



### **Delta Counties Coalition**

Contra Costa County · Sacramento County · San Joaquin County · Solano County · Yolo County

*"Working together on water and Delta issues"*

December 18, 2023

The Honorable Michael L. Connor  
Assistant Secretary of the Army for Civil Works  
108 Army Pentagon, Room 3E 446  
Washington, DC 20310-0108

Dear Mr. Connor:

Thank you for meeting with representatives of the Delta Counties Coalition on December 6, 2023, and the opportunity you graciously afforded the Coalition to discuss its general concerns with the Delta Conveyance Project (DCP) and to highlight the critical role the United States Army Corps of Engineers plays as lead agency tasked with evaluating the DCP for compliance with the National Environmental Policy Act (NEPA). As you know and as we discussed, the DCP is a massive undertaking proposed by the California Department of Water Resources, ostensibly for the purpose of diverting water destined for the Sacramento-San Joaquin Delta (Delta) to other parts of the State via a tunnel that bypasses the natural Delta channels. The project would consist of up to three intake facilities in the Sacramento River, a 45-mile-long tunnel section, a pumping plant and surge basin south of Clifton Court Forebay, and a 2.5-mile aqueduct to a new discharge facility at Bethany Reservoir.

The construction and operation of the DCP would have profound environmental effects on the Delta, which is a National Heritage Area. As proposed, the project would permanently alter and irreparably damage Delta landscapes and waterways, impact family farms and agricultural operations, and have other noise, air quality, and environmental negative effects associated not only with its disruptive 13 plus years of construction, but also ensuing operations. These operations could remove up to half of the average flow of the Sacramento River. We ask that you exercise your oversight responsibility for the supervision of the functions of the Corps of Engineers relating to programs for conservation and development of the national water resources and ensure that the Sacramento District Corps of Engineers thoroughly considers and analyzes all of the environmental consequences of this project, as required by NEPA.

Although the Corps of Engineers is not the proponent of the project, it has been assigned lead agency responsibility for assuring federal compliance with NEPA because of its permitting responsibilities under Section 404 of the Clean Water Act (33 USC 1344) and Sections 10 and 14 of the Rivers and Harbors Appropriations Act of 1899 (33 USC 403 and 33 USC 408, respectively). The Sacramento District Corps of Engineers is currently engaged in preparation of the final Environmental Impact Statement (EIS) for this project, and its release is expected later in 2024. This EIS analyzes only construction, not operation, of the project, which we believe is in error. We urge you to ensure that the District conducts a thorough review of this project as required under NEPA. That includes development of a full range of reasonable alternatives to the proposed project and disclosure of all associated environmental impacts of the project, with

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mitigations proscribed to the maximum extent possible. We also call your attention to two issues that implicate the specialized expertise and permitting responsibilities of the Corps of Engineers and warrant the Sacramento District's close attention.

Region IX of the United States Environmental Protection Agency has thrice written the Sacramento District Corps of Engineers (see attached EPA letters dated November 9, 2015, October 10, 2020, and March 16, 2023) stating that the Section 404 Clean Water Act permit associated with the DCP is a candidate for elevation to the EPA Headquarters, Office of Water, pursuant to the 1992 Memorandum between EPA and the Department of the Army implementing Section 404 (q) of the Clean Water Act. The first two letters from EPA note that the Sacramento-San Joaquin Delta "is an aquatic resource of national importance" and unless mitigated, discharges associated with the project will have "substantial and unacceptable impacts" on this resource. The third letter from EPA expresses specific concerns with compliance with the Section 404 (b)(1) guidelines. It recommends "analysis and disclosure of the project's secondary effects, including, but not limited to: changes in the salinity gradient and the location and volume of the low salinity zone in all seasons; adverse effects on water quality including the amplification of water quality impairments; disruption of migratory corridors for salmonids and sturgeon; degradation of aquatic life beneficial uses; disruption and loss of ecosystem processes; reductions in cold water supply for migratory fishes in the upper watershed; and changes to river hydrology."

As we also discussed, the project will require issuance of Corps of Engineers section 408 permits for crossings and alterations of Federally constructed portions of the Sacramento Levee system. The Delta Counties Coalition fears these crossings and alterations would interfere with the levee system, threatening the integrity and proper functioning of this critical flood protection system. We believe that maintaining and improving the existing levees will better protect the Delta and associated water supply infrastructure from earthquake risks and climate change, and we ask that these alternatives be actively considered in lieu of harmful crossings and alterations now under consideration.

Thank you again for the opportunity to discuss this controversial, environmentally impactful project. We urge that the project's environmental consequences be fully evaluated as required under NEPA.

Sincerely,



Patrick Hume, Supervisor  
Sacramento County



Oscar Villegas, Supervisor  
Yolo County



Ken Carlson, Supervisor  
Contra Costa County



Mitch Mashburn, Supervisor  
Solano County



Tom Patti, Supervisor  
San Joaquin County