



**Delta
Stewardship
Council**

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March 13, 2023

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Delivered via email: DLL-DCP-EIS@usace.army.mil

**RE: Comments on the Draft Environmental Impact Statement for the
Delta Conveyance Project**

Dear Zachary Simmons:

Thank you for the opportunity to review and comment on the Draft Environmental Impact Statement (DEIS) for the Delta Conveyance Project (project). The Delta Stewardship Council (Council) understands that the U.S. Army Corps' (USACE) scope for the EIS addresses the construction of the proposed project and specific actions that fall under USACE authority. The Council further understands that the project is proposed by and would be implemented by the California Department of Water Resources (DWR). USACE is identified as the lead agency for the project under the National Environmental Policy Act (NEPA) and the DEIS analyses are intended to support a NEPA Record of Decision. According to USACE, the DEIS and its analyses are also anticipated to support USACE decisions on a Section 408 permission request under Section 14 of the River and Harbors Act (RHA), an application for a real estate outgrant, a Department of Army permit application under Section 10 of

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the RHA, and a permit application under Section 404 of the Clean Water Act (DEIS, Chapter 5, p. ES-1).

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, 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. (Wat. Code, § 85054.) The Delta Reform Act does not cover federal actions, including those described in this DEIS. However, the DEIS references DWR's DEIR for the project, which DWR has identified as a potential covered action under the Delta Reform Act. We are submitting these comments primarily to make you aware of comments we submitted to DWR regarding the project, as well as to highlight select topic areas that are unique to the DEIS.

Topic Areas

The DEIS covers a range of topic areas under USACE's authority, including construction-related aspects of the project. Many of the topic areas that are also covered under the California Environmental Quality Act (CEQA) reference analyses described in DWR's DEIR. However, based on our review of the DEIS, we have identified select topics that are either: (1) not required by CEQA and therefore highlighted here, or (2) areas where it may be helpful for the Final EIS to cite to additional content in the DEIR. These topic areas are described below.

Environmental Justice and Climate Change

In the DEIS, environmental justice (EJ) is described under Section 3.8 (p. 3.8-1). The EIS discussion of EJ issues is substantively the same as that within the DEIR in all but one respect: analysis of effects on EJ related to climate change. In the DEIS, USACE concludes that: "To the extent that the action alternatives would provide greater reliability in water deliveries and water quality that would help farmers to keep crop land in production in the study area and allow farm employment to continue under changed conditions, the action alternatives would not have a disproportionately high and adverse effect on minority and low-income communities and could have a beneficial effect under conditions driven by climate change" (DEIS, pp. 3.8-22 through 3.8-23).

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USACE notes that “Adaptation measures that benefit one population can have negative effects on others” (DEIS, p. 3.8-22). Examples of this are highlighted for increased groundwater pumping in the Central Valley as a measure implemented by farm owners to adapt to drought, which also may lead to water shortages in small, low-income communities; and to conversion from high-labor to low-labor crops, resulting in loss of farm worker employment in the San Joaquin Valley. These two examples highlight potential benefits the project may create by enhancing reliability of water deliveries and water quality for communities outside the legal Delta. However, as noted in the DEIS, measures that benefit one population could have disproportionate impacts on others. It would be beneficial for USACE to conduct a more systematic analysis of climate change impacts and other tradeoffs that may affect project impacts on resources in the study area to identify how they could affect EJ communities disproportionately.

Environmental Justice and Public Health

The EIS presents an assessment of the no-project alternative specific to public health. USACE states that, under the no-action alternative, “Low-income and minority populations often live in places where pollutant concentrations already exceed regulatory standards and suffer with respiratory conditions and lack of access to health care. If air emissions are not minimized sufficiently by implementation of mitigation measures or regulatory requirements, they could have a disproportionate adverse effect on the health of minority or low-income populations, if present” (DEIS, p. 3.8-21). The DEIS then describes public health considerations pertaining to mosquitoes and vector-borne diseases. However, in the subsequent analysis of EJ impacts for all action alternatives, USACE focuses the public health analysis on mosquitoes and vector borne diseases (aligned with DWR’s DEIR), but does not address the issue of air pollutants that may be exacerbated by pre-existing health conditions and lack of access to health care, even though the same air pollutant issue highlighted for the no-action alternative presumably applies to all project alternatives. If USACE is relying on the EJ analysis of air quality (Section 3.8) to describe this concern, it may be helpful to cross-reference that in either or both sections. As currently described, the section on air quality finds that impacts to EJ may be significant, whereas in the section on public health there is a statement of no significant impacts.

Climate Change

In Section 3.6, the DEIS notes that "...there were comprehensive climate change studies conducted by the applicant and Delta Stewardship Council to understand the potential effects on the overall SWP [State Water Project] and CVP [Central Valley Project] system, which considered increased inter-annual variability and potential increased drought frequency" (DEIS, p. 3.6-9). We appreciate the reference to this work and do not disagree with the summary of findings. However, we would like to clarify that modeling conducted by the Delta Stewardship Council did not assume the operation of a Delta Conveyance project and was not conducted in support of any dual conveyance project. Rather, it was intended to assess potential vulnerabilities of water supply in California, as it currently exists, under certain climate conditions.

Technical Sections

Several technical areas were identified that appeared to differ from the DEIR that could benefit from further descriptions or references. In the FEIS, it would be helpful for USACE to refer to the analysis supporting its conclusions from the DEIR and address differences that are not covered in the DEIR.

3.11 Groundwater

Section 3.11 of the DEIS describes potential groundwater impacts resulting from construction of the project. As described in the DEIS, potential impacts to groundwater elevations do not appear to be significant (DEIS, p. 3.11-4, 3.11-5, 3.11-7, 3.11-8). Similarly, the DEIS states that the impacts of the project to major conveyance facilities resulting from land subsidence or degradation of groundwater quality are unlikely to be significant (DES, p. 3.11-9).

The DEIS notes that mitigation measures, such as implementing recharge wells outside of slurry walls, would address some of the potential impacts. However, additional analysis is necessary, as noted in the DEIS: "The spacing, depth, and location of recharge wells and monitoring piezometers, as well as thresholds for target external groundwater levels, would be determined after further site-specific investigation, testing, and analysis during future design phases" (DEIS, p. 3.11-4). It would be helpful for surveys informing such design to be completed and incorporated within the FEIS so that potential residual impacts can be better understood.

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Mitigation on Bouldin Island is identified due to the project's potential to affect groundwater levels (DEIS, p. 3.11-6). We note that this island is owned by the Metropolitan Water District of Southern California (Metropolitan) and an ongoing Delta Islands Adaptation project (DIA) has considered various short- and long-term activities on the island. To the degree these planning processes align, the FEIS may wish to consider how a preferred DIA design (if it is available in time) would relate to proposed groundwater mitigation approaches, as well as the commitment of Metropolitan to agree to specific mitigation on its property.

Closing Comments

We appreciate the opportunity to review the Delta Conveyance Project DEIS. As USACE proceeds with revisions and development of a FEIS, we invite you to consider our comments and those we submitted to DWR.

More information on the Council can be found on our website, <http://deltacouncil.ca.gov/>. Council staff are available to discuss issues outlined in this letter as you proceed in in developing a FEIS. Please contact Daniel Constable at (916) 902-6470 (daniel.constable@deltacouncil.ca.gov) with any questions.

Sincerely,

Jeff Henderson, AICP
Deputy Executive Officer
Delta Stewardship Council

Attachment 1: December 16, 2022 letter from Delta Stewardship Council to California Department of Water Resources regarding Draft Environmental Impact Report for the Delta Conveyance Project

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