

# DWR SUBMITS PERMIT APPLICATION TO THE CORPS

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On August 26, 2015, the California Department of Water Resources (DWR) submitted a [permit application](#) to the U.S. Army Corps of Engineers (Corps) for California WaterFix, a project that aims to modernize the way water is diverted from the Sacramento-San Joaquin Delta by the State Water Project and Central Valley Project. This milestone brings additional opportunities for public participation in regulatory processes, including public comment.

This application starts a Corps environmental review process, which runs parallel to the environmental review process required of project proponents, DWR and the U.S. Bureau of Reclamation (Reclamation), under the California Environmental Quality Act and the National Environmental Policy Act. The Corps' process will consider whether to issue a permit to construct the California WaterFix project, for portions which would occur in waters of the United States, and involve activities triggering the Corps' regulatory authority under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. In coordination with this application, DWR also will be requesting approval from the Corps under Section 14 of the Rivers and Harbors Act for elements of the project that may affect federal levees or other federal projects.

The Corps' public notice was published today (September 9, 2015), starting their 30-day comment period.

[DOWNLOAD THE CORPS' NOTICE HERE](#)

DWR has been working closely with both the Corps and U.S. Environmental Protection Agency (EPA) to protect aquatic resources of national importance. At the public notice stage of the Section 404 permit process, it is anticipated that EPA will take a procedural action to identify the Delta as an aquatic resource of national importance (ARNI), and will issue a "paragraph 3A" or "ARNI letter" to preserve future coordination opportunities, sometimes known as "404q process." This additional level of review will provide the opportunity for DWR and Reclamation to continue to collaborate with the Corps and EPA to further minimize potential impacts of the project.

[MORE INFO ABOUT THE 404 PERMIT PROCESS](#)

# CALIFORNIA WATER FIX DRAFT BIOLOGICAL ASSESSMENT RELEASED

## U.S. Bureau of Reclamation and DWR Release Draft Species-by-Species Analysis

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On April 30, 2015, Governor Brown announced California WaterFix, part of a plan to improve California's water infrastructure and secure California's water future. California Water Fix would guard against water supply disruption for over 25 million Californians by securing the state's primary water delivery system against seismic risk and the increasingly extreme weather expected with climate change.

On January 15, 2016, the California Department of Water Resources (DWR) and U.S. Bureau of Reclamation (Reclamation) released a working draft of the biological assessment for the California WaterFix. A biological assessment is required to obtain incidental take authorization under the U.S. Endangered Species Act (ESA). The document presents an assessment as to whether California WaterFix meets the ESA's specified standard ("likely to adversely affect listed species or their critical habitat"), due to any component of the project, including construction-related activities, or as a result of operations and maintenance. The biological assessment also proposes mitigation, monitoring, adaptive management, and other actions DWR and Reclamation may take to ensure that California WaterFix will avoid, minimize, or compensate for the potential impacts resulting from incidental take of listed species and habitat loss. The document was developed by DWR and Reclamation in close collaboration with the National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS).

Section 7 of the ESA requires a federal agency, in consultation with NMFS and USFWS, to document whether its action would jeopardize the continued existence of a species listed under the federal ESA or adversely modify or destroy designated critical habitat for those species. The biological assessment provides the basis for consultation with NMFS and USFWS under the ESA to determine whether California WaterFix meets this standard. Once the biological assessment preparation is completed, it will be transmitted to NMFS and USFWS with a request for consultation. NMFS and USFWS then make a determination related to the project's potential jeopardy to species and may issue a biological opinion reflecting this determination.

The biological assessment presents a species-by-species analysis of the project's potential effects and must make a "likely to adversely affect" determination for each federally listed species even when the impacts are small – potential harm to one fish, for example – or nearly negligible, and notwithstanding the fact that the overall project effect to that particular species is beneficial. Therefore, the species-by-species effects determinations in this draft biological assessment do not describe the net environmental benefits of California WaterFix, which as described in the proposed action include:

- Improving environmental flows;
- Avoiding water diversions at times and locations harmful to fish; and
- Creating a more natural flow pattern in the south Delta.

