

**DELTA PROTECTION COMMISSION**

2101 Stone Blvd., Suite 200  
West Sacramento, CA 95691  
(916) 375-4800  
[www.delta.ca.gov](http://www.delta.ca.gov)



March 15, 2023

Zachary M. Simmons, Project Manager  
US Army Corps of Engineers  
Sacramento District Regulatory Branch  
Sacramento, CA 95814      VIA EMAIL: [DLL-DCP-EIS@usace.army.mil](mailto:DLL-DCP-EIS@usace.army.mil)

Re: Draft Environmental Impact Statement SPK-2019-00899

Dear Mr. Simmons:

The Delta Protection Commission (Commission) is a California state agency created by the Delta Protection Act of 1992, which declared the Delta “a natural resource of statewide, national, and international significance, containing irreplaceable resources, and that it is the policy of the state to recognize, preserve and protect those resources of the Delta for the use and enjoyment of current and future generations” (Public Resources Code § 29701). The Act directed the Commission to regulate land use in the Delta to ensure that the populous metropolitan areas surrounding the Delta did not overrun this natural resource and forever alter the irreplaceable agricultural, recreational, natural, and cultural features that make the Delta the unique place that it is.

The following comments reflect the concerns of the majority local government and water agency members of the Commission, and not members representing State agencies which do not necessarily share these concerns. This letter in no way implies a recommendation or position of the Governor or his administration.

The proposed Delta Conveyance Project (DCP), known as Alternative 5, consists of a 6,000 cfs conveyance facility (tunnel) constructed through the Delta on an eastern alignment in a corridor roughly parallel to and west of Interstate 5 to a site south of the Byron Highway and Clifton Court Forebay adjacent to Bethany Reservoir. Project alternatives are distinguished by tunnel alignment (i.e., central or eastern), size (tunnel diameter and length), capacity (ranging from 3,000 cfs to 7,500 cfs), and method of delivery to the State Water Project and potentially Central Valley Project facilities (i.e., through Southern Forebay Complex or Bethany Reservoir Complex).

For reasons we will document in this letter and corresponding attachments, we recommend the Corps adopt the “No Action” alternative. Our comments are offered to ensure that the full scope of the adverse impacts of the proposed project is described accurately. Consideration of alternatives in light of these adverse impacts, as well as reassessing the appropriateness of the project objectives, leads to a No Action alternative.

**Diane Burgis, Chair**  
Contra Costa County Board of Supervisors

**John Vasquez, Vice Chair**  
Solano County Board of Supervisors

**Oscar Villegas**  
Yolo County Board of Supervisors

**Patrick Hume**  
Sacramento County Board of Supervisors

**Steven Ding**  
San Joaquin County Board of Supervisors

**Ron Kott**  
Cities of Contra Costa and Solano Counties

**Paul Steele**  
Cities of Sacramento and Yolo Counties

**Alan Nakanishi**  
Cities of San Joaquin County

**Jim Paroli**  
Central Delta Reclamation Districts

**Tom Slater**  
North Delta Reclamation Districts

**Nick Mussi**  
South Delta Reclamation Districts

**Toks Omishakin**  
CA State Transportation Agency

**Karen Ross**  
CA Department of Food and Agriculture

**Wade Crowfoot**  
CA Natural Resources Agency

**Brian Bugsch**  
CA State Lands Commission

Ex Officio Members

**Honorable Susan Eggman**  
California State Senate

**Honorable Carlos Villapudua**  
California State Assembly

Consideration of a No Action alternative set within a structured framework that would bring together and resolve the concerns of our affected local government constituents, responsible and trustee agencies, and other interested parties, including those who may not be entirely in accord with the action on environmental grounds, as well as those currently served by the State Water Project, would better satisfy the State's co-equal goals of a reliable water supply, a restored Delta ecosystem and a Delta that is protected maintained and enhanced as a unique place.

In addition to the Delta Protection Act of 1992, the Commission's authority with respect to the Delta conveyance proposal derives from the legislation and agreements enumerated below:

**Delta Reform Act:** The Delta Reform Act of 2009 (Chapter 5, Statutes of 2009), as well as 2009 amendments to the Delta Protection Act of 1992, 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, the 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)). It directs the Commission to recommend ways to protect and enhance the Delta's unique values to the Delta Stewardship Council as it implements the Delta Plan.

**Sacramento-San Joaquin Delta National Heritage Area:** The John D. Dingell, Jr. Conservation, Management, and Recreation Act, enacted in March 2019, created the Sacramento-San Joaquin Delta National Heritage Area (NHA). The law designates the Delta Protection Commission as the NHA's local coordinating entity, and charges it with preparing a management plan. The plan is in preparation, overseen by an advisory committee, and will be submitted to the Secretary of the Interior by March 2024. The management plan will highlight the Delta region's national significance, facilitate economic development, and promote heritage tourism, ecotourism, and agritourism compatibly with continued active agriculture through partnerships with public and private local and regional entities. Interpretive themes will include the historic reclamation of marshland to one of the most fertile agricultural regions in the world, the diverse cultures that have shaped the Delta's rural landscape, and the central role the Delta plays in California's water resource challenges. Federal agencies (such as the U.S. Army Corps of Engineers) that sponsor, permit or plan to conduct activities that may impact the NHA must coordinate their actions with the Commission to the maximum extent practicable. Toward that end, the

Commission is currently a consulting party to the National Historic Preservation Act (NHPA) Section 106 process.

**Staten Island Memorandum of Understanding:** The Commission has a role in reviewing any land-use changes on Staten Island, which is subject to a 2001 conservation easement and a 2002 Memorandum of Understanding between the Commission and the Department of Water Resources (DWR). The stated intent of the conservation easement is that Staten Island be protected from "any actions that would result in the conversion of any material portion ... away from agricultural use." DWR holds the conservation easement and is legally responsible for its enforcement.

**Global Comments:** It is encouraging that the Corps EIS appears to cover the same project footprint as the Environmental Impact Report (EIR), although this is difficult to fully understand due to many errors and omissions in the EIS. The project footprint to be analyzed in the DEIS should be clarified to confirm this. It is disappointing that the Corps NEPA review is expressly only for construction of the project **and not for project operation**. The Commission believes the entire project area and the operation of the project cannot reasonably be separated from construction of the project, and therefore should be included in the EIS.

The Commission has consistently made a significant effort over the years, together with our communities and partners, to document the adverse impacts of this project. Most recently we have compiled a draft Cultural Resources Survey (CRS) as part of the Section 106 consultation. A comprehensive inventory of Delta cultural resources will eventually be a product of the NHA process. In the interim, the draft CRS is intended to aid the Corps in identifying historical and cultural resources that could be impacted by the project, and to document the importance of the Delta landscape in defining "Delta as Place."

As summarized in the attachments, the DCP will impact all Delta communities, including those within the new NHA. Proposed launch shafts, tunnel material handling, and maintenance and retrieval shafts will convert farmland and disrupt marinas and recreational boating. Socio-economic impacts of required project mitigations from agricultural lands being converted to construction sites (whether temporary or permanent) and restoration projects are a major concern, as are water quality impacts on Delta agricultural and municipal uses.

The Commission previously submitted comments on environmental review documents for predecessors to the current Tunnel Project in 2014, 2015, 2018 and most recently on the NOI for this DEIS in 2020. As in these letters and elsewhere, we must once again point to the unacceptable significant, irreversible, and permanent environmental effects of the proposed

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Delta conveyance projects on Delta communities, the cultural qualities that define “Delta as Place,” and the pillars of the Delta economy, agriculture, and recreation.

The current proposed tunnel is fundamentally no different in key structural elements such as the intakes, alteration of the Delta landscape with double launch shaft and tunnel muck storage complexes, and overall disruption of much of the northeastern and southern Delta during at least a projected decade and a half of construction. The DEIS fails to adequately document, analyze and mitigate for impacts that will damage the unique character of the Delta that makes it the “Delta as Place” that is protected by the Delta Reform Act. Given these concerns, we must again urge the Corps to adopt the No Action alternative.

Sincerely,

Bruce Blodgett  
Executive Director

cc: Members, Delta Protection Commission

Attachment 1 Detailed Comments

Appendix A to Attachment 1 - Draft Survey of Cultural Resources in the Conveyance Project Area

# **DELTA PROTECTION COMMISSION DETAILED COMMENTS TO U.S. ARMY CORPS OF ENGINEERS (CORPS) DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS)**

## **Introduction:**

Because the DEIS relies on much the same content as the DEIR, it carries forward the same errors and deficiencies. For this reason, in many instances errors and deficiencies in the DEIR are described in the following comments with suggested ways, where possible, to remedy the deficiencies in the EIS. Given the limits of the comment period the Commission has had to focus its review on core priority Delta Protection Act issues in the DEIS, but reserves the right to provide comment on additional topic areas of concern in future.

## **Chapter 1: Purpose and Need**

In the Purpose and Need discussion, the project objectives constrain the focus in the same fashion as the DEIR and improperly and unreasonably narrow the threshold of significance such that many resource impacts can be found less than significant. Chapters with unreasonably narrow thresholds include but are not limited to Chapter 9, Flood Protection; Chapter 11, Groundwater; Chapter 13, Land Use; Chapter 15, Noise and Chapter 16, Recreation. This is discussed further in several of these sections including under the Chapter 3 Affected Environment.

## **Chapter 2: Project Description and Alternatives**

**No action alternative** The Commission continues to recommend a no action alternative coupled with accelerated improvement of Delta levees, consistent with the Commission's Economic Sustainability Plan (ESP). This alternative is more feasible than the tunnel, with lower cost, reduced environmental impact, and less controversy.

