



San Joaquin County Central Delta Water Agency and Local Agencies of the North Delta

December 19, 2024

Consistency Appeals Hearing

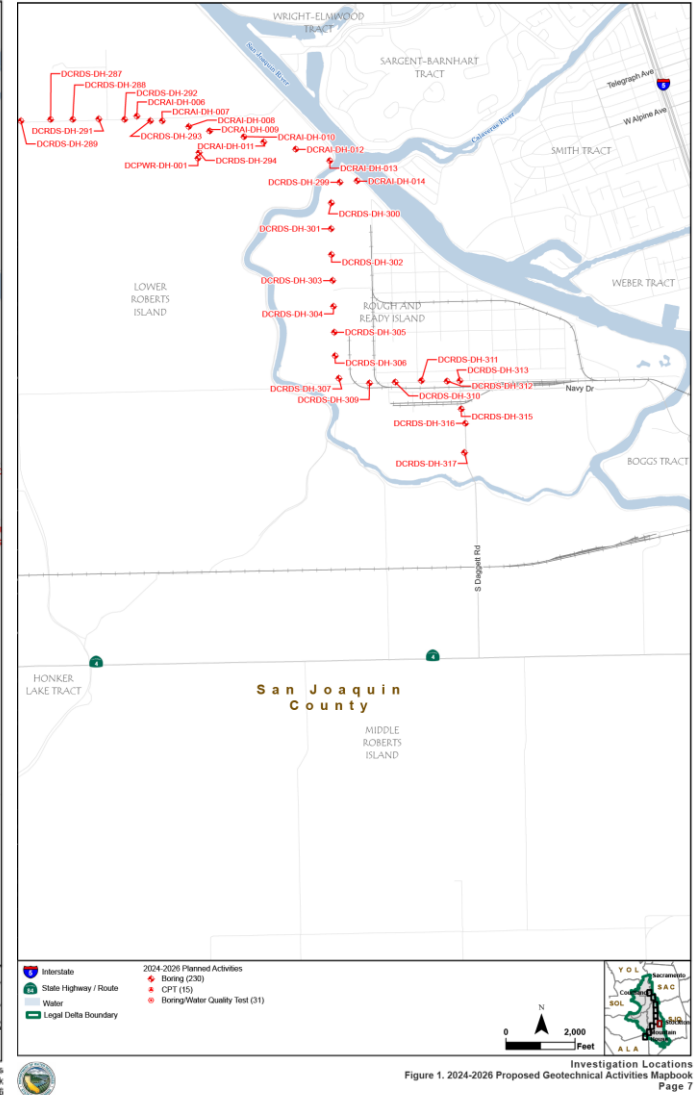