[COMPLETE WORKING DRAFT BIOLOGICAL ASSESSMENT, APPENDICES AND FIGURES](#)

# DWR & USBR SUBMIT CHANGE PETITION TO SWRCB

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Today the Department of Water Resources submitted a permit application in furtherance of the California WaterFix. This is an important milestone for the project that brings with it additional opportunities for public participation in important regulatory processes related to the federal Clean Water Act and California water rights, including submission of comment and testimony.

## CHANGE PETITION

SUBMITTED TO THE STATE WATER RESOURCES CONTROL BOARD

[DOWNLOAD CHANGE PETITION](#)

This is a petition for a change to the water rights necessary to allow for the implementation of key components of the California WaterFix, jointly submitted by the Department of Water Resources and the Bureau of Reclamation. The petition requests the State Water Resources Control Board (SWRCB) approval to add points of diversion and rediversion to the existing water right permits (and existing diversion authorization) held by the State Water Project and Central Valley Project. The petition is limited in scope to the change in the point of diversion, and leaves intact all existing places of use, manner of use, other existing points of diversion, quantities of diversion and other water rights terms and conditions identified in Water Rights Decision 1641.

The submittal of the petition starts a public process expected to include a hearing and opportunity for comment by interested parties meeting certain SWRCB requirements. The SWRCB will evaluate the project's potential to injure legal users of water, ability to meet existing water quality requirements, and an assessment of potential effects on fish and wildlife. The SWRCB will also include within any approval of the petition "appropriate Delta flow criteria" as required by the Delta Reform Act.

The SWRCB's change petition process and associated hearing for the California WaterFix, and SWRCB eventual decision on the petition, are solely about and limited to the California WaterFix proposal to add additional diversion points on the Sacramento River.

For more information about the SWRCB's process related to California WaterFix, visit:

[WWW.SWRCB.CA.GOV](http://WWW.SWRCB.CA.GOV)

# STATEMENT ON CLOSE OF PUBLIC COMMENT PERIOD

from Mark Cowin, Director of the California Department of Water Resources,  
and David Murillo, Regional Director, U.S. Bureau of Reclamation

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Today ends the public comment period on the updated draft environmental documents that analyze the potential effects of changing the primary water diversion system in the Sacramento-San Joaquin Delta. The alternatives analyzed include California WaterFix, the project preferred by the administration of Governor Edmund G. Brown to achieve the co-equal goals of enhancing the Delta ecosystem and improving water supply reliability.

We are grateful to all the citizens who took the time to submit comments on the draft environmental analyses. We expect to gain valuable information from the public comments submitted. We will consider and respond to the environmental issues raised in each comment. Comments and responses will be published when the environmental analyses are finalized under the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA), which is expected in spring 2016.

These updated draft environmental review documents have been available for public review for the last 113 days. They revise and add to environmental review documents that were available previously for public comment for another 228 days. Our agencies have engaged in more than 400 community meetings and briefings related to the proposed project and environmental review documents and have answered countless questions and inquiries on the substance of the documents. The end of this public comment period is an important milestone in a long-running state and federal effort to address the ecologically critical reverse flows caused by the current diversion system and to ensure that water deliveries from the Delta are not catastrophically interrupted by levee failures.

In addition, we are working with the California Department of Fish and Wildlife, U.S. Fish and Wildlife, and National Marine Fisheries Service as they draft detailed analyses of the needs of threatened and endangered fish and terrestrial species in the Delta that may be adversely affected by California WaterFix.

In the meantime, an important parallel process will get underway at the State Water Resources Control Board. The State Water Board will begin considering a petition by our agencies to add a point of diversion for the State Water Project and Central Valley Project necessary

to allow for the implementation of key components of California WaterFix. The petition was submitted to the State Water Board in step with the CEQA and NEPA environmental review process in order to allow the State Water Board and the public the time and information needed to fully consider the proposed changes.

These developments unfold in the context of a larger, comprehensive effort to balance competing interests in the Delta. The State Water Board is in the process of developing and implementing updates to the Bay-Delta Water Quality Control Plan. This plan update, being conducted in phases, will address beneficial uses of the Bay-Delta and water quality objectives for the reasonable protection of those beneficial uses. It will apply to all water users in the Bay-Delta watershed. The existing Water Quality Control Plan dictates to a large degree the operations of the federal and state water projects and includes rules on Delta inflow, outflow, and salinity measurements. The California WaterFix, as with any new Delta conveyance project, would be subject to the State Water Board's updated plan. That updated plan will seek to ensure adequate flows for the sake of the Delta's fish and wildlife, and agriculture, and municipal and industrial water users.

