



- Bay-Delta Committee

10/27/2020 Committee Meeting

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## Subject

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Update on Delta Conveyance

## Details

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### Background

Consistent with Executive Order N-10-19, in early 2019, the state announced a new single tunnel project, which was notably included as part of the Governor's 2020 Water Resilience Portfolio. In 2019 the California Department of Water Resources (DWR) initiated planning and environmental review for a single tunnel Delta Conveyance Project (DCP) to protect the reliability of State Water Project (SWP) supplies from the effects of climate change and seismic events, among other risks.

Staff plans to bring an action to the Board in December for funding Metropolitan's share of the state's environmental review and planning process for a single tunnel DCP as described below, and to also consider modifications to the existing Delta Conveyance Design and Construction Authority (DCA) formation agreement to address governance structure.

### Conveyance Project Purpose and Notice of Preparation

DWR completed its public scoping process for the DCP earlier this year. The project purpose is "to develop new diversion and conveyance facilities in the Delta necessary to restore and protect the reliability of [SWP] water deliveries, and, potentially, Central Valley Project water deliveries south of the Delta, consistent with the state's Water Resilience Portfolio." The following project objectives are contained in the Governor's Water Resilience Portfolio: Climate Resiliency, Seismic Resiliency, Water Supply Reliability, and Operational Resiliency."<sup>1</sup> These objectives are included as the proposed Delta Conveyance Project Description within DWR's "Notice of Preparation of Environmental Impact Report for the Delta Conveyance Project" (NOP) published on January 15, 2020, included as **Attachment 1** to this report.

### Project Planning Schedule

DWR's schedule for completing the environmental review and permitting process extends through the end of 2024 with key milestones shown below:

- Completion of Public Draft Environmental Impact Report (EIR) in 2022.
- Completion of Final EIR and issuance of Endangered Species Act permits in 2023.
- Completion of State Water Resources Control Board Change in Point of Diversion to DWR's permits and Delta Stewardship Council Delta Plan certification of consistency and any administrative appeals in 2024.

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<sup>1</sup> These project objectives are subject to refinement during the process of preparing a Draft EIR.

### Agreement in Principle for Amendment for Delta Conveyance to SWP Contract

Public negotiations between DWR and Public Water Agencies (PWA's) for the DCP began in July 2019 and were completed in April 2020. These negotiations led to an Agreement in Principle (AIP) for an Amendment to the State Water Contract for the DCP. The goal was to equitably allocate new costs and benefits of a Delta Conveyance Facility and to preserve existing SWP benefits and capability.

The DCP would be constructed and operated as an integrated component of the SWP. For this reason, negotiations focused not only on how the costs and benefits would be accounted for in contract language, but also how DWR would administer and operate the SWP if and when a DCP becomes operational. The parties have developed a white paper that describes the accounting and administrative principles to be utilized for the DCP.

#### A. AIP – Provides an Opt-out Approach

The AIP, included as **Attachment 3**, is based on the principle that each PWA is obligated to pay for the necessary DCP under its existing contract with DWR. The AIP is structured to allow PWAs to opt out of the costs and benefits of the DCP. Under the AIP, a PWA may choose not to pay for costs of building and operating the DCP, but it would also forgo the benefits. However, a PWA may not be partially in, so it must opt out of all or none of its entire Municipal and Industrial Table A or Agricultural Table A share. A PWA may invest in more than its Table A share, if excess is available.

Because there is the ability to opt out, the DCP benefits are clearly articulated in the AIP as those water supply and capacity benefits attributable to the DCP,<sup>2</sup> which includes, but is not limited to, water supply benefits and use of available capacity. The PWAs who choose to opt out of the project will not be charged for the project, will forgo benefits below, and their contracts would be amended accordingly:<sup>3</sup>

- Forgo right to or delivery of SWP water attributable to the DCP.
- Forgo delivery of Article 21 interruptible water until DCP benefits have been allocated to those participating in the project.
- Forgo the right to use DCP and unused conveyance capacity for SWP purposes for non-project water unless fair compensation<sup>4</sup> is paid.
- Forgo the right to use DCP to convey SWP water in the event south Delta diversion and/or pumping is impaired (applies with physical impairment, regulatory/contractual disruption, sea level rise, seismic events, flooding, or other uncontrollable event).
- Forgo the right to carriage water savings and any credit from fair compensation collected by DWR for use of capacity.

#### B. Participation and Billing

The AIP includes a participation table that denotes each PWA's investment percentage, which must equal one hundred percent to fully fund the project. The table provides the DCP allocation factors. The allocation factors are carried into the billing section. Each PWA will pay for the costs and receive the benefits in line with each participants' associated allocation factors. The billing provisions and allocation table are detailed in AIP objective 4.

#### C. Proportionate Benefits

The AIP provides that a PWA will receive the benefits in proportion to their allocation factor percentage. The benefits are defined more broadly, but specifically include the following: (see **Attachment 3** Section VI. *Objective 5 – Delta Conveyance Facility Benefits Allocation*)

<sup>2</sup> The AIP referred to the Delta Conveyance Facility ("DCF"). DCF and DCP are interchangeable and refer to the same project.

<sup>3</sup> **Attachment 3** Section VI. *Objective 5 – Delta Conveyance Facility Benefits Allocation*

<sup>4</sup> Fair compensation is defined in the AIP to, "include but is not limited to capital recovery, operations, maintenance, replacement, and variable charges associated with the use of the DCF capacity."

- Delivery of Table A amounts diverted at and conveyed through or attributed to the DCP.
- Article 21 Interruptible Water attributable to DCP.
- Available DCP conveyance capacity unused by DWR for SWP purposes to convey non-project water for ultimate use within that PWA's service area.
- Carriage water savings that DWR determines are realized during its operation of any DCP for purposes of conveying SWP water.
- Available DCP conveyance capacity to convey SWP water in the event diversion facilities and/or pumping in the south Delta is prevented or impaired by a physical, regulatory or contractual disruption, including but not limited to sea level rise, seismic events, flooding, or other uncontrollable event.
- A credit from fair compensation collected by DWR for use of available DCP conveyance capacity by non-participants.

Additionally, if DWR moves water through the DCP that it could have moved through Clifton Court Forebay, participating PWAs will have priority to move non-project water through the existing south Delta diversion at Clifton Court Forebay in the same time and quantity based on their participation percentage.

#### D. AIP White Paper

The AIP white paper, included as **Attachment 4**, describes the current understanding of how DWR would account for and administer the DCP benefits. DWR will include information regarding the accounting and administration of water attributable to DCP in relevant Notice(s) to SWP Contractors consistent with prior practice. The white paper does not create any legally binding obligations, rather, it provides the administrative detail regarding how DWR would operate the DCP as an integrated part of the SWP consistent with the contractual language contained in the amendment. For instance, the white paper provides details on when Article 21 water will be made available to those PWAs who invest in the DCP and when it will be made available for those who opt out.

### **Planning Budget, Funding Agreements, and DCA Amendments**

Following the AIP public negotiations, participating PWAs are proceeding with the next steps to advance project investment and engagement. Key topics for advancing the project include the following: adequate funding for project planning and pre-construction activities, PWA funding decisions for the DCP, and the respective DCA governance amendments to reflect PWA participation levels.

#### A. Planning Costs

When the DCA was originally formed in May 2018, DWR had completed the environmental review of and approved the California WaterFix, and state and federal Endangered Species Act permits had been issued. The DCA had a clear task ahead of it: to design and construct CA WaterFix. Currently, DWR is focused on preparing single tunnel environmental review documents and obtaining key permits for DCP. Due to the state's planning process now extending through 2024, and given the current economic conditions, participating PWAs and the DCA have been evaluating their respective budgets for potential cost savings.

Approximately \$331.5 million of investment is needed over four years. This includes both DWR and DCA expenditures for environmental planning and stakeholder engagement efforts. After diligent review of the preliminary planning budget, a short-term reduction in DCA activities has been identified to both streamline expenditures and create efficiencies. This reduction is focused on overhead and organization expenses within the DCA. The collective DWR and DCA planning budget reduction identified would be \$43.5 million over two years, and \$53.5 million over four years, reducing the original four-year planning budget from \$385 million to \$331.5 million.

Under this revised planning schedule and budget, activities to support environmental planning would continue, including necessary engineering support and geotechnical surveys. Near-term modifications to

the DCA activities include a one-year deferral of some geotechnical work and engineering work, not on the critical path. In addition, overhead expenses would be reduced, including some contracted staffing reductions. While some DCA activities would be deferred or reduced, other critical work supporting the environmental planning process, including the Stakeholder Engagement Committee, would continue. It is anticipated that the DCA engineering and design activities would resume at full capacity once environmental planning is complete, key permits have been obtained, and final design and construction services are actually needed.

