

DPC November 17, 2022 meeting – Agenda Item 9 (Review and consider approval of draft comments on Delta Conveyance Project Draft Environmental Impact Report (DEIR))

**Delta Protection Commission Meeting  
November 17, 2022**

**AGENDA ITEM 9: Review and consider approval of draft comments on Delta Conveyance Project Draft Environmental Impact Report (DEIR)**

Prepared by: Virginia Gardiner

Presented by: Bruce Blodgett

**Requested Action: Receive report and approve proposed comments on Delta Conveyance Project DEIR**

Type of Action: Action Item

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**Background:** The Legislature refined the Commission’s role in 2009 amendments to the 1992 Delta Protection Act and by enacting the Delta Reform Act of 2009 (Chapter 5, Statutes of 2009). That Act declared that the State’s basic goals for the Delta are to provide a more reliable water supply for California and protect, restore, and enhance 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” (PRC section 29702(a) and Water Code section 85054). In addition, State law identifies the Commission as a “forum for Delta residents to engage in decisions regarding actions to recognize and enhance the unique cultural, recreational, and agricultural resources of the Delta” (PRC section 29703.5(a)) and directs the Commission to lead and support a variety of recommendations in the Delta Stewardship Council’s Delta Plan, many related to protecting and enhancing the Delta’s unique values.

The Commission has weighed in on the predecessors to the current Tunnel Project in 2014, 2015, and 2018. Commission staff provided extensive comments to the California Department of Water Resources (DWR) California Environmental Quality Act (CEQA) Notice of Preparation (NOP) of an EIR for the Delta Conveyance Project (DCP), on April 15, 2020. Detailed comments were submitted to the US Army Corps of Engineers (Corps) in response to the National Environmental Policy Act (NEPA) Notice of Intent on October 20, 2020. Staff also provided comments on the CEQA review for the related Soil Investigations for Data Collection in the Delta, and on the draft Water Resilience Portfolio.

**Current Status:** Since the public release of the DCP DEIR on July 27, 2022, DPC staff has been reviewing it carefully to understand differences between the current and previous tunnel proposals from the perspective of the environmental impacts of the project on the “Delta as Place” values noted above. At the September 15, 2022 Commission hearing, staff presented the topic areas of concern that were detailed in the NOP comment letter. Commissioners identified some general areas of concern, including water quality, groundwater impacts, construction

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traffic and roadway damage, and impacts to agriculture and legacy communities.

Commissioners also requested copies of the previous tunnel environmental review comment letters submitted and expressed interest in staff coordinating with Delta counties in making comments. Copies of previous Commission comment letters are posted on the Commission’s website and were distributed to Commissioners, alternates, and members of the Delta Protection Advisory Committee.

The results of our DEIR review to date are provided in Attachments 9a and 9b: a proposed comment cover letter with DEIR comment issue areas summarized. For the purpose of this staff presentation, these are organized by type of deficiency, such as flawed or inappropriate evaluation criteria, factual inaccuracies in text or graphics, inaccurate impact statements, and unrealistic or inadequate mitigation. For the DEIR comment letter, these issue areas will be presented in traditional topic area format with specific DEIR section references and would be submitted with the cover letter by or before the comment deadline of December 16, 2022.

Although we do not have the resources to comment on every section of the DEIR, staff has given a thorough review to significant core Delta as Place issues for the Commission’s consideration. These concentrated on Land Use, Agriculture, Recreation, Levees and Drainage, Cultural Resources, Visual Resources, Noise and Environmental Justice impacts. In the final month left for comment we intend to expand the detailed comments to address the DEIR deficiencies to the extent possible.

Following an introductory section describing the Commission as the forum for Delta residents to engage in decisions regarding the unique cultural, recreational, natural resource and agricultural resources of the Delta, the draft letter states the central concern with the proposed project: in staff’s opinion, the DCP continues to focus on a more reliable water supply for south-of-Delta exporters while inadequately considering the no-project alternative and almost entirely disregarding the protection and enhancement of the human dimension in the unique cultural, recreational, and agricultural values of the Delta.

**Next Steps:** The comment deadline is December 16, 2022. With direction from the Commission, staff will finalize the letter for the Chair’s signature. If desired the Commission can appoint two Commissioners to work with the Executive Director to complete revisions to the letter.

**Recommended Action:** Commission staff requests the Commission consider the draft letter, and the issues presented in the attachment, provide comments or revisions, and direct the Executive Director to finalize the letter.

**Relationship to Vision 2030 (Commission strategic plan):**

**Water (Strategic Theme)**

W.1 Promote Statewide water solutions that reduce reliance on Delta fresh water supplies, provide through-Delta fresh water conveyance to protect Delta water quality and water rights, and protect and enhance the Delta's natural resources, recreation, agriculture, adjacent urban areas and economies.

1.3 Analyze proposals for addressing water supply reliability for compatibility with Delta values.