

Delta Counties Coalition

Contra Costa County · Sacramento County · San Joaquin County · Solano County · Yolo County
"Working together on water and Delta issues"

October 20, 2020

Zachary Simmons
United States Army Corps of Engineers
Sacramento Regulatory Division
1325 J Street, Room 1350
Sacramento, CA 95814

Via Email: Zachary.M.Simmons@usace.army.mil

Re: Comments on Notice of Intent to Prepare EIS for the Delta Conveyance Project

Dear Mr. Simmons,

Thank you for the opportunity to comment on the Notice of Intent ("NOI") to prepare an Environmental Impact Statement ("EIS") for the Delta Conveyance Project ("Project"). This letter is submitted on behalf of the Delta Counties Coalition ("DCC"), a coalition of elected members from Contra Costa, Sacramento, San Joaquin, Solano, and Yolo counties. These counties work collaboratively to give one voice on behalf of the Sacramento-San Joaquin River Delta and its four million area-wide residents. The DCC advocates to protect and enhance Delta communities and existing land uses, improve the Delta ecosystem and provide a more reliable water supply for the State.

DCC is concerned that (1) a meaningful analysis of non-Tunnel alternatives is not occurring in the Delta Conveyance planning process, (2) the Project would have significant adverse flooding effects, and (3) the Project would have direct and indirect adverse effects on Delta Legacy Communities.

The California Department of Water Resources has not Provided the Corps with a Reasonable Range of Alternatives

The NOI confirms that the Project applicant, the California Department of Water Resources ("DWR") has no intention of considering alternatives that do not involve massive intakes on the Sacramento River and a large underground conveyance tunnel.¹ DWR's premature elimination of alternatives, such as the Western Delta Intake Concept and a No Tunnel alternative that improves levees and reduces export

¹ At a July 22, 2020 presentation, DWR disclosed that it would not consider any alternatives to a tunnel. Available at: <https://dcdca.org/wp-content/uploads/2020/07/2020-07-22-SECMeetingPresentation.pdf>, slides 9-30.

water demand, is contrary to the Corps' National Environmental Policy Act ("NEPA") guidelines. "NEPA requires the Corps to evaluate reasonable alternatives that would accomplish the underlying purpose and need of a proposed project."² Achieving that requirement becomes impossible with the truncated alternative range DWR appears to be considering.

According to DWR's Notice of Preparation of an Environmental Impact Report under the California Environmental Quality Act, DWR's objectives for the Project include: climate resiliency, seismic resiliency, water supply reliability and operational flexibility. Purportedly, alternatives that do not include intakes on the Sacramento River and a tunnel could not meet these objectives.³ Contrary to these unsupported assertions, the DCC believes that these objectives can be achieved with practicable alternatives that do not include new intakes on top of Delta Legacy communities or a massive tunnel that removes a large portion of freshwater from the northern end of the Delta. Delta stakeholders have voiced their concerns regarding the DWR's premature rejection of no tunnel alternatives.⁴ The DCC urges the Corps, in meeting its duty to "evaluate the existence of available alternatives," and to consider alternatives in the EIS other than slight modifications to the Project configuration proposed by DWR that do not reduce or eliminate the Project's most significant impacts.⁵

Adverse Flood Effects

Flood control is critical to the DCC and its local flood control partners, who have jointly spent millions of dollars rehabilitating and maintaining levees that protect livelihood, property, and safety throughout the Delta. Any alternative, tunnel, no tunnel, or otherwise, would still rely in part on the existing Delta levee system as conveyance channels. The Project, without the inclusion of components to protect or improve flood protection levels, poses a significant flood risk. The Project's intakes would be constructed on flood protection levees.