B. Funding Agreement

To finish the DCP environmental review and planning work, each PWA investing in the project would contribute its percentage of the planning costs. As noted previously, the revised four-year planning budget is \$331.5 million, with an estimated \$121.5 million for 2021 and 2022 (calendar years 1 and 2). In 2020, four PWA's provided \$9.2 million in advance of the AIP to fund DCP planning activities. These four agencies would be reimbursed (during the four-year planning period) for their advance payments, resulting in a total funding need of \$340.7 million during the four years. The \$9.2 million will be collected through the funding agreements over the four-year period, consistent with the cash flow projection of planning budget costs and will be credited to those four agencies who advanced the funds. Based on cash flow projections over the four-year planning horizon, the estimated funding amount is \$124.9 million for 2021 and 2022 (calendar years 1 and 2).

At this time, other PWA board decisions on participation levels have not occurred, but assuming up to a 65-percent share of the project for Metropolitan, forecasted funding agreement costs would be up to \$81.2 million for calendar years 2021 and 2022. Metropolitan's forecasted planning costs for all four years, assuming up to a 65-percent share, would be \$221.5 million.

The funding agreement would be between Metropolitan and DWR and would describe the purposes for which funding is authorized. These purposes include funding environmental and pre-construction activities for DWR and work that is authorized by DWR under the JEPA Joint Exercise of Powers Agreement with the DCA. The funding agreement would initially provide up to \$81.2 million for calendar years 2021 and 2022, but allow Metropolitan the ability to contribute additional funds in calendar years 2023 and 2024. The funding agreement allows Metropolitan and DWR to determine the timing and collection of funds. Finally, like prior agreements, the funding agreement will provide that funds would be reimbursed to Metropolitan if the project is approved and bonds are issued. An action to fund for planning does not commit Metropolitan to participate in the project. Any final decision to commit to the project and incur final design and construction costs would need Board approval following environmental review, which will not occur until 2024 or later.

C. DCA Governance and Amendment

DCA's current board includes the following seats: Metropolitan (SWP), Metropolitan (Non-SWP capacity), Kern County Water Agency (Kern), Santa Clara Valley Water District (Santa Clara), and a SWP contractor (selected by otherwise non-represented SWP contractor). In the existing structure, two additional directors are added if there is CVP participation, bringing the board seats to seven. This structure was negotiated for California WaterFix, which contemplated Central Valley Project participation. Currently, investment decisions are being contemplated only by SWP PWAs.

To address the changed investment structure and level of participation in the DCP, an amendment to the DCA Joint Powers Agreement (DCA JPA Amendment) has been developed to align the board composition and voting procedures with PWAs' respective financial commitments. Under the current proposal, the revised board would become a seven-member board to better reflect the investment in the project. The new seven-member board would include one seat with each for the following: Metropolitan, Kern, Santa Clara, Class 3/5/7 contractors, and Class 2 Contractors, and two seats for Class 8 contractors. Table 1 below provides a list of PWAs which are current or anticipated project participants by class.

**Table 1:** Current or anticipated PWA’s for proposed DCA Board Seats by Contractor Class

<b>Class Contractors</b>	<b>State Water Contractors</b>
<b>Class 2</b>	Alameda Flood Control & Water Conservation (Zone 7) Alameda County Water District (ACWD)
<b>Class 3/5/7</b>	Dudley Ridge Water District (Class 3) San Luis Obispo County Flood Control & Water Conservation District (Class 5) Casitas Municipal Water District (Class 7) Santa Clarita Valley Water Agency (Class 7)
<b>Class 8 Contractors</b>	Antelope Valley – East Kern Water Agency Coachella Valley Water District Crestline – Lake Arrowhead Water Agency Desert Water Agency Mojave Water Agency Palmdale Water District San Bernardino Valley Municipal Water District San Gabriel Valley Municipal Water District San Geronio Pass Water Agency

Additionally, updated voting provisions are proposed to reflect the new DCA governance. Most actions would be decided by a majority vote, with each Director having one vote. However, in order to account for each PWA’s financial investment, following an initial vote by the DCA board, a reconsideration provision would be allowed on certain financial decisions. This would allow any DCA Director to move to reconsider an action related to annual budget, budget modification, construction contracts exceeding \$10 million, and service contracts exceeding \$1 million over the life of the contract.

Reconsideration of an item approved by a majority vote must be initiated during the same meeting, and a reconsideration vote must be agendized for the next scheduled DCA board meeting, which may not be less than 14 days and not more than 30 days from the original action. To overturn an original board vote, the reconsideration vote would be based on contracted proportionate share, which is the level of investment represented by each board seat, except for Class 8, the contracted proportionate share will be divided equally between the two board seats. For the reconsideration vote to pass and overturn the initial vote, it would require the support of at least 70 percent of the contracted proportionate share.

**Preliminary Project Cost Information and Preliminary Benefits (September 2020 Bay-Delta Committee)**

During the September 2020 Bay-Delta Committee Meeting, staff provided an update on preliminary cost information and a range of potential project benefits for the DCP. The preliminary cost information was generated by the DCA and estimates the project would be \$15.9 billion (2020 dollars). The purpose of the preliminary cost information was to provide PWA’s with cost information to support respective board funding decisions for planning costs.

Key points - Preliminary Project Cost Information:

- Includes early estimates for total project costs – construction, management, oversight, mitigation, planning, soft costs, and contingencies.
- No Preliminary Engineering Report is available at this time; however, the DCA is conducting preliminary engineering work, which helped inform the development of the cost information.
- PWA’s requested a review of the DCA cost assessment, and the results of that review identified that the level of contingencies could vary. Further, it indicated that the DCA estimated contingency amount exceeds industry standards by \$2.3 billion to \$4.4 billion, and that the contingency would be expected to narrow over time as the planning process proceeds.
- Cost Information will be revised after necessary engineering is complete.

Preliminary project benefits were also estimated. The primary project benefits were compared to future conditions consistent with the NOP objectives of climate resiliency, seismic resiliency, water supply reliability, and operational resiliency. The range of potential project benefits included preservation, or protection, of existing

water supplies ranging from 100,000 AF to 1,000,000 AF. Potential enhanced water supply benefits may include water quality improvements and protection against climate change effects such as sea level rise, including greater sea level rise than currently projected. Both preliminary cost information and preliminary project benefits will be further refined as the project planning proceeds and a decision to participate in the project construction nears.

### **Next Steps**

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Staff will continue to work with DWR, DCA, and other PWAs to advance the following: funding agreement for project planning, DCA JPA Amendment, and update the environmental planning workplan and budget. In November 2020, staff will continue to review the status of developments with the Bay Delta Committee, including any development related to other PWA actions. In December 2020, staff will propose actions to authorize the General Manager to enter the funding agreement with DWR and the DCA JPA Amendment.

### **Policy**

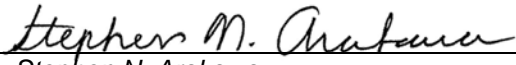
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By Minute Item 45753, dated May 11, 2004 the Board adopted refined Bay-Delta finance and cost allocation policy principles for communication with the California Bay-Delta Authority and interested parties, as set forth in the letter signed by the Chief Executive Officer on April 20, 2004.

By Minute Item 46637, dated April 11, 2006, the Board adopted policy principles regarding long-term actions for the Sacramento-San Joaquin River Delta as described in the revised letter signed by the General Manager on April 4, 2006.

By Minute Item 47135, dated June 12, 2007, the Board adopted a proposed Delta Action Plan. Subsequent to adoption of the Delta Action Plan, a Board of Directors Retreat was held on April 13-14, 2007 where the Board discussed a framework directing Metropolitan staff actions related to Delta issues. The framework comprises of three major time-based components: A Short-Term Action Plan, a Mid-Term Action Plan and a Long-Term Action Plan.

By Minute Item 47232, dated September 11, 2007, the Board adopted criteria for support of conveyance options in Implementation of a Long-term Delta Improvement Plan. These criteria are as follows: provide water supply reliability, improve export water quality, allow flexible pumping operations in a dynamic fishery environment, enhance delta ecosystem, reduce seismic risks and reduce climate change risks.

  
 Stephen N. Arakawa  
 Manager, Bay-Delta Initiatives

10/21/2020  
 Date

  
 Jeffrey Kightlinger  
 General Manager

10/22/2020  
 Date

**Attachment 1 – DWR’s Notice of Preparation Delta Conveyance Project**

**Attachment 2 – DWR’s Planning Schedule for DCP**

**Attachment 3 – Agreement in Principle**

**Attachment 4 – White Paper on AIP**

## **NOTICE OF PREPARATION**

### **NOTICE OF PREPARATION OF ENVIRONMENTAL IMPACT REPORT FOR THE DELTA CONVEYANCE PROJECT**

January 15, 2020

#### **INTRODUCTION**

Pursuant to the California Environmental Quality Act (CEQA), the California Department of Water Resources (DWR) will initiate the preparation of an Environmental Impact Report (EIR) for the Delta Conveyance Project in the Sacramento-San Joaquin Delta, California. DWR is the lead agency under CEQA.

