

Contents

1		
2	Common Response 7: Implementation Considerations.....	2
3	Overview	2
4	Project Costs and Funding Sources.....	2
5	Costs to Public Water Agencies.....	2
6	Costs to Water Users.....	3
7	Costs to Taxpayers.....	3
8	Funding Sources	4
9	Economic and Financial Feasibility	4
10	Socioeconomic Analysis Approach Used in the EIR	5
11	Effects on Property Tax Revenue	6
12	Financial Effects on Special Districts.....	6
13	Community Engagement During Project Implementation	7
14	Regulatory Mitigation.....	7
15	Community Benefits Program	8
16	Ombudsman Program	8
17	Commitment to Equitable Contracting.....	8
18	Coordination with Property Owners.....	9
19	Property Acquisition Process.....	9
20	Obtaining Right of Entry Access	9
21	References Cited	9
22		

Common Response 7: Implementation Considerations

Overview

This Common Response addresses a range of topics related to implementation of the Delta Conveyance Project (project). These topics include project costs and funding sources, economic and financial feasibility, the economic analysis approach used in the Delta Conveyance Project Environmental Impact Report (EIR), financial effects on local governments and special districts, community engagement during implementation, commitment to equitable contracting, and coordination with property owners.

Although they were common themes of comments on the Draft EIR, project costs and changes in the economic value of specific resources are not impacts under the California Environmental Quality Act (CEQA). Economic evaluation techniques such as cost-benefit analyses, financial feasibility analyses, or non-market valuation can be used to inform decisions about projects as part of, for example, plan formulation and feasibility studies. These analyses, however, are neither required by CEQA nor typically included in an EIR. Under CEQA, social or economic effects alone are not treated as impacts on the physical environment. Public agencies are directed to consider economic, social, and housing effects together with technological and environmental factors in deciding whether project changes are feasible to reduce or avoid significant effects (CEQA Guidelines §§ 15064(e), 15131).

Project Costs and Funding Sources

Several comments requested additional information on the estimated costs to construct and operate the project. Other comments requested more information about how the project would be funded and who would be responsible for providing those funds. Information in response to those comments is presented in the following sections.

Costs to Public Water Agencies

The construction of the Delta Conveyance Project is estimated to cost approximately \$16.0 billion (Delta Conveyance Design and Construction Authority 2020). As described in Chapter 3, *Description of the Proposed Project and Alternatives*, in the section titled *Contract Amendments*, the costs of constructing, operating, and maintaining the State Water Project (SWP) water supply function, including the proposed Delta Conveyance Project if approved, would be paid entirely by the local public agencies that contract with California Department of Water Resources (DWR) for a supply of water from the SWP.

DWR has 29 contracts with public water agencies (PWAs), or SWP contractors. DWR and many of the PWAs have been coordinating to amend the SWP water supply contracts to add terms and conditions applicable to the construction, operation, and maintenance of a new Delta conveyance facility. Public negotiations between DWR and PWAs were held following publication of the January 2020 Notice of Preparation for the Draft EIR. These negotiations concluded in March 2021 and resulted in an Agreement in Principle among DWR and many PWAs that describes a conceptual approach to cost allocation and the related financial and water management matters for a Delta conveyance facility.

The objective of the Agreement in Principle is to “Develop an agreement between the State Water Project Contractor Public Water Agencies and Department of Water Resources to equitably allocate

costs and benefits of a potential Delta Conveyance Facility that preserves operational flexibility such that the Department of Water Resources can manage the State Water Project to meet regulatory requirements, contractual responsibilities, and State Water Project purposes” (California Department of Water Resources and State Water Contractor Public Water Agencies 2021). The contract amendment language would be developed consistent with the Agreement in Principle but would be approved only if DWR approves the Delta Conveyance Project after completion of the CEQA environmental review process.

DWR would fund all mitigation measures, including those measures described in the Compensatory Mitigation Plan (CMP). As described in Appendix 3F, *Compensatory Mitigation Plan for Special-Status Species and Aquatic Resources*, in the section titled *Financial Assurances*, DWR would fund the initial establishment and long-term management of the mitigation sites of the CMP. These costs would then be charged to participating SWP water contractors. This funding would ensure that the mitigation sites continue to meet the established goals of the CMP and any subsequent management plans. DWR and participating SWP contractors would fund the mitigation described in the CMP through the amended water supply contracts. Please see Common Response 1, *CEQA Process, General Approach to Analysis, and Other Environmental Review Issues*, regarding the CEQA requirements for mitigation measures, the feasible mitigation measures included in the EIR, and mitigation measure implementation through the Mitigation Monitoring and Reporting Program.