**The DEIS analysis should include operations.** The DEIS analysis should include operations and maintenance activities. An example of this is provided in the Project Description, which illustrates the "but for" argument that should support the Corps including project operations in its permit review and consequently, the DEIS. Specifically, for example, the North Delta Intakes description (p. 2-19) of the massive intake structure, fish screens, electrical building, flow control structure and outlet shaft, sedimentation basin and drying lagoons:

*Constructing the intakes along the riverbank would require relocating the jurisdictional levee and State Route (SR) 160 prior to building the intake structure and fish screens. The jurisdictional levee was constructed as part of the Sacramento River Flood Control Project Levee program established by USACE to provide flood management for surrounding lands. Altering a jurisdictional levee requires approval by USACE with a Section 408 permission, and the Central Valley Flood Protection Board prior to undertaking any modifications and requires that conformance with flood control criteria be maintained continuously during construction of any modifications. A temporary jurisdictional levee would be built at the intake sites east of the existing levee to reroute SR 160 and maintain continuous flood protection during construction of the new intake facilities (Figure 2-4). [emphasis added]*

But for the necessity of obtaining Corps permission to relocate the jurisdictional levee, the intakes could not be built and there would be no diversion of Sacramento River water from that location. The intakes thus could not operate without the Corps permission to accommodate their construction.

**The project description includes statements which are contradictory and confusing.** For example, the description of Reusable Tunnel Material (RTM) at DEIS Section 2.6.1.4 (p. 2-28) states:

*After RTM is removed from the tunnel, it would be tested for hazardous materials, dried mechanically or allowed to dry naturally, then stockpiled and transported for reuse or permanently stored at tunnel launch shaft sites. Quantities of RTM generated would vary depending on tunnel diameter and length. [emphasis added]*

It then goes on to describe temporary storage and disposal of RTM:

*The applicant would develop site-specific plans for the beneficial reuse of RTM to the greatest extent feasible for construction of the selected action alternative. Excavated RTM would be placed in temporary stockpile areas and tested (generally once or twice a day) in accordance with the requirements of the Central Valley Regional Water Quality Control Board and the Department of Toxic Substances Control for the presence of hazardous materials at concentrations above their regulatory threshold criteria.*

*Several stockpiles would be developed. Each temporary area would be generally sized to accommodate up to 1 week of RTM production to allow for testing the RTM before stockpiling on-site or transporting off-site. [emphasis added] ...*

*For RTM not slated for reuse, wet RTM would be spread over a broad area in relatively thin lifts (e.g., 18 inches) and allowed to dry and drain naturally over a period of up to 1 year. Continuous spreading in thin lifts would allow RTM that is not mechanically dried to be dried naturally and compacted in place without excessive earthmoving requirements.*

It is unclear but seems likely that stockpiles described as temporary would become permanent stockpiles, or effectively permanent if they were to remain for the duration of the 13-year preferred alternative construction period. This concern is discussed further in comments on Aesthetics and Visual Resources, Agriculture, and Geology and Soils.

**The DEIS project description should include cross-referencing.** It is understood that the project description covers the range of alternatives and in some respects is necessarily general. But to the extent possible the DEIS should refer the reader to other sections of the document with more specific detail – for example, clearly describing the locations of temporary and permanent RTM (tunnel muck) placement. More importantly, the DEIS should include an outline of what the “specific plan for beneficial re-use” would include. If this is to be found somewhere in the document currently, it would be helpful for the reference to be provided in the project description.

### **Chapter 3: Affected Environment**

In general, we strongly concur with comments by the Delta Independent Science Board (ISB) on the DEIR. Throughout both the DEIR and DEIS many sections conclude that impacts are less than significant on weak, narrowly interpreted or seemingly subjective evidence.

*The most relevant information for understanding potential benefits and impacts is often widely dispersed through multiple chapters and appendices, making a synthesis of impacts and an evaluation of scientific rigor difficult. Impacts identified in the Executive Summary and in specific chapters often fail to provide clear and concise answers to the most relevant scientific and social issues. (Delta Independent Science Board letter dated December 16, 2022)*

## **Chapter 3.1: Aesthetics and Visual Resources**

**Scenic Highways.** Section 3.1.1 of the DEIS should be expanded to reflect relevant provisions of the scenic highway corridor protection program submitted by Sacramento County and approved by Caltrans for State Route 160 and the River Road, especially provisions related to land use, site planning, design review, earthmoving, and landscaping. A similar review of relevant provisions of Sacramento, San Joaquin, and Contra Costa scenic highway plans and ordinances affecting locally designated scenic routes should be undertaken. Conflicts with these state and local standards should be addressed.

Driving for pleasure is among the most popular recreations in the Delta (Recreation and Tourism in the Delta, A Study of Preferences for Activities and Facilities, Information Sources, and Economic Contributions of Delta Events (pp 8-9) Delta Protection Commission. 2019). The scenic highway designation alerts motorists to the roads' pleasant vistas, expanding participation in this relaxing pastime. Recreational motorists drawn by the scenic highway designation support visitor-serving businesses, including cafes, resorts, gift shops, and other retailers in legacy communities along the road. State Park properties at Locke Boarding House, Delta Meadows, and Brannan Island also draw visitors traveling the scenic highway. All these uses would suffer by loss of the scenic highway designation.

That the project risks Caltrans' revoking scenic highway designation of State Route 160 as a state scenic highway is a potential significant adverse effect that deserves more careful consideration in consultation with Caltrans and Sacramento County. Losing state scenic highway status would also undermine the State's Delta Plan, which recommends that Caltrans should seek designation of State Route 160 as a National Scenic Byway and prepare and implement a scenic byway plan for it (see Delta Plan DP R2). Both recommended actions depend upon the continuation of the state scenic highway designation.

### **Assessment of Visual Character of the Study Area**

**Key Observation Points (KOPs) in the Area of Visual Effects are incorrectly documented. By relying on the DEIR's Chapter 18, DEIS Section 3.1.2.1 repeats several of its errors.** Among these is the DEIR's assessment of the visual character of the study area. Our staff has driven Delta roads extensively over the past decades, attended exhibits of Delta landscape art, and viewed many hundreds of Delta photos in agency publications, on their websites, and on the



Facebook [Delta News](#) group. Based on this experience, the defining visual features of Delta landscapes should have been described as follows.

- Agricultural landscapes. Within agricultural landscapes, vineyards display close-spaced trellises and a variety of training systems of middle height, in contrast to orchards' height and greater uniformity. The landside of levees, dropping steeply toward the farmed Delta plain, add interest and provide a vantage point overlooking farmland, especially along the Sacramento and San Joaquin Rivers. These farmlands are more visible to highway travelers than levees' waterside and are not encumbered by rock revetments. Farmsteads add variety, with houses and outbuildings of differing historic styles and uses. Farmstead landscaping, including rows of palms, cedars, and shade trees, adds vertical interest and a domestic component to the working agricultural landscape. Windbreaks of Lombardy poplar, roadside arbors of shade trees, and other plantings in orchards and vineyards do the same. Farm laborers at work, agricultural machinery, livestock, wading birds, and waterfowl add movement and variety to agricultural lands when they are present.
- Mount Diablo. Mount Diablo is a welcome landmark on the horizon in views from both waterways and roads. Intrusions that degrade or interfere with views towards the mountain will be especially undesirable.
- Open space. In a lush agricultural landscape, abandoned land can be an unpleasant sight. Fallow land among productive vineyards, orchards, or farm fields may lead viewers to wonder why the land is unused. To some, it may be a reminder of a tragedy, such as a farm bankruptcy or a flood that has scoured the site or deposited sand there. Others may see a signal of a high-water table or dangerous seepage beneath a levee. Views toward the Montezuma Hills are notable for the wind turbines clustered there.

Because the DEIR failed to recognize too many of these defining visual features, it did not accurately assess aesthetic and visual resources affected by the project. The DEIS should not rely on it without modification.

**The DEIS also depends on inadequate photo renderings of the landscape from the DEIR's Appendix 18.** The renderings used as the basis for the photo simulations (KOPs) (DEIR page 18-28) are based on photographs taken in November, when agricultural vegetation has been removed or gone dormant. These images are not representative of the landscape. New KOPs should be developed based on summer-time images and used as the basis for evaluating visual impacts. Further recommendations to improve accuracy of the project's visual effects:

1. Additional KOPs presenting renderings along State Route 160 should be developed to supplement those provided in the DEIR's Figure 18-10. Travelers on this Scenic Highway are more likely to be drawn to view towards the Sacramento River and the adjoining orchards.
2. In considering effects on scenic vistas (Impact AES-3), the EIS should consider views towards Mount Diablo from San Joaquin County's locally designated scenic routes. Long-distance views across the Delta towards the mountain are among the Delta's signature landscapes. When those views are interrupted by piles of tunnel muck and other discordant project features, visual impacts are significant.
3. The screen of "native" trees depicted in the DEIR's Figure 18-10 neither accurately depicts the extent of visual impact nor effectively illustrates the mitigation value of the proposed planting. A more useful visual simulation would depict the intakes as viewed from the river and from State Route 160 looking north to south.

**The DEIR errs in not rating the quality of the landscape with the project as "low" in contrast to the No Project alternative.** Every significant feature of the project will degrade Delta scenery and harm the Delta's unique visual appeal. The DEIS correctly acknowledges the significant and unmitigable impact caused by construction of the project intakes but does not fully capture its magnitude. Impacts of the launch shaft complexes, however, fail to accurately reveal the extent of this damage.

The landscape with the project will be "very disrupted", "very discordant", and will likely be perceived as an eyesore. Similarly, the cultural landscape as viewed with the project lacks the cohesion and sense of place that have evolved over time, and it will be perceived as blight. The RTM stockpiles remaining on site will substantially degrade significant portions of the landscape. Only a major redesign, such as relocating the RTM stockpiles outside the Delta, can rectify this incompatibility with surrounding environments.