The Delta Conveyance Project will also involve federal agencies that must comply with the National Environmental Policy Act (NEPA), likely requiring the preparation of an environmental impact statement (EIS). Federal agencies with roles with respect to the project may include approvals or permits issued by the Bureau of Reclamation (Reclamation) and United States Army Corps of Engineers. To assist in the anticipated federal agencies' NEPA compliance, DWR will prepare an EIR that includes relevant NEPA information where appropriate. Once the role of the federal lead agency is established, that federal lead agency will publish a Notice of Intent to formally initiate the NEPA process.

#### **BACKGROUND INFORMATION**

In July 2017, DWR had previously approved a conveyance project in the Delta involving two tunnels referred to as "California WaterFix." In his State of the State address delivered February 12, 2019, Governor Newsom announced that he did not "support WaterFix as currently configured" but does "support a single tunnel." On April 29, 2019, Governor Newsom issued Executive Order N-10-19, directing several agencies to (among other things), "inventory and assess... [c]urrent planning to modernize conveyance through the Bay Delta with a new single tunnel project." The Governor's announcement and Executive Order led to DWR's withdrawal of all approvals and environmental compliance documentation associated with California WaterFix. The CEQA process identified in this notice for the proposed Delta Conveyance Project will, as appropriate, utilize relevant information from the past environmental planning process for California WaterFix but the proposed project will undergo a new stand-alone environmental analysis leading to issuance of a new EIR.

#### **PROPOSED DELTA CONVEYANCE PROJECT DESCRIPTION**

##### **Purpose and Project Objectives**

CEQA requires that an EIR contain a "statement of the objectives sought by the proposed project." Under CEQA, "[a] clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers

in preparing findings or a statement of overriding considerations. The statement of objectives should include the underlying purpose of the project and may discuss the project benefits” (State CEQA Guidelines Section 15124[b]).

Here, as the CEQA lead agency, DWR’s underlying, or fundamental, purpose in proposing the project is to develop new diversion and conveyance facilities in the Delta necessary to restore and protect the reliability of State Water Project (SWP) water deliveries and, potentially, Central Valley Project (CVP) water deliveries south of the Delta, consistent with the State’s Water Resilience Portfolio.

The above stated purpose, in turn, gives rise to several project objectives. In proposing to make physical improvements to the SWP Delta conveyance system, the project objectives are:

- To address anticipated rising sea levels and other reasonably foreseeable consequences of climate change and extreme weather events.
- To minimize the potential for public health and safety impacts from reduced quantity and quality of SWP water deliveries, and potentially CVP water deliveries, south of the Delta resulting from a major earthquake that causes breaching of Delta levees and the inundation of brackish water into the areas in which the existing SWP and CVP pumping plants operate in the southern Delta.
- To protect the ability of the SWP, and potentially the CVP, to deliver water when hydrologic conditions result in the availability of sufficient amounts, consistent with the requirements of state and federal law, including the California and federal Endangered Species Acts and Delta Reform Act, as well as the terms and conditions of water delivery contracts and other existing applicable agreements.
- To provide operational flexibility to improve aquatic conditions in the Delta and better manage risks of further regulatory constraints on project operations.<sup>1</sup>

### **Description of Proposed Project Facilities**

The existing SWP Delta water conveyance facilities, which include Clifton Court Forebay and the Banks Pumping Plant in the south Delta, enable DWR to divert water and lift it into the California Aqueduct. The proposed project would construct and operate new conveyance facilities in the Delta that would add to the existing SWP infrastructure. New intake facilities as points of diversion would be located in the north Delta along the Sacramento River between Freeport and the confluence with Sutter Slough. The new conveyance facilities would include a tunnel to convey water from the new intakes to the existing Banks Pumping Plant and potentially the federal Jones Pumping Plant in the south Delta. The new facilities would provide an alternate location for diversion of water from the Delta and would be operated in coordination with the existing south Delta pumping facilities, resulting in a system also known as "dual conveyance"

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<sup>1</sup> These objectives are subject to refinement during the process of preparing a Draft EIR.



because there would be two complementary methods to divert and convey water. New facilities proposed for the Delta Conveyance Project include, but are not limited to, the following:

- Intake facilities on the Sacramento River
- Tunnel reaches and tunnel shafts
- Forebays
- Pumping plant
- South Delta Conveyance Facilities

Figure 1 shows the areas under consideration for these facilities. Other ancillary facilities may be constructed to support construction of the conveyance facilities including, but not limited to, access roads, barge unloading facilities, concrete batch plants, fuel stations, mitigation areas, and power transmission and/or distribution lines.

Under the proposed project, the new north Delta facilities would be sized to convey up to 6,000 cfs of water from the Sacramento River to the SWP facilities in the south Delta (with alternatives of different flow rates, as described in the “Alternatives” section below). DWR would operate the proposed north Delta facilities and the existing south Delta facilities in compliance with all state and federal regulatory requirements and would not reduce DWR’s current ability to meet standards in the Delta to protect biological resources and water quality for beneficial uses. Operations of the conveyance facilities are proposed to increase DWR’s ability to capture water during high flow events. Although initial operating criteria of the proposed project would be formulated during the preparation of the upcoming Draft EIR in order to assess potential environmental impacts and mitigation, final project operations would be determined after completion of the CEQA process, obtaining appropriate water right approvals through the State Water Resources Control Board’s change in point of diversion process, and completing the consultation and review requirements of the federal Endangered Species Act and California Endangered Species Act. Construction and commissioning of the overall conveyance project, if approved, would take approximately 13 years, but the duration of construction at most locations would vary and would not extend for this full construction period.

Reclamation is considering the potential option to involve the CVP in the Delta Conveyance Project. Because of this possibility, the connection to the existing Jones Pumping Plant in the south Delta is included in the proposed facility descriptions below. The proposed project may include a portion of the overall capacity dedicated for CVP use, or it may accommodate CVP use of available capacity (when not used by SWP participants). If Reclamation determines that there could be a role for the CVP in the Delta Conveyance Project, this role would be identified in a separate NEPA Notice of Intent issued by Reclamation.

