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CALENDAR ALERTS

- Sept 3-6** Floodplain Management Association Annual [Conference](#), San Diego
Sept 21 Delta Waterway [Cleanup](#), 9:00 am – noon
Oct 2 Glenn Co. Preseason Flood Coordination mtg, Orland, 1:30-4:00 pm
Oct 16 San Joaquin Co. Preseason Flood Coordination mtg, Stockton, 9:00 am – 12:00 pm
Oct 28/29 Flood-MAR [Public Forum](#) on aquifer recharge, Cal State Sacramento
Oct 29 Sutter Co. Preseason Flood Coordination mtg, Yuba City, 9:00 am – 12:00 pm

FEATURED ASSOCIATE MEMBER

DOWNNEY BRAND

KEEPING UP

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

Dredge and Fill Regulations Take Effect in 2020

New State wetlands definition and procedures adopted by the State Water Resources Control Board for the discharge of dredge and fill materials to Waters of the State were approved by the Office of Administrative Law in August and will become [effective](#) on May 28, 2020. Once these additional burdensome bureaucratic hurdles are in place, construction timelines and project costs will increase. For projects that have already gone through CEQA review, project managers should submit their application for water quality certification before these new requirements take effect.

Goldsfields Levee Project Receives Funding

The Three Rivers Levee Improvement Authority (TRLIA) received a \$2 million loan from the Yuba Water Agency to advance land acquisition for the [Goldsfields](#) levee project to reduce flood risk for properties in Reclamation District 784 and to meet the state's urban standard of 200-year level of flood protection.

DELTA DOWNLOAD

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

SC Holds Rulemaking Hearing on Delta Levee Investment Strategy (DLIS)

Last year the DSC adopted amendments to the Delta Plan's Delta Levee Investment Strategy (DLIS) that prioritized the order in which Delta islands/urban areas should receive state funding for levee improvements in the Delta. Three categories for funding levee improvements were created in the DLIS prioritization: 1) Very High; 2) High; and 3) Other; while all maintenance work on levees is exempted from competing for funding under the DLIS prioritization. Those areas in the Very High category are first in line to receive funding appropriated by the Legislature. If there is funding left over, then the High category will receive, and then

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the islands in the Other category must compete for any remaining funding, if any is available. CCVFCA and many local flood control agencies in the Delta opposed the levee funding methodology adopted by the DSC in 2018.

According to Table 1 in proposed Section 5012 (found on page 12 of the [Initial Statement of Reasons](#)), there are a total of 142 distinct islands/areas listed in the DLIS prioritization: 17 in Very High; 34 in High; and 91 in the Other category.

On July 9, 2019 the DSC published a [Notice](#) of Proposed [Rulemaking](#) and announced a 45-day public review period. On August 22, 2019 the DSC held a “Public Hearing on Proposed Rulemaking for Section 5001 (Definitions) and Section 5012 (Delta Levees Investment Strategy)(Delta Plan RR P1) of Title 23 of the California Code of Regulations (Government Code §11346)” – Item 11 on their [Agenda](#).

Comment letters objecting to the proposed regulations were submitted by many organizations, including the CA Central Valley Flood Control Association ([CCVFCA](#)), Central Delta Water Agency ([CDWA](#)), Local Agencies of the North Delta ([LAND](#)), and the CA Farm Bureau Federation ([CFBF](#)) opposing the proposed regulations. Nineteen Delta Reclamation Districts also submitted letters objecting to the regulatory language.

There are three primary concerns with the proposed regulations raised in these letters:

Exceeds Statutory Authority - As currently written, the regulations exceed the Council’s statutory authority. Under the 2009 Delta Reform Act, Water Code [§85306](#), the Council is required to “recommend” priorities for state investments in Delta levees in the Delta Plan, which means provide guidance to entities disbursing state funding. At the hearing, Councilmember Randy Fiorini said it was not the intent for the regulation to dictate the allocation of grant funding appropriated by the Legislature, but the proposed regulations say nothing about only being recommendations or guidance, so would need to be re-worded.

Definitions Inconsistent with Existing Law/Regulations - *The CVFPB’s definition in their regulations (Title 23, Division 1, Chapter 1, Article 2, [§4\(v\)](#)) specifically includes “any activities” that “maintain the designated level of function.” In contrast, the [proposed DLIS regulation](#) creates a new “Levee rehabilitation” definition that appears to say that any work to restore levee integrity and preserve existing flood risk reduction benefits is separate from maintenance. Defining “rehabilitation” as a separate activity from “maintenance” appears to mean that all activities defined by DSC as rehabilitation will no longer be exempted as maintenance, leaving many islands with lower priority under DLIS and vulnerable to no longer receiving funding appropriated to DWR by the Legislature. The Central Delta Water Agency submitted alternative definitions language developed by local flood control agencies to replace maintenance, rehabilitation, and improvement definition proposed in DSC’s regulations.*