Examples of these errors in the DEIR's description of impacts include:

- Intake Facilities. Few residents, recreationists, or motorists are likely to concur that the visual quality of the landscape remaining after the intakes' construction is "moderate", as the DEIR asserts. The project will replace this area's river views, naturalized riverside, orchards, wheat fields, an iconic corridor of palms, and several rural farmsteads with what the DEIR concedes is a "monotonous", "utility or industrial type facility" surrounded by a gray chain link fence. Views of these industrial facilities will instead greet recreationists on

the river and highway motorists after the removal of orchards and other vegetation. Views along Scenic Highway SR 160's winding tree line will be degraded. The intake construction site will be "visually discordant" with the surrounding landscape. The massive structures resulting from project construction will fit the "very low" criteria of the DEIR's Table 1.3-5: "natural landscape is in disarray and severely degraded", "cultural landscape is in disarray and severely degraded", and "project site is in disarray and severely degrades the natural or cultural landscape. Major redesign or relocation of the facilities would be required to approach compatibility with surrounding environments."

- Twin Cities complex, including the Lambert Road Concrete Batch Plant and Hood-Franklin Park-and-Ride lot. Construction at the Twin Cities complex will transform and degrade scenery at this rural ranchland setting. Existing historic ranch complexes at the site would be removed to make way for the launch shafts and pads, tunnel segment storage, two concrete batch plants, cranes and other construction equipment, and a helipad, surrounded by a chain link fence. Livestock will be absent. The project will leave behind a 15-foot-high pile of tunnel muck covering an area equivalent to up to 290 football fields. This area of tunnel muck should not be described as "native habitat" even if native grass is planted and survives on the pile.

The quality of the landscape left behind by the project should be rated as "low". Its natural landscape will be "very disrupted", "very discordant", and will be perceived as an eyesore. Its cultural landscape lacks design cohesion and any sense of place and will be perceived as blight. The piles of tunnel muck remaining on site will substantially degrade the landscape. Only the no action alternative would avoid this incompatibility with surrounding environments.

- Lower Roberts Island Launch and Reception Shaft and Tunnel Muck Storage (DEIR pages 18-70 to 72). The current visual quality of the area should be rated high, as indicated by San Joaquin County's designation of scenic routes surrounding the area. Roberts Island's riverside levees provide an elevated perch from which motorists can view the meandering San Joaquin River and Whiskey Slough as well as the island's croplands and pastures, stamped with the pattern of its drainage and irrigation networks. The Turner Cut and Tiki Lagoon Resorts provide recreation destinations prized by boaters and other visitors. Farm workers and equipment can be seen planting, tending, and harvesting. Wading birds and waterfowl are visible while they use the area. Mount Diablo anchors the horizon, a landmark known to all. Travelers visiting the resorts along the San Joaquin River, families

and anglers who fish and recreate along the riverbanks, and residents value these views, which the DEIR text correctly states are emblematic of the Delta and its natural endowment of fertile fields, abundant water, and sunshine.

Project construction will redefine this landscape for years, potentially permanently. The Lower Roberts Island construction site would occupy an area the size of 407 football fields. At the shaft site, stored tunnel liners, construction equipment, a slurry/grout mixing plant, tunnel muck handling facility, offices, a helipad, and a 2-mile-long conveyor will replace the present farm landscape. After construction, permanent pads, access ramps and shafts will rise 30 feet above the plain. Nearby, the abandoned tunnel muck will sit in a 15-foot-high pile covering an area the size of 71 football fields. Both the shafts and the mound of tunnel muck will blemish views to Mount Diablo from Holt Road, a county-designated scenic route on the island, as shown in DEIR's Figure 18-15.

Adjacent to Whiskey Slough, vegetation will be removed from 67 acres of levees and adjoining areas, which after construction will be maintained to the Delta Specific PL 84-99 standard. This standard requires that levees be free of trees and shrubbery, rather than recolonized with "natural vegetation" over time, as the DEIR text suggests. Parts of Turner Cut Resort and adjoining structures will be removed, dramatically altering the recreational character of the Whiskey Slough shoreline and Neugebauer Road landscape.

The resulting landscape fits the "low" criteria of DEIR's Table 1.3-5: The loss of 407 acres of farmland will leave the site's agricultural landscape "in disarray and severely degraded". Damage to the Turner Cut Resort along Whiskey Slough will disrupt the visual cohesion of that area. At both locations, the resulting land uses will be "highly disjointed", with extensive and highly disruptive construction sites adjoining farms, resorts, and Whiskey Slough. After construction, the mound of abandoned tunnel muck will disrupt the naturally flat landscape in a way that local people and visitors will perceive as an eyesore and will detract from views toward Mount Diablo.

Neither plantings of native grass nor the screen of "native" trees depicted in DEIR's Figure 18-15 do much to reduce damage to views across the site done by the tunnel pad, shafts, and the 15-foot-high, 471-acre mound of tunnel muck left after construction. The rendered view after construction shows the trees will be an additional intrusion on the landscape, rather than softening the interruption of the level horizon and views of Mount Diablo.

The EIS should not rely on the DEIR's assessment of aesthetic impacts without modification to address these shortcomings.

**Visual resource impacts of action alternatives are not correctly mitigated.** A suggested measure to avoid the impact of leaving tunnel muck piles distributed across farmland visible from scenic routes designated in local general plans, would be to work upfront with Reclamation Districts and others to develop the system vaguely referred to in Section 2.6.1.4 for RTM disposal. A meaningful mitigation would match tunnel material to users and transport it to those users, if necessary, at DWR's expense. Material which cannot be reused should be removed from sites visible from these scenic routes and deposited elsewhere than the Delta, which must not become a disposal site for the project's waste.

Another mitigation measure that should be considered is to construct smaller intake sediment basins that are set back sufficiently from SR 160 to allow planting of a wide strip of trees, such as pears or walnuts, to screen the basins and associated facilities from views of travelers on the scenic highway. There appears to be no clear estimate of sediment the basins are likely to receive. Reducing the size of the sediment basins, coupled with appropriate vegetative screening and more frequent sediment removal (if needed), would minimize both the visual and the land use impacts.

Finally, rather than planting conifers or other "native" trees, as depicted in DEIR's Figure 18-10, mitigation landscaping should consider palms, Lombardy poplars, or other shade trees typical of agricultural landscapes, mimicking the tree line that the project will remove. Nearby residents and businesses should be consulted about preferred options for tree screens and other landscaping.

## **Chapter 3.2: Agricultural Resources**

**The DEIR does not use available data.** While the DEIS lists the commodities grown in the Delta, changes in Delta cropping are significant. The conversion of lands to high-value permanent crops is not even discussed. More recent information is available in our recent update to the Commission's [ESP](#) agriculture data, which we provided to DWR's Delta Conveyance Office at their request. In several locations, crop conversions over the past 5 years need to be considered in the impact analysis. The significant conversion to high-value permanent crops is not even discussed in the document. Section 3.2.1 references Delta agriculture but omits any discussion of the significant proportion of Delta lands that have been converted to high value crops including almonds, pistachios, cherries, wine grapes, and even corn for distilling purposes.

**Water Quality:** The DEIS, in omitting project operations, thereby overlooks impacts of the conveyance facilities on water quality that affect agriculture. Especially in the western and south Delta, agricultural resources already suffer from impaired Delta water quality caused in part by the State Water Project’s and Central Valley Project’s diversions, including increasing salinity due to reduced freshwater flows.

The water quality impacts the conveyance project will have on Delta agriculture should be addressed. The project’s DEIR forecasts that it will cause declines in water quality that threaten farming after August 15 of any normal water year. Based on the assumption of late fall as the tipping point, DWR concluded the project operations “would not be expected to trigger a substantial conversion of Important Farmland to nonagricultural uses.” Such analysis is predicated on the assumption that “many of the crops are harvested by early fall” and outlines a series of crop types that no longer exists in the Delta. The model and its output, however, need to consider:

1. The fastest growing commodities including tree nuts and wine grapes are irrigated and harvested in the fall, with some harvest times as late as November.
2. The DWR’s model of impacts considers only normal water years to forecast the water quality impacts on agriculture. In addition, it also needs to study the worst drought years on record to fully show the impact of the project’s operations.
3. With climate change affecting the onset of seasonal changes, the use of terms like “early” or “late” fall is an increasingly impractical gauge.

The claims on page 3.2-17 that impacts to agriculture from degraded water quality “would modestly increase salinity” fails to account for long term trends and provides little assurance that the project’s water quality impacts on agriculture will be insignificant. The assertion that impacts in the west Delta are insignificant because agriculture there is primarily managed for pasture fails to take into account the area’s historic farm production, which on Sherman Island for example, included crops of asparagus, barley, beans, field corn, milo, and wheat as recently as 1945, before the CVP and SWP operations began to degrade water quality (see The Settlement Geography of the Sacramento-San Joaquin Delta. John Thompson, Ph.D. Dissertation. Stanford University, 1957.). Consideration of the project’s cumulative impacts on agriculture needs to account for this legacy of water quality effects.

**Acreage of converted farmland.** In multiple rounds of comments, the Commission has requested inclusion of a single table to show all the potential impacts to farmland from the No Action alternative in comparison to the Proposed Alternatives beyond just the construction footprint. This table should include everything from actual farmland converted due to the construction of the project including a clear description of the final acres lost permanently inside of the RTM areas, remnant parcels too small for commercial agriculture, farmland rendered useless due to construction impacts such soil compaction or impaired drainage, to those acres lost due to the water quality impacts. The loss of farmland to habitat restoration that will be part of this project’s compensatory mitigation program is of particular concern.