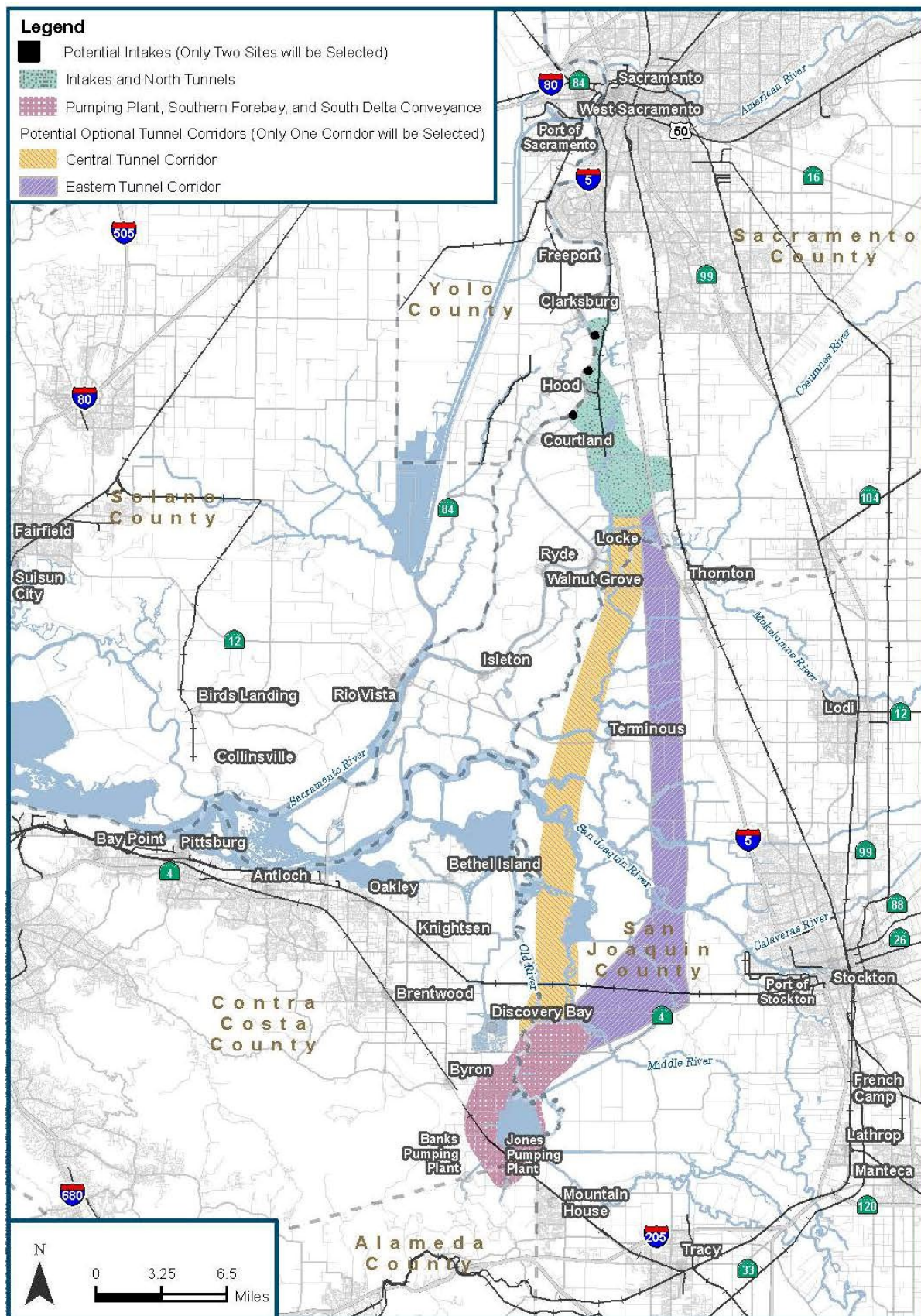


Figure 1. Proposed Project Facility Corridor Options

### Intake Facilities

The proposed intake facilities would be located along the Sacramento River between Freeport and the confluence with Sutter Slough, as shown in Figure 1. The proposed project would include two intakes with a maximum diversion capacity of about 3,000 cfs each. The size of each intake location could range from 75 to 150 acres, depending upon fish screen selection, along the Sacramento River and include a state-of-the-art fish screen, sedimentation basins, tunnel shaft, and ancillary facilities. An additional 40 to 60 acres at each intake location would be temporarily disturbed for staging of construction facilities, materials storage, and a concrete batch plant, if needed.

### Tunnel and Tunnel Shafts

The proposed project would construct up to two north connecting tunnel reaches to connect the intakes to an Intermediate Forebay (see “Forebays” section below), a single main tunnel from the Intermediate Forebay to a new Southern Forebay, and two connecting south tunnel reaches as part of the proposed project’s South Delta Conveyance Facilities (see “South Delta Conveyance Facilities” section below) to connect to the existing SWP and, potentially CVP, facilities in the south Delta. The single main tunnel would follow one of two potential optional corridors as shown in Figure 1.

The proposed single main tunnel and connecting tunnel reaches would be constructed underground with the bottom of the tunnel at approximately 190 feet below the ground surface. Construction for the tunnel would require a series of launch shafts and retrieval shafts. Each launch and retrieval shaft site would require a permanent area of about four acres. Launch sites would involve temporary use of up to about 400 acres for construction staging and material storage. Depending on the location, the shafts may also require flood protection facilities to extend up to about 45 feet above the existing ground surface to avoid water from entering the tunnel from the ground surface if the area was flooded. Earthen material would be removed from below the ground surface as tunnel construction progresses; this reusable tunnel material could be reused for embankments or other purposes in the Delta or stored near the launch shaft locations.

### Forebays

The proposed project would include an Intermediate Forebay and a Southern Forebay. The Intermediate Forebay would provide potential operational benefits and would be located along the tunnel corridor between the intakes and the pumping plant. The Southern Forebay would be located at the southern end of the single main tunnel and would facilitate conveyance to the existing SWP pumping facility and, potentially the CVP pumping facilities. The forebays would be constructed above the ground, and not within an existing water body. The size of the Intermediate Forebay would be approximately 100 acres with an additional 150 acres disturbed during construction for material and equipment storage, and reusable tunnel material storage. The embankments would be approximately 30 feet above the existing ground surface. Additional appurtenant structures, including a permanent crane, would extend up to 40 feet above the embankments.

The Southern Forebay would be located near the existing Clifton Court Forebay and would be approximately 900 acres with an additional 200 acres disturbed during construction for material and equipment storage, potential loading and offloading facilities, and reusable tunnel material storage. The Southern Forebay embankments would be up to 30 feet above the existing ground surface.

### Pumping Plant

The proposed project would include a pumping plant located at the new Southern Forebay and would receive the water through the single main tunnel for discharge in the Southern Forebay. The pumping plant would be approximately 25 acres along the side of the Southern Forebay and would include support structures, with a permanent crane for maintenance as the highest feature that would extend approximately 70 feet above the existing ground surface. The temporary and permanent disturbed area for the pumping plant is included in the Southern Forebay area, described above.

### South Delta Conveyance Facilities

The proposed project would include South Delta Conveyance Facilities that would extend from the new Southern Forebay to the existing Banks Pumping Plant inlet channel. The connection to the existing Banks Pumping Plant would be via canals with two tunnels to cross under the Byron Highway. The canals and associated control structures would be located over approximately 125 to 150 acres. Approximately 40 to 60 additional acres would be disturbed temporarily during construction. These facilities could also be used to connect the Southern Forebay to the CVP's Jones Pumping Plant.

### **Contract Amendment for Delta Conveyance**

The proposed project may involve modifications to one or more of the State Water Resources Development System (commonly referred to as the SWP) water supply contracts to incorporate the Delta Conveyance Project. Therefore, if modifications move forward, the Delta Conveyance Project EIR will assess, as part of the proposed project, potential environmental impacts associated with reasonably foreseeable potential contract modifications.

### **PROJECT AREA**

The proposed EIR project area for evaluation of impacts consists of the following three geographic regions, as shown in Figure 2, below.

- Upstream of the Delta region
- Statutory Delta (California Water Code Section 12220)
- South-of-Delta SWP Service Areas and, potentially, South-of-Delta CVP Service Areas.

The study areas will be specifically defined for each resource area evaluated in the EIR. Figure 3 shows the SWP South-of-Delta water contractors.





Figure 2. Project Area

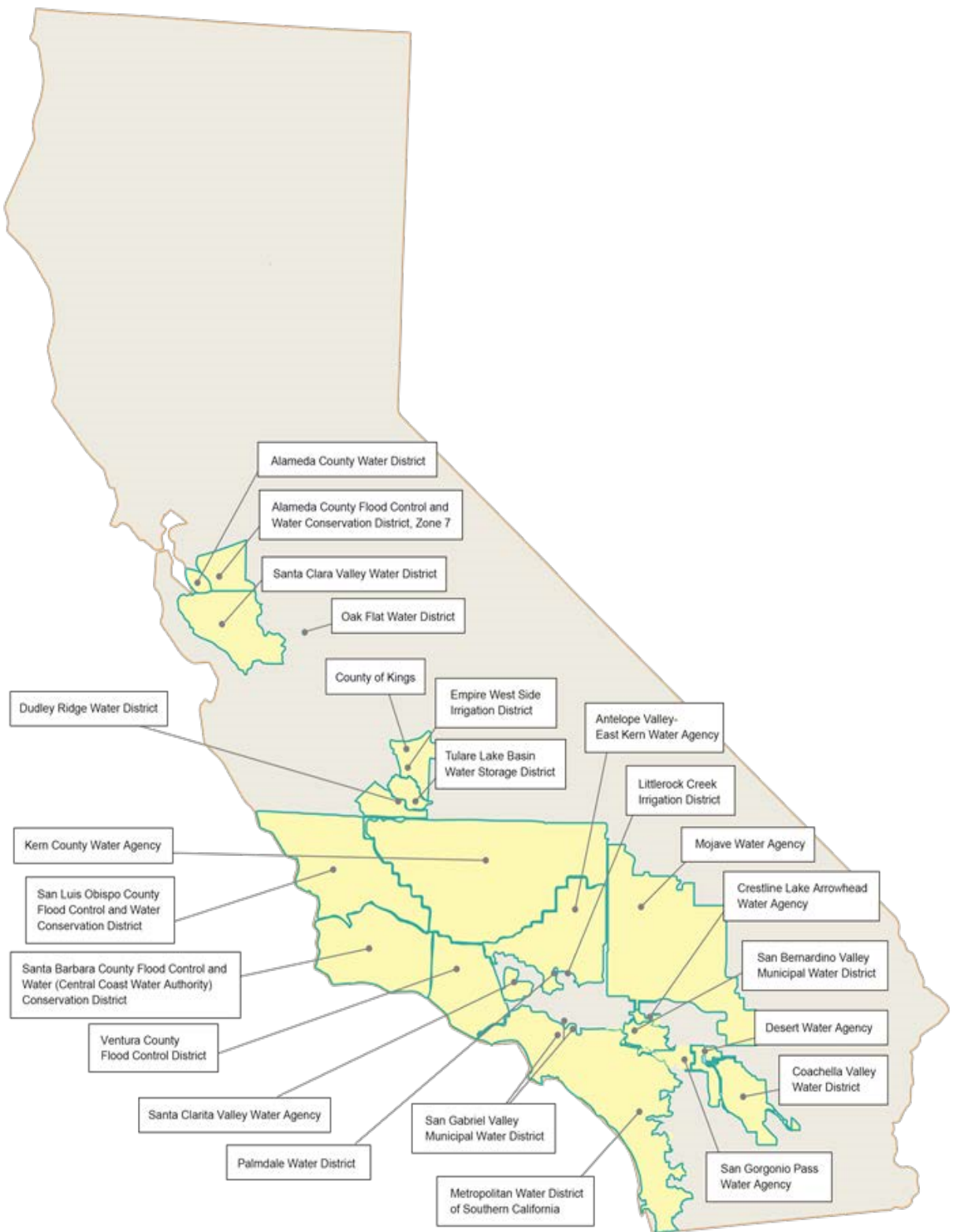


Figure 3. SWP South-of-Delta Service Areas

## ALTERNATIVES

As described above, the proposed project has been informed by past efforts taken within the Delta and the watersheds of the Sacramento and San Joaquin Rivers, including those undertaken through the Bay Delta Conservation Plan (BDCP)/California WaterFix. As stated in CEQA Guidelines Section 15126.6(a), the “EIR shall describe a range of reasonable alternatives to the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible.”