Wide consensus exists that the Delta is in crisis. This year, in the midst of an historic drought, state biologists tallied the lowest level ever recorded in a survey of Delta smelt, which serves as an indicator of the ecological health of the estuary. Water deliveries to two-thirds of the state's population face disruption. Sea level rise and warmer storms -- effects of climate change -- make the status quo untenable. Californians have long debated whether and how to change the water diversion system in the Delta that was built half a century ago, under a different public mindset and far weaker environmental protection laws. Today's milestone moves us closer to a modernization of this critical infrastructure.

**FOR ADDITIONAL INFORMATION ON WHAT HAPPENS NEXT IN THE CALIFORNIA WATERFIX PLANNING AND REGULATORY PROCESS, [CLICK HERE.](#)**

For additional information, please contact Theresa Olson, Reclamation, 916-930-5676 (TTY 800-877-8339) or Cassandra Enos-Nobriga, California Department of Water Resources, 916-651-0178. For assistance in locating documents or if you have special needs, contact 866-924-9955.

# NEWS ARCHIVE

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## NEWS

MARCH 25, 2016

### **AQUATIC SCIENCE PEER REVIEW**

**([HTTP://WWW.WESTCOAST.FISHERIES.NOAA.GOV/PUBLICATION/](http://www.westcoast.fisheries.noaa.gov/publication/)**

March 25, 2016 - California WaterFix Aquatic Science Peer Review

The purpose of the California WaterFix Aquatic Science Peer Review is to provide the National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), and California Department of Fish and Wildlife (CDFW) with an independent scientific evaluation of the methods and approaches for developing the joint Biological Opinion requirements and analyses prepared for the CDFW 2081 (b) Incidental Take Permit application for the California WaterFix.

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FEBRUARY 3, 2016

### **WORKING DRAFT BIOLOGICAL ASSESSMENT MODELING DATA**

**([HTTPS://S3.AMAZONAWS.COM/CALIFORNIAWATER/PDFS/LVEO/](https://s3.amazonaws.com/californiawater/pdfs/lveo/)**

February 3, 2016 - Working Draft Biological Assessment Modeling Data Now Available

The CALSIM and DSM2 modeling data used in development of the working draft biological assessment for the California WaterFix is now available upon request. CALSIM is a model used to simulate State Water Project (SWP)/Central Valley



Project (CVP) operations. DSM2 is an extension of CALSIM which is used to model the historical hydrodynamics and electrical conductivity for the Delta and portions of the San Joaquin River.

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JANUARY 15, 2016

**U.S. BUREAU OF RECLAMATION AND DWR RELEASE  
DRAFT SPECIES-BY-SPECIES ANALYSIS  
([HTTPS://S3.AMAZONAWS.COM/CALIFORNIAWATER/PDFS/RKV816.PDF](https://s3.amazonaws.com/californiawater/pdfs/rkv816.pdf))**

January 15, 2016 - CALIFORNIA WATERFIX DRAFT BIOLOGICAL ASSESSMENT RELEASED

On January 15, 2016, the California Department of Water Resources (DWR) and U.S. Bureau of Reclamation (Reclamation) released a working draft of the biological assessment for the California WaterFix.

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JANUARY 14, 2016

**DCE TENTATIVE AGREEMENT NOW AVAILABLE  
([HTTPS://S3.AMAZONAWS.COM/CALIFORNIAWATER/PDFS/VVMH16.PDF](https://s3.amazonaws.com/californiawater/pdfs/vvmh16.pdf))**

Design & Construction Enterprise Tentative Agreement

The California Department of Water Resources (DWR) and a Joint Powers Authority comprised of public water agencies will collaborate in the design and construction of California WaterFix, should the project be permitted by various state and federal regulators and should the public water agencies choose to pursue the project.