Inadequate Economic Analysis - *The Economic Analysis (found in the Initial Statement of Reasons hyperlinked above) also overlooks potential costs, which would arise from a lack of state investment in High and Other Priority islands/areas. The Economic Analysis failed to analyze the fiscal impact of not receiving federal levee repair funding under the Army Corps’ PL 84-99 program or increased state costs for paying damage lawsuits when levees fail due to maintenance funding being redirected to other levees designated as higher priority under DLIS. The DSC staff report’s claim that [DLIS prioritization](#) only “could change the timing of State investment in Delta levees but would not change the overall level of investment” contradicts the assumptions in the Economic Analysis. Even without quantifying the true cost of leaving 60 percent of levees without funding pursuant to DLIS prioritization methodology, the Economic Analysis recognizes that shifting that funding to Very-High Priority would provide a smaller benefit than the costs. The DLIS priority system could also disproportionately endanger legacy communities, another economic impact the analysis overlooked. The levees protecting Courtland, Clarksburg, Locke and the eastern side of Walnut Grove are all designated as Other Priority. This is inconsistent with protection of the Delta as a place as required by Public Resources Code section 29702, subdivision (a). (See also Cal. Code Regs., tit. 23, § 5011 [Respect Local Land Use].) Also inconsistent with existing legislative intent in WC §12981(b) declaring the Delta’s system of levees should be preserved in their present form and WC §12981(c) declaring that funds necessary to maintain and improve the Delta’s levees to protect the Delta physical characteristics should be used to fund levee work that would promote agricultural and habitat uses in the Delta consistent with the purpose of preserving the Delta’s invaluable resources.*

Before the hearing concluded, Councilmembers expressed a willingness to revise the proposed regulations, and even restart a new 45-day public comment period if the revisions are substantial. However, the Council still approved [Resolution 2019-2](#) to proceed with adoption at a future meeting. Under OAL’s process, a state agency must complete its rulemaking and submit the regulatory file within one year of when the Notice was published ([OAL](#) file #Z-2019-0625-05 submitted in July 2019). Therefore, the DSC has until July 2020 to finalize these regulations which allows plenty of time to consult with DWR, CVFPB, and local flood control agencies on revising these regulations and releasing them for another public review and comment period.

On a related note, Chair Tatayon announced the Council has developed a [Performance Measure Dashboard](#) to help track progress being made by the Delta Plan. She requested the Delta engineers take a look at the Dashboard’s tracking system for [levee performance metrics](#) and work with the Council on providing data to keep it updated. Currently, the tool only depicts a snapshot in time of levee standards, but does not present data in a way that can track annual progress. Under the Protect People and Property Performance Measure, the Dashboard also tracks metrics on implementation of [Multi-Hazard Coordination Task Force](#) recommendations, Flood Casualties and Damages, Water Export Delivery Interruptions, Sea Level Rise Planning, and Flood Insurance Community Ratings.

Time to Sign-Up for Delta Leadership Program

October 18 is the deadline to submit [application](#) to participate in the 2019 [Delta Leadership Program](#). The program offers a great opportunity to network with those working on Delta policy issues and learn more about various planning efforts in the Delta. Participation involves attending five all-day sessions starting in November and ending in March.

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.)

- [New Delta tunnel project begins taking shape](#) - The Press
- [Sea Level Rise Could Flood Bay Area Homes, According To New Map](#) - CBS San Francisco
- [Who Will Pay for the Huge Costs of Holding Back Rising Seas?](#) - Yale Environment 360
- [Fighting to Save the Delta as a Place, Fighting Construction Destruction](#) - Save the California Delta Alliance
- [Sites Reservoir—Improved Resilience for California in Wet, Dry and Average Years](#) - NCWA
- [CalEPA Secretary Jared Blumenfeld on California's Environmental Priorities Under the Trump Administration](#) - KQED
- [Spillway boat ramp reopens Friday at Lake Oroville](#) - Enterprise Record
- [Swamp rats have invaded California. A Central Valley Democrat is declaring war](#) - LA Times
- [Levee Improvements Move Ahead in the Lower Natomas Basin](#) - Dredging Today
- [US infrastructure unprepared for increasing frequency of extreme storms](#) - Science Daily
- [Researcher's innovative flood mapping helps water and emergency management officials](#) - Phys.Org
- [Lake Oroville Community Update: August 8](#) - DWR
- [Suisun harbor dredging to start next week](#) - Daily Republic
- [USACE Awards Construction Contract for Folsom Dam Raise Dike 8](#) - USACE
- [Secretary Crowfoot: Reactivating Natural Floodplains in Central Valley is a Win-Win](#) - DWR
- [Progress Continues on Yolo Bypass Floodplain Restoration](#) - NCWA
- [Brazen Thieves Use Bolt Cutters To Vandalize Levee Gate, Possibly Putting Community At Risk](#) - Sacramento Bee
- [How ground-based GPS stations help weather forecasters predict heavy rain and flooding](#) - Sac Bee
- [Why the U.S. disaster agency isn't ready for catastrophes](#) - E&E News
- [Cantu opposes building in flood zone until levees are upgraded](#) - Manteca/Ripon Bulletin
- [The Most Expensive Natural Disasters in U.S. History](#) - Kiplinger
- [State of California proposes plan for Delta levees](#) - The Press

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