The scoping process will inform preliminary locations, corridors, capacities and operations of new conveyance facilities to be evaluated in the EIR. In identifying the possible EIR alternatives to be analyzed in detail, DWR is currently considering alternatives with capacities that range from 3,000 to 7,500 cfs, with varying degrees of involvement of the CVP, including no involvement. DWR will make its final choice of potentially feasible alternatives to include in the Draft EIR after receipt of scoping comments.

## POTENTIAL ENVIRONMENTAL EFFECTS

DWR as the lead agency will describe and analyze the significant environmental effects of the proposed project. DWR did not prepare an initial study so none is attached; the EIR will include the suite of resource categories contained in Appendix G of CEQA Guidelines. Probable effects may include:

- Water Supply: changes in water deliveries.
- Surface Water: changes in river flows in the Delta.
- Groundwater: potential effects to groundwater levels during operation.
- Water Quality: changes to water quality constituents and/or concentrations from operation of facilities.
- Geology and Seismicity: changes in risk of settlement during construction.
- Soils: changes in topsoil associated with construction of the water conveyance facilities.
- Fish and Aquatic Resources: effects to fish and aquatic resources from construction and operation of the water conveyance facilities.
- Terrestrial Biological Resources: effects to terrestrial species due to construction of the water conveyance facilities.
- Land Use: incompatibilities with land use designations.
- Agricultural and Forestry Resources: preservation or conversion of farmland.
- Recreation: displacement and reduction of recreation sites.
- Aesthetics and Visual Resources: effects to scenic views because of water conveyance facilities.
- Cultural and Tribal Cultural Resources: effects to archeological and historical sites and tribal cultural resources.
- Transportation: vehicle miles traveled; effects on road and marine traffic.

- Public Services and Utilities: effects to regional or local utilities.
- Energy: changes to energy use from construction and operation of facilities.
- Air Quality and Greenhouse Gas: changes in criteria pollutant emissions and localized particulate matter from construction and greenhouse gas emissions.
- Noise: changes in noise and vibration from construction and operation of the facilities.
- Hazards and Hazardous Materials: potential conflicts with hazardous sites.
- Public Health: changes to surface water could potentially increase concerns about mosquito-borne diseases
- Mineral Resources: changes in availability of natural gas wells due to construction of the water conveyance facilities.
- Paleontological Resources: effects to paleontological resources due to excavation for borrow and for construction of tunnels and canals.
- Climate Change: increase resiliency to respond to climate change
- Growth Inducement and Other Indirect Effects: changes to land uses as a result of changes in water availability resulting from changes in water supply deliveries

Where the potential to cause significant environmental impacts are identified, the EIR will identify avoidance, minimization, or mitigation measures that avoid or substantially lessen those impacts.

### **ADDITIONAL BACKGROUND INFORMATION**

DWR previously studied a similar project through efforts on the BDCP and subsequently the California WaterFix. The proposed Delta Conveyance Project is a new project and is not supplemental to these past efforts or tiered from previous environmental compliance documents. This section provides background on these past efforts.

In October 2006, various state and federal agencies, water contractors, and other stakeholders initiated a process to develop what became known as the BDCP to advance the objectives of contributing to the restoration of ecological functions in the Delta and improving water supply reliability for the SWP and CVP Delta operations in the State of California.

In December 2013, after several years of preparation, DWR, Reclamation, the United States Fish and Wildlife Service, and the National Marine Fisheries Service, acting as joint lead agencies under CEQA and NEPA, published a draft of the BDCP and an associated Draft EIR/EIS. The Draft EIR/EIS analyzed a total of 15 action alternatives, including Alternative 4, which was identified as DWR's preferred alternative at that time.

In July of 2015, after taking public and agency input into account, the lead agencies formulated three new sub-alternatives (2D, 4A, 5A) and released a Partially Recirculated Draft EIR/Supplemental Draft EIS (RDEIR/SDEIS) for public comment. Alternative 4A, which is known as "California WaterFix" was identified as DWR and Reclamation's preferred alternative in the RDEIR/SDEIS.

On July 21, 2017, DWR certified the Final EIR and approved California WaterFix. Following



that approval, DWR continued to further refine the project, resulting in reductions to environmental impacts. These project refinements required additional CEQA/NEPA documentation.

On January 23, 2018, DWR submitted an addendum summarizing proposed project modifications to California WaterFix associated with refinements to the transmission line corridors proposed by the Sacramento Municipal Utility District. The Addendum described the design of the applicable modified California WaterFix power features, proposed modifications to those power features (including an explanation of the need for the modifications), the expected benefits of the modifications to the transmission lines, and potential environmental effects as a result of those power related modifications (as compared to the impacts analyzed in the certified Final EIR).

On July 18, 2018, DWR released the California WaterFix Draft Supplemental EIR, which evaluated proposed changes to the certain conveyance facilities of the approved project. (No Final Supplemental EIR was ever completed, due to the change in direction dictated by Governor Newsom's State of the State speech and Executive Order N-10-19.) On September 21, 2018, Reclamation issued the California WaterFix Draft Supplemental EIS, including an alternatives comparison.

## **SCOPING MEETINGS**

The proposed project is of statewide, regional or area-wide significance; therefore, a CEQA scoping meeting is required pursuant to Public Resources Code Section 21083.9, subdivision (a)(2). Public Scoping meetings are scheduled to take place at the following times and locations:

- Monday, February 3, 2020, 1 p.m. – 3 p.m. California Environmental Protection Agency Building, 1001 I Street, Sacramento
- Wednesday, February 5, 2020, 6 p.m. – 8 p.m. Junipero Serra State Building, 320 West Fourth Street, Los Angeles
- Monday, February 10, 2020, 6 p.m. – 8 p.m. Jean Harvie Community Center, 14273 River Road, Walnut Grove
- Wednesday, February 12, 2020, 6 p.m. – 8 p.m. Santa Clara Valley Water District Board Room, 5750 Almaden Expressway, San Jose
- Thursday, February 13, 2020, 6 p.m. – 8 p.m. San Joaquin Council of Governments Board Room, 555 Weber Avenue, Stockton
- Wednesday, February 19, 2020, 6 p.m. – 8 p.m. Clarksburg Middle School Auditorium, 52870 Netherlands Road, Clarksburg
- Thursday, February 20, 2020, 6 p.m. – 8 p.m. Brentwood Community Center Conference Room, 35 Oak Street, Brentwood

Anyone interested in more information concerning the EIR process, or anyone who has information concerning the study or suggestions as to significant issues, should contact Marcus Yee at (916) 651-6736.