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JANUARY 11, 2016

## **NEW FACT SHEETS COVER A VARIETY OF IMPORTANT TOPICS**

**([HTTPS://S3.AMAZONAWS.COM/CALIFORNIAWATER/PDFS/C7C916.PDF](https://s3.amazonaws.com/californiawater/pdfs/c7c916.pdf))**

### **New Fact Sheets Detail Progress, Purpose & Project Improvements**

Over the last year, the California WaterFix made considerable progress in securing California's water supplies and improving the Sacramento-San Joaquin Delta's (Delta) ecosystem. In response to comments made on the draft environmental documents, and facing various uncertainties regarding future Delta conditions, the project shifted from a habitat conservation plan to a focused upgrade of the Delta's primary water conveyance system. The project also underwent additional design changes resulting in reduced impacts on Delta communities and increased efficiency. Project changes were described and analyzed in a recirculated/supplemental environmental document released to the public for review and comment. The following graphic timeline chronicles the evolution of California WaterFix over the last year and includes a snapshot of major milestones:

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OCTOBER 30, 2015

## **CALIFORNIA WATERFIX STATE AND FEDERAL PLANNING AND PERMITTING PROCESS**

**([HTTPS://S3.AMAZONAWS.COM/CALIFORNIAWATER/PDFS/Y75T4](https://s3.amazonaws.com/californiawater/pdfs/y75t4))**

### **What Happens Next Fact Sheet**

Large infrastructure projects like California WaterFix require multiple and often concurrent regulatory review and permitting processes to obtain all of the necessary approvals before moving forward. Below is an overview of the regulatory and permitting actions associated with California WaterFix.

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OCTOBER 29, 2015

## **STATEMENT ON CLOSE OF RDEIR/SDEIS PUBLIC COMMENT PERIOD**

**([HTTPS://S3.AMAZONAWS.COM/CALIFORNIAWATER/PDFS/ALNG30-15\\_3.PDF](https://s3.amazonaws.com/californiawater/pdfs/alng30-15_3.pdf))**

### **DWR & USBR Statement on Close of Public Comment Period**



Today ends the public comment period on the updated draft environmental documents that analyze the potential effects of changing the primary water diversion system in the Sacramento-San Joaquin Delta. The alternatives analyzed include California WaterFix, the project preferred by the administration of Governor Edmund G. Brown to achieve the co-equal goals of enhancing the Delta ecosystem and improving water supply reliability.

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SEPTEMBER 15, 2015

**DWR STATEMENT REGARDING DELTA INDEPENDENT SCIENCE BOARD COMMENTS ON RDEIR/SDEIS (HTTPS://S3.AMAZONAWS.COM/CALIFORNIAWATER/PDFS/YKOW DISB RDEIR/SDEIS Comments - DWR Statement**

Statement from Cassandra Enos-Nobriga, program manager for the California Department of Water Resources, about the Delta Independent Science Board comments on the Partially Recirculated Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement (RDEIR/SDEIS) for California WaterFix:

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SEPTEMBER 9, 2015

**404 PERMIT APPLICATION SUBMITTED (HTTPS://S3.AMAZONAWS.COM/CALIFORNIAWATER/PDFS/CDUQ 15.PDF)**

**DWR Submits 404 Permit Application to The Corps**

On August 26, 2015, the California Department of Water Resources (DWR) submitted a permit application to the U.S. Army Corps of Engineers (Corps) for California WaterFix, a project that aims to modernize the way water is diverted from the Sacramento-San Joaquin Delta by the State Water Project and Central Valley Project. This milestone brings additional opportunities for public participation in regulatory processes, including public comment.

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AUGUST 27, 2015



**CHANGE PETITION SUBMITTED  
([HTTPS://S3.AMAZONAWS.COM/CALIFORNIAWATER/PDFS/U69ZI15.PDF](https://s3.amazonaws.com/californiawater/pdfs/u69zi15.pdf))**

**DWR and USBR Submit Change Petition to SWRCB**

Today the Department of Water Resources submitted a permit application in furtherance of the California WaterFix. This is an important milestone for the project that brings with it additional opportunities for public participation in important regulatory processes related to the federal Clean Water Act and California water rights, including submission of comment and testimony.