**Mitigation should be improved.** The ratio of agricultural land protection to land conversion should be increased beyond 1:1 to reflect the cumulative effects DWR’s Delta projects have on agriculture. Additional measures that should be required include buffer areas to protect farms from construction impacts including dust, seepage, impaired drainage, and depredations by wildlife drawn to compensatory mitigation areas. Provisions of the “Delta good neighbor checklist” should be fully adhered to.

**Cumulative Analysis.** Section 3.2.2.3 overlooks many habitat restoration projects that have converted Delta farmland. A recent report to the Delta Stewardship Council identifies not just three habitat restoration projects on Delta farmland, but 20,760 acres of projects planned, underway, or completed (<https://deltacouncil.ca.gov/pdf/council-meeting/powerpoints/2022-11-17-item-11-ecosystem-restoration-progress-review-presentation.pdf>). In addition to these restoration actions, limitations that DWR has imposed on other farmland through easements and lease restrictions add to this cumulative impact. It is the cumulative impact of activities of DWR and its SWP contractors that is driving the loss of Delta farmland and limitations on agricultural use of thousands more agricultural acres, rather than other development.

A presentation of DWR projects’ cumulative effects on Delta agriculture is documented in Table 1 below. Acreage estimates are derived from the Natural Resources Agency EcoRestore [website](#)) and the Delta Conveyance DEIR. These data also account for tidal habitat compensatory mitigation for the Delta conveyance project, which Solano County’s DEIR comments estimated at an additional 1228-1600 acres in the Delta priority restoration area, but they do not include several recently proposed private mitigation banks. Section 3.2.3.3 and Table 3.2-7 should be revised to reflect the true scale of cumulative effects to Delta farmland from DWR’s actions.

The scale of DWR’s conversions and restrictions on Delta agricultural land demands that mitigation by easement acquisitions at ratios greater than 1:1 should be required.

<b>Table 1 – Conversion Acres – Planned, Underway, and Completed</b>			
	Converted to habitat or Delta conveyance features	Farming restricted (including lease restrictions)	Total
<b>Dutch Slough</b>	1187	n/a	1187
<b>Lookout Slough</b>	3000	n/a	3000
<b>Yolo Ranch</b>	1700	n/a	1700
<b>Little Egbert Tract</b>	3150	n/a	3150
<b>Staten Island</b>	n/a	8400	8400
<b>McCormack-Williamson Tract</b>	1400	n/a	1400
<b>Grizzly Slough</b>	400	n/a	400
<b>Sherman Island</b>	2377	11623	14000
<b>Twitchell Island</b>	2000	1000	3000
<b>Delta Conveyance</b>	3438	unknown	3438
<b>Total</b>	<i>15502</i>	<i>21023</i>	<i>39,675</i>



## Chapter 3.7: Cultural Resources

**The DEIR and Appendix 19a assessment of impacts on cultural resources is deficient.** Its fundamental shortcoming is its reliance on the DEIR's identification of cultural resources, and the project's impacts to them. The DEIS compounds those documents errors with some mistakes of its own.

**The DEIS overlooks the Delta's value as a cultural landscape.** Section 3.7.1 1 (Area of effect for Built-environment Resources) and subsequent sections overlook the Delta's status as a cultural landscape valued by native California Indian tribes and by current Delta residents and visitors. These values are documented in the appendix to this letter, Draft Survey of Cultural Resources of the Sacramento-San Joaquin Delta in the Delta Conveyance Area (attached). Previously in our comments on the NOI and again in a preliminary reconnaissance survey of those resources provided to the Corps in February 2021, the Commission has noted that the Delta is a nationally important cultural landscape comprised of layers of historic districts, sites and other cultural assets.

The Delta, including the Sacramento and San Joaquin Rivers, their distributaries, remnant marshes and streamside woodlands, neighboring islands and tracts, including lands bordering the Sacramento River communities, and State Route 160 and other scenic routes are all integral elements of this important cultural landscape. In many ways, the Delta is a collection of potential historic districts of vast scale, linked by its waterways and scenic highways. The Delta's cultural landscape also provides context for individual buildings or historic districts that are listed on the National Register of Historic Sites or are eligible for listing.

A key flaw in the DEIS - and the DEIR on which it relies - is its focus solely on built environment resources and archaeological sites, rather than the much larger cultural landscape within which the built resources and archaeological sites are located. This leads to a narrowly constrained area of impact (AI) that ignores cultural landscape components. Impacts to this surrounding landscape would diminish the integrity of specific sites, districts, or landmarks. For example, the orchards and farms surrounding the Locke National Historic Landmark, while outside the landmark's boundaries, were the sites where many of Locke's Chinese residents worked, including lands owned by George Locke, the community's proprietor. These orchards and farms grew much of the produce packed by Locke residents in Locke's packing shed and thus provide the landscape context of the landmark.

**The DEIR fails in its description of these resources.**

Properly assessing cultural resources requires historical research, inventory, and documentation of existing conditions, site analysis and evaluation of integrity and significance, according to the National Park Service's Preservation Brief 36: Protecting Cultural Landscapes: Planning, Treatment and Management of Historic Landscapes. The DEIR's Appendix 19A reiterates these steps but fails to systematically apply them to the Delta districts and properties potentially eligible for listing in the National Register that the project will affect.

Rather, as section titles and contents of the DEIS' Chapter 3.7 and DEIR's Chapter 19 confirm, the DEIS and DEIR assess only buildings and structures, rather than the full range of historical landscape resources. Previously completed assessments of cultural landscapes at Bouldin and Staten Island are recognized, but equally thorough descriptions and evaluations are not provided for other similar features, such as Pearson District and Roberts Island. In these areas assessments are offered only for individual structures, such as levees or an individual pumphouse, with little mention of their role in these tracts' overall landscapes or the tracts' other character-defining features, such as orchards, vineyards, crops, and farm buildings. No assessment is provided of the spatial organization and cluster arrangements of these features, including the levees and drainage works noted in the DEIR's Appendix 19A. Cultural traditions of the tracts' settlers that influenced these landscapes are ignored. Viewsheds within and from the tracts are not considered.

The text regarding historical context of these resources in the DEIR's Appendix 19A is insufficient for assessing important landscapes affected by the project, as it portrays only a handful of communities (Brentwood, Byron, Stockton, Tracy, and Mountain House), some only lightly affected by the project, while omitting others, including Hood and Courtland, that will be at the center of damaging project impacts. The historical context provided for Delta farmlands is equally incomplete, describing the Delta's diverse agriculture in only four paragraphs about "industrial agriculture" in San Joaquin County from the 1910s to 1950s. Entirely ignored is 19<sup>th</sup> century agriculture, during which patterns of land tenure, farming systems, labor, and agricultural markets were established. Agricultural development in Sacramento County is entirely overlooked as is cattle ranching which occupies rangelands that the project affects. Appendix 19A's misleading statement that water supplied by the California Aqueduct underlies the region's diverse agriculture (page 31) reveals flaws in the report's research, as agricultural landscapes affected by the project are watered from the Delta's channels, not the SWP's exported supplies.

The DEIR acknowledges that islands and tracts affected by the project could be evaluated as rural cultural landscape districts (Appendix 19A page 15). Some descriptions, such as those of Staten and Bouldin Islands' landscapes, approach the level of identification and assessment warranted. Evaluation of other districts, including Pierson District, Terminous Tract, Roberts Island, Jones Tract, Bacon Island, and Byron Tract, is also necessary. The statement on Appendix 19A's page 16 that "this level of analysis was outside the scope of this project, so these islands were evaluated only for the extent of their built resources only" confirms the incomplete investigation of these resources. Indeed, assessment of these important cultural landscapes seems to have been reduced to several days of hasty windshield observations of some individual levees, siphons, and pump stations. The historical significance of these features cannot be determined without consideration of the larger water conveyance system, Appendix 19A acknowledges, which has evidently not been done. Readily available materials could support proper assessment, including the sources listed in the appendix to these comments and aerial photographs, even if access to properties is unavailable.

**Inadequate consultative outreach.** The Commission's 2020 EIR NOI Comments advised outreach to local groups and experts ranging from local transportation authorities to historical societies and representatives of local cultural groups. Despite these recommendations, the DEIR's Appendix 19A, for example, lists no local historical organizations, neighborhood groups, or archaeological societies. Local expertise was undocumented, and the Corps would be unable to assess the area's historic resources without this information. DWR's decision to not consult with local historical societies and museums (Appendix 19A, p. 10) is contrary to best practices. In addition, the Appendix did not document Traditional Cultural Properties. Such work is done partly through consultation with community representatives. Landowners, local businesses, local historians/preservationists, and local agencies are all helpful as informants, historians, architects, landscape architects, folklorists, sociologists, or anthropologists.

Appendix 19A asserts on page 10 that sufficient outreach to local groups for this project had been conducted during past projects. This approach is inadequate as well as inaccurate. Because this preferred alignment has not been the object of prior studies such as BDCP's historical resources reports, it is premature to conclude that additional outreach would not yield new results. Moreover, the methods section of the Built Historical Resources Evaluation Report for the BDCP Project mentions no outreach to important historical societies and cultural resource organizations in key areas directly affected by this project, including the Sacramento River Delta Historical Society, the Locke Foundation, the Rio Vista Museum, the Rio Vista's Dutra Museum of Dredging, Stockton's Filipino American National Historical Society, or the

Portuguese Historical Society in Sacramento. All these groups could have information useful to analysis of historic and cultural resources affected by this project. Historical organizations that had been contacted several years ago for the BDCP EIR may have gained new understanding or obtained additional records about cultural properties affected by the project, as the San Joaquin Historical society's comment letter on the DEIR points out. New outreach about this project is warranted.

