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CALENDAR ALERTS

- May 1** – Sacramento County [extends](#) COVID-19 stay home order, prohibiting all non-essential gatherings
May 4 – Legislature [reconvened](#) session, with limited public access
May 11 – Deadline to [comment](#) on EIR for Sac Bank [Change Report](#)
June 1 – Deadline for [early-bird registration](#) for Floodplain Management Association (FMA) conference, Sacramento

FEATURED ASSOCIATE MEMBER



COVID-19 UPDATE

***Check [CCVFCA Website](#) for more information on topics in Flood Flash*

DWR Adjusts During Pandemic

Committed to continuing its role in providing essential services during the COVID-19 crisis, DWR is making [adjustments](#) in order to ensure public participation and transparency continues despite statewide and local social distancing and stay-at-home orders.

County Stay Home Order Extended

The Sacramento County Public Health Officer [extended](#) the stay home order during the ongoing COVID-19 public health emergency until May 1, 2020 and added a prohibition of all non-essential gatherings. All essential businesses are also required to post and implement social distancing protocols at each operational facility. The State's stay-home Executive Order [N-33-20](#), except [essential services](#), took effect on March 19, 2020 and extends indefinitely until modified or rescinded.

KEEPING UP

***Check [CCVFCA Website](#) for more information on topics in Flood Flash*

Process for Evaluating Potential New Flood Control Assessment Explained

Existing law allows the Central Valley Flood Protection Board (CVFPB) to create multiple assessment areas to collect revenues within the Sacramento San Joaquin Drainage District (SSJDD) to fund the construction, operation, repair, and maintenance of flood control works approved by the CA Debris Commission in the 1920s. Several assessment areas were created at that time, but the CVFPB stopped collecting assessments through the SSJDD during the Great Depression. These statutes provide a public process for defining the area to be assessed based on the activities that will be funded, requires assessments to be

proportional to benefits received, and includes public hearings and a landowner vote before revenues can be collected.

At its [April meeting](#), the CVFPB heard a presentation from consultants regarding the process for developing a feasibility study that will evaluate the possibility of reviving property assessments within the jurisdiction of the SSJDD. The study is intended to evaluate the potential for new local assessments to provide a stable funding stream to the CVFPB for some of the activities in the State Plan of Flood Control system that are currently not funded or are underfunded. This first phase in the process is public outreach to receive input on the types of flood control activities/projects landowners think are priorities and whether the study should evaluate the feasibility of one single, district-wide assessment or several, smaller assessment areas that would address geographical differences throughout the SSJDD. Next steps in the process are identifying beneficiaries based on activities/services, evaluating ability-to-pay through “test case locations,” develop designing and implementing assessment area, and providing findings and recommendations. The implementation would identify any legal constraints and potential amendments to existing statutes. According to their timeline, a final feasibility study will be available for public review and comment in April 2021, and presented to the CVFPB for adoption in June 2021.

The Association has formed an ad-hoc committee to participate in the CVFPB's process and to provide input at each stage. We will also be coordinating with the RFMPs, cities, counties, environmental organizations, and county farm bureaus.

Next Phase of Marysville Ring Levee Announced

The U.S. Army Corps of Engineers has awarded a \$22.5 million [construction contract](#) for 2.8 miles of levee improvements around Marysville. Phases 2B and 3 of the comprehensive Marysville Ring Levee project includes a new seepage wall along the Yuba River from Highway 70 to the Recology landfill entrance, and straightening along portions of the levee between Highway 70 and Simpson Lane. Construction of Phases 2B and 3 will begin in May with completion planned for December 2023. A Phase 2C cut-off wall will also begin in April.

Natomas Levee Work in Full Swing

The Sacramento Area Flood Control Agency (SAFCA) began improving levees in the [Natomas Basin](#) in 2007, and completed upgrades to approximately 18 miles of levees along the wester perimeter of the basin by 2012. The U.S. Army Corps of Engineers (USACE) received Congressional authorization in 2014 to move forward with work to complete the remaining 24 miles of levee improvement. After completing the section referred to as “Reach D” in 2019, the USACE is gaining momentum and will be proceeding with construction on three more reaches this year, with the intent to finish all nine reaches in 2024.

Updates to the Sac Bank Project Released

With the [release](#) of an [EIR](#) in mid-April, the public has until May 11, 2020 to comment on changes to the post-authorization [Sacramento River Bank Protection Project](#) proposed by the U.S. Army Corps of Engineers (USACE). Originally authorized in the Flood Control Act of 1960, the Sac Bank is a long-term flood risk management project to reduce stream bank erosion. The USACE [Change Report](#) proposes implementing an additional 80,000 linear feet of additional bank protection as authorized in the 2007 federal WRDA legislation.

New Federal Wetlands Definitions Effective this Summer

The U.S. Environmental Protection Agency and USACE [published](#) a final Navigable Waters Protection [Rule](#) defining the scope of waters federally regulated, replacing the rule published in October 2019. The new rule has four categories of jurisdictional waters with exclusions for water features that have traditionally not been regulated. This is the final step in the Trump Administration's [repeal and replacement](#) of the 2015 WOTUS rule issued by the Obama Administration. The final rule is effective as of June 22, 2020.

State Issues Guidance on Dredge & Fill

The State Water Resources Control Board released revised [Implementation Guidance](#) for the State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State which go into effect on May 28, 2020. On a related note, a recent U.S. Supreme [Court decision](#) muddies the water in terms of when point source discharge permits are needed pursuant to the federal Clean Water Act.