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DL=O](https://www.dropbox.com/s/1skovsnclD6N7EQ/californiawaterfix_media_kit.pdf?dl=0))

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# WHAT HAPPENS NEXT?

## California WaterFix State and Federal Planning and Permitting Process

Large infrastructure projects like California WaterFix require multiple and often concurrent regulatory review and permitting processes to obtain all of the necessary approvals before moving forward. Below is an overview of the regulatory and permitting actions associated with California WaterFix.

	REGULATORY PROCESSES AND PERMITS	IN PROGRESS?	SEQUENCING	
			IN COORDINATION WITH CEQA/NEPA	AFTER ROD/NOD
1	CALIFORNIA ENVIRONMENTAL QUALITY ACT / NATIONAL ENVIRONMENTAL POLICY ACT (CEQA/NEPA)	✓	●	
2	ENDANGERED SPECIES ACT (ESA) SECTION 7 CONSULTATION	✓	●	
3	NATIONAL HISTORIC PRESERVATION ACT (NHPA) SECTION 106 COMPLIANCE	✓	●	
4	CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE (CDFW) 2081(B) PERMIT	✓		●
5	SECTION 401 OF THE CLEAN WATER ACT - WATER QUALITY CERTIFICATION	✓		●
6	CDFW LAKE AND STREAMBED ALTERATION AGREEMENT, SECTION 1602	✓		●
7	U.S. ARMY CORPS OF ENGINEERS (USACE) SECTION 404 PERMIT	✓		●
8	STATE WATER RESOURCES CONTROL BOARD (SWRCB) CHANGE PETITION	✓		●
9	DELTA STEWARDSHIP COUNCIL	✓		●
10	USACE SECTION 408 PERMIT			●
11	DESIGN & ENGINEERING	10% DESIGN		30% - 95% DESIGN



**1**

**CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) /  
NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) PROCESS**

STATUS: IN PROGRESS

**WHAT**

Disclose proposed project's potential environmental impacts and associated mitigation measures. Required before the USACE Section 404 and CDFW Section 2081(b) permits, the SWRCB Change Petition and 401 Certification, and CDFW Section 1602 Lake and Streambed Alteration Agreement can be issued and the project can move to the next phase.

**WHO**

California Department of Water Resources (DWR) and U.S. Bureau of Reclamation (Reclamation)  
(Lead Agencies)

**NEXT STEPS**

1. Public review period closes on October 30, 2015
2. Review and respond to all comments received on the 2013 Draft Environmental Impact Report / Environmental Impact Statement (EIR/EIS) and Partially Recirculated Draft Environmental Impact Report / Supplemental Draft Environmental Impact Statement (RDIER/SDEIS)
3. Prepare Final EIR/EIS and release for public review for a minimum of 30 days
4. Anticipated public meeting prior to a final decision on the project
5. CEQA process:
  - i. Certification of the Final EIR
  - ii. Prepare CEQA Findings and Statement of Overriding Consideration (if appropriate)
  - iii. DWR approves project and adopts Findings
  - iv. DWR adopts Mitigation Monitoring and Reporting Program
  - v. Issuance of Notice of Determination (NOD)
6. NEPA process (concurrent with the CEQA process):
  - i. Reclamation prepares the Record of Decision (ROD)
  - ii. The ROD will be issued after receipt of the final Biological Opinion (BO) and after a 30 day public review period

**ISSUANCE OF THE ROD/NOD DOCUMENTS THE DECISION AND SELECTION OF THE FINAL PROJECT BY THE LEAD AGENCIES AND COMPLETES THE LEAD AGENCIES' ENVIRONMENTAL REVIEW (CEQA/NEPA) PROCESS**

[More information](#)



**2**

**ESA SECTION 7 CONSULTATION**

STATUS: IN PROGRESS

**WHAT**

Federal Agencies, in coordination with USFWS and NMFS, must document that their actions will not jeopardize the continued existence of any listed species or adversely modify or destroy critical habitat.

