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## CALENDAR ALERTS

### July 27

[Public meeting](#) on Folsom Dam Raise Project EIS/EIR, 52 Natoma St, Folsom, 5-7 pm

### July 28

[Delta Levee Prioritization Process Update](#) , DSC, 980-9<sup>th</sup> St., 9:30 am

### Aug. 1

[Deadline](#) to comment on USACE Nationwide Permits.

### **\*\* Aug. 14**

Joint CVFPB-DSC mtg on Delta Levee Prioritization, 1110 Capitol Ave, W. Sacramento.

### **\*\* Aug. 18**

12:00 pm [deadline](#) to submit comments on amendments to SWRCB's discharge of dredged or fill material rules.

### **\*\* Aug. 25**

Draft Prioritization of Delta Levees Presented, DSC, 980-9<sup>th</sup> St., 9:30 am.

### Sept. 6

[FMA Annual Conference](#) & Extreme Precipitation Symposium, Sacramento Hyatt Regency Hotel.

### Sept. 6-9

Floodplain Management Association [Annual Conference](#), Sacramento Hyatt

### Sept. 19

USACE [deadline](#) to submit annual WRDA projects.

### Sept. 120

[Deadline to comment](#) on Folsom Dam Raise Project supplemental [EIS/EIR](#)

### **\*\* Sep. 29**

Adopt Draft Prioritization of Delta Levees, DSC, 980-9<sup>th</sup> St., 9:30 am.

### Oct. 3

Deadline to submit Prop. 1 [Urban Rivers Grant](#) applications

**\*\* = [New Calendar Alert](#)**

## FEATURED ASSOCIATE MEMBER



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## **KEEPING UP**

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

### ***Water Board Extends Deadline to Comment on Discharge of Dredged & Fill Materials***

Pursuant to several requests at their July 19, 2016 meeting, the State Water Resources Control Board agreed to extend the deadline to noon on Thursday, [August 18<sup>th</sup> for public comments](#) on proposed amendments to the procedures for the discharge of dredged and fill materials.

The additional two weeks will allow more time for interested parties to develop more detailed comments. Stating that specific language changes will facilitate follow-up discussions with staff, the water board encourages reviewers to submit re-wording suggestions in bold strike-out and bold underline format.

### ***USACE Releases Draft EIS/EIR on Folsom Dam Raise Project for Public Comment***

On Wednesday, July 27<sup>th</sup> the U.S. Army Corp of Engineers (USACE) is hosting a public meeting from 5-7 p.m. at the Folsom Community Center, 52 Natoma Street, on the recently released [draft supplemental environmental impact statement](#) for the Folsom Dam Raise Project.

Proposed mitigations disclosed include modifying the main dam Tainter gates and raising the dikes and wing dams by 3 ½ feet in order to increase water storage space that can be used during flood events.

The [deadline to submit written comments](#) on the supplemental EIS/EIR is September 20, 2016.

### ***Preview of State's Prioritization of Delta Levees***

Delta Stewardship Council (DSC) staff will use their decision-support tool to present potential prioritization of where the State should provide funding for Delta levees at the next DSC meeting on [July 28<sup>th</sup>](#). According to the [staff report](#), the presentation will show how varying approaches and tradeoffs can affect the potential prioritization of islands and tracts for receiving State funding.

The Council and the Central Valley Flood Protection Board (CVFPB) will discuss further at a [joint meeting](#) of the two agencies on August 12<sup>th</sup>. Comments from these two meetings will assist DSC staff and consultants in developing draft recommendations on prioritization of State investments in Delta levees and new levee-related Delta Plan policies that will be presented at the August 25-26<sup>th</sup> meeting of the DSC. According to the [current timeline](#), the Council will consider approval of these draft recommendations at their September 29-30<sup>th</sup> meeting, after which the staff will solicit input and comments from the public in October, with a final draft strategy and recommendations completed and sent to the Legislature by the end of the year.

### ***Progress in Identifying Levee Financing Options***

On July 21<sup>st</sup>, Delta Protection Commission (DPC) staff and consultants provided an update on development of a [feasibility study](#) evaluating the pool of beneficiaries and funding mechanisms to pay for levee maintenance and improvements in the Delta. Funded by DWR, the study is tasked with [identifying a beneficiary-pays system](#) that would proportionally allocate costs for all beneficiaries, including local landowners, infrastructure such as roads and utilities, SWP/CVP water conveyance, and other entities that benefit from the protection levees provide.

