

Delta Conveyance Project – Review, Permitting, Finance and Property Rights

Status: **MOSTLY INCOMPLETE X**

PERMIT/MILESTONE	ACTIONS	STATUS		OTHER NOTES
		COMPLETE	INCOMPLETE	
Environmental Review				
CEQA <i>Department of Water Resources</i>	Draft EIR circulated for public review July 27, 2022.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	Final EIR released December 8, 2023; Certification and Notice of Determination filed December 21, 2023.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Litigation commenced January 2024; trial court consolidated 10 actions in October 2024.
NEPA <i>U.S. Army Corps of Engineers</i>	Draft EIS Analyzing Construction of Tunnel circulated for public review December 16, 2022.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Does not analyze operation impacts of DCP.
	Final EIS Analyzing Construction of Tunnel.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No Record of Decision.
<i>U.S. Bureau of Reclamation</i>	Draft EIS Analyzing Long-Term Operations of the Central Valley Project and State Water Project July 26, 2024.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Very coarse programmatic operations assessment of DCP in appendix.
	Final EIS Analyzing Long-Term Operations of the Central Valley Project and State Water Project November 15, 2024.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No Record of Decision.
Other Processes				
Federal Endangered Species Act, Section 7, Biological Opinion <i>U.S. Fish and Wildlife Service; National Marine Fisheries Service</i>	USACE submitted draft Biological Assessments to the federal fisheries agencies in May 2024.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
California Endangered Species Act, Section 2081, Incidental Take Permit <i>California Department of Fish and Wildlife</i>	Incidental Take Permit application submitted April 9, 2024.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

Delta Conveyance Project – Review, Permitting, Finance and Property Rights

Status: **MOSTLY INCOMPLETE** ❌

PERMIT/MILESTONE	ACTIONS	STATUS		OTHER NOTES
		COMPLETE	INCOMPLETE	
Other Processes (cont.)				
California Fish and Game Code, Section 1602, Lake and Streambed Alteration Agreement <i>California Department of Fish and Wildlife</i>		<input type="checkbox"/>	<input checked="" type="checkbox"/>	It appears this process has not begun.
Clean Water Act, Section 404 <i>U.S. Army Corps of Engineers</i>	Amended application submitted July 7, 2022.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Rivers and Harbors Act, Section 10 <i>U.S. Army Corps of Engineers</i>	Amended application submitted July 7, 2022.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Rivers and Harbors Act, Section 14, 33 USC Section 408 <i>U.S. Army Corps of Engineers</i>	Central Valley Flood Protection Board Statement of No Objection submitted May 22, 2020.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
National Historic Preservation Act, Section 106, Programmatic Agreement <i>U.S. Army Corps of Engineers</i>	Revised draft circulated to consulting parties January 27, 2023.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Programmatic Agreement under development.
Change in Point of Diversion <i>State Water Resources Control Board</i>	DWR Change in Point of Diversion Petition submitted February 22, 2024; Notice of Public Hearing issued July 31, 2024; Amended Notice of Public Hearing issued November 18, 2024.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	40 protests to DWR's Petition filed. Hearing process currently scheduled to commence in February 2025, with DWR's case in chief due in March 2025. New points of diversion for DCP would be limited by maximum historical diversions from existing Delta diversions as of December 2009.

Delta Conveyance Project – Review, Permitting, Finance and Property Rights

Status: **MOSTLY INCOMPLETE X**

PERMIT/MILESTONE	ACTIONS	STATUS		OTHER NOTES
		COMPLETE	INCOMPLETE	
Other Processes (cont.)				
Extension of Time to Construct and Put Water to Beneficial Use <i>State Water Resources Control Board</i>	DWR Petition for Extension of Time filed in December 2009, withdrawn in August 2024. The time period for the DWR to perfect beneficial use of its water rights under the SWP Permits has expired. DWR submitted a “change request” to the SWRCB Division of Water Rights on August 22, 2024, seeking to modify Term 6 to retroactively provide 55-year extension of time to complete construction (to December 31, 2055); the Administrative Hearing Officer has recommended that the request be rejected.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Due Diligence litigation on DWR’s 2009 Extension Petition and related protests commenced April 2024.
Clean Water Act, Section 401, and Porter-Cologne Act, California Water Code, Section 13000 et. seq., Water Quality Certification and Waste Discharge Requirements <i>State Water Resources Control Board</i>		<input type="checkbox"/>	<input checked="" type="checkbox"/>	It appears this process has not begun.
Wetland Riparian Area Protection Policy <i>State Water Resources Control Board</i>		<input type="checkbox"/>	<input checked="" type="checkbox"/>	It appears this process has not begun.
Consistency of 2024-2026 Proposed Geotechnical Activities with Delta Plan <i>Delta Stewardship Council</i>	Consistency Certification for limited geotechnical activities submitted to Delta Stewardship Council October 8, 2024; four appeals filed November 8, 2024. Appeal hearings are scheduled for December 19, 2024.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Trial court enjoined geotechnical activities pending Consistency Certification for DCP May 2024; DWR appeal filed August 2024. DWR attempts to stay the injunction were unsuccessful.

Delta Conveyance Project – Review, Permitting, Finance and Property Rights

Status: **MOSTLY INCOMPLETE X**

PERMIT/MILESTONE	ACTIONS	STATUS		OTHER NOTES
		COMPLETE	INCOMPLETE	
Finance				
Consistency of Delta Conveyance Project with Delta Plan <i>Delta Stewardship Council</i>	“Early consultation” ongoing.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Revenue Bond Financing <i>Department of Water Resources</i>	Bond Resolutions issued and DWR Validation Action filed in August 2020; seven answers were filed; trial court judgment against DWR and Supporting Water Contractors January 2024, concluding that the Bond Resolutions exceeded DWR’s authority.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	DWR and other appeals filed February 2024.
Contractor Financing Commitments <i>State Water Contractors</i>	DWR is in the process of obtaining an additional \$300 million funds for DCP planning and permitting costs.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	It is estimated that less than half of the necessary planning funds have been committed.
Property Access and Acquisition				
Access for Geotechnical and Environmental Investigations <i>Department of Water Resources</i>	Since 2009, DWR has commenced over 200 Temporary Entry Permit cases which, in 2010, were coordinated for litigation in San Joaquin County (JCCP 4594), in order to advance the BDCP, WaterFix, and, now, the DCP.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	DWR continues to file “add-on” entry cases, most of which are contested by Delta landowners, in JCCP 4594.
Acquisition/Eminent Domain for Construction <i>Department of Water Resources</i>	Hundreds of private property interests would be necessary for construction of the DCP. The EIR estimates 1,277 acres are needed for permanent use and 1,390 acres are needed for temporary use—a total of 2,667 acres.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Currently DWR does not own any land needed for the DCP. Separate eminent domain lawsuits will likely need to be filed and litigated to obtain property for DCP.

For more information on the Delta Conveyance Project’s environmental compliance and permitting processes, visit <https://www.deltaconveyanceproject.com/planning-processes>. Other permits, including local permits and those related to construction, may also be needed.

Delta Counties Coalition
savethedelta.saccounty.gov
Updated December 2024