

NDWA Manager Report – December 2021

ADMINISTRATIVE ISSUES

Contract Payment

Cindy emailed DWR on December 3, 2021 to inform them the Agency had not yet received an invoice for the Contract payment that is due by the end of the year, and requested DWR send invoice as soon as possible. DWR responded with a letter requesting total gross area of the Agency and whether any boundary changes have occurred in the last five years. The NDWA manager sent a letter on December 9, 2021 responding that no boundary changes have occurred and the total land acreage within the Agency is 288,000 acres. NDWA subsequently received an invoice on December 20, 2021 in the amount of \$292,318.67, which is the first installment (half of total annual payment) and reflects the deduction of the amount owed for lands owned by both DWR and CDFW. **ACTION:** On December 28, 2021, NDWA mailed (certified mail) a check in the amount of \$292,318.67 to DWR.

Assessments

Direct bill invoices were sent in October with a December 31, 2021 due date. **ACTION:** Cindy reported at the December 1, 2021 Board meeting that most assessment payments have been received. The largest delinquency is CalTrans. A Manager's Decision on a State Lands Commission request for reclassification is being finalized, which will result in an adjusted assessment invoice being sent to them for payment due 90 days later.

Drought Barrier – When DWR announced in 2021 it was planning the possible installation of drought barriers in the spring of 2022, the Agency requested execution of a mitigation MOU similar to the agreement done in 1976. DWR said a similar agreement is unnecessary due to the 1981 Contract, but the department is willing to execute a reimbursement agreement with NDWA for any engineering, legal, and manager costs associated with supporting the barriers. DWR will separately negotiate mitigation agreements with landowners and RDs for any barrier impacts. **ACTION:** Austin Cho with Downy Brand has negotiated with DWR representatives during December regarding the terms of such an agreement.

Delta Drought Incentive Program

In 2021, the three Delta Water Agencies began discussions with State representatives on potential drought actions to reduce crop consumptive water use and protect water quality. Ultimately, we focused on the development of a Delta Drought Response Pilot Program in which the State would provide financial incentive payments to landowners for modifying irrigation and crop planting in 2022. Funding will be provided by DWR, but payments to the farmers will be issued by the Delta Conservancy pursuant to an interagency agreement with DWR. There has been delays in the implementation of the Program because the interagency agreement has not been finalized. The Delta Agencies have expressed concern that farmer participation will be low if delays continue, because they have to make planting decisions now. The Conservancy is also

still working on a template for the Grant Agreement that will be offered to Applicants whose proposals seem most appealing to the Selection Committee. **ACTION:** NDWA representatives will continue to participate in these discussions and promote the Program once it is finalized by the State and ready for implementation.

DROUGHT EMERGENCY

CVP-SWP Submit Request for Drought Operation Changes

On December 1, 2021, the U.S. Bureau of Reclamation and the CA Department of Water Resources submitted a joint request for a new Temporary Urgency Change Petition ([TUCP](#)) to cover drought operations from February 1, 2022 through April 30, 2022. The State Water Resources Control Board (SWRCB) subsequently released a [Notice](#) announcing a public workshop on January 5, 2022. The evening before the public workshop, DWR released supplemental hydrological modeling information in an Excel spreadsheet. The deadline to submit written comments is January 7, 2022.

Reservoirs Rising

Thanks to back-to-back [storms in December](#), the snowpack is abundant and the SWP and CVP [reservoirs are rising](#). Folsom Lake is not only above average for this time of year, but is nearing its maximum storage level according to U.S. Army Corps of Engineers flood control rules. Lake [Oroville](#) has risen 80 feet since its record low level recorded in October. Despite record snowfall in the Sierras, according to the December 30, 2021 snow survey conducted by DWR, we are far from a [drought recovery](#). [Southern California](#) is grateful to no longer be in the “extreme” drought category, but the continual rain has caused the Governor to declare a [state of emergency](#) in 20 counties.

Initial SWP Allocation for 2022 Announced

Still concerned about a third year of drought, DWR announced the [allocation for 2022](#) will focus on only meeting health and safety needs. Therefore, the SWP is not planning any water deliveries through its typical allocation process until the state has a clearer picture of the hydrologic and reservoir conditions going into the spring.