The study will draw broad conclusions about the feasibility of a range of collection mechanisms, but is not intended to describe precise costs or revenue estimates for Delta levee improvements, nor suggest specific investments or actions. Another study would be needed to develop more precise and comprehensive information about levee conditions, costs of various improvements, proportional benefits that can be allocated to various entities, and an evaluation of their ability to pay their share. According to the most recent [staff report](#), the recommendations may include suggestions to the Legislature for modifying existing cost share formulas for the Delta Subventions and Special Projects Programs.

So far, the study team have compiled relevant [historic](#) and [legal](#) information, conducted three public workshops, developed a set of hypothetical "[archetypes](#)" to evaluate beneficiaries, identified [economic benefits](#) for ten [categories of beneficiaries](#), reviewed [levee cost estimates](#), developed descriptions of the available and applicable [cost allocation methods](#), and concluded that [no single mechanism](#) is able to collect revenues from all beneficiaries.

Next steps include the release of an Excel-based screening model in August that will demonstrate a dynamic approach to financing as well as form the basis for a final evaluation of revenue collection mechanisms; and a final feasibility study report in September with recommendations on the most promising suite of financing mechanisms to be evaluated in more detail, options that most likely will not work, and describe the linkage of the DPC study's results to the DSC's Delta Levee Investment Strategy (DLIS).

### ***State Granted Access to Private Property in the Delta***

Ending a six-year legal delay, a [July 21, 2016 decision](#) by the State Supreme Court authorizes the Department of Water Resources (DWR) to proceed with geotechnical testing and endangered species surveys on approximately 150 properties associated with the BDCP/WaterFix project without going through eminent domain proceedings. However, the state still must obtain a court order approving entry for geological testing and ecological surveys in which the trial court may limit the state's

exploration in order to protect the property interests of landowners and require the state to deposit an amount sufficient to cover any likely damages, including restricted use of the property.

At issue is DWR's effort to investigate the most feasible alignment for constructing WaterFix twin tunnels by accessing private property pursuant to the state's existing temporary entry laws ([Code of Civil Procedure, §§ 1245.101-1245.060](#)) that allow public agencies such as DWR, CalTrans, counties, and reclamation districts to conduct inspections of private property to determine if it is suitable for a proposed public works project, prior to initiating formal negotiations or eminent domain proceedings to acquire the property needed for construction.

The preliminary evaluation by DWR involves spending more than a year searching for animals and drilling soft-ball size holes more than 200 feet deep to examine soil conditions on properties located in Sacramento, San Joaquin, Yolo, Contra Costa, and Solano Counties. [Landowners sued DWR](#), objecting to the invasive nature and long-term access to their property that was being proposed.

In last week's ruling, the state's highest court assumed that both the environmental and geological activities proposed by DWR constitute a taking or damaging of property for which just compensation must be paid, but disagreed with the Appeal Court that DWR must go through formal eminent domain proceedings prior to entry because the existing pre-condemnation entry and testing statutes satisfies the requirements of the California constitutional takings clause ([Cal. Const, art. I, § 19](#), subd. (a)). The court did make a concession for Delta landowners by allowing them the right of a jury trial for damages that did not previously exist in law.

[DWR was pleased](#) by the court validating their right to access properties for preliminary engineering activities associated with investigating the feasibility of the Waterfix twin tunnel alignment without permanently acquiring the land. Many public agencies in California were also relieved because their public infrastructure projects would be more expensive and time consuming if unable to utilize temporary entry laws to evaluate suitability of land before initiating eminent domain proceedings on parcels needed for construction.

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## **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.)*

- [St. Helena, California: Dealing with a Field-of-Dreams Levee, Residual Risk, and Flood of Controversy](#)– California WaterBlog
- [Sites Reservoir likely years down the road](#) - Record Searchlight
- [Survey for Delta Tunnels can move forward](#) - Recordnet
- [State Supreme Court rules in state's favor on Delta property rights](#) - Sacramento Bee

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