away.</i>
Four community events during Fall 2022
Four Tribal consultations, as well as the Council’s Tribal listening session held in April 2023.

Concurrently, the EJ expert group was formed to inform and help guide development of the issue paper. To form the expert group, Council staff reached out to 60 community-based organizations and tribes with cultural ties to the Delta. Council staff hosted a meeting to explain the purpose of the expert group and the scope of the issue paper. Four organizations expressed interest in participating in the expert group:

- Restore the Delta
- Little Manila Rising
- California Indian Environmental Alliance
- Sacramento Regional Coalition to End Homelessness

Council staff believes the EJ Expert Group has provided valuable insight throughout each step of this effort and has been invaluable in building diverse community relationships in the region. Their contributions are included reviewing early drafts of the issue paper.

### Summary of Issue Paper

The issue paper presents Council staff's understanding of past tribal and environmental injustices in the Delta and current tribal justice and EJ issues, and recommends actions to better address issues within the scope of the Council's mission, authority, and influence.

The issue paper is organized to express Council staff's understanding of what can be done by all agencies working in the Delta and by the Council specifically to begin to better incorporate a tribal justice and EJ lens into our collective work. To stress the importance of following this paper with action, the recommendations are presented early in the paper, following the introduction. The paper then defines EJ and tribal justice, describes the history of tribal justice and EJ in the Delta, and presents a summary of current tribal justice and EJ issues in and around the Delta.

*This next section of the staff report summarizes—in the order presented in the issue paper—each section of the issue paper.*

### DRAFT RECOMMENDATIONS

The Council's 2019 Five Year Review recommendation charged staff with identifying "future policy options for the Council to consider" to better address EJ concerns in

its work. Through the various sources reviewed and interviewed, it became apparent to Council staff that, while there are actions that the Council should consider adopting, the issues and actions identified are complex and cannot be addressed by the Council alone. Thus, the *Recommendations* section of the paper includes both general recommendations relevant to all agencies who work in the Delta as well as recommendations specific to the Council.

#### *WHAT IS TRIBAL AND ENVIRONMENTAL JUSTICE?*

The issue paper documents how EJ is an umbrella concept that has evolved through social activism movements, critical scholarship and research, and public policy. Broadly, the umbrella concept of EJ focuses on the distribution of environmental goods and harms across societal structures of power and socio-demographics, including diagnosing root causes of inequality and injustice.

Within the context of EJ, Council staff determined that it is important to establish that EJ issues also impact tribal communities disproportionately. Furthermore, EJ—with respect to tribes—recognizes tribal equity and the priorities and unique status tribes have within environmental decision-making and management.

Throughout the issue paper, Council staff applies a common conceptual framework for EJ built on three interrelated tenets:

- *Distributive justice*, which refers to the distribution of impacts, such as benefits and harms, across a population over time
- *Procedural justice*, which refers to a fair and open process, including resources for communities to participate
- *Representational justice*, or the fair and respectful representation of impacted communities throughout environmental decision-making

#### *HISTORY AND CONTEXT: TRIBAL AND ENVIRONMENTAL JUSTICE IN THE DELTA*

In the issue paper, Council staff describes how the landscape of the Sacramento-San Joaquin Delta watershed has been radically transformed from pre-Euro-American colonization and settlement to the present day. This transformation from an Indigenous-managed marshland to the epicenter of California's industrial

agricultural sector and freshwater conveyance system set into motion many of the environmental injustices that shape the region today.

This historical context recognizes that the environmental injustices experienced by communities in and around the Delta today have evolved through complex and interdependent social, ecological, economic, and engineering developments across the region. This context highlights some key historical events in and around the Delta, drawing from a large body of work led by EJ communities, Tribal communities, and academic scholars.

#### *CURRENT TRIBAL AND ENVIRONMENTAL JUSTICE ISSUES IN THE DELTA*

This section of the issue paper summarizes current Tribal justice and EJ issues Council staff identified in the process of developing the issue paper. Issues are presented by key topics, which are identified and characterized based on content from the 22 research interviews conducted with tribal and EJ community-based organizations and the analysis of past public comments. To triangulate the interview and public comment data, Council staff substantiates the current tribal justice and EJ issues section with available data from other sources.

In the issue paper, Council staff presents tribal justice issues first, followed by EJ issues organized around the three core tenets of EJ— representational, procedural, and distributive justice—and then by key subtopics within each tenet. As described by Council staff in the issue paper, most, if not all, EJ issues speak to more than one EJ tenet, as these issues are intersectional in nature and manifest at different scales. Given this intersectionality, the issue paper has some repetition throughout this section to demonstrate the connectivity amongst issues and EJ tenets.

#### *APPENDICES*

The issue paper also includes several appendices that provide more detail on the process Council staff undertook to research and draft the issue paper and develop the recommendations.

### **Public Review and Tribal Consultation**

The public review draft of the issue paper was released on September 3, 2024, which opened the Tribal consultation period and the 60-day public review period. During this time, Council staff will be participating in community events and

meetings to solicit feedback. On October 15, 2024, Council staff will host a tribal and EJ issue paper roundtable for tribes. And, during today's Council meeting, the Council will host a discussion to describe findings, hear feedback from EJ expert group participants and Councilmembers, and receive public comments.

Tribal consultation requests were mailed and emailed to Tribes in September. If a tribe is interested in initiating consultation with Council staff on the draft issue paper, they are encouraged to contact the Council's Tribal Liaison at [Tribal.Liaison@deltacouncil.ca.gov](mailto:Tribal.Liaison@deltacouncil.ca.gov) for more information.

### Today's Council Meeting

At today's Council meeting, the Council will host a discussion regarding the findings and recommendations in the draft issue paper. Representatives from an EJ expert group that participated in this initiative will share their perspectives. Today's discussion aims to inform Councilmembers and catalyze the public around the contents of the draft issue paper. Specifically, Council staff is seeking engagement regarding Tribal justice and EJ issues and associated recommendations. Ideas generated during the discussion will be considered along with other public comments and Tribal consultation on the draft issue paper for inclusion in the final issue paper.

### Next Steps and Timeline

Following the close of the public comment period on November 4, 2024, and the close of the tribal consultation period, Council staff will review and incorporate comments working toward bringing a final issue paper forward in early 2025 for the Council to consider adoption.

### Fiscal Information

Not applicable.

### List of Attachments

*Attachment 1: Tribal and Environmental Justice Issues in the Sacramento-San Joaquin Delta: History and Current Perspectives:*



<https://deltacouncil.ca.gov/pdf/public-reviews/2024-08-29-dsc-tribal-ej-issue-paper-public-review-draft.pdf>

*Attachment 2: General Information Sheet:* <https://deltacouncil.ca.gov/pdf/science-program/information-sheets/2024-08-29-tribal-environmental-justice-information-sheet.pdf>

*Attachment 3: Recommendations Information Sheet:*  
<https://deltacouncil.ca.gov/pdf/science-program/information-sheets/2024-08-29-tribal-environmental-justice-paper-recommendations-information-sheet.pdf>

*Attachment 4: Issues Information Sheet:* <https://deltacouncil.ca.gov/pdf/science-program/information-sheets/2024-08-29-tribal-environmental-justice-paper-issues-information-sheet.pdf>

*Attachment 5: Summary of interview results:*  
<https://deltacouncil.ca.gov/pdf/council-meeting/meeting-materials/2022-08-25-summary-of-delta-environmental-justice-interviews.pdf>

## Contact

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