



Delta Counties Coalition

Contra Costa County | Sacramento County | San Joaquin County | Solano County | Yolo County
"Working together on water and Delta issues."

October 29, 2025

SENT VIA EMAIL: SWPWRT@water.ca.gov

Analisa Martinez
Environmental Program Manager II
Division of Integrated Science and Engineering
Department of Water Resources
P.O. Box 942836
Sacramento, CA 94236-0001

Re: Comments on the Notice of Preparation of an Environmental Impact Report for California Department of Water Resources' Petition to the State Water Resources Control Board for Extension of Time to Modify the Timeframe of Conditional Water Rights Under State Water Project Permits 16478, 16479, 16481, 16482, 16477 and 16480

Dear Ms. Martinez:

These comments are submitted on behalf of Delta Counties Coalition ("DCC")¹ on the Notice of Preparation ("NOP") for an Environmental Impact Report ("EIR") for the California Department of Water Resources' ("DWR") Petition to the State Water Resources Control Board ("SWRCB") for Extension of Time to modify the timeframe of Conditional Water Rights Under the State Water Project Permits 16478, 16479, 16481, and 16482 for water supply and Permits 16477 and 16480 for hydropower operations ("Extension of Time").² SWRCB is the permitting and responsible agency under CEQA for both the Extension of Time and for the change in point of diversion requested by DWR for the Delta Tunnel project. (Wat. Code, § 1701; Cal. Code Regs., tit. 23, § 791; Pub. Resources Code, § 21069.) The Delta Tunnel is proposed to ultimately form part of diversion system for the State Water Project.³

¹ The Delta Counties Coalition includes Contra Costa, Sacramento, San Joaquin, Solano, and Yolo counties, and works to give one voice to the Delta, advocating on behalf of local government and the 4 million people throughout the Delta region.

² Department of Water Resources. September 30, 2025. *Notice of Preparation of an Environmental Impact Report for the Petition Requesting an Extension of Time to More Fully Exercise Conditional Water Rights for Operation of the State Water Project*. Available at: <https://files.ceganet.lci.ca.gov/317416-1/attachment/bnOpWTAAbMxj0-IWRldV9NFvXMgg55oTazdAJmSRkEjUIKSxqKCeOi4gU55sUHNvDHD0LoEJUQofuz4xf0>

³ Department of Water Resources. 2023. *Certified Final EIR, Delta Conveyance Project*. (Chapter 2 states the Delta Tunnel would be part of the SWP). Available at: <https://www.deltaconveyanceproject.com/planning-processes/california-environmental-quality-act/final-eir>

The primary concerns of the DCC are that the NOP fails to clearly identify the project that is subject to the California Environmental Quality Act ("CEQA"),⁴ and more specifically, that the NOP fails to disclose that the Extension of Time is necessary to carry out the Delta Tunnel project, which has been improperly reviewed in a separate process.

The NOP Fails to Accurately Describe Project / Allow A Meaningful Response

The project described as subject to review in the NOP is a petition to extend the time for construction and beneficial use of water permits issued by the SWRCB to DWR for operation of the State Water Project. These dates would be extended to "no later than December 31, 2085" allegedly "without altering the existing permitted quantities or rates, purpose of use, season of use, points of diversion, or places of use." According to DWR, extension would "provide additional time to meet changing water supply demands while ensuring environmental protections."⁵ The DCC has concerns about this vague, truncated and misleading project description.

The NOP fails to provide information about the project and its potential environmental effects, in a manner that allows meaningful comment. (CEQA Guidelines, § 15082, subd. (a)(1) [purpose of NOP is to support meaningful comment by describing project and potential impacts].) The NOP also fails to describe the actual project subject to CEQA, including the activity that may cause a physical change in the environment. (Pub. Resources Code, § 21065, subd. (a).) The NOP claims that the extension is sought "**without altering the existing . . . points of diversion,**" yet the water rights change petition hearing notices for the Delta Tunnel make clear that (and the whole purpose of the ongoing hearing is to make) changes to the currently authorized points of diversion would be necessary to construct the Delta Tunnel.⁶ Moreover, that same hearing process acknowledges the need for an Extension of Time for these same permits in order to construct and operate the Delta Tunnel.⁷ The statement in the NOP that no changes to the State Water Project diversion points are part of the Extension of Time is contrary to this readily available information.