## WRITTEN COMMENTS

This notice is being furnished to obtain suggestions and information from other agencies and the public on the scope of issues and alternatives to consider in developing the EIR. The primary purpose of the scoping process is to identify important issues raised by the public and responsible and trustee public agencies related to the issuance of regulatory permits and authorizations and natural resource protection. Written comments from interested parties are invited to ensure that the full range of environmental issues related to the development of the EIR are identified. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

Written comments on this part of the Scoping process will be accepted until 5 p.m. on March 20, 2020 and can be submitted in several ways:

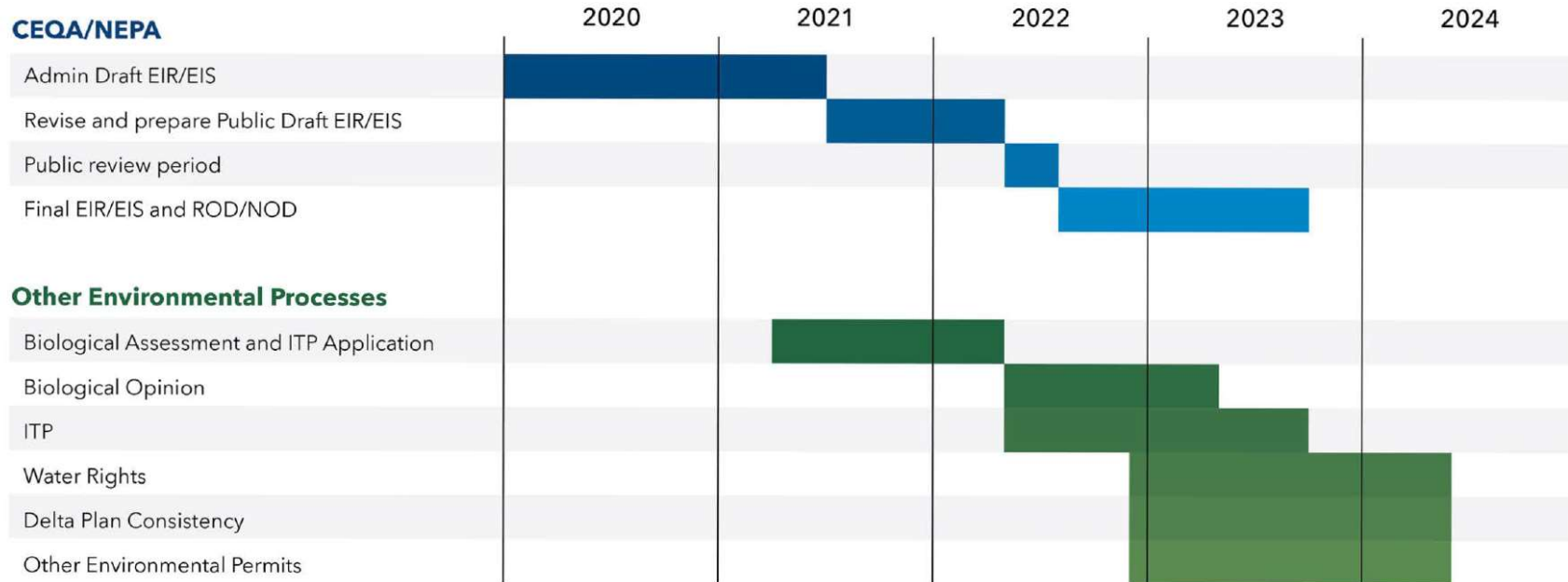
- Via email: [DeltaConveyanceScoping@water.ca.gov](mailto:DeltaConveyanceScoping@water.ca.gov)
- Via Mail: Delta Conveyance Scoping Comments, Attn: Renee Rodriguez, Department of Water Resources, P.O. Box 942836, Sacramento, CA 94236

As required by the CEQA Guidelines, within 30 days after receiving the Notice of Preparation, each responsible and trustee agency is required to provide the lead agency with specific detail about the scope, significant environmental issues, reasonable alternatives, and mitigation measures related to the responsible or trustee agency's area of statutory responsibility that will need to be explored in the EIR. In the response, responsible and trustee agencies should indicate their respective level of responsibility for the project.

PLEASE NOTE: DWR's practice is to make the entirety of comments received a part of the public record. Therefore names, home addresses, home phone numbers, and email addresses of commenters, if included in the response, will be made part of the record available for public review. Individual commenters may request that DWR withhold their name and/or home addresses, etc., but if you wish DWR to consider withholding this information you must state this prominently at the beginning of your comments. In the absence of this written request, this information will be made part of the record for public review. DWR will always make submissions from organizations or businesses, and from individuals identifying themselves as representatives of, or officials of, organizations or businesses, available for public inspection in their entirety.

Attachment 2: DWR's Planning Schedule for DCP

### Delta Conveyance Project Schedule



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## **AGREEMENT IN PRINCIPLE**

April 30, 2020

This Agreement in Principle has been developed from the State Water Contractor Public Water Agencies' offers presented from July 24, 2019 to present, Department of Water Resources' offers presented from July 31, 2019 to present, and information discussed and presented by the technical and legal work groups.

### **Agreement in Principle for the State Water Project Water Supply Contract Amendment on a Delta Conveyance Project**

This Agreement in Principle (**AIP**) is by and between certain State Water Project Public Water Agencies (**PWAs**) and the State of California through the Department of Water Resources (**DWR**) for the purpose of amending the State Water Project Water Supply Contracts.

#### **AIP Objective:**

1. Develop an agreement between the State Water Project Contractor Public Water Agencies and Department of Water Resources to equitably allocate costs and benefits of a potential Delta Conveyance Facility that preserves operational flexibility such that the Department of Water Resources can manage the State Water Project to meet regulatory requirements, contractual responsibilities, and State Water Project purposes.

**AIP Outline:**

- I. Definitions
- II. Objective 1 - Availability of an option to opt out of costs and benefits of Delta Conveyance Facilities of the State Water Project
- III. Objective 2 - Availability of an option to assume, or partially assume, costs and benefits of Delta Conveyance Facilities of the State Water Project
- IV. Objective 3 - Pursuit of State Water Project Delta Conveyance Facilities under the State Water Project Water Supply Contracts
- V. Objective 4 - Delta Conveyance Facility billing
- VI. Objective 5 - Delta Conveyance Facility benefits allocation
- VII. Objective 6 - Affect upon other Water Supply Contract provisions
- VIII. Other Provisions
- IX. Environmental Review Process
- X. Authorized Representative Signatures

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I. Definitions

- a. **Clifton Court Forebay** shall mean the existing State Water Project diversion at Clifton Court Forebay facility through its intake located on Old River in the southern Delta and the associated Skinner Fish Facility.
- b. **Delta** shall mean the Sacramento-San Joaquin Delta as defined in Section 12220 of the California Water Code on the date of approval of the Bond Act by the votes of the State of California.
- c. **Delta Conveyance Facility (DCF)** shall mean those facilities of the State Water Project consisting of a water diversion intake structure, or structures, located on the Sacramento River and connected by facilities to Banks Pumping Plant in the southern Delta with a single tunnel that will serve the water supply purposes of the State Water Project.
- d. **DCF Benefits** shall mean those water supply and capacity benefits attributable to the DCF including but not limited to: (1) Table A water supplies; (2) Article 21 water supplies; (3) carriage water savings; (4) reliable water supply and use of DCF available capacity in the event of a temporary or permanent physical, regulatory, or contractual disruption of southern Delta diversions; and (5) use of DCF available capacity to move non-project water through the proposed DCF.
- e. **Fair Compensation** shall include but is not limited to capital recovery, operations and maintenance, replacement, and variable charges associated with the use of the DCF capacity.
- f. **State Water Project (SWP)** shall mean the State Water Resources Development System as described in California Water Code section 12931.
- g. **State Water Project Contractor Public Water Agencies (PWAs)** shall include the 29 entities holding State Water Project Water Supply Contracts with the Department of Water Resources.

II. Objective 1 - Availability of an option to opt out of costs and DCF Benefits

- a. This AIP makes available to each PWA an option to opt out of the costs and benefits of the DCF through a contract amendment that establishes a Statement of Charges (SOC) percentage of DCF Benefits based on the percentages in the Delta Conveyance Allocation Factors table to water attributable to the DCF, as described in Section VI of this AIP.
- b. PWAs indicating an intent to opt out of costs and benefits of the DCF shall be described in Section VI(a) of this AIP.
- c. An option to opt out of DCF costs and benefits are limited such that a PWA must opt out of at least a minimum 100% of its Municipal and Industrial Table A or 100% of its Agricultural Table A. This provision doesn't prohibit a PWA from taking more than their Table A share, if available, in the Delta Facilities Allocation Factor table.

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- III. Objective 2 - Availability of an option to assume additional costs and benefits of the DCF
- a. This AIP makes available to each PWA an option to assume additional costs and benefits of the DCF through a contract amendment that establishes additional costs on the SOC in exchange for DCF Benefits based on the percentages in the Delta Conveyance Allocation Factors table to water attributable to the DCF, as described in Section VI of this AIP.
  - b. PWAs indicating an intent to assume DCF costs and benefits shall be described in Section VI(b) of this AIP.
- IV. Objective 3 - Pursuit of State Water Project Delta Conveyance Facilities under the State Water Project Water Supply Contracts
- a. The DCF shall be constructed and operated as an integrated component of the State Water Project, and DWR will continue to operate the State Water Project at its sole discretion.
  - b. The DCF is an authorized component of the State Water Project pursuant to California Water Code sections 11100 et seq. and 12930 et seq.
  - c. Effective Date: A contract amendment pursuant to this AIP shall have an effective date no sooner than the billing transition date set forth in State Water Project Water Supply Contract Amendment known as The Contract Extension Amendment.
  - d. Administration of DCF: DWR will forecast and account for Project Water attributable to the DCF and DWR will determine whether or not that Project Water would not have been available at Clifton Court Forebay. A whitepaper describing the DWR's and the PWAs' current understanding of the approach on forecasting, administration, and accounting is contained in Attachment 1. Attachment 1 will not be incorporated into contract language.
- V. Objective 4 - Delta Conveyance Facility billing
- a. These costs would be billed to and collected from SWP PWAs consistent with the Delta Facilities Allocation Factor table below through their annual SOC.
  - b. Delta Conveyance Facilities Charge Components:** All capital and minimum operations, maintenance, power and replacement (OMP&R) costs associated with the DCF are 100% reimbursable and shall be recovered by DWR from PWAs through their annual SOC's consistent with the Delta Facilities Allocation Factor table. These costs shall be allocated to and billed under two new charges as follows:
    - (1) Delta Conveyance Facilities Capital Charge Component.
    - (2) Delta Conveyance Facilities Minimum OMP&R Component.
  - c. Delta Conveyance Facilities Capital Charge Component Method of Computation**
    1. This computation will recover actual annual debt service created by financing activities (Financing Method) for DCF.

