

CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Ave., Ste. 170
SACRAMENTO, CA 95821
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May 22, 2020

Colonel James J. Handura
District Commander
U.S. Army Corps of Engineers, Sacramento District
1325 J Street
Sacramento, California 95814

Subject: Request to initiate project review pursuant to Title 33, USC Section 408 for the Proposed Delta Conveyance Project.

Dear Colonel Handura:

The Central Valley Flood Protection Board (Board) has received a request from the Department of Water Resources (DWR) to initiate State and Federal review of a project that may affect the Federal-State flood control system in California's Central Valley. The project will be referred to herein as the Delta Conveyance Project (DCP).

Pursuant to the California Code of Regulations Title 23, Division 1, DWR will be required to submit an application for the DCP to the Board and receive a permit from the Board prior to constructing any encroachments upon or modifications to the existing flood control facilities. At the time the application is received, it will be reviewed by Board staff and ultimately acted upon by the Board during a future noticed public meeting. For purposes of the California Environmental Quality Act, the Board is considered a Responsible Agency and will be required to make environmental findings prior to issuing any permit for construction of the DCP.

At this time, DWR also has requested to initiate review of the DCP by the U.S. Army Corps of Engineers (USACE) to determine if the proposed project will comply with all appropriate federal regulations within their jurisdiction. As the non-federal sponsor to the USACE, the Board supports early involvement by our federal agency partners in order to determine at the earliest possible point in the project planning process if there are unacceptable risks to the Federal-State flood control system.

Accordingly, the Board hereby submits to the USACE the Board's "Statement of No Objection" pursuant to Title 33, USC Section 408 (Section 408) as described by the USACE Engineering Circular 1165-2-220 documenting that the non-federal sponsor has no objection to USACE review of the DCP.

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The Board is aware of the planning level scope developed by DWR for the DCP. In its current iteration, the DCP proposes to alter the Federal-State flood control facilities in order to develop new diversion and conveyance facilities in the Delta. The planning level scope includes at least two main alternatives for the proposed project alignment under the Delta within Sacramento, Contra Costa, San Joaquin, and Alameda Counties. Specifically, the DCP will consider intake facilities, tunnel reaches and tunnel shafts, forebays, pumping plants, south Delta Conveyance facilities, as well as other ancillary facilities which may be constructed including, but not limited to, access roads, barge unloading facilities, concrete batch plants, fuel stations, mitigation areas, and power transmission and distribution lines.

The DCP is currently not part of an ongoing or authorized Federal study and is not eligible for credit under Section 221 of the Flood Control Act of 1970. Therefore, the Board is not seeking Section 221 credit. Approval under Section 404 of the Clean Water Act as well as Section 10 of the Rivers and Harbors Act of 1899 are anticipated to be required for the DCP. The DCP will require lands owned by the nonfederal sponsor and is not aware of required lands owned by the USACE.

If you have any questions regarding this Statement of No Objection, please contact me. We look forward to our continued partnership.

Sincerely,

Leslie M. Gallagher
Executive Officer

Enclosure: 33 USC § 408 Request from DWR Delta Conveyance Office dated March 17, 2020.

cc: (via electronic file)

Ali Porbaha, Central Valley Flood Protection Board
Kevin Lee, USACE
Andrea Buckley, Central Valley Flood Protection Board
Ken Bogdan, Department of Water Resources
Kristina Reese, Department of Water Resources

DEPARTMENT OF WATER RESOURCES

1416 NINTH STREET, P.O. BOX 942836
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(916) 653-5791



March 17, 2020

Ms. Leslie Gallagher, Executive Officer
Central Valley Flood Protection Board
3310 El Camino Avenue, Room 170
Sacramento, California 95821

Subject: Section 408 Written Request for the U.S. Army Corps of Engineers to Initiate Project Review for the Proposed Delta Conveyance Project

Dear Ms. Gallagher:

The Department of Water Resources (DWR) is pursuing a new environmental planning process under the California Environmental Quality Act (CEQA) and will seek new permits for a single tunnel option to modernize Delta conveyance, the proposed Delta Conveyance Project (DCP). Initiating the environmental review process under CEQA, DWR has released a Notice of Preparation (NOP) (Attachment 1) for the development of an Environmental Impact Report (EIR). Addressing the water supply reliability of the State Water Project in the face of climate change, sea level rise, and threat of earthquake in the Delta is part of the state's Water Resilience Portfolio, which describes the overall framework to address California's water challenges and support long-term water resilience and ecosystem health. Consistent with the timeline for project planning and design, the proposed DCP will be seeking permission from the U.S. Army Corps of Engineers (USACE) pursuant to 33 USC 408 (Section 408) for DCP components that propose to alter elements of the Sacramento River Flood Control Project (SRFCP). These alterations within the State Plan of Flood Control will be required to achieve the project purpose.

DWR and the USACE have recently been coordinating to discuss the permits that will be required for the proposed DCP and coordination of the CEQA process with USACE compliance with the National Environmental Policy Act (NEPA). Due to the siting of project facilities in areas under USACE jurisdiction, Section 408 permission under Section 14 of the Rivers and Harbors Act (as well as Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act) will be required for the proposed DCP. As described in more detail in the attached NOP, new facilities proposed for the DCP include, but are not limited to, the following: two water diversion intake facilities on the Sacramento River, tunnel reaches, tunnel shafts, forebays, a pumping plant, and south Delta conveyance facilities. The Delta Conveyance Design and Construction Authority (DCA), a joint powers authority assisting DWR in the design of the proposed project, has identified preliminary potential locations for some of these facilities, such as the tunnel shafts and forebays; however, specific locations of the tunnel reaches, tunnel shafts, forebays, pumping plant, and south Delta conveyance facilities have not been determined at this time. Consistent with the process for funding other components of the State Water Project, if DWR decides to approve the proposed DCP after completion of the CEQA process, DWR intends to utilize bond funding for the further design and eventual construction of the DCP.

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DWR believes that construction of DCP facilities, specifically the proposed DCP's two intakes on the east bank of the Sacramento River levee with an estimated footprint of 150 acres each, will require future CVFPB encroachment permits along with 408 authorization from the USACE. Completion of the CEQA and NEPA documents are critical for the design and construction activities that will lead to encroachment permit applications from DWR. To facilitate the USACE's NEPA analysis, DWR requests the CVFPB to ask the USACE to begin their environmental review for the future 408 authorization request.

The DCP is proposing to impact levees that were authorized as part of the SRFCP; see attached graphic (Attachment 2) for their location. As mentioned above, the proposed alteration will consist of construction of two intake structures on the east bank of the Sacramento River between Clarksburg and Courtland, as shown in Attachment 2. Given the amount of information available at this time, the intakes are the only project facilities identified with the potential to affect federal flood control features. Specific locations of many of the proposed project facilities, such as tunnel reaches, tunnel shafts, forebays, and pumping plant, have not yet been determined.

As previously mentioned, DWR has initiated communications with the USACE Sacramento District. In addition, DWR has discussed the project with your staff on December 16, 2019 and also presented project information and the Notice of Preparation to the Board at the February CVFPB meeting on February 28, 2020.

Questions regarding this request can be made to Kristina Reese (DCP Permit Manager) at 916-524-2985 or Kristina.Reese@water.ca.gov.

Sincerely,

A handwritten signature in blue ink that reads "Carrie Buckman". The signature is written in a cursive style with a long horizontal flourish at the end.

Carrie Buckman,
Environmental Program Manager
Delta Conveyance Project

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Attachments:

Attachment 1 – Notice of Preparation
Attachment 2 – Locations of Potential Intake Structures and Levee Modifications
Attachment 3 – NOP Project Location

Electronic cc:

Ali Porbaha, Central Valley Flood Protection Board
Andrea Buckley, Central Valley Flood Protection Board
Ken Bogdan, Department of Water Resources
Kristina Reese, Department of Water Resources
Darryl Hayes, Department of Water Resources