**National Register criteria are not applied consistently.** National Register criteria are applied inconsistently in these landscapes' evaluation. A useful guide is Caltrans' report Water Conveyance Systems in California, Historical Context Development and Evaluation Procedures. As it advises, water conveyance features such as ditches, levees, or the Delta's sloughs can be eligible under the National Register's Criterion A because they are important to an important pattern of development, such as the development of irrigated farming. This is true of the islands affected by the project, given their importance in the reclamation of the Delta and the development of California agriculture. In fact, the islands' levees, ditches, and drains were directly associated with these developments and with the origins of California's system of special districts and California farm labor organizations. They are also eligible under the National Register's Criterion B, because of their association with important persons' lives.

Josiah Buckman Greene, a pioneer in Pierson District, was among early settlers responsible for building the Pierson District's first levees. Also important was John Roberts, a San Francisco speculator and the founder of the Tide Land Reclamation Company which at its height owned 250,000 acres in the Delta and Yolo Basin, including much of Pierson District, King Island, Union Island, and his namesake Roberts Island.

San Joaquin River Delta islands affected by the project are the site of farm labor organizing by Stockton-based Filipino American activist Larry Itliong, who led the Agricultural Workers Organizing Committee, a precursor of the United Farm Workers Union, which Mr. Itliong co-founded with Cesar Chavez and Delores Huerta. The levees and drainage features of islands the project will affect are also good examples of California's application 19<sup>th</sup> century engineering and construction technology to the drainage of wetlands for agriculture. These practices include the work of thousands of immigrant Chinese laborers and later development of the Stockton dredge, Caterpillar tractor, and LeTourneau earthmovers. Pierson Tract is also the site of the first 1960s demonstrations of machine harvested processing tomatoes, which contributed to California's dominance of global tomato production. All these features need to be considered in evaluations of properties' eligibility for the National Register.

The DEIR's Appendix 19A and the DPR 523A forms prepared for the project and the BDCP employ a haphazard and overly restrictive approach to evaluating the National Registry eligibility of these island's landscapes. The Caltrans report states that a water conveyance system "must possess several, and usually most, of the seven aspects of integrity: location, design, setting, materials, workmanship, feeling, and association." Notably, possessing all seven attributes is not required. All these islands and tracts and their reclamation works retain their original location. Most of their levees and ditches also retain their original designs, with only modest variations to adapt to modern safety standards. Their setting along the Delta's rivers and channels, and their agricultural crops often remain unchanged. Their earthen materials are also unchanged, except where revetments were added to their exteriors in a process that began in the 1950s. The DPR 523A forms contain speculation and presumptions. For example, for Lower Roberts Island levee maintenance and flood recovery activities are presumed to have damaged features' integrity with no evidence of substantial alteration. Appendix 19A and the DPR 523A forms prepared for the project document no changes to these features that eliminate the relationship between their current appearance and their appearance in the late 19<sup>th</sup> century and early 20<sup>th</sup> century. The DEIR's inadequate evaluation of the SR 160/River Road/Victory Highway landscape suffers from similar inconsistencies.

Alternatively, the DEIR could have followed the approach of the BDCP EIR, which in its Built Historical Resources Evaluation Report identified Grand Island (Reclamation District 3) and Netherlands District (Reclamation District 99) as significant historic districts without more detailed inspection and recommended further research and obtaining access to the properties to establish the integrity of their features (page 87). It is notable that an attribute of Grand Island cited in this conclusion is the island's avoidance of flooding in the 20<sup>th</sup> century, a record compatible to Pierson Tract and Roberts Island, which last flooded in 1907 and 1906 respectively.

**The historic context of potential National Register properties has been insufficiently researched and hastily evaluated.** The limited time devoted to research, field surveys, and local consultation is evident in the unbalanced and incomplete narrative of the DEIR's Appendix 19A (pages 22-41). Those pages, apparently intended to provide the context for evaluation of historical properties throughout the affected area, are primarily about Contra Costa County and urban Stockton. No information is provided about the context for evaluating districts and properties in Sacramento or Yolo Counties or the rural San Joaquin River Delta. One supposes that either these area's importance was unrecognized or that insufficient time was provided to complete this research. It is unfortunate that the coronavirus epidemic curtailed the research

and consultation needed to properly evaluate historical resources at risk from the project. A proper approach would have been to deploy additional personnel when pandemic protocols allowed or to extend the DEIR’s production schedule, rather than to rely upon a document with the many voids in Appendix 19A (p. 12).

**Many more districts and sites warrant evaluation and avoidance or impact mitigation.**

Because of the errors, many districts and sites potentially eligible for the National Register are inadequately or improperly evaluated. The DEIS should be revised to identify these additional resources, at a minimum, as well as others identified by local agencies and local experts:

- |                                 |                           |
|---------------------------------|---------------------------|
| 1. Sacramento River             | 8. Roberts Island         |
| 2. Sacramento Southern Railroad | 9. Jones Tract            |
| 3. Victory Highway              | 10. Bacon Island          |
| 4. Pierson District             | 11. Union Island          |
| 5. The 40-mile Orchard          | 12. Byron Tract           |
| 6. Hood                         | 13. Diersson Road ranches |
| 7. Terminous Tract              | 14. Steamboat Acres       |

Information about these properties and their historical significance is summarized in the Appendix to this document, Draft Survey of Cultural Resources in the Delta Conveyance Project Area. Additional resources should be consulted, such as the California State Fair’s California Agricultural Heritage Club that honors ranches and farms that have been continuously in business for 100 years or more. Steamboat Acres, established in 1848 and listed above, was honored in 2022 for continuous operation of over 150 years. With proper identification of these sites and districts, the EIS should report that the project will diminish the integrity of at least 44 historic properties, rather than the 31 reported on the DEIS’ page 3.7-7.

**Impacts on historical resources resulting from project construction and operation.** After the identification of historical resources, including significant landscapes, is revised following consultation with local experts, then the Chapter 19 assessment of impacts should be revised accordingly. This should include consideration of impacts of noise, glare, and visual degradation on these settings of the project.

**Laws Protecting Cultural Resources Are Not Fully Reflected in Section 3.7.** Table 416 should be revised to more fully reflect laws protecting the Locke National Historic Landmark, including the

National Historic Preservation Act's Section 110(f). The Locke Foundation, in its comments on the draft EIR, expressed concern that the project will damage the Locke National Landmark as disrupted traffic leads to disuse of the town's buildings occupied by visitor-serving businesses.

## **Chapter 3.8: Environmental Justice**

### **The framework and focus of the DEIS and DEIR result in minimization of adverse impacts on environmental justice communities, including Tribes.**

The Environmental Justice (EJ) resource topic sharply highlights the negative effect of the narrow project objectives and significance thresholds. The DEIR asserts that EJ is not required for CEQA and that it is structured to be consistent with the NEPA framework for the EJ analysis, yet CEQA screening is used to exclude impacts from EJ consideration. Where no significant impacts are identified, disproportionately high and adverse effects on environmental justice are assumed not to exist. The resource topics of water quality, geology and seismicity, land use, recreation, public services and utilities, energy, and mineral resources were identified in the DEIR as having no significant impacts, and therefore assumed to not have a disproportionately high and adverse effect on environmental justice. Yet water quality, land use, recreation, and public services are known areas for which underserved populations are often disproportionately affected, virtually by definition. For example, feedback from the underserved community focus group the Commission conducted during the 2020 ESP Recreation and Tourism update specifically focused on the need to improve water quality for swimming, the need for more public restrooms and for simple picnic facilities and recreation areas where they could bring families without spending a lot of money.

It is not clear how Tribal populations are considered in the EJ analysis, or how mitigations and levels of significance may differ among EJ communities and populations.

### **This section highlights the difficulty of reviewing and understanding the differences between the DEIR and the DEIS.**

Understanding that CEQA and NEPA have differences in resource topics that are considered, the DEIS and DEIR should both provide clearer, more understandable crosswalk presentations of areas where they differ, and how. This is especially true given that the DEIS relies heavily on the DEIR. Resource topics in the DEIR in relation to environmental justice were separated by CEQA impact conclusion as noted above. This resulted in the determination that for the alternative 5 proposed project, Agriculture, Socioeconomics, Aesthetics and Visual, Cultural,

Transportation, Air Quality and Greenhouse Gases, and Noise resource impacts are significant after mitigation.

The DEIS finds Agriculture, Aesthetics and Visual Resources, Cultural Resources, AQ and GHG, Noise resources topics to be significant for all action alternatives. Transportation, Public Health and Climate Change found not to be significant by the DEIS. There is no clear explanation or justification for the differences, making it difficult to judge the accuracy of the determinations.

**This DEIS resource topic lacks transparency.**

Section 3.8.2.1 (Methods for Analysis), describes the guidance used (Council on Environmental Quality, etc), the study area, the importance of public outreach, the three factors to be considered when determining whether environmental effects are disproportionately high and adverse, and how the next Section 3.8.2.2 (Effects and Mitigation, incorrectly cited on p.3.8-11 as Section 3.8.3.1), would identify specific resources where analysis would determine disproportionate adverse environmental effects, in short everything except how the determinations of effects found not adverse were made. It closes with the following statement:

*For effects that were determined not adverse, no additional evaluation is needed because those effects would not result in disproportionate high and adverse effects on minority and low-income populations. [p.3.8-12, line 15]*

**The DEIR and DEIS analyses minimize barriers and lack of flexibility for EJ communities and populations.**

As with the recreation analysis, the DEIR dismisses impacts on recreational fishing opportunities and subsistence fishing for very low-income households based on an assumption that fishers will have unspecified access to “numerous other locations.” This neither addresses the loss of existing habitual fishing patterns and opportunities, nor does it consider that EJ populations in many if not most communities face transportation and mobility barriers that prevent them from accessing alternative locations. These very real impacts are in fact significant and must be listed as such.

## **Chapter 3.9: Flood Protection**

**Drainage.** The Commission’s response to the 2020 Notice of Intent (NOI) recommended that construction activities could have an impact on levees and the drainage systems in the Delta.