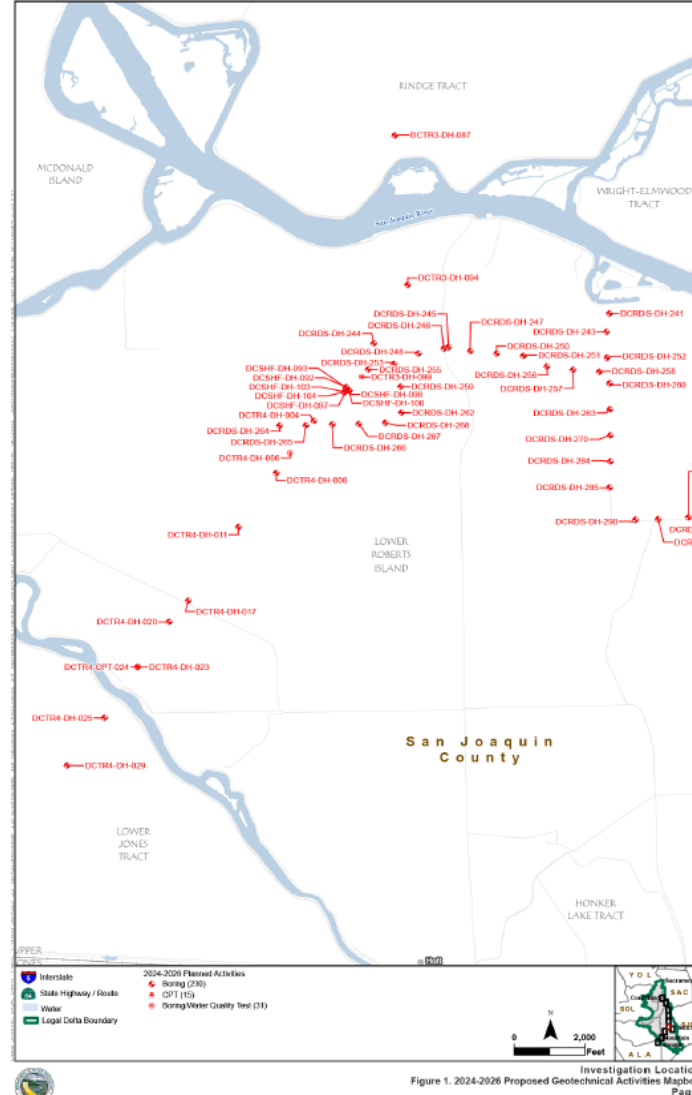
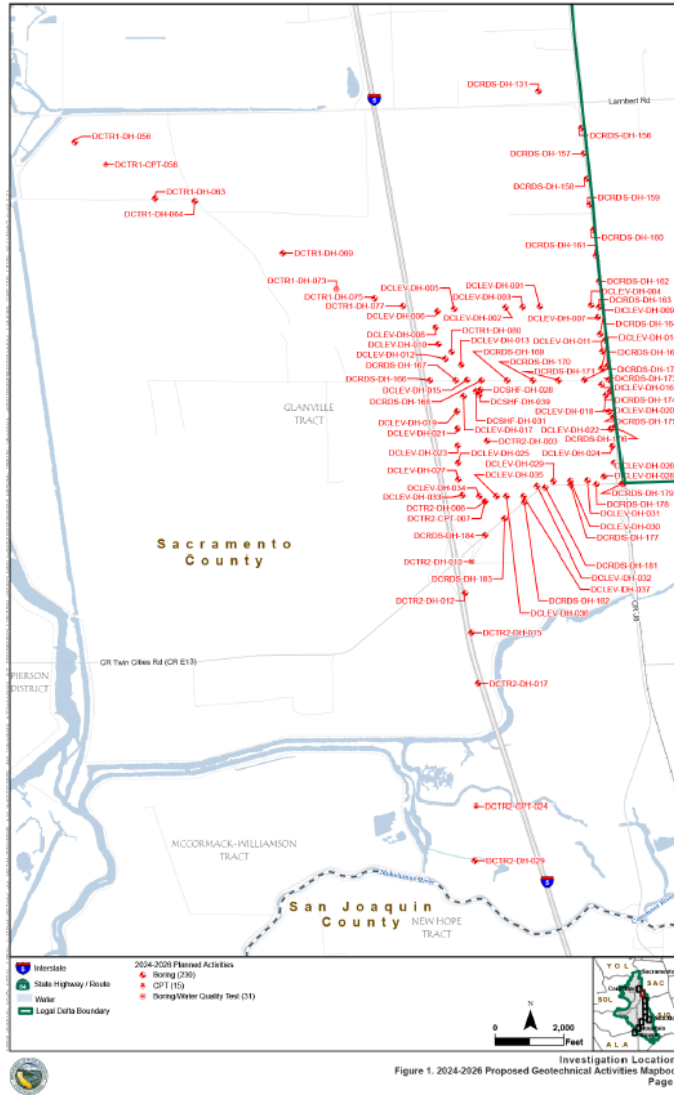
2024-2026 Proposed Geotechnical Activities
(Cert. ID: C20242)
October 8, 2024