DWR bills the SWP contractors annually for the costs of constructing, operating, and maintaining the SWP and has not experienced SWP contractor payment delinquencies or defaults that have had a materially adverse effect on the operation or maintenance of the SWP, or on DWR’s ability to pay its obligations when due. This is a clear demonstration that the contracts between DWR and the PWAs are the foundation of the SWP’s fiscal strength.

Costs to Water Users

The rates charged to water users by individual water agencies receiving SWP supplies are based on the independent rate-setting policies of those agencies. The costs for water vary widely among contractors south of the Delta and depend on the source of water, transport facilities, and energy requirements, among other factors. The final cost of water from the new conveyance facilities would be based on factors that have yet to be determined, such as the project yield and allocation of costs. Implementation of the project would not affect how agencies distribute water supply costs among their water customers. The project may require PWAs to increase their rates and charges to cover the costs of the project if their existing revenue sources are not adequate. Each PWA and its managing board would assess the potential for rate increases due to the project and determine the degree of impact on their customers before agreeing to participate in the project.

The PWAs using SWP water will be addressing water supply reliability in a number of ways in the future, with or without this project. The EIR does not speculate on what those future other projects or programs might be, nor the costs and potential effects on customer water rates.

Costs to Taxpayers

A common misconception about the funding for DWR, the SWP, and the Delta Conveyance Project is that DWR and the water supply projects it manages are funded out of the State’s General Fund or from state tax revenue, which is not the case. The SWP is funded independently and is essentially self-funded with respect to its water supply purposes and is operated more like a public utility

1 funded by the rates and fees paid by the customers of each of the PWAs participating in the SWP.
2 The water contractors benefiting from the project and their customers would bear all costs
3 associated with constructing, operating, and maintaining the Delta Conveyance Project and the costs
4 of mitigating the impacts of those new facilities, not taxpayers.

5 **Funding Sources**

6 Like any DWR project, DWR would finance the Delta Conveyance Project by issuing bonds (debt)
7 that would be paid back over time by those PWAs that participate in the project and that contract
8 with DWR for a supply of water from the SWP (California Department of Water Resources 2021).
9 The only difference is the magnitude of the project cost. DWR's role as owner and operator of the
10 SWP is to raise revenue for the project and keep it operating. This is accomplished with a
11 combination of current cash flow and debt issuances. These costs are then reimbursed by the PWAs
12 that receive water supply from the project. The budget to construct the project would be reviewed
13 by the PWAs, their board members, and the public through the PWAs' public decision-making
14 process prior to their agreeing to participate in funding the project.

15 Before DWR can issue bonds to construct the project, it must first make a decision (following
16 completion of the CEQA process) to construct the project; then make arrangements with the PWAs
17 to repay the bonds to fund project construction; and finally, complete agreements with the PWAs to
18 fund the long-term operations and maintenance costs that would occur over the life of the project.

19 The bonds to construct the project would initially be purchased by investment banks or large
20 institutional investors such as banks and insurance companies. Investment banks may then resell
21 those bonds to retail investors. Over time, these bonds may be purchased and resold multiple times
22 in the municipal securities market.

23 The PWAs would reimburse DWR for the costs of issuing the bonds using revenue collected from
24 their customers (in the form of water rates and charges) and (for some SWP contractors) using
25 revenue raised from local property taxes.

26 **Economic and Financial Feasibility**

27 Comments requested additional information about the economic and financial feasibility of the
28 project. Several comments specifically requested that a rigorous cost-benefit analysis be conducted
29 at the same time as the CEQA environmental review was being conducted so that decision makers
30 and the public would be able to make sound financial decisions regarding the project.

31 An economic cost-benefit analysis or financial analysis is not required as part of the EIR. Notably,
32 however, if a project requires preparation of a statement of overriding considerations pursuant to
33 CEQA because it will result in significant and unavoidable adverse environmental effects, that
34 statement may identify the project's economic benefits as an "overriding consideration" that
35 warrants the project's approval notwithstanding its significant and unavoidable adverse
36 environmental effects.

37 Decisions regarding costs and financing are distinct but are to some degree driven by the
38 environmental and permitting compliance needs for the project because those elements contribute
39 to overall project cost. The EIR addresses physical environmental impacts and, generally, the
40 benefits of the project. The scope of the CEQA analysis is sufficient for decision-making purposes
41 related to physical environmental impacts, alternatives, and mitigation.