**WHO**

DWR (Applicant), Reclamation (Lead Federal Action Agency), U.S. Fish and Wildlife Service (USFWS) (Consulting Agency), and National Marine Fisheries Service (NMFS) (Consulting Agency)

**NEXT STEPS**

1. Preparation of a Biological Assessment (BA) by Reclamation and DWR to document the scientific analyses and effects of the proposed project to listed species and critical habitat
2. Reclamation submits the BA and requests formal consultation with USFWS and NMFS - expected late Fall 2015
3. USFWS and NMFS conduct a sufficiency review of the BA, and if they choose to move forward will then enter into formal consultation and begin preparation of the BO
4. BO issued by the USFWS and NMFS is expected to include authorization for take of a listed species — expected late Spring 2016

**COMPLETION OF THE SECTION 7 PROCESS IS REQUIRED BEFORE THE ROD AND A FINAL EIS CAN BE ISSUED**

**3**

**NHPA SECTION 106 COMPLIANCE**

STATUS: IN PROGRESS

**WHAT**

Federal agencies must consider, in consultation with the State Historic Preservation Office (SHPO), how its undertaking effect properties listed or eligible for listing under the NHPA. USACE prepares draft Programmatic Agreement (PA) with input from DWR and in consultation with SHPO and the tribes. USACE submits PA to SHPO for finalization and signature. SHPO then sends the final PA to interested parties for signature.

**WHO**

DWR (Project Applicant), USACE (Federal Action Agency) and SHPO (Consulting Agency)

**NEXT STEPS**

USACE expected to submit the PA to SHPO in late 2015, and signature is expected in early 2016.

**COMPLETION OF SECTION 106 IS REQUIRED BEFORE THE 404 CAN BE ISSUED**



**4**

**CDFW 2081(b) PERMIT PROCESS**

STATUS: IN PROGRESS

**WHAT**

Required for the incidental take of threatened and endangered species under the California Endangered Species Act (CESA). This permit must be obtained in order to move forward with project construction.

**WHO**

DWR (Applicant) and CDFW (Permitting Agency)

**NEXT STEPS**

- |   |  |
|---|--|
| 1. DWR submits application to CDFW<br>– expected late Fall 2015 | 2. CDFW issues permit decision<br>– expected in late Spring 2016 |
|---|--|

**PERMIT CANNOT BE ISSUED UNTIL DWR FILES THE NOD, SIGNALING COMPLETION OF THE LEAD AGENCY'S CEQA PROCESS**

**5**

**SECTION 401 OF THE CLEAN WATER ACT - WATER QUALITY CERTIFICATION**

STATUS: IN PROGRESS

**WHAT**

Section 401 of the Clean Water Act requires Federal Agencies to obtain certification that proposed discharge actions do not violate state water quality standards. Prior to Section 404 becoming operative, USACE requires 401 certification be issued by the SWRCB. This process addresses impacts to wetlands with regard to water quality and involves coordination between DWR and SWRCB.

**WHO**

DWR (Applicant) and SWRCB (Regulatory Body) and USACE

**NEXT STEPS**

- |                                   |   |
|-----------------------------------|---|
| 1. Projected issuance Summer 2016 | 2. Must be issued after Final EIR is certified and NOD has been issued. |
|-----------------------------------|---|

**401 PERMIT IS NEEDED BEFORE 404 PERMIT AUTHORIZES DISCHARGE ACTIONS ASSOCIATED WITH PROJECT CONSTRUCTION**



**6**

**CDFW LAKE AND STREAMBED ALTERATION AGREEMENT, SECTION 1602**

STATUS: IN PROGRESS

**WHAT**

Required for any project that will impact the bed or bank of any river, stream or lake, change or use any material from any river, stream, or lake; or, divert water; or, deposit debris, waste or other materials that could pass into any river, stream or lake.

**WHO**

DWR (Applicant) and CDFW (Permitting Agency)

**NEXT STEPS**

1. DWR prepares application in coordination with CDFW for eventual submittal to CDFW - planned for Spring 2016
2. Submitted in coordination with the 2081(b) permit and 404/401 of CWA process

**STREAMBED ALTERATION AGREEMENT CANNOT BE ISSUED UNTIL DWR FILES THE NOD AND IS NEEDED BEFORE PROJECT CONSTRUCTION ACTIVITIES WITHIN STATE WATERS**

**7**

**USACE SECTION 404 PERMIT UNDER CWA**

STATUS: IN PROGRESS

**WHAT**

Required by the Clean Water Act for projects that discharge dredged or fill materials into waters of the United States. This permit must be obtained in order to move forward with project construction within waters of the U.S. Permit is combined to include authorization for activities in, under, or over navigable waters regulated by Section 10 of the Rivers and Harbors Act.