Drainage is critical to consider, as the foundations of the existing levees can become weak without adequate drainage. However, DEIS' Section 3.9 focuses primarily on changes in water surface elevation (WSE) and increases to the amount or rate of surface runoff that would result in localized flooding. This approach is inadequate to establish full significance of impact to levees, as other issues (such as drainage) could be compromised by the project's construction and permanent facilities. For example, there could be an inability to siphon or remove flood waters at the toe of a levee because of an increased WSE from the proposed project.

**Indemnification of Reclamation Districts and Other Levee Management Agencies.** The DEIS notes the importance of levee maintenance and monitoring for quickly identifying vulnerabilities in or damage to levees during project construction. However, the DEIS does not document any commitment by DWR and its contractors to defend, indemnify, and hold harmless affected Reclamation Districts (RDs) against all claims, liabilities, charges, losses, expenses, and costs (including their attorneys' fees) that may arise from the project. This statement should be made part of the project description and the analysis in this chapter to confirm that state funding supports this work, rather than creating a new burden on the local RDs. The State insists on these indemnifications when it permits encroachments on its State Plan of Flood Control levees. Local RDs deserve no less.

**Reusable Tunnel Material (RTM).** The Commission has recommended that excavated tunnel material should be handled and stored to segregate material of different quality so it can more easily be reused. Uses for which tunnel material is suitable, as should the agencies and others prepared to reuse it, should be identified. Costs of hauling tunnel material to reuse sites should be borne by the project, rather than by those who may reuse it. We were unable to find this in the Project Description, nor as a mitigation measure. Instead, permanent RTM stockpiles are proposed to be left in unsightly stockpiles 15 feet high occupying over two hundred acres at the Twin Cities Complex and nearly two hundred acres at the Lower Roberts Island Complex. Experience with excavated spoil in rural areas elsewhere in the Central Valley, such as material excavated at the Tisdale Bypass and Fremont Weir, demonstrates that local RDs are unable to bear the costs of reusing excavated material, which instead sits in stockpiles for decades.

The cost of fill materials has sky-rocketed in recent years. Increasingly, bids received from RDs solicitations are consistently higher than the construction estimates. The Commission has heard directly that this impacts how much of a project can be completed and still stay on budget. With heavy competition for fill materials for the many haul roads needed by the project (or the alternatives) this will become a critical issue. All suitable fill materials should be sorted and

available for use by local area for the required improvement and continual maintenance of levees.

**Equitable Funding of Improved Levee Operations and Maintenance.** As highlighted in its 2012 ESP (as amended), the Commission supports the improvement and maintenance of all Delta levees to at least the federal PL 84-99 standard. Given the difficulties with PL 84-99 inspections, the Commission would now endorse the (similar) DWR Bulletin 192- 82 standard instead of PL 84-99. It is notable that two islands' levees would be brought to PL 84-99 standards to protect the launch sites and personnel during construction of the tunnels. While this improves flood protection over existing conditions, maintenance of a PL 84-99 levee to the US Army Corps of Engineers' exacting inspection standards would be the local RD's and its landowners' responsibility and is known to be very costly. We would expect the Final EIS to address the following:

1. If the project proceeds, there needs to be a broad consensus-building process with local agency officials and on-island property owners on how to implement a new fee structure that better reflects the assets protected by these improved levees. This EIS needs to evaluate the value and interests of "tunnel beneficiaries" including the benefits of protection to SWP and its customers and estimate the value of their assets and the benefits they receive from the improved levees. Maintenance fees should not be based simply on a per-acre basis. In addition, the limited subventions funding for Delta levees should not be used for the two islands which will be brought to PL 84-99 standards.
2. In the Commission's response to the 2020 NOI, the Commission recommended DWR and the Delta Conveyance and Design Authority (DCA) should pay local RDs an inspection fee to cover inspection costs, including staff and/or consultant time and expenses, for any inspections before, during, post-construction, and regularly thereafter. This would include the time expected for new PL 84-99 standard inspections. This is another condition that the State imposes upon encroachments on its SPFC levees, and should be extended to this project's encroachment on local RDs' levees. However, DEIS' Chapter 3.9 fails to account for the additional time or extra activities associated with inspections, nor are there mitigation measure(s) mentioning cost reimbursement.

**Twin Cities Road Complex flooding.** The DEIS properly addresses the risk that the ring levee and remnant RTM pile at the Twin Cities Road complex may impede drainage and risk deepening flooding and extending its duration at Glanville Tract (pages 3.9-27). The January

2023 flooding on the Cosumnes River highlights the risks to life, property, and transportation potentially associated with any elevation of flood elevations or impairment of drainage in this area. The DEIS seems to suggest flooding will be caused by the project, including overtopping local roads and the railroad that would serve the complex. The DEIS suggests this flooding is acceptable because it affects only 10 acres of grazing land and would last only 2-3 days (see lines 18-34 on p. 3.9-27). This loss may be mitigated if the long-delayed McCormack-Williamson Project is at last completed, the DEIS claims.

Assessment of this impact is incomplete. Flooding would recur for the full decade when the project is under construction. No assessment is provided of the aerial extent of flooding after the ring levee is removed. Does it remain 10 acres or does it diminish, and if so, how much? The flooding of this grazing land and its impact to agricultural operations should be reflected in Section 3.2.1 Agricultural Resources. Compensation to the landowner and mitigation for lost grazing opportunities should be proposed. Impacts on railroad operations and traffic on Franklin Boulevard should be described. If the McCormack-Williamson Tract is to provide mitigation for this flooding, DWR should address compliance with Water Code section 85089(a).

## **Chapter 3.10: Geology, Soils and Seismicity**

### **The DEIS fails to assess empirical data on damage from the 1906 earthquake on Delta levees.**

The dissertation “Levee Failures in the Sacramento-San Joaquin River Delta: Characteristics and Perspectives” (F. Hopf, Texas A&M University, December 2011) (Hopf) compiled and analyzed a database of levee failures and to the degree possible, near-misses (flood fights and emergency repairs) within the legal Delta, focusing on levee sections. This was compared to the Delta Risk Management Study (DRMS, Delta Risk Management Strategy, 2009. URS Corporation prepared for DWR), which recorded “flooded islands.” Among numerous findings Hopf made the following observation:

*I found a levee system that performed much better than the DRMS analysis implies. The historical review also uncovered evidence that indeed Delta levees in near-current configurations experienced liquefaction caused by the San Francisco Earthquake of 1906. However, no evidence exists of damage to any of the Delta levees from those forces. These 1906 reports require further investigation and confirmation. If appropriate, follow-up could include detailed soils and geotechnical analysis. It would seem prudent to do so before Californians commit to a Canal, costing an estimated \$13 billion and justified*

*largely because of the potential of earthquake damage and a faulty or exaggerated history of levee failures. [emphasis added]*

The analysis reveals the complexity of assessing the success of levee maintenance and improvement given the varying type and purpose of levees in the Delta. The EIS should include analysis of the existing and new data from the soils and geotechnical investigations that DWR has been conducting to address whether a 1906-magnitude earthquake did or would damage levees that have been supported by the subventions program.

**The DEIS overstates influence of faults outside the Delta study area and defers data collection on in-Delta fault.**

The DEIS, in relying on the DEIR analysis, refers to active faults outside the study area (in the greater San Francisco Bay Area) that have not been clearly shown to influence the Delta, yet defers data collection on the West Tracy blind thrust fault to “future field investigations.” This would consist of trenching investigations on the West Tracy Fault. The section essentially describes disagreement among experts and overall uncertainty regarding the relative risk of an active in-Delta fault and the potential seismic risks posed to either Delta levees or a Delta tunnel. Yet earthquake and seismic hazard have been used to justify the need for the tunnel based on the claim of potential damage to or failure of Delta levees from earthquakes that would compromise the quality and reliability of the SWP. The DEIS mitigations should require the future field investigation of the West Tracy Fault at the very least, and potentially the Midland Fault, prior to Corps authorization of the necessary Corps permits.

The DEIS and DEIR conclude that with design and engineering that meet standards, seismic impacts on the tunnel project itself are not significant. If proper design and engineering that meet standards – as well as comparable funding - are applied to the Delta levees themselves over a period comparable to the projected tunnel construction of thirteen years, the risk of levee failure would appear equally insignificant. The EIS no-action alternative should include this consideration in its analysis.

See also our comments above on Chapter 3.9, Flood Protection.

## **Chapter 3.14: Land Use**

**The DEIS, in relying on the DEIR land use thresholds of significance, repeats the errors of the DEIR.**

The DEIR land use analysis makes numerous incorrect assumptions and uses inappropriate standards for assessing significance of impact as outlined below. In addition, the Commission notes that many land use compatibility impacts, that are governed by local general plans, ordinances, and other locally adopted regulatory plans, are categorized as impacts falling under other issue areas, such as agriculture, noise, transportation and traffic, visual resources and so on.

This is important from the perspective of the project's consistency with the Delta Plan policy DP P2 (Respect Local Land Use when Siting Water or Flood Facilities or Restoring Habitats). As noted in comments the Delta Stewardship Council provided on the DEIR, this policy:

*...requires water management facilities, ecosystem restoration projects, and flood management infrastructure to be sited to avoid or reduce conflicts with existing uses or those uses described or depicted in city and county general plans for their jurisdictions or spheres of influence when feasible, considering comments from local agencies and the Delta Protection Commission.*

*DP P2 is independent of other state law related to local land use authority and the requirements of CEQA. DP P2 requirements extend beyond CEQA requirements and thresholds of significance. While DWR is not required to analyze or provide mitigation measures for impacts beyond those required by CEQA in the DEIR, the certification of consistency for DP P2 will need be supported by substantial evidence in the record. We recommend that where possible, the FEIR include documentation describing how conflicts with uses under DP P2 will be avoided or reduced, when feasible, considering comments from local agencies and the Delta Protection Commission. Such information may be helpful in the record to support a future certification of consistency. [emphasis added] (Delta Stewardship Council letter dated December 16, 2022.)*

We believe that artificially limiting the land use impact thresholds and scope and further, determining them to be less than significant, creates an overall illusion that the project could be found consistent with policy DP P2.