If appropriate, the financial feasibility of project alternatives would be addressed in DWR's CEQA findings. The statement of overriding considerations would balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of the proposed project against its unavoidable environmental risks when determining whether to approve the project.

DWR would complete a cost-benefit analysis as part of the overall planning process before moving forward with the project. Please see Common Response 1 for more information about the CEQA process and the approval of projects with significant and unavoidable impacts.

Socioeconomic Analysis Approach Used in the EIR

Under CEQA, purely social or economic effects are not impacts on the physical environment. Public agencies are directed to consider economic, social, and housing effects together with technological and environmental factors in deciding whether project changes are feasible to reduce or avoid significant effects. Economic and social factors could figure in a CEQA evaluation only under the following circumstances: if the economic and social changes could in turn lead to impacts on the physical environment; if the changes help inform the significance of physical impacts; if economic or social factors can help to determine the feasibility of project alternatives or mitigation measures; and if social and economic changes can inform a statement of overriding considerations, which is required when a project will result in significant and unavoidable adverse environmental effects (CEQA Guidelines §§ 15064(e), 15131, 15093).

Chapter 17, *Socioeconomics*, includes analyses of social and economic effects related to employment, population, housing, community character, government fiscal conditions, and recreational and agricultural economics. Some analyses in Chapter 17 identify where physical changes could occur stemming from social or economic effects. For example, ECON-1: *Changes in Regional Employment and Income* and ECON-2: *Changes in Regional Population and Housing* analyze how changes in employment could lead to changes in population and housing demand.

The analyses in Chapter 17 also identify where a direct physical change to the environment could create substantial social or economic effects that may be used to determine the significance of the physical change. Where physical changes are identified that have related, quantifiable economic or social effects, then these effects are analyzed quantitatively. For example, physical effects on agriculture identified in Chapter 15, *Agricultural Resources*, are used in the ECON-1 analysis to quantify the effects on agricultural employment and labor income and in the ECON-6: *Changes in Agricultural Economics in the Statutory Delta and Project Area* analysis to quantify the effects on gross agricultural output. In other instances, physical effects that could lead to economic or social effects are identified, but these effects are more subjective and difficult to quantify in economic terms. In these instances, the socioeconomic analysis is conducted qualitatively. For example, physical effects identified in Chapter 24, *Noise and Vibration*, are discussed qualitatively in Chapter 17 in ECON-3: *Changes in Community Character in the Statutory Delta* because they have the potential to affect community character, and in ECON-5: *Changes in Recreational Economics in the Statutory Delta and Project Area* because they have the potential to affect recreational experiences and spending. In other cases, physical effects identified in other resource chapters would not lead to social or economic effects; therefore, they are not analyzed in Chapter 17.

Chapter 17 also provides a qualitative analysis of the potential effects on south-of-Delta SWP/CVP export service areas in ECON-7: *Socioeconomic Effects in the South-of-Delta SWP/CVP Export Service*

1 *Areas.* However, potential social and economic changes experienced in these areas would not be the
2 result of direct physical effects of the project construction or operations footprint. They could result
3 from changes in water supply reliability once the project is operational, or from changes in water
4 supply cost resulting from the project. Also, as discussed in ECON-7, social and economic effects
5 related to the project alternatives in the south-of-Delta SWP/CVP export service areas would be
6 spread over such a large region that they would not lead to specific, quantifiable physical changes.

7 **Effects on Property Tax Revenue**

8 Property tax revenue effects of land acquisitions required for construction, operation, and
9 maintenance of water conveyance facilities and the CMP are discussed in Chapter 17 under ECON-4:
10 *Changes in Local Government Fiscal Conditions in the Delta Region.* As discussed for this impact, any
11 losses in property tax revenues resulting from the State's acquisition of private lands required to
12 construct, operate, and maintain the project or to implement the CMP would be offset. California law
13 requires "full mitigation of property tax or assessments levied by local governments or special
14 districts for land used in the construction, location, mitigation, or operation of new Delta conveyance
15 facilities" (California Water Code [Wat. Code] § 85089). Therefore, there would be no effects on local
16 government fiscal conditions resulting from lost property tax revenue associated with the
17 construction, operation, and maintenance of the project alternatives or with the implementation of
18 the CMP.

19 **Financial Effects on Special Districts**

20 Comments raised concerns about Delta reclamation districts experiencing reduced assessment
21 revenues and increased costs to maintain existing levees due to seepage or erosion damage and
22 increased drainage pumping costs. Comments also expressed concern that loss of productive
23 agricultural lands and the resulting cessation of water service to those lands would negatively affect
24 irrigation district operating revenues. Some comments requested that financial mitigation be
25 provided to offset effects on irrigation district annual revenue caused by the removal of irrigated
26 agricultural lands from the district service area.