The DCC is concerned that constructing the intakes would in effect create staging areas that interfere with floodfighting, change base elevations, remove overflow areas, and encroach on flood management areas. The Project has the potential to

² Available at:

[https://www.nws.usace.army.mil/Portals/27/docs/regulatory/Forms/Alternative%20Analysis%20Framework%20NWS%20\(4-18-16\).pdf?ver=3Kf7zLXJG12kj4yqC5FMYw%3d%3d](https://www.nws.usace.army.mil/Portals/27/docs/regulatory/Forms/Alternative%20Analysis%20Framework%20NWS%20(4-18-16).pdf?ver=3Kf7zLXJG12kj4yqC5FMYw%3d%3d).

³ A summary of the DWR alternatives presentation is here:

<https://nodeltagates.com/2020/07/27/alternatives-to-the-tunnel/>.

⁴ See, e.g., July 22, 2020 Stakeholder Engagement Committee Meeting

Minutes, available at: <https://dcdca.org/wp-content/uploads/2020/08/2020-08-26StakeholderEngagementMeetingMaterials.pdf>.

⁵ Corps' Alternatives Analysis Framework, available at:

[https://www.nws.usace.army.mil/Portals/27/docs/regulatory/Forms/Alternative%20Analysis%20Framework%20NWS%20\(4-18-16\).pdf?ver=3Kf7zLXJG12kj4yqC5FMYw%3d%3d](https://www.nws.usace.army.mil/Portals/27/docs/regulatory/Forms/Alternative%20Analysis%20Framework%20NWS%20(4-18-16).pdf?ver=3Kf7zLXJG12kj4yqC5FMYw%3d%3d).

upend flood protection and the Delta levee system. Levee protection and improvement measures must be included in any iteration of the Project to ensure the safety and prosperity of Delta residents and businesses. Moreover, the EIS must disclose and analyze all of the Project's impacts, direct and indirect, on the Delta Levee system and flood control. Flood control impacts must be analyzed for both construction and operation of the Project.

Adverse Effects on Delta Legacy Communities

Any conveyance system relying on constructing large intakes on the Sacramento River and a massive tunnel would fundamentally upend the lives of Delta residents, including the Delta Legacy communities of Bethel Island, Clarksburg, Courtland, Freeport, Hood, Isleton, Knightsen, Locke, Rio Vista, Ryde and Walnut Grove. These communities contain resources of historical significance, and are also the home to people living and working in the Delta today. The Brown administration's "California WaterFix" project would have been very destructive to Delta communities, and the currently proposed Project is quite similar.

Construction noise, truck traffic, road degradation, diminished air quality, worsened water quality, and increased flood risks are just some of the ways that the Project would affect Delta Legacy Communities. Not only would these impacts directly disrupt daily life for Delta residents, but impacts such as noise and air emissions can cause adverse health effects. The EIS must consider all of the adverse effects, direct and indirect, on the Delta. These community impacts must be analyzed for both construction and operation of the Project. It would be improper for the Corps to segment review of the Project and only address the construction phase, as indicated in the Corps' NOI.

Conclusion

The DCC's concerns are inextricably linked to DWR's rigid insistence that the Project must include intakes on the Sacramento River and a tunnel. Alternatives that improve the existing through Delta conveyance system and/or place intakes in locations away from Delta Legacy communities must be considered. As the lead agency under NEPA, the Corps has a unique opportunity to guide the Project's development in a way that reduces or avoids harmful impacts of a tunnel conveyance system on the environment, as required by NEPA.

We hope that the Corps will implement the NEPA review process in a manner that reduces or avoids impacts while meeting most of the Project objectives. We look

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forward to coordinating with your office during the upcoming environmental review process.

Sincerely,



Don Nottoli
Supervisor, Sacramento
County



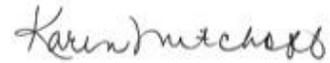
Oscar Villegas
Supervisor, Yolo County



Skip Thomson
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Chuck Winn
Supervisor, San Joaquin
County



Karen Mitchoff
Supervisor, Contra Costa
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cc: California Congressional Delegation
Carrie Buckman, Environmental Manager for Delta Conveyance,
Department of Water Resources