**The Land Use analysis makes incorrect assumptions about the significance of impacts in a rural setting.**

Key elements of the Commission's and counties' land use approach are: 1) to preserve the rural lands for agriculture and agricultural-related businesses, 2) allow for rural, visitor-serving

venues such as wineries and event facilities, marinas, and resorts in optimal locations for fishing, pleasure travel and water sports to support recreation, and 3) protect and enhance the legacy communities as retail and residential centers to support agriculture and tourism. The proposed tunnel is incompatible with this fundamental strategy, both during the 13-year construction period and during project operation. Not all Delta communities will be affected in the same way by the project, or perhaps with the same intensity, but all will be affected.

For example, construction of intake facilities on the Sacramento River would result in adverse impacts on the communities along State Route 160 including Hood, Clarksburg, and Courtland. Hood would be permanently adversely affected by construction of the intakes. In San Joaquin County, launch shafts, tunnel material handling, and maintenance and retrieval shafts will convert farmland and disrupt marinas and recreational boating. Contra Costa county communities such as Discovery Bay would suffer major recreation impacts. In Solano County, the economic and cultural impact of required project mitigations from agricultural lands being converted to restoration projects are a major concern, as are water quality impacts on municipal wells for Rio Vista and agricultural users in the Cache Slough region.

Construction and operation of the Twin Cities and Lower Roberts Island Complexes and the two concrete batch plants would also alter and adversely affect the current and designated land uses, as well as neighboring areas and the Stone Lakes National Wildlife Refuge. Much of the road construction and widening, bridge modifications and interchange improvements occur within the primary zone, in direct conflict with the most fundamental principles of the land use approach of the Delta Protection Act and the Commission's Land Use and Resource Management Plan (LURMP). After project construction is completed, pressure will grow for non-farm development at areas adjoining sites that cannot be returned to agriculture.

The proposed project will result in significant changes in land use, mainly conversion of land at the following principal facility locations:

1. Tunnel intakes
2. Twin Cities and Lower Roberts Island Double Launch Shaft Complexes and Lambert Road Concrete Batch Plants
3. Maintenance shafts
4. New or improved access roads

Construction of the tunnel intakes will also create significant noise impacts incompatible with the commercial, residential, and community park uses of Hood and nearby communities.

**The project is not consistent with the stated goal of the Commission’s Land Use and Resource Management Plan agriculture policies.**

The stated goal of the Commission’s LURMP agriculture policies is to “support long-term viability of agriculture and to discourage inappropriate development of agricultural lands.” (LURMP, 2010.) Agriculture impacts are discussed in more detail above under Chapter 3.2 (Agriculture). However, the DEIR and DEIS both fail to adequately analyze land use compatibility with LURMP policy or detail for how incompatibilities would be mitigated consistent with the LURMP and Delta Plan.

For example, both plans, as well as all general plans in the Delta, require the establishment of buffer areas between projects and adjacent agricultural land sufficient to protect and maintain land capability and agricultural operation flexibility. Many project features will be located on or adjacent to agricultural land, yet buffer areas that would protect adjacent agricultural land are not evident in the project design, environmental commitments and best management practices, or in the proposed mitigation measures. The EIS must include specific details about the acreage affected and how buffers and other mitigation will be implemented.

**The Land Use analysis incorrectly dismisses the project’s potential to divide communities.** The DEIR cannot help but acknowledge that construction of the conveyance project facilities will permanently convert land uses from residential, agricultural, commercial, recreational open space and other uses. However, it dismissively concludes that the project will not divide communities simply because, for example, “residential structures that would be removed are in areas of scattered residences in agricultural areas.” This demonstrates a lack of understanding about what rural agricultural communities are, and a lack of recognition of what the Delta as a Place is. As noted in our comments on Chapters 18 and 19, the Delta itself is a community, a collection of existing and historical communities linked by its waterways and scenic highways, and united by both common and unique features of significance. In a rural landscape, land use changes on the scale of the proposed project are more noticeable and more significant because they are not lost in surrounding urbanization, but instead stand out starkly on the landscape.

### **Chapter 3.15: Noise**

**Thresholds of significance.** The thresholds of significance for construction noise are inconsistent with established local and national standards and underestimate the harm of construction related noise. They should be revised.

The proposed thresholds are less protective than the standards of affected local governments' general plans and ordinances. For example, San Joaquin and Sacramento counties' noise ordinance limits noise from stationary sources to 50 (Leq, dB) in daytime and 45 (Leq dB) at night, rather than the 60 dbA on an hourly Leq during daytime and 50 (Leq dBA) at night proposed on page 3.15-3. The counties' standards also omit the additional criteria proposed on page 3.15-3 that noise must also increase by 5 dB relative to existing daytime noise to exceed the ordinance's standards. County's general plan limits noise to 50 dBA L50 in daytime and 45 dBA L50 at night. Local government ordinances and general plans reflect local land use, residents' expectations, and other local conditions. Noise that exceeds these levels can disrupt existing land uses and residents' activities. The DEIS' thresholds of significance should be revised in coordination with Delta local governments.

Where local standards are unavailable, or where there are special uses, such as parks, nature areas, recreation sites, schools, libraries, churches, or other especially sensitive uses, the federal guidelines in Table 2 below should be considered. Increased noise that exceeds any of these standards should be considered significant.

<b>Ldn &lt; 55 dB</b>	Outdoor activity interference and annoyance
<b>Leq (24) &lt; 55 dB</b>	Outdoors in residential areas and farms and other outdoor areas where people spend widely varying amounts of time and other places in which quiet is a basis for use.
<b>Ldn &lt; 55 dB</b>	Outdoor areas where people spend limited amounts of time, such as schoolyards, playgrounds, etc. Indoor activity interference and annoyance
<b>Leq(24) &lt; 45 dB</b>	Indoor residential areas. Other indoor areas with human activities such as schools, etc.
<b>Leq (24) ≤ 45 dB</b>	Other outdoor areas with human activities such as schools
<p><i>Source: U.S. EPA, Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety. Section 4, Identified Levels of Environmental Noise In Defined Areas. March 1974. Leq(24) = the sound energy averaged over a 24-hour period. Ldn = the Leq with a 10 dB nighttime penalty</i></p>	



Noise consistent with the DEIR's thresholds would impair community life in affected Delta communities and recreation sites. Noise at the DEIR's thresholds could result in noise twice as loud as current ambient levels.

Instead, thresholds of significance used to assess noise impacts should reflect the Delta's existing conditions and the land use in areas where noise effects would occur. One threshold could be noise that exceeds the background sound level by at least five (5) dBA during daytime or nighttime hours, as proposed. Noise standards of applicable local government general plans and ordinances should provide another set of thresholds, as these reflect local land use, residents' expectations, and other local conditions. Where local standards are unavailable, or where there are special uses, such as parks, nature areas, recreation sites, schools, libraries, churches, or other especially sensitive uses, the US EPA guidelines should be considered. Increased noise from the project that exceeds any of the local or US EPA standards should be considered significant.

**Ambient noise.** Relying on the measurements of ambient noise in San Joaquin and Alameda counties reported in the DEIR's Tables 24-3 (page 24-14) and 24-4 (page 24-15) is insufficient. None measure ambient noise along the preferred route or near the footprint of the preferred project alternative, such as near the Lower Roberts Island Double Launch/Reception shaft, the proposed haul route on Lower Roberts Island, or the Bethany complex. This additional information is essential to determine whether project-related noise exceeds the DEIS's proposed threshold of significance – an increase in noise exceeding 5 dB relative to existing noise levels. Additional monitoring at these additional sites should be conducted and reported in the Final EIR.

**Noise impacts of the project.** Impacts reported in Section 3.15.2.2 should be revised to reflect the standards of significance suggested above. Judged against the EPA guidelines cited above, significant impacts would be much greater. Areas that will suffer noise in excess of applicable thresholds should be mapped. In addition to reporting and mapping affected residences, noise impacts to Hood Community Park should be noted, as it is used by many local families, as should impacts to noise sensitive businesses, such as the Hood Station café and the Willow Ballroom wedding venue. The narrative should also acknowledge that excessive noise will also impact recreation uses at the Stone Lakes National Wildlife Refuge, Cosumnes River Preserve, the Rivers End and Lazy M marinas, and the Sacramento and San Joaquin Rivers, impairing recreation there.

Work windows for impact pile driving should minimize excessive noise on weekends and afterschool hours. Nearby residents and Hood's children deserve as careful consideration as the fish for which wildlife and fish agencies expect to limit work periods.

**Verify mitigation measures.** It is unclear whether the insulation program proposed will adequately reduce noise levels. Outdoor noise levels will be unaffected by the insulation program. Rather, residents of Hood and other affected areas will find construction-related noise a near-constant annoyance over countless years, interfering with routine outdoor activities. Relations between family members and neighbors visiting in the close-knit community's yards will be disrupted if residents relocate.

Affected residents, business operators, and homeowners should be consulted about the acceptability of the proposed sound insulation program. The mitigation program should be expanded to include noise-sensitive businesses and institutional uses, such as Hood's post office. Special care should be made to consult with renters, who comprise most of Hood's residents. Under California law, tenants are entitled to the quiet enjoyment of their property, which landlords may not impair. For some residents, the sound insulation program may be just one more disruption added to other impacts of the project's construction. Even if the insulation program is widely accepted, it would still leave residents cooped up within their homes for several years to avoid damaging noise – an unwelcome echo of the past few years' COVID experience.