27 The project would not significantly affect levees maintained by Delta reclamation districts. Levees in
28 the vicinity of project features would continue to be maintained following construction in a manner
29 consistent with current practices. The information contained in Chapter 7, *Flood Protection*, explains
30 and provides feasible mitigation measures to reduce physical environmental impacts on levees or
31 flood control where necessary for certain alternatives, as a result of project and CMP construction
32 and operations. As discussed in Chapter 17 under ECON-4, any losses in assessments levied by
33 special districts as a result of the State's acquisition of private lands to construct, operate, and
34 maintain the project or the CMP would be offset in accordance with California law (Wat. Code §
35 85089). As described in Common Response 8, *Relationship to Other Plans, Projects, Policies, and*
36 *Programs*, DWR has a role and responsibility along with local governments and special districts to
37 maintain and improve levees that protect the Delta. Those commitments would continue regardless
38 of the future of the Delta Conveyance Project.

39 Similarly, with respect to irrigation districts, as discussed in Chapter 17 under ECON-4, any losses in
40 assessments levied by special districts as a result of the State's acquisition of private lands
41 (including productive agricultural land) to construct, operate, and maintain the project or to
42 implement the CMP would be offset in accordance with California law (Wat. Code § 85089). It would
43 be speculative to determine potential irrigation district lost revenue under operating conditions

because of multiple variables, including the number of acres permanently removed from production in an irrigation district's service area specifically, amount of revenue collected from assessments versus water sales and other sources, and amount of water received by the irrigation district under the SWP contract amount and from other sources. Thus, costs to individual irrigation districts were not evaluated in the EIR.

Community Engagement During Project Implementation

Comments requested specific community engagement at various points throughout the project's final design and implementation phases. Comments also requested community and interested party engagement in development of mitigation plans and mitigation actions.

DWR would provide regular email and website updates with information and maps that the public might need during project implementation. As described in Chapter 3, regular updates would include information such as road closures or detours and notifications about nighttime work or work progressing from one area to another. A robust communications plan would ensure that members of the public, particularly Delta community members, are informed of project construction activities. In addition, DWR has developed three distinct but complimentary processes intended to address effects within local communities during implementation.

- Regulatory mitigation
- Community Benefits Program
- Ombudsman Program

The following sections provide additional information about how DWR would include community engagement and incorporate community input for each of those processes.

Regulatory Mitigation

Regulatory mitigation includes those mitigation activities DWR is required to implement to address specific potentially significant physical environmental impacts disclosed in the EIR and as part of other regulatory approvals. Typically, infrastructure projects do not include a community engagement component related to regulatory mitigation. DWR recognizes that the implementation of mitigation could have impacts that are of concern to the community. DWR is committed to offering opportunities for engagement with the public or other interested parties related to regulatory mitigation, where feasible and appropriate, or where required by the mitigation measure.

The Delta Conveyance Design and Construction Authority (DCA) would also convene an Environmental Compliance and Mitigation Committee to provide a public forum to discuss construction and related environmental conditions and mitigation measures. Other types of public input would include some combination of outreach to local subject matter experts, broad or localized sharing of draft plans for community input, or short-term working groups, such as Community Advisory Groups. Outreach would not strictly relate to regulatory mitigation and may include opportunities for community input into the final design of Delta Conveyance Project features.

Community Benefits Program

As described in Chapter 3 in the section titled *Community Benefits Program*, DWR is developing a Community Benefits Program for the proposed Delta Conveyance Project, which, if the project is approved, would ultimately identify and implement commitments to help protect and enhance the cultural, recreational, natural resources, and agricultural values of the Delta. The commitments made through the Community Benefits Program would be separate from, and in addition to, mitigation measures identified in the EIR and would seek to address local Delta community effects that are beyond CEQA's analysis of potential significant impacts on the physical environment. Appendix 3G, *Community Benefits Program Framework*, identifies the goals, objectives, and potential components of the Delta Conveyance Project's Community Benefits Program. Its purpose is to provide a roadmap for the next steps in developing the Community Benefits Program, including ensuring meaningful community participation.

As described in more detail in Appendix 3G, the Community Benefits Program consists of two main components: the Delta Community Fund and the Economic Development and Integrated Benefits. DWR has identified a series of next steps to further develop the Community Benefits Program in a transparent and accountable manner. Specifically, DWR would host a series of meetings to gather community input on the next steps for the for the Delta Community Fund and the Economic Development and Integrated Benefits components such as the purpose, guidelines, criteria for identifying actions and programs, technical support to be provided, funding limits, and how funds and how funds would be administered.

