

NDWA Manager's Report – April 2020

ADMINISTRATIVE ISSUES

Special Board Meeting – The end of April is deadline for parties to file legal action on two Delta water supply regulatory items.

ACTION: A Special Board Meeting via teleconferencing was scheduled for Tuesday, April 21, 2020. The only agenda item was Closed Session for the Board to confer with legal counsel on two items. No action was taken by the Board in Closed Session.

Correspondence on Delta Project – April 17, 2020 was the deadline to submit scoping comments on the Notice of Preparation for the new single tunnel project dubbed the Delta Conveyance Project (DCP).

ACTION: [NDWA](#) and [others](#) submitted scoping comments on the NOP for the Delta Conveyance Project.

Staff Continues Working Remotely – In mid-March, California public health officials issued new COVID-19 policies directing residents to stay home in order to reduce transmission of the virus.

ACTION: To comply with statewide public health directives and Executive Order [N-33-20](#), NDWA staff will continue working remotely from home until stay at home policies are lifted. Public can still reach staff by calling office number at (916) 446-0197 or via email at cindy@northdeltawater.net and melinda@northdeltawater.net.

FPPC Compliance – The Fair Political Practices Commission statutes [require](#) certain public officials to file annual Statement of Economic Interests, Form 700. Due to COVID-19, the FPPC has provided a 60-day [extension](#) from the normal April 1 deadline.

ACTION: NDWA Directors and Manager must file a new Form 700 with the NDWA office by June 1, 2020.

DELTA DOWNLOAD

New Delta Conveyance Project 5.0

Apparently, the Peripheral Canal project has nine lives. It was part of the water supply project planned in the early part of the 20th century that we now know as the State Water Project (SWP). Originally championed by Governor Pat Brown when he embarked on the construction of the SWP, he had to scale the project back because voters were only willing to approve a bond for half the cost needed. In the early 1970's his son, Governor Jerry Brown attempted to complete his father's vision when he proposed the Peripheral Canal; and got very close when the Legislature gave their approval. However, his dream was dashed when opponents qualified a referendum on the ballot and voters repealed the project's approval in 1982. In 2006, Governor Schwarzenegger took up this cause, but renamed the canal BDCP

and repackaged it with a Habitat Conservation Plan (HCP) to provide 50-year protections against any Endangered Species Act requirements. He eventually changed the conveyance from a surface canal to underground twin tunnels. The BDCP was then abandoned by Governor Jerry Brown and replaced with the WaterFix twin tunnel project without the HCP. When Governor Newsom took office in January 2019, he immediately announced he only supported a single tunnel conveyance project and directed DWR to withdraw all regulatory and permitting documents for the WaterFix twin tunnels. Now the project is once again starting the environmental review process over with the release of a Notice of Preparation for the new single tunnel project dubbed the Delta Conveyance Project (DCP). With an exhausting sense of déjà vu, the [NDWA](#) and [many others](#) submitted scoping comment letters by the April 17, 2020 deadline.

State and Feds Part Ways on Delta Water Operations

After decades of being in lock-step in coordinating endangered species permitting for the operations of the State Water Project (SWP) and Central Valley Project (CVP) pumps in Tracy, California recently forged a [new path](#). For the first time, the CA Department of Fish and Wildlife (CDFW) [issued](#) a state Incidental Take Permit (ITP) for the operation of the SWP. California previously relied on the federal Biological Opinions (BiOps) to provide coverage for endangered [fish species](#) impacts related to the operation of the SWP, but filed a [lawsuit](#) to challenge new BiOps issued by the Trump Administration that are designed to maximize the export of water from the Delta. [Threats](#) of lawsuits on the State's ITP immediately followed, with a coalition of CVP contractors eventually [filing](#). [More lawsuits](#) followed. Agricultural contractors [fear](#) they could lose 300,000 acre-feet of water a year under the permit, while environmental NGOs believe the permit is a “free pass” for water exporters and could lead to fish extinction. One benefit for exporters is the new permit moves the Fall X-2 line closer to the Delta, which will allow higher exports in wet years. Six Republican Congressmen sent a [letter](#) to Governor Newsom requesting the State withdraw its lawsuit against the 2019 federal BiOps and rescind the recently issued ITP, while Northern California Congressional Members [sent letter](#) to Governor Newsom and Attorney General Becerra expressing support for the State's legal challenge. The U.S. Secretary of Interior [responded](#) to the Congressional letters. In the meantime, the U.S. Bureau of Reclamation has [ramped up CVP pumping](#) in Tracy, exporting three times the previous amount allowed and a judge's [ruling](#) according to environmental NGOs that were denied their request for the court to halt the increased exports. On a related note, at the end of April, a coalition of environmental groups filed a lawsuit claiming the unsustainable water diversions of the State Water Project is killing fish.