THE COUNCIL SHOULD NOT CONSIDER DWR'S NEW INVENTION OF A "PARTIAL COVERED ACTION"

- DWR's proposed geotechnical activities are not a separate covered action; they are merely a small flake chipped off of the DCP, the actual "project" which DWR admits is a covered action.
- DWR chose to make the proposed geotechnical activities an integral part of the DCP, not a separate project; DWR cannot now avoid the consequences of that decision by severing a small part from the whole of the actual covered action.
- DWR has not shown that the Geotechnical Activities have separate utility. There is no other purpose for these activities other than to advance the DCP.

DWR's Geotechnical Activities are Extensive and Conflict with the Coequal Goals & Delta Plan Policies



DWR'S ATTEMPT TO DIVIDE THE DCP INTO PARTS WOULD UNDERMINE DSC'S ABILITY TO ENSURE COVERED ACTIONS ARE CONSISTENT WITH THE DELTA PLAN

- DWR's assertion that Council cannot consider either cumulative impacts or DWR's piecemealing gambit would, if accepted, evade this Council's "gatekeeper" mandate, and undermine this Council's efficacy in advancing the Delta Reform Act's Coequal Goals.
- DWR's brief is replete with cites to CEQA cases, undermining DWR's argument that CEQA is irrelevant to the determination of what constitutes a covered action.
- *Property Reserve* case does not support DWR's position.

And a lot investigations and more are planned

Facility	Soil Borings		CPTs on Land
	Land	Overwater	
Tunnel	Every 1,000 ft OC	At river crossings	1,000 ft OC plus at every 8th boring location

DWR'S PROPOSED GEOTECHNICAL ACTIVITIES ARE INCONSISTENT WITH THE COEQUAL GOALS

- DWR's Assertion that the Geotechnical Activities Will Have No Substantial Effect on the Delta Ecosystem Ignores DWR's Own Environmental Review of the DCP.
 - Example: DWR's admits that "Natural Landscape Blocks" are located where DWR proposes to conduct its geotechnical work.
 - Example: DWR admits that "Essential Connectivity Areas" are clustered where DWR proposes to conduct its geotechnical work.

DELTA PLAN INCONSISTENCIES

- Examples of the DCP's Substantial Effects on the Delta Ecosystem that Cannot Be Ignored or Evaded by the Expedient of Severing Geotechnical Activities from the Larger Covered Action:
 - Delta Groundwater Supplies
 - Traffic within the Delta
 - Cultural Resources within the Delta

- Delta Agriculture
- Delta Levees and Reclamation Works
- Terrestrial Species' Delta Habitat



PROCEDURAL IRREGULARITIES: DWR'S EX PARTE COMMUNICATIONS WITH THE COUNCIL CANNOT BE JUSTIFIED AS "EARLY CONSULTATION"

Date (Y/M/D)	Int/Ext	Certification
[REDACTED]	[REDACTED]	[REDACTED]
7/26/2024	Internal	Geotech
7/26/2024	EXTERNAL	Geotech
7/26/2024	EXTERNAL	DCP
7/31/2024	Internal	Geotech
[REDACTED]	[REDACTED]	[REDACTED]
8/5/2024	EXTERNAL	DCP
8/9/2024	EXTERNAL	Geotech
8/16/2024	EXTERNAL	Geotech
8/22/2024	Internal	DCP
8/23/2024	EXTERNAL	Geotech
9/9/2024	EXTERNAL	DCP

- The Impropriety of the Ongoing Closed Meetings Is Manifest in the Council's Chart Juxtaposing Council Staff meetings with DWR regarding the Geotechnical Activities and the DCP.
- These closed-door communications violate the prohibition on ex Parte Communications and should not occur under the Guise of "Early Consultation."

DWR'S OBJECTIONS TO APPELLANTS' EVIDENCE ARE WITHOUT MERIT

- SJC-1 is relevant to this appeal may be properly considered by the Council in this proceeding.
- SJC-3 is relevant to this appeal may be properly considered by the Council in this proceeding.
- SJC- 5 is relevant to this appeal may be properly considered by the Council in this proceeding.
- SJC-6 is relevant to this appeal may be properly considered by the Council in this proceeding.



San Joaquin County, CDWA and LAND

Respectfully request that the Council grant their appeal and that the Delta be protected as a place, as required by the Delta Reform Act.





Questions?

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