Ombudsman Program

The Ombudsman Program, also described in Chapter 3 in the section titled *Ombudsman*, would provide a single point of contact for property owners and occupants, interested members of the public, local agencies, and community groups. The Ombudsman would supplement other outreach and communications efforts to ensure effective and timely communication within the general areas of project construction. As the primary point of contact for all project-related inquiries or questions, the Ombudsman would be responsible for ensuring responses are provided in a timely manner.

Commitment to Equitable Contracting

DWR vigorously endorses the State of California's Small Business/Microbusiness, Disabled Veteran Business Enterprise Program to support the Small Business/Microbusiness and Disabled Veteran Business Enterprise community (California Department of Water Resources 2023). Consistent with State contracting requirements, DWR will make every effort to solicit and award contracts and purchases for implementation of the Delta Conveyance Project to California-certified Small Business/Microbusiness and Disabled Veteran Business Enterprise contractors and subcontractors. In addition, in accordance with Board Policy, DCA has established goals to provide opportunities for participation by Small and Disabled Veteran Business Enterprises. DCA's goals are currently 25% Small Business and 3% Disabled Veteran Business Enterprise. DCA has also committed to annual reporting on Small Business Enterprise-Disabled Veteran Business Enterprise utilizations and to educate the public on contracting opportunities in various forums. DCA will further consider local participation targets and goals during future stages of the project.

1 Coordination with Property Owners

2 Property Acquisition Process

3 Comments raised concerns related to the property acquisition process. It is DWR's goal to acquire
4 the necessary property rights for project purposes through negotiations with affected property
5 owners. The State would use the eminent domain process only if there is an impasse with a property
6 owner. Historically, negotiations continue during eminent domain proceedings and the landowners
7 are always paid the fair market value for the property rights acquired for project purposes. The
8 California and U.S. Constitutions recognize the need for public agencies to purchase private property
9 for public use while providing appropriate safeguards to landowners. Private property rights are
10 protected by federal and state constitutions and by applicable federal and state laws. If residential
11 relocation is necessary, DWR would provide full compensation for expenses related to the
12 procurement of either temporary housing during construction or permanent replacement housing
13 of the same market value (or greater) as the housing being vacated. DWR would cover relocation
14 and replacement expenses, including relocation advisory services, moving cost reimbursement, and
15 reimbursement for related expenses in compliance with the Uniform Relocation Assistance and Real
16 Property Acquisition Policies Act and the California Relocation Assistance Act.

17 Obtaining Right of Entry Access

18 As described in Chapter 3 in the section titled *Field Investigations*, a variety of data collection and
19 field investigations would be conducted after completion of the Delta Conveyance Project CEQA
20 process and possible project approval. Work related to geotechnical, hydrogeologic, agronomic
21 testing and construction test projects (geotechnical investigations), as well as preconstruction
22 surveys related to resources (e.g., Mitigation Measures CUL-1b and CUL-2) would occur during the
23 preconstruction and construction periods following certification of the EIR. The right to enter
24 private property to conduct these types of investigations would be obtained by DWR or other
25 authorized agents following DWR standard operating procedures and the completion of appropriate
26 permitting compliance.

27 References Cited

- 28 California Department of Water Resources. 2021. "Delta Conveyance Deep Dive: Financing the
29 Project." Department of Water Resources Deep Dive Videos. February 8, 2021. YouTube.
30 Available:
31 <https://www.youtube.com/watch?v=hHqKzYQxptw&list=PLeod6x87Tu6dDjEDXMgQYMLdUrUGHcQRG&index=7>. Accessed: June 5, 2023.
32
- 33 California Department of Water Resources. 2023. *Procurement*. Available:
34 <https://water.ca.gov/Work-With-Us/Procurement>. Accessed: August 16, 2023.
- 35 California Department of Water Resources and State Water Contractor Public Water Agencies. 2021.
36 *Agreement in Principle for the State Water Project Water Supply Contract Amendment on a Delta*
37 *Conveyance Project*. DCP Negotiation #152. Final AIP. March 29. Sacramento, CA.

- 1 Delta Conveyance Design and Construction Authority. 2020. *Delta Conveyance Program Cost*
- 2 *Assessment Update*. Presentation to the Board (Item 7c). August 2020. Available:
- 3 <https://www.dcdca.org/wp-content/uploads/2020/08/2020-08-20-DCA-BOD-Packet-V.F.pdf>.
- 4 Accessed: June 8, 2023.