LEGISLATIVE LATEST

Delta Assemblyman Resigns

Assemblyman Jim Frazier, a Democrat representing the western Delta, surprised everyone on December 1, 2021 when he announced he was [resigning from the Legislature](#), effective at the end of the year. He indicated an interest in pursuing a more lucrative career in the transportation sector and spending more time with family. He was elected to the Assembly in 2012 and was still eligible under [term limits](#) to serve until 2024, but he would represent different communities in a newly designed district with different boundaries pursuant to the adoption of redistricting maps.

DELTA DOWNLOAD

Timeline for Update of the Delta Water Quality Control Plan is Announced

At the December 8, 2021 State Water Resources Control Board meeting, staff presented a revised [timeline for implementing](#) new salinity and flow objectives for the San Joaquin River and Southern Delta that were adopted in 2018, and the ongoing effort to develop updated objectives for the Sacramento River and Delta. The release of a final draft biological goals report is anticipated in spring 2022, with adoption potentially in summer 2022. A final CVP and SWP operations plan is also expected to be submitted to the SWRCB executive director for approval in in spring 2022. Staff is also working on developing new procedures for calculating required unimpaired flows and evaluating compliance. For the Sacramento River tributaries and Delta, the staff is currently developing the draft staff report, which serves as a substitute to the environmental analysis required under CEQA. Staff anticipates completion of a Voluntary Agreement proposal in early 2022 with a scientific basis report following in the summer, and the release of a staff draft report in the Fall of 2022 with subsequent public workshop and comment period. The board could consider adoption in late 2023.

Reform of DSC's Appeal Process for Project Denials Announced

A [Notice](#) of intent to [amend the Administrative Procedures](#) that govern how the Delta Stewardship Council (DSC) conducts hearings and renders decisions on appeals of projects in the Delta was released. The draft amendments propose to revise 16 of the 31 rules and add one new rule that grants more authority to the Council for establishing procedural requirements, develop more descriptive standards for an appeal to be considered complete, set evidentiary standards, and several other modifications. The WaterFix Delta tunnel project was the first to go through the current process in 2018 when nine appeals were filed. DWR ultimately withdrew the Certification of Consistency with the Delta Plan after a DSC staff draft of Determination recommending denial was finalized by the Council. Other appeals since then include the Smith Canal Gate Project, Lower Yolo Ranch Restoration Project, and Lookout Slough Restoration Project. The deadline to submit written comments on the proposed amendments to the appeal process is 5:00 p.m. on March 7, 2022. A public workshop will also be scheduled at least ten days before the end of the 90-day comment period.

Second Chance for Lookout Slough Restoration Project

In July 2021, the Delta Stewardship Council (DSC) rendered a final determination on several appeals filed claiming the Lookout Slough Restoration Project was not consistent with some of the policies in the Delta Plan. The DSC determined DWR's certification was not supported by substantial evidence on the record and remanded the project back to the department to be revised in order to be consistent with Delta Plan policies. On December 30, 2021 DWR submitted a [new certification of consistency](#) for the restoration project. Appeals challenging this consistency must be filed within 30 days.

Delta Tunnel Advisory Committee Comes to an End

In 2019, the Delta Conveyance Design & Construction Authority (DCA) created a [Stakeholder Engagement Committee](#) (SEC) to provide a local perspective and feedback in terms of impacts and concerns regarding the construction and operation of the Delta Conveyance Project. After three years, the last meeting of the SEC was held in December 2021.

NEWSWORTHY

SWRCB Explores Potential for Alternative Water Rights System

On December 15, 2021, the State Water Resources Control Board (SWRCB) held a [workshop](#) to explore “possible alternatives to address water supply shortages in the Delta watershed.”

According to SWRCB [staff report](#), the goal was to engage with stakeholders on developing a new curtailment methodology based on the Term 91 approach that provides a better accounting of drought deliveries for senior appropriators. The participants with senior water rights holders expressed concern with tinkering with the current system, and nothing much was resolved. The water board will accept written comments until mid-January 2022. The water board has also launched a new program for Updating Water Rights Data ([UPWARD](#)).

New Undersecretary Appointed to Natural Resources Agency

Governor Newsom announced the [appointment of Saul Gomez](#) as the undersecretary for the Natural Resources Agency to replace the departure of Angela Barranco. He has extensive experience working for state agencies, including the Public Utilities Commission, Energy Commission, Office of Governor Jerry Brown, and in the State Legislature.

CALENDAR ALERTS

Jan 7 – Deadline to comment on TUCP for CVP/SWP 2022 drought operations, 12:00 p.m.

Jan 28 – Deadline to comment on Resources Agency [30X30 biodiversity conservation plan](#)



Happy Holidays