The NOP also fails to provide any detail as to how affected resources may be impacted by the amorphous changes contemplated to the State Water Project, simply listing biological resources, surface water hydrology, surface water quality, and tribal cultural resources, without any explanation of why or how these

⁴ Pub. Resource Code, § 21000 et seq.

⁵ Department of Water Resources. September 30, 2025. *Notice of Preparation of an Environmental Impact Report for the Petition Requesting an Extension of Time to More Fully Exercise Conditional Water Rights for Operation of the State Water Project*, p. 3. Available at: <https://files.ceganet.lci.ca.gov/317416-1/attachment/bnOpWTAAbMxj0-IWRIdV9NFvXMqg55oTazdAJmSRkEjUIKSxqKCeOi4gU55sUHNvDHD0LoEJUQofuz4xf0>.

⁶ See, e.g., Third Amended Notice of Public Hearing and Procedural Ruling, State Water Resources Control Board, Administrative Hearings Office, Public Hearing on pending **Petitions for Change of Water Right Permits 16478, 16479, 16481, and 16482** of Department of Water Resources, available at: https://www.waterboards.ca.gov/water_issues/programs/administrative_hearings_office/docs/2025/2025-02-28-dcp-third-amended-hearing-notice.pdf.

⁷ *Id.* at pp. 3-10.

resources would be impacted.⁸ The DCC is also concerned about impacts to other resources, such as public services, air quality, transportation, and others, from the construction of **unknown future facilities six decades into the future**. The information in the NOP does not support meaningful responses and is not credible given the size and scale of the State Water Project and the implications of extending the time to construct and operate an unknown panoply of new facilities in the future. (NOP "Background" section, p. 2.)

The Project is Part of the Delta Tunnel and Should Likely Be Combined with Environmental Review for the Delta Tunnel

DWR has already completed environmental review for the Delta Tunnel⁹ and submitted a petition to change the points of diversion for the State Water Project to the Sacramento River near the town of Hood, which are needed to construct and operate the Delta Tunnel diversions that are proposed to connect via a 39-foot in diameter 45-mile long tunnel to Bethany Reservoir in Alameda County.¹⁰ The NOP shows the whole State Water Project as the project area, never mentioning the Delta Tunnel or any specific infrastructure additions. It also states that the extension is sought "without altering the existing . . . points of diversion," thereby misleading the public as to the nature of the project under review. As explained above, the water rights change petition hearing notices for the Delta Tunnel make clear that the State Water Project's currently authorized points of diversion do not include those proposed for the Delta Tunnel.

The decision on the Petition for Extension of Time by the SWRCB as a responsible agency should likely have been considered as part of the Delta Tunnel CEQA review process. (CEQA Guidelines § 15378, subd. (a) ["project" must include the whole of an action]; *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 396.) Having failed to properly review the whole of the action, DWR should examine the applicability of available subsequent environmental review processes that would fully inform the public of the interconnectedness of the Extension of Time with the Delta Tunnel. (See CEQA Guidelines, § 15162.) Or, if the Extension of Time truly pertains to other planned actions or infrastructure, DWR should explain what those actions are. The NOP is devoid of this information.

As representatives of the region most directly affected by DWR's activities in the Delta, the DCC appreciates consideration of its concerns and comments.¹¹ Please

⁸ Department of Water Resources. September 30, 2025. *Notice of Preparation of an Environmental Impact Report for the Petition Requesting an Extension of Time to More Fully Exercise Conditional Water Rights for Operation of the State Water Project*, p. 4.

⁹ Department of Water Resources. 2023. *Certified Final EIR, Delta Conveyance Project*. Available at: <https://www.deltaconveyanceproject.com/planning-processes/california-environmental-quality-act/final-eir>

¹⁰ Karla Nemeth, Director, Department of Water Resources. February 22, 2024. Letter to the State Water Resources Control Board Submitting a Petition to Change the Point of Diversion. Available at: https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Delta-Conveyance/Public-Information/Revised_DCP_CPOD_Petition_Package_2024.pdf.

¹¹ Individual counties may have their own comments.

Department of Water Resources

October 29, 2025

Page 4 of 4

include our DCC Coordinator Elisia De Bord at deborde@saccounty.gov on all communications regarding this environmental review process.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick Hume", with a stylized flourish extending to the right.

Patrick Hume, Chair
Delta Counties Coalition