Independent Experts Weigh In on Tunnel Project Feasibility

In a [press release](#) posted on its website in early April, DWR brags about a team of world class experts it has engaged to assist the Delta Design & Construction Authority (DCA) in defining project alternatives and identifying ways to avoid or minimize impacts that will be analyzed in the EIR. DWR says it will use Independent Technical Review (ITR) panels to serve as a “second set of eyes” to help ensure that the work conducted by the DCA meets the standards of DWR. Although the DCA subsequently agreed with many points raised by one ITR panel, it also minimized the [consensus of ITR panel](#) (pages 20-24 and 32-34) that the Central Corridor should not be studied any further because it is logistically impractical due to the shaft locations being a significant distance from I-5 with access only available via narrow farm roads and because tunnel muck is difficult to dispose or find a use for. In its written response to the expert advice of the panel, the DCA pointed out there are other project considerations that may override the ITR's expert advice.

Legal Challenge on SWP Long-Term Ops

Four environmental groups [sued](#) the California Department of Water Resources over its approval of the long-term operation of the State Water Project, claiming it failed to analyze the environmental harms of building a new diversion tunnel, Delta Conveyance Project, to send water south.

Solano County Strikes Deal on Cache Slough Restoration

As part of a [settlement deal](#) with DWR, the Solano County Board of Supervisors approved receiving \$750,000 to develop of a Cache Slough Habitat Conservation Plan (HCP) in exchange for the county dropping a lawsuit over the department's Lookout Slough tidal marsh restoration project. The Sacramento Area Flood Control Agency and Solano County Water Agency are also contributing funding for development of the HCP.

Antioch Approves New Settlement Agreement with DWR

In 1968, the City of Antioch executed a settlement agreement in which the CA Department of Water Resources (DWR) pays one-third of the costs of supplemental water needed when Delta water becomes too salty as a result of upstream State Water Project export diversions. In mid-April, four environmental groups sued the California Department of Water Resources today over its approval of the long-term operation of the State Water Project, the massive system of dams, pumps and aqueducts responsible for siphoning water from Northern California to Southern California. The project approval also failed to analyze the environmental harms of building a new diversion tunnel to send water south. ril, the City Council voted on approval of a new [settlement agreement with DWR](#) in which Antioch will receive \$70 million in financing for construction of the [Antioch Brackish Water Desalinization Plant](#). The funding will include a direct payment of \$27 million and an additional \$43 million in state grants and loans.

Annual Water Use Reporting Compliance is Good

Compliance was once again good for the April 1 deadline to file annual Reports of Licensee, with only 73 delinquencies, which is lower than last year, despite the COVID-19 crisis. The State Water Board's Division of Water Rights has announced it will not take enforcement action for late filing against a Licensee who missed the April 1 deadline, so long as the Report is filed by May 1. The Office of the Delta Watermaster will exercise the same scheduling discretion.

Important Legal Victory for Delta Stewardship Council

An [Appeal Court decision](#) filed on April 10, 2020 disagreed with trial court ruling declaring the Council is required to adopt performance measures as regulations and dismissed the remainder of trial court issues as moot due to Delta Plan Amendments that were adopted in 2018; thereby [reversing trial court](#) decision that invalidated the Delta Plan. The ruling provided the following conclusion in regards to disposition, *"The reversal on the grounds of mootness does not imply that the judgements were erroneous on the merits as to the moot portions, but is solely for the purpose of returning jurisdiction to the superior court so that it can vacate portions of otherwise final judgements. In all other respects, the judgements entered in each of the six coordinated cases before us are confirmed."*

New Delta Steward is Seasoned Political Operative

Governor Newsom announced the [appointment](#) of [Daniel Zingale](#) to the Delta Stewardship Council. A long-time top political influencer in Sacramento, Zingale has served in the cabinets of three governors, recently retiring as Newsom's strategy and communications director. He was a key architect of

Governor Schwarzenegger's 2007 effort to pass a universal health care plan. At the California Endowment for nearly a decade, he was credited with working closely with voter and activist groups to expand health care for California's kids and low-income residents, but does not appear to have any experience in water issues.