**WHO**

DWR (Applicant) and USACE (Permitting Agency)

**NEXT STEPS**

1. Upon receipt of the permit application, USACE issued a public notice for the application starting a 60-day comment period that ends on November 9, 2015. All comments received will be transmitted to DWR for response, in coordination with the Draft EIR/ EIS and RDEIR/SDEIS comment response process
2. USACE reviews the permit application, including refinement of impacts and mitigation related to permit terms and concurrently prepares the 404(b)(1) alternatives analysis
3. USACE makes permit decision after Reclamation issues the ROD, USACE completes Section 106 of the NHPA, USFWS/NMFS issue the BO, and SWRCB issues 401 Certification.

**FINAL PERMIT DECISION MADE AFTER RECLAMATION ISSUES THE ROD, USACE COMPLETES SECTION 106 OF THE NHPA, USFWS/NMFS ISSUE THE BO, AND SWRCB ISSUES 401 CERTIFICATION**

[More information](#)



**8**

## SWRCB CHANGE PETITION PROCESS

STATUS: IN PROGRESS

### WHAT

Required by water rights holders seeking change in point of diversion, place of use or purpose of use. Approval of this petition must be obtained in order to move forward with project construction.

### WHO

DWR and Reclamation (Applicant) and SWRCB (Regulatory Body)

### NEXT STEPS

1. SWRCB issues notice of receipt of application and notice of hearing, which includes a calendar of when the hearing will be held – Fall 2015
2. Adjudicatory hearing – Spring/Summer 2016
3. SWRCB prepares the administrative record for their decision; issues decision on change petition late 2016 or early 2017

**DELTA REFORM ACT PROHIBITS ANY PROJECT  
CONSTRUCTION UNTIL SWRCB ISSUES THEIR DECISION**

[More information](#)

**9**

## DELTA STEWARDSHIP COUNCIL

### ROLE

CEQA responsible agency

### NEXT STEPS

1. DWR may determine that California WaterFix is a covered action consistent with the Delta Plan and regulations, and in such event, would file a certification of consistency with the Council. The Council would have appellate authority over DWR's consistency determination.
2. If BDCP, as originally proposed, is approved by DWR at the conclusion of CEQA review, it would be incorporated into the Delta Plan if it meets specified statutory criteria in the Delta Reform Act. The Council would have appellate authority over compliance with these criteria for incorporation.



**10**

**USACE SECTION 408 PERMIT**

STATUS: NOT STARTED

**WHAT**

Required by USACE for any actions that could lead to alteration and/or modification of Federally constructed levees, or an existing USACE civil works project. USACE must determine that the proposed alteration does not impair the usefulness of the USACE project, and would not be injurious to public interest.

**WHO**

DWR (Applicant) and USACE (Permitting Agency)

**NEXT STEPS**

1. Prior to work commencing on a jurisdictional levee, DWR will prepare and submit the permit application to USACE
2. Application developed in conjunction with continued facility design

**ISSUANCE OF THE 408 IS REQUIRED PRIOR TO ANY CONSTRUCTION RELATED TO EXISTING USACE CIVIL WORKS PROJECTS**

**ISSUED BY USACE IN CONJUNCTION WITH AUTHORIZATION OF 404 ACTIONS THAT OVERLAP WITH 408 ACTIVITIES**

**11**

**ENGINEERING & DESIGN PROCESS**

STATUS: IN PROGRESS

**WHAT**

Part of the initial design phase, which includes 10 percent design and preliminary work to perform environmental impacts analysis and determine feasibility of mitigation and associated costs. Once the ROD/NOD has been issued, engineering and design work can progress toward construction.

**WHO**

DWR in coordination with the Public Water Agencies

**NEXT STEPS**

1. [Design Construction Enterprise](#) established and managed by DWR to develop preliminary engineering plans and assist in completing the environmental planning process
2. Land acquisition process will be phased and will not occur until after the ROD/NOD has been issued. Initial planning for this process has already begun.