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2. Each Financing Method shall provide an annual repayment schedule, which includes all Financing Costs.
  3. Financing Costs shall mean the following: Principal of and interest on Revenue Bonds, debt service coverage required by the applicable bond resolution or indenture in relation to such principal and interest, deposits to reserves required by the bond resolution or indenture in relation to such Revenue Bonds, and premiums for insurance or other security obtained in relation to such Revenue Bonds.
- d.** Financing Method shall be divided into four categories: DCF Capital Costs paid with the proceeds of Revenue Bonds; DCF Capital Costs paid with amounts in the State Water Resources Development System Reinvestment Account; DCF Capital Costs paid annually for assets that will have a short Economic Useful Life or the costs of which are not substantial, and DCF Capital Costs prepaid by the PWAs consistent with the Delta Facilities Allocation table.
- e.** DCF Capital Charge Component should be allocated to the PWAs in proportion to the Delta Conveyance Facilities Allocation Factors for each calendar year and consistent with the Delta Facilities Allocation Factor table.
- f. Delta Conveyance Facilities Minimum OMP&R Charge Component Method of Computation**
1. Recovery will be estimated and/or actual annual OMP&R costs determined for the DCF each year.
  2. DCF Minimum OMP&R Charge Component shall be allocated to the PWAs in proportion to the Delta Conveyance Facilities Allocation Factors for each calendar year.
- g. Delta Conveyance Facilities Energy Charges:** The DCF energy costs are 100% reimbursable by the PWAs and the methodology will be determined by DWR, reviewed in the SWRDS Finance Committee, and approved by the Director.
- h. Redetermination:** These charges shall be subject to redetermination.
- i. Step-up:** PWAs that execute a contract amendment to opt out will not be allocated any portion of a step-up required in the event of a default on a DCF Capital Charge.
- j. Delta Conveyance Facilities Allocation Factors:** The following table is a preliminary allocation of DCF participation percentages. Only PWAs with a greater than 0 percentage would be billed for DCF Charge Components through their annual SOC, using the Delta Conveyance Facility Allocation Factors described in the table. PWAs with a zero allocation factor would not be billed for repayment of costs for construction, operation and maintenance of facilities associated with DCF, except to the extent there is a permanent transfer of Table A which would increase a PWA from a greater than zero allocation factor through a subsequent contract amendment.



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<b>Public Water Agency</b>	<b>Delta Conveyance Facilities Allocation Factors</b>
City of Yuba City	0
County of Butte	0
Plumas County FC&WCD	0
Napa County FC&WCD	0
Solano County Water Agency	0
Alameda County FC&WCD, Zone 7	
Alameda County Water District	
Santa Clara Valley Water District	
Dudley Ridge Water District	
Empire-West Side Irrigation District	0
Kern County Water Agency-Total	
County of Kings	0
Oak Flat Water District	0
Tulare Lake Basin Water Storage District	0
San Luis Obispo County FC&WCD	
Santa Barbara County FC&WCD	0
Antelope Valley-East Kern Water Agency	
Santa Clarita Valley Water Agency	
Coachella Valley Water District	
Crestline-Lake Arrowhead Water Agency	
Desert Water Agency	
Littlerock Creek Irrigation District	0
Mojave Water Agency	
Palmdale Water District	
San Bernardino Valley Municipal Water District	
San Gabriel Valley Municipal Water District	
San Geronimo Pass Water Agency	
The Metropolitan Water District of Southern California	
Ventura County Watershed Protection District	
<b>Total</b>	<b>100.000%</b>

VI. Objective 5 - Delta Conveyance Facility Benefits Allocation

- a. PWAs that execute a contract amendment to opt out of DCF costs and benefits will agree, within that amendment, to the following:
  - i. Charges as set forth in Section V of this AIP will not appear on its SOC.
  - ii. Forego and waive any contractual rights to the following:
    - a. Right to or delivery of Project Water attributable to the DCF, provided that DWR determines that such water would not have been available for diversion at Clifton Court Forebay. This AIP will not modify the amounts within Table A but will memorialize this limited reduction for DCF Benefits by adding a footnote to the PWA's Table A to reflect their zero allocation for DCF Benefits.
    - b. Any contractual rights to or delivery of Article 21 Interruptible Water prior to the point(s) in time each year DWR determines that a volume of water equal to the volume of current year Project Water for Table A in San Luis Reservoir attributable to DCF in the SWP share of San Luis Reservoir storage will be displaced or evacuated by a quantity of exports equal to the quantity of exports from Clifton Court Forebay that would have been stored in San Luis Reservoir absent the DCF. Provided that, when Article 21 Interruptible Water supply is greater than demand from PWAs with a greater than zero Delta Conveyance Facility Allocation factor, Article 21 Interruptible Water will be made available to all PWAs based on Table A percentage.
    - c. Any contractual rights to or delivery of Article 21 Interruptible Water attributable to the DCF after a volume of water equal to the volume of current year Project Water for Table A in San Luis Reservoir attributable to DCF has been evacuated or displaced by the exports from Clifton Court Forebay that would have been stored in San Luis Reservoir absent DCF. Provided that, when Article 21 Interruptible Water supply is greater than demand from PWAs with a greater than zero Delta Conveyance Facility Allocation Factor, Article 21 Interruptible Water will be made available to all PWAs based on Table A percentage.
    - d. Right to use DCF conveyance capacity unused by DWR for SWP purposes to convey non-project water, except as provided in subsection h.
    - e. Right to use available DCF conveyance capacity to convey Project Water in the event that pumping directly from the south Delta is prevented or impaired by a physical, regulatory or contractual disruption, including but not limited to sea level rise, seismic events, flooding, or other uncontrollable event.
    - f. Right to carriage water savings that DWR determines are realized during its operation of any DCF for purposes of conveying Project Water.
    - g. Right to any credit from Fair Compensation collected by DWR for use of available DCF conveyance capacity.



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VIII. Other Provisions

- a. Clifton Court Forebay Diversion Priority: In the event that DWR uses its discretion to move Project Water through the DCF that could have been moved through Clifton Court Forebay Intake, PWAs with a greater than zero Delta Conveyance Facilities Allocation Factor will be given a first priority of available capacity, as determined by DWR, based on their percentage in section V to move up to that same amount of non-project water at Clifton Court Forebay Intake.

IX. Environmental Review Process

DWR and the PWAs agree that this AIP is intended to be used during the environmental review process for the California Environmental Quality Act (CEQA), to define the proposed project description for the purposes of CEQA, and to permit the next steps of the SWP water supply contract amendment process, including scoping and the preparation of the EIR. The AIP principles are not final contract language and do not represent a contractual commitment by either DWR or the PWAs to approve any proposed project or to sign contract amendments. By concurring with the AIP, DWR and the PWAs express their intent to move forward with the CEQA process with DWR as lead agency and the PWAs as responsible agencies, and ultimately develop a proposed project consisting of contractual amendments consistent with the AIP principles and prepare the EIR for consideration by DWR and the PWAs.

At the end of the CEQA process and in compliance with CEQA, DWR and the PWAs will each individually evaluate the EIR and Contract Amendment, exercise their independent judgment, and determine whether or not to certify the EIR, approve the proposed project and sign the contract amendment or to approve an alternative project. Consequently, even though DWR and the PWAs have agreed to the AIP for the purposes described in the preceding paragraphs, DWR and each PWA retain their full discretion under CEQA to consider and adopt mitigation measures and alternatives, including the alternative of not going forward with the proposed project.

**Attachment 1: Final White Paper****I. Background**

This white paper describes current understanding of how the Department of Water Resources (DWR) would account for and administer the Delta Conveyance Facility (DCF) Benefits. DWR will include information regarding the accounting and administration of water attributable to DCF in relevant Notice(s) to State Water Project Contractors consistent with prior practice. No legally binding obligations are created by this white paper. This white paper may be updated from time to time by DWR, in consultation with the Public Water Agencies (PWAs), in response to factors including, but not limited to, changes in laws, regulations or permits applicable to DWR and/or the State Water Project (SWP). Capitalized terms not defined herein shall have the meanings ascribed to them in the DCF Agreement in Principle (AIP).