It is unclear why wall insulation is excluded from the program, which offers only improved window and doors. We note that Los Angeles residents were offered wall insulation under the LAX Master Plan. Delta residents who would want wall insulation should have this option readily available. To minimize noise disruption of residents and businesses, criteria for participation should be generous. LAX's program was delivered in partnership with well-recognized community organizations, which facilitated its acceptance. DWR should seek out similar opportunities.

Any sound barriers should be removed at the end of construction unless residents want them retained. Local agencies, community members, and affected residents and businesses should be involved in developing noise mitigation plans. At a minimum, these measures must comply with the Delta Plan's Mitigation, Monitoring and Reporting Program Measures 15 1-3.

## Chapter 3.16: Recreation

The sole reference cited for the Recreation chapter in the DEIS Appendix A is the DEIR. The same concerns raised regarding adequacy of the recreation analysis therefore extend to the DEIS, chiefly that the conduct of the research and data collection for the second largest sector of the Delta economy is insufficient to properly identify impacts.

### **CEQA thresholds of significance are inappropriately narrow and are not appropriate for use in a NEPA document.**

DEIS Section 3.16.2.1 (page 3.16-1) describes the “Methods for Analysis,” essentially repeating the methods used in the DEIR that were inadequate to determine baseline use. Contrary to what DEIR Section 16.3.2 states, the two listed thresholds of significance do not “build upon the CEQA Guidelines Environmental Checklist criteria,” but simply stop at the two basic recommended questions, which are expressly a starting point, not comprehensive, as the Guidelines clearly state.

*The sample questions in this form are intended to encourage thoughtful assessment of impacts and do not necessarily represent thresholds of significance. [Appendix G, page 341, 2023 CEQA Statute and Guidelines. Association of Environmental Professionals.]*

### **Limiting surveys of recreational locations and access points and limited inadequate to provide a proper baseline.**

During meetings in 2020 and 2021, Commission staff repeatedly encouraged DWR’s Delta Conveyance Office and consultants to conduct surveys at key recreation locations such as marinas and boat ramps. Specific simple, non-contact observational survey techniques used on a multi-state Natural Resource Damage Assessment were recommended to allow data to be gathered safely despite the pandemic conditions. Contact information for the survey designer was provided. However, despite ample time to conduct almost a full year of surveys, only two days field reconnaissance of a handful of project sites were completed, in February 2021. (DEIR, pp. 16A.2-6-20.) Limiting surveys of chosen recreational locations and access points to two days is inadequate to provide a proper baseline. As with cultural resource surveys, this brief effort during winter does not accurately reflect activity levels and types at recreational access locations. Recreational activities vary seasonally and even daily based on weather conditions

and other considerations. The known recreational locations that would be impacted by the project should have been properly evaluated over a longer period.

**The DEIR and DEIS analyses of the Delta’s second-largest economic driver fail to utilize available data sources and experts.**

The recreation economy in the Delta is second only to the agricultural economy, yet the analysis failed to consult with the extensive pool of local tour operators, marinas and other expert sources regarding recreational uses in the Delta, specifically in the vicinity of impact.

A cursory effort was made to interview a handful of representatives of parks and recreation, law enforcement and one private marina on “existing recreation use patterns and management” of a representative individual location in each of the affected counties (Yolo, Sacramento, San Joaquin and Contra Costa). The DEIR Appendix 16A contains documentation of an attempt at a solid survey of recreation facilities in the path of the preferred project that was begun in February 2021 but inexplicably abandoned. Some of the interviews included recommended sources for additional information, such as the State Parks Chief Ranger recommendation to speak with the Brannan Island SRA concessionaire, that apparently was not followed up on.

Furthermore, based on follow-up investigation, it appears that those interviewed were not provided detailed information about the proposed facilities and construction in the area nor asked for their input about possible effects or potential ways to mitigate impacts based on specific knowledge of the potential impacts.

In addition, none of the data that the Commission developed from interviews with focus groups for the 2020 recreation update to the ESP appears to have been used in the DEIR’s analysis of impacts. The minimal effort to characterize the recreation baseline was inadequate to properly analyze the project’s environmental impacts.

**The DEIR and DEIS fail to identify project conflicts with recreational goals of the Commission’s ESP.**

Among the Commission’s ESP recreation enhancement goals is to promote recreation destinations as focal points in the Delta and highlight Delta values by showcasing Legacy Communities including Locke, Walnut Grove, Ryde, Courtland, and Hood. Each of these communities would be severely impacted by the tunnel project. As discussed in the Land Use

and Aesthetics and Visual Resources sections above, the construction, muck piles, and permanent infrastructure would not only create aesthetic and recreational impacts, but also confound achievement of the ESP economic strategies.

The Appendix list of references contains errors and omissions that could have been corrected in the DEIS – or even in the DEIR – but were not. Documents referenced in draft form were completed or nearly complete during the time the DEIR and DEIS were being prepared. These include the Delta Protection Commission’s Economic Sustainability Plan for the Sacramento-San Joaquin Delta (ESP), Recreation and Tourism Chapter 2020 Update (adopted January 2021), The Great Delta Trail Master Plan (public draft November 2021, adopted January 2022). It appears that important final documents such as the ESP Recreation and Tourism Chapter 2020 update were reviewed and data referenced in some sections, but not others.

Authors of the report Recreation and Tourism in the Delta, a Study of Preferences for Activities and Facilities, Information Sources, and Economic Contributions of Delta Events (Delta Protection Commission, 2019) are incorrect; the correct authors are Dr. Amy Mickel, Dr. Stanley Taylor, Dr. David Rolloff, and Dr. Gregory Shaw, California State University, Sacramento.

See also our comments on Socioeconomics (Section 3.17) below.

## **Chapter 17: Socioeconomics**

### **The conclusions of the DEIS regarding changes in agricultural and recreational economics are unsupported by the data presented.**

The data presented in this section are incomplete in part because the impacts on both the Agriculture (Chapter 3.2) and Recreation (Chapter 3.16) resource topics are inappropriately constrained, as discussed elsewhere. Impacts to agriculture are understated because the section only addresses loss of agricultural lands to project construction, whereas the project and other DWR projects as described above in Table 1 (Agriculture, Chapter 3.2) will or already have necessitated conversion of lands for restoration purposes. In addition, changes in crop prices are unaccounted for, and with climate change and other influences such as land values likely to increase, it is unclear what the conclusion of no significant impact is based upon.

An additional failure of the recreation economics analysis results from the flawed thresholds in establishment of impact. There is no analysis of the potential for failure of businesses such as marinas which depend on residents and visitors being able to reach their desired destinations,

usually favorite spots that they have enjoyed for years. As documented in the ESP Recreation and Tourism 2020 update, the business owners focus group indicated that even in the face of the pandemic, they had plans for incremental expansion. Although the ESP noted the slow recovery of the Delta recreation economy from the effects of the 2008 recession, there are indications that businesses are working to expand and grow, especially with the advent of the National Heritage Area designation in 2019. In discussions of the potential effects of the tunnel project by the Commission's Delta Protection Advisory Committee (DPAC) in September and November 2022 and February 2023, DPAC members expressed concern that where construction traffic and detours prevented or even slowed in-Delta or out of Delta boaters and other recreators, over the projected 12 to 14-year construction period they would abandon hard-to-reach destinations for different locations, potentially even outside the Delta.

The EIS should include improved analysis of these and other unanticipated socioeconomic effects on recreation, agriculture and livability conditions in communities resulting from construction, operations, and maintenance of the project.

## **Chapter 19: Transportation**

### **The DEIS transportation analysis fails to properly consider the disruptive impact of traffic on rural, already impacted Delta roadways.**

The DEIS conclusions that the project would not result in unacceptable roadway and intersection level of service (LOS) conditions and create conflicts and hazard from incompatible uses such as farm equipment are simply wrong. This analysis is possibly the most reliant on successful mitigation in the entire document, depending on preparation of Transportation Demand Management Plans. The problems with roadways and traffic in the Delta are chronic and well-documented. Three Caltrans Districts converge in the Delta, Districts 3 (generally Yolo and Sacramento Counties), 10 (generally, San Joaquin County) and 4 (generally Contra Costa and Solano Counties). Traffic Demand Management Plans by Caltrans and extensive planning efforts by the respective County Associations of Governments have not been successful at preventing the unacceptable LOS and hazardous conditions along SR 4, 12, 160 and 84.

Among the most damaging impacts will be the extensive construction associated with the intakes along the Sacramento River and SR 160. Construction would require relocating the Corps levee and SR 160 prior to building the intake structure and fish screens. The levee was constructed as part of the Corps' Sacramento River Flood Control Project Levee program.

According to the project description, conformance with flood control criteria must be maintained continuously during construction. This would require a temporary jurisdictional levee to be built at the intake sites east of the existing levee to reroute SR 160 and maintain continuous flood protection during construction of the new intake facilities.

The impacts this construction alone will have on the community of Hood and surrounding communities during the 12 to 14-year construction period is significant with mitigation and the EIS should reflect that.

**The DEIS should ensure that local jurisdictions do not bear the burden of failing required transportation standards.**

According to the Office of Planning and Research's (OPR) Technical Advisory on Evaluating Transportation Impacts, a proposed project exceeding a level of 15 percent below existing regional Vehicle Miles Travelled (VMT) per employee may indicate a significant transportation impact. The DEIS should account for the fact local jurisdictions must meet the 15 percent reduction as the significance threshold for VMT and the project impacts must not add to the burden on local jurisdictions meeting state requirements.

While the proposed project includes improvements to various roads and bridges as well as new transportation facilities, the cost and responsibility for on-going maintenance and operation of these new facilities should be assessed in the DEIS.