Detailed design and construction will not begin until the environmental review has been completed, a project has been approved, and all appropriate permits and other regulatory items have been obtained.



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# DELTA STEWARDSHIP COUNCIL

*A California State Agency*

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March 25, 2016

- Meeting Notice -

## Delta Science Program Review

### **California WaterFix Aquatic Science Peer Review**

April 5, 2016 – 9 a.m. – 5:00 p.m. PST

April 6, 2016 – 2 p.m. – 5:00 p.m. PST

Park Tower Conference Center  
980 Ninth St., Second Floor  
Sacramento, CA 95814

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### **PURPOSE**

The purpose of the California WaterFix Aquatic Science Peer Review is to provide the National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), and California Department of Fish and Wildlife (CDFW) with an independent scientific evaluation of the methods and approaches for developing the joint Biological Opinion requirements and analyses prepared for the CDFW 2081 (b) Incidental Take Permit application for the California WaterFix.

### **AGENDA**

*Order of agenda items and listed times are subject to change*

#### **Day 1 (April 5, 2016)**

##### **I. Introduction**

- 9:00 – 9:10 Welcome Remarks – Cliff Dahm (Delta Science Program)
- 9:10 – 9:25 Opening Remarks – Maria Rea (NMFS), Kaylee Allen (USFWS), Carl Wilcox (CDFW)
- 9:25 – 9:40 California WaterFix Project Overview – BG Heiland (DWR)
- 9:40 – 10:15 Biological Opinion/ Section (7) U.S. Endangered Species Act Overview – Jana Affonso (USFWS)/ Erin Strange (NMFS)

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*"Coequal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place."*

*– CA Water Code §85054*

10:15 – 10:30 California Endangered Species Act, Fish and Game Code section 2081 (b) Overview – Shannon Little (CDFW)

10:30 – 10:50 Update on current state of consultation process – Kim Turner (USFWSUS)

10:50 – 11:20 Review Panel/ Presenter Q&A

## **II. Draft Biological Opinion Analytical Approach and Framework**

11:20 – 11:50 NMFS Draft Biological Opinion Analytical Approach for Salmonids and Sturgeon – Cathy Marcinkevage (NMFS)

11:50 – 12:15 Review Panel/ Presenter Q&A

**12:15 – 1:15 Lunch**

## **III. Supporting Analyses for Target Aquatic Species**

1:15 – 2:15 Salmonids and Sturgeon Effects Analyses – Rick Wilder (ICF) /Marin Greenwood ((ICF)

2:15 – 2:45 Delta Smelt Effects Analyses – Marin Greenwood ((ICF)

2:45 – 3:15 Longfin Smelt Analytical Framework and Effects Analysis – Marin Greenwood (–(ICF)

3:15 – 3:35 Review Panel/ Presenter Q&A

**3:35 – 3:50 Break**

## **IV. General Presenter/ Review Panel Discussion**

3:50 – 4:45 Review Panel/ Presenter Q&A

## **V. Public Comment**

4:45 – 5:00 Public Comment Period

**5:00 Adjourn**

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## **Day 2 (April 6, 2016)**

### **VI. Presentation of Initial Recommendations from the Review Panel**

- 2:00 – 3:00 Presentation of Initial Findings and Recommendations (Review Panel)
- 3:00 – 4:30 Discussion between the Review Panel and Presenters from the Previous Day

### **VII. Concluding Remarks**

- 4:30 – 4:45 Public Comment
- 4:45 – 5:00 Next Steps – Cliff Dahm (Delta Science Program)

### **5:00 Adjourn**

- If you have any questions, please contact Lindsay Correa at (916) 445-0092 or [lindsay.correa@deltacouncil.ca.gov](mailto:lindsay.correa@deltacouncil.ca.gov).
- Members of the public are encouraged to visit the California WaterFix Aquatic Science Peer Review website ([http://www.westcoast.fisheries.noaa.gov/central\\_valley/WaterFix/index.html](http://www.westcoast.fisheries.noaa.gov/central_valley/WaterFix/index.html)) for the meeting materials. A limited number of copies of these materials will be available at the meeting.
- Reasonable time limits may be established for public comments (Government Code Sections 11125.7).