**II. Draft Delta Conveyance Accounting and Administration Concepts**

The DCF will be integrated into the State Water Project and operated to provide maximum flexibility to meet water supply, regulatory requirements and contractual obligations. There are some PWAs that may opt out of the DCF Benefits and charges. For this reason, it will be necessary to account for DCF Benefits. DCF Benefits are described in the AIP and are “those water supply and capacity benefits attributable to the DCF including but not limited to: (1) Table A water supplies; (2) Article 21 water supplies; (3) carriage water savings; (4) reliable water supply and use of DCF available capacity in the event of a temporary or permanent physical, regulatory, or contractual disruption of southern Delta diversions; and (5) use of DCF available capacity to move non-Project Water through the proposed DCF.” To account for DCF Benefits, DWR will need to determine the amount of water attributable to the DCF. DWR will primarily use two tools: 1) **forecasting** Project Water attributable to the DCF for the coming year; and, 2) **accounting** for Project Water attributable to the DCF in a timely manner. Both are described below.

**A. Forecasting-** DWR will forecast, as shown below, to quantify the amount of Project Water attributable to DCF.

1. DWR anticipates that it will provide three water supply allocation forecasts:
  - a. North of Delta allocation that includes water attributable to the south Delta diversions (similar to current practice).
  - b. South of Delta allocation that includes water attributable to the south Delta diversions (similar to current practice).
  - c. Allocation of water attributable to the DCF.
2. The allocation forecasts will continue to be updated monthly and each forecast will include updated information on hydrology including runoff projections, SWP storage conditions, PWA demands, regulatory requirements, and actual exports attributable to the south Delta diversions and the DCF.

3. DWR will continue to include in the allocation forecasts any potential DCF capacity available for conveyance of non-Project Water.
4. Seasonal Forecast: Should conditions warrant additional forecasts, (i.e. wet hydrological conditions and/or DWR determines that San Luis Reservoir is likely to fill) DWR will provide more frequent forecasts on one or more of the following:
  - a. San Luis Reservoir fill projection.
  - b. Potential Article 21 availability.

**B. Accounting**

1. DWR will continue to create operational schedules for the south Delta and the DCF which will include any operational constraints and in accordance with applicable regulatory requirements and contractual obligations in order to account for water attributable to the DCF.
2. DWR will reconcile water exports attributable to DCF and the south Delta facilities in a timely manner.
3. If there is a difference in the amount of water conveyed through the south Delta facilities between the planned operations and actual operations there will be a determination about the cause of any identified differences. If the difference is due to a physical, regulatory, or contractual disruption of south Delta diversions or other south Delta restrictions, then water conveyed through the DCF will be considered water attributable to DCF. If the difference is the result of DWR's discretionary decision to convey Table A water through the DCF instead of south Delta, no charge/credit will occur. However, DWR will estimate the carriage water savings associated with the discretionary use of DCF and carriage water savings will be considered water attributable to DCF.
4. Carriage water savings that DWR determines are realized by conveying Project Water through the DCF that would have otherwise been moved through the south Delta facilities, will be credited to Participants. PWAs with a zero Delta Conveyance Allocation Factor that make arrangements with DWR to pay for use of available capacity in the DCF for non-Project Water may be credited carriage water savings associated with this use.
5. Available DCF capacity, as determined by DWR, to convey transfers and exchanges of Project Water between PWAs with a Delta Conveyance Facility Allocation Factor of zero and PWAs with a greater than zero Delta Conveyance Facility Allocation Factor is interpreted as capacity in the DCF attributed to the PWAs with a greater than zero Delta Conveyance Facility Allocation Factor and no additional capital or minimum operations, maintenance, power and replacement (OMP&R) charges for use of DCF capacity will apply notwithstanding any PWA's interpretation of existing contract language to the contrary. Nothing in this provision shall be construed as altering any party's position regarding the application for use of facility charges in other contexts.

6. **Article 21 attributable to DCF for South of Delta PWAs:** As set forth in the AIP, PWAs opting out of the DCF will influence the administration of water made available pursuant to Article 21. To determine the quantity of Article 21 water that PWAs with a zero Delta Conveyance Facilities Allocation Factor will initially forego and the quantity of Article 21 water those PWAs with a Delta Conveyance Facilities Allocation Factor greater than zero will receive, it is necessary to determine the amount of water attributable to the DCF in the San Luis Reservoir at Point A. Determining this water quantity will provide the basis upon which DWR can administer the DCF Benefits contained in the contract amendment that results from the AIP.

a. Process (See Table 1):

- i. **Point A:** The point at which DWR determines Article 21 water attributable to DCF will be available. DWR will determine volume of Project Water for Table A attributable to the DCF in San Luis Reservoir.
- ii. DWR will work with PWAs to develop an accounting methodology that considers exports attributed to DCF, exports from south Delta facilities, deliveries to PWAs, San Luis Reservoir fill point and the PWAs DCF allocation factors to determine the volume of Project Water for Table A in San Luis Reservoir attributable to DCF at Point A.
- iii. **Point B:** The point at which DWR determines Article 21 water would have been made available absent Project Water for Table A attributable to DCF in San Luis Reservoir, and/or DWR determines through the accounting process that San Luis Reservoir would have filled absent current year Project Water attributable to DCF. This point is reached when a volume of water equal to the volume of current year Project Water for Table A in San Luis Reservoir attributable to DCF at Point A has been displaced or evacuated by the quantity that would have been exported from Clifton Court Forebay and stored in San Luis Reservoir absent the DCF.

b. Deliveries of Article 21 water attributable to DCF Between Point A and Point B:

- i. PWAs may submit Article 21 requests to DWR prior to point A. DWR will satisfy those requests according to the following priority:
  1. PWAs up to their Delta Conveyance Facility Allocation Factor;
  2. All PWAs based on Table A percentage. Only Variable and DCF Energy charges will apply for those PWAs with a greater than zero Delta Conveyance Facility Allocation Factor. For those PWAs with a zero Delta Conveyance Facility Allocation Factor, Article 21 water will be made available at the following charges:
    - a. the Variable and DCF Energy charges for the amount up to Article 56(c)(1) and Article 56(c)(2) water spilled within the

PWAs proportionate share of San Luis Reservoir storage at Point A;

- b. Fair Compensation for any additional amounts.
- c. Deliveries of Article 21 water attributable to DCF After Point B:
  - i. PWAs may submit requests to DWR. DWR will satisfy those requests according to the following priority:
    1. PWAs’ proportion based upon the Delta Conveyance Facility Allocation Factors;
    2. All PWAs based on Table A percentage. Only Variable and DCF Energy charges will apply for those PWAs with a greater than zero Delta Conveyance Allocation Factor. For those PWAs with a zero Delta Conveyance Facility Allocation Factor, this water will be provided at Fair Compensation.

TABLE 1: Article 21 Interruptible Water Attributable to the Delta Conveyance Facilities		
PWA	Point A - Point B	At/After Point B
<p><u>FIRST PRIORITY:</u>                      PWAs participating in DCF (PWAs with a greater than zero DCF Allocation Factor %)</p>	<ul style="list-style-type: none"> <li>• Quantity (AF): Up to DCF Allocation Factor %</li> <li>• Charge (\$): Variable and DCF Energy Charges</li> </ul>	<ul style="list-style-type: none"> <li>• Quantity (AF): Up to DCF Allocation Factor %</li> <li>• Charge (\$): Variable and DCF Energy Charges</li> </ul>
<p><u>SECOND PRIORITY:</u>                      All PWAs</p>	<ul style="list-style-type: none"> <li>• Quantity (AF): Based on Table A %</li> <li>• Charge to DCF Participant (\$): Variable and DCF Energy Charges</li> <li>• Charge to DCF Non-Participant for AF &lt;= to spilled carryover water (\$): Variable and DCF Energy Charges</li> <li>• Charge to DCF Non-Participant for AF &gt; spilled carryover water (\$): Fair Compensation</li> </ul>	<ul style="list-style-type: none"> <li>• Quantity (AF): Based on Table A %</li> <li>• Charge to DCF Participant (\$): Variable and DCF Energy Charges</li> <li>• Charge to DCF Non-Participant (\$): Fair Compensation</li> </ul>



**C. Collaborative Development of Administrative Procedures**

As a subset to the Water Operations Committee, a DCF workgroup will be created similar to the current San Luis Reservoir Workgroup. This group will meet and confer as needed, and may discuss items such as forecasting, operations, accounting, and administration of the DCF. Members may include representatives from DWR (SWPAO and OCO) and PWAs and will report back to the PWA Water Operations Committee.