Consistency Certifications Filed for North Delta Habitat Projects

The Delta Stewardship Council has revised the [webpage](#) dedicated to Covered Actions, which is the certification process for demonstrating consistency with the Delta Plan. On April 7, 2020, DWR submitted a certification of consistency with the Delta Plan for the [Sherman Island](#) Belly Wetland Restoration project and Westlands Water District filed certification for the [Lower Yolo Ranch](#) Restoration Project. The Sherman Island project proposes maintaining water levels year-round on 1,000 acres to create wetlands to reverse subsidence and sequester atmospheric carbon dioxide to help reduce greenhouse gases (GHG) and meet goals of the Delta Conservancy [Carbon Program](#). The Yolo Ranch project will convert 1,671 acres from agriculture to tidal habitat to comply with federal Biological Opinions for the coordinated operation of the SWP and CVP. Deadline to file an appeal on both projects is May 8, 2020.

“No Regrets” Habitat Projects Proposed as Alternative to Unimpaired Flows

In an effort to advance the stalled Voluntary Agreements, the Northern California Water Association ([NCWA](#)) has joined forces with DWR and the CA Department of Fish and Wildlife (CDFW) to submit a list of [early implementation](#) “no regrets” salmon recovery [projects](#) to the CA Resources Agency, including up to 689 acres of enhanced floodplain habitat. They are seeking \$70 million from Prop. 68.

More Time to Comment on South Delta Salinity Plan

The public comment period was [extended](#) until April 14, 2020 for the Notice of Availability for public review and comment on the draft [Comprehensive Operations Plan](#) for the Southern Delta Salinity Objective prepared by DWR and USBR. Restore the Delta submitted a [letter](#) criticizing the plan for failing to develop modeling studies and response flows that mitigate harmful algal blooms.

Delta Planning Documents Available in One Place

Have you ever wondered how many Delta planning efforts there are? Ever wanted an easy way to find information on each of these planning efforts? Well your wish has come true. Maven's Notebook has created a [website page](#) listing all of these planning efforts with internet hyperlinks to their webpages, which will make all our lives much easier.

LEGISLATIVE LATEST

Assembly Announces Streamlined State Budget

The effects of COVID-19 transcend the economy and health. The pandemic also impacts the State Budget. On April 6, 2020 the Assembly Budget Committee Chair released a [memorandum](#) announcing a decline in tax revenues with increased costs to deal with COVID-19. He predicts many funding proposals may need to be set aside so the committee can focus on disaster response and economic recovery funding.

NEWSWORTHY

Bureau Decreases Contractor Water Supplies

On April 1st, DWR conducted the fourth manual [snow survey](#), recording a 43.5 inch snow depth which is 66% of [average](#) for April at this location. Pursuant to the resulting water supply forecast, the U.S. Bureau of [Reclamation announced](#) Sacramento River and San Joaquin River Settlement Contractors and the San Joaquin River Exchange Contractors will receive 75% of their contract total. Wildlife refuges will receive 75% of their Level 2 water supplies.

Record of Decision Approved on Long-Term Water Transfers

The U.S. Bureau of Reclamation signed a Record of Decision authorizing a long-term [water transfer](#) program.

New Delta Lead Scientist Selected

The Delta Stewardship Council [announced](#) the appointment of Dr. Laurel Larson as the new [Lead Scientist](#), who is responsible for overseeing the [Delta Science Program](#).

Delta Island Sells Fast

After being on the market for less than a month, [escrow closed](#) in just eight days in an all-cash deal for a small 18-acre Delta island located in the middle of White Slough near West Eight Mile Road in Stockton.

CALENDAR ALERTS

May 4 – Legislature scheduled to [reconvene session](#) after Easter break extended due to COVID-19, with limited public access.

June 3- NDWA Board meeting, via web-based and teleconference