

Memorandum

Date: May 18, 2020

To: Erik Ekdahl
Deputy Director
Division of Water Rights
State Water Resources Control Board

From: James Newcomb, Chief
Yolo Bypass Habitat Restoration Branch
Division of Environmental Services
Department of Water Resources

Subject: Request for Water Right Determination for Yolo Bypass Salmonid Habitat Restoration and Fish Passage Project

Dear Mr Ekdahl,

In response to your email dated April 8, 2020, and by and through this letter, the Department of Water Resources (DWR) requests that the State Water Resources Control Board (SWRCB), Division of Water Rights, issue a formal determination regarding the need for a new water right, or change petition for existing State Water Project and Central Valley Project permits, for the Yolo Bypass Salmonid Habitat Restoration and Fish Passage Project (YBSHRFPP).

As noted in your email, DWR has engaged with SWRCB staff on more than one occasion in the last year, and based on DWR's description of the project SWRCB staff has informally advised DWR that no new water right or permit change petition is required. DWR agrees with that conclusion and has proceeded with project implementation accordingly. However, the letters from North Delta Water Agency and the Central Delta and South Delta Water Agencies attached to your email demonstrate the need for a more formal determination to better inform all stakeholders of the SWRCB's opinion in this matter.

Likewise, DWR concurs that the issuance of the Incidental Take Permit (ITP) from the California Department of Fish and Wildlife (CDFW) to DWR on March 31, 2020, for "Long-Term Operation of the State Water Project in the Sacramento-San Joaquin Delta" further highlights the need for such a determination. The ITP requires implementation of YBSHRFPP within 6 years of the effective date of the ITP. However, implementing a project of this size requires long-term planning for design, permitting, land acquisition and construction. Any water right proceeding has the potential to create uncertainty and result in the delay of project implementation and the realization of enhanced floodplain habitat and fish passage in the Yolo Bypass.

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Formally resolving the question of the need for a new water right or change petition will provide much needed certainty going forward.

For the above reasons, DWR hereby requests that SWRCB, Division of Water Rights, formally issue a determination of the need for a water right for the YBSHRFPP, as described in the Final EIR/EIS issued on June 7, 2019. Electronic copies of the EIR/EIS are available on USBR's website at:

https://www.usbr.gov/mp/nepa/nepa_project_details.php?Project_ID=30484

If you have any questions about this request, you may contact me at (916) 376-9769 or james.newcomb@water.ca.gov.

Sincerely,



James Newcomb, Chief
Yolo Bypass Habitat Restoration Branch
Division of Environmental Services
Department of Water Resources