Former DWR Director Passes Away

The third Director of the Department of Water Resources, [William Gianelli](#), passed away on March 30th at the age of 101. His career at DWR started after WWII as a junior engineer conducting snow surveys, eventually becoming Director from 1967-73 and overseeing construction of the State Water Project. From 1981-84 he was the U.S. Assistant Secretary of Army of Civil Works in the Reagan Administration with jurisdiction over the U.S. Army Corps of Engineers, and then served as Chairman of the Panama Canal Commission.

LEGISLATIVE LATEST

****Check [CCVFCA Website](#) for more information on topics in Flood Flash**

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, Assemblyman Phil Ting, released a [memorandum](#) announcing a decline in tax revenues with increased costs to deal with COVID-19. As a result, he predicts many funding proposals may need to be set aside so the committee can focus on disaster response and economic recovery funding. [The Flood Caucus sent a letter](#) to the Assembly Budget Subcommittee on Resources requesting the \$100 million request for flood protection be heard due to its importance to public safety.

Water Bond Bill Light on Flood Protection

[Assembly Bill 3256](#), authored by Assemblymember Eduardo Garcia, is a \$6.98 billion water bond act with Flood Protection in the title, but not much funding for levees. Only \$150 million is identified for flood protection purposes, and is limited to only funding multi-benefit flood management projects, natural infrastructure projects to reduce flood intensity, stormwater projects, projects that leverage federal funding, projects benefitting fish and wildlife, and projects restoring natural streams; with \$50 million reserved for coastal flood management projects and \$50 million to the Central Valley Flood Protection Board for further development of the State Plan of Flood Control (§80248). There is no funding specifically dedicated to Delta levees.

Congress Introduces Infrastructure Bills

After approval of the last economic stimulus bill to help small businesses survive the closing of America's economy, both the President and Congress mentioned looking at investing in the nation's infrastructure in the next round of stimulus. [Two bills](#) were introduced in the U.S. Senate. The Drinking Water Infrastructure Act of 2020 would authorize \$17 billion for USACE projects and \$2.5 billion for America's Water Infrastructure Act of 2020 to primarily provide grant funding. On Earth Day, witnesses submitted [written testimony](#) to the Senate Committee on Environment and Public Works expressing support for the effort, but urged more funding to address the clean drinking water needs during the COVID-19 pandemic.

DELTA DOWNLOAD

****Check [CCVFCA Website](#) for more information on topics in Flood Flash**

Newsom Administration Commits Funding for Delta Levees

At the Delta Levee Habitat Advisory Committee (DLHAC) meeting on April 2, 2020, DWR provided a [letter](#) confirming funding levels for Delta Levee Programs. For fiscal year 2020-21, the Delta Levee Maintenance Subventions Program will be allocated \$12 million and the Delta Special Project Program will receive \$10 million. These proceeds are allocated from water bond funding already appropriated by the Legislature, so does not require any further action in this year's budget.

Legal Victory for Delta Stewardship Council

Following the Delta Stewardship Council's (DSC/Council) adoption of the Delta Plan in May 2013 and approval of associated regulatory package, seven lawsuits were filed by various groups challenging the validity of the Plan related to interpretations of underlying scope of the guiding statutes contained in the 2009 Delta Reform Act. While the trial court decisions issued in May and July 2016 collectively rejected most of the claims of Delta Reform Act violations raised by plaintiffs, the rulings did uphold some statutory violation claims and ultimately vacated and set aside the Delta Plan in its entirety and any applicable regulations. The trial court further ordered the Council to correct the identified deficiencies. Following the entry of judgement, timely appeals were filed. In April 2018, while the appeal was pending, the Council adopted amendments to the Delta Plan.

An [Appeal Court decision](#) filed on April 10, 2020 disagreed with trial court that 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 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."*

Council to Start Over on Delta Levee Investment Strategy

Based on new LiDAR data of Delta levees released by DWR in 2019, the Delta Stewardship Council approved a [resolution](#) at its March meeting to terminate the rulemaking process for the Delta Levee Investment Strategy (DLIS) and to repeal Delta Plan amendments on DLIS adopted in 2018 and restore the original levee investment policy adopted in 2013. The Council will now [evaluate the new data](#) and develop amendments on levee investments, however it intends to use the same methodology used to create a prioritization of Delta lands to receive state levee funding.

[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 state'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.

"No Regrets" Habitat Projects Proposed to Rejuvenate Voluntary Agreements

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.

[Consistency Certifications Filed for 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. No changes were made to the regulatory policies or requirements for consistency certification. 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). 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.

Delta Stewardship Council Appointment

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 of California's last four 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, Zingale 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.

IN THE NEWS

(Clicking the links will take you to news organization websites, where you can read the full stories. CCVFCA is not responsible for content on these external sites.)

- [Public notice of Intent to Prepare an Environmental Assessment for Dam Replacement and Tricolored Blackbird Habitat Enhancement at Frisky Lake, Yuba County, California](#) - Yuba.net
- [Yuba Water Agency makes investment in water education center, curriculum for area schools](#) - ACWA
- [Cities are Floating Flood Rules](#) - NY Times
- [Where Did California's Atmospheric Rivers Go?](#) - GV Wire
- [Too Big to Dream? A Landscape Scale Approach to Re-envision our Floodplains in the Sacramento Valley for Multiple Benefits](#) - NCWA
- [What if California faces a disaster during the pandemic?](#) - AP News
- [US to have major floods on daily basis unless sea-level rise is curbed – study](#) - The Guardian
- [Warmest oceans on record could set off a year of extreme weather](#) - The Japan Times
- [Allocating Floodwaters to Replenish Groundwater Basins](#)– PPIC
- [Sites Reservoir being adjusted for efficiency](#) - Glenn County Transcript
- [Bipartisan senators announce \\$19.5B water infrastructure proposal](#) - The Hill