



## ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, ZONE 7

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**ORIGINATING SECTION:** ENGINEERING  
**CONTACT PERSON:** Kurt Arends

**AGENDA DATE:** October 21, 2015

**ITEM NO.** 17f

**SUBJECT:** Update Related to the Cal WaterFix (former Bay Delta Conservation Plan)

### **BACKGROUND:**

The Bay Delta Conservation Plan (BDCP), which had the co-equal goals of achieving water supply reliability while improving the ecosystem, was a voluntary effort to obtain long-term, incidental take permits for the operations and infrastructure improvements of the State Water Project (SWP) and the Central Valley Project (CVP) through development of a comprehensive Habitat Conservation Plan (HCP) under the federal Endangered Species Act, and a Natural Community Conservation Plan (NCCP) under the California Natural Community Conservation Planning Act.

The BDCP was a mechanism for improving the ecological conditions to provide multi-species regulatory protection for 57 different wildlife and plant species in the Delta. Zone 7's interest is to restore water supply reliability lost to recent regulation and court actions and to improve the delta ecosystem.

Although the BDCP was a key element of the Delta planning framework established by the State Legislature in 2009, it is not the only effort needed to accomplish the "co-equal goals" of restoring the Delta ecosystem and water supply reliability for California. The Delta Stewardship Council, Delta Protection Commission, Delta Conservancy and State Water Resources Control Board all have important roles in the planning framework.

In addition, the California State Administration developed the California Water Action Plan (see [http://resources.ca.gov/california\\_water\\_action\\_plan/docs/Final\\_California\\_Water\\_Action\\_Plan.pdf](http://resources.ca.gov/california_water_action_plan/docs/Final_California_Water_Action_Plan.pdf)). This Plan lays the foundation for implementing broader, statewide measures including water use efficiency, groundwater management, integrated regional water management, expanded recycling and potential development of surface storage to improve water supply reliability.

After several years of ongoing debate about the science and operation of the BDCP, resource agencies were still reluctant to guarantee a 50 year permit given the large uncertainty about the future. Unknowns about the effectiveness of habitat restoration and the impacts of climate change further muddled the waters until efforts to move a solution forward were at a near standstill.

On April 30, 2015, Governor Brown introduced "California WaterFix", a revised approach to secure water reliability, and "California EcoRestore", a parallel program to restore habitat in the Sacramento-San Joaquin Delta. Together, these two efforts represent an alternative approach to

implement related components of the California Water Action Plan. No longer seeking a 50 year permit, these new programs aim to modernize Delta conveyance and restore habitat through separate permitting tracks.

California EcoRestore will pursue more than 30,000 acres of fish and wildlife habitat restoration in the next three to four years. Cal WaterFix, is a new sub-alternative called Alternative 4a. It is comprised of two 30 mile long tunnels linking the Sacramento River to the existing pump facilities in the south delta. The details of the project are available for public comment until October 30, 2015 through a Recirculated Draft EIR/Supplemental EIS. For more information, see: <http://baydeltaconservationplan.com/2015News.aspx>.

## **DISCUSSION:**

On August 26, 2015, the California Department of Water Resources (DWR) submitted a permit application to the U.S. Army Corps of Engineers (Corps) for California WaterFix to modernize the way water is diverted from the Sacramento-San Joaquin Delta by the State Water Project and Central Valley Project. This milestone brings additional opportunities for public participation in regulatory processes, including public comment.

This application starts a Corps environmental review process, which runs parallel to the environmental review process required of project proponents, DWR and the U.S. Bureau of Reclamation (Reclamation), under the California Environmental Quality Act and the National Environmental Policy Act. The Corps' process will consider whether to issue a permit to construct the California WaterFix project, for portions which would occur in waters of the United States, and involve activities triggering the Corps' regulatory authority under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. In coordination with this application, DWR also will be requesting approval from the Corps under Section 14 of the Rivers and Harbors Act for elements of the project that may affect federal levees or other federal projects.

Also in August, The Department of Water Resources and the U.S. Bureau of Reclamation submitted a change in point-of-diversion petition to the State Water Resources Control Board seeking approval to add points of diversion to the respective project water rights permits as part of the proposed Cal WaterFix.

Specifically, the agencies are asking for authorization to add three new points of diversion on the Sacramento River. According to DWR, the change petition would affect existing water right permits as to diversion authorizations held by the State Water Project and the Central Valley Project but would not alter existing places of use, manners of use, quantities of diversion or other water rights terms and conditions identified in Water Rights Decision 1641.

According to a joint letter submitted with the request, the three new intakes, each with a capacity of 3,000 cfs, would be constructed on the east bank of the Sacramento River between Clarksburg and Courtland and allow more operational flexibility for the SWP and CVP to move water from the north Delta to the south Delta. Cal WaterFix also calls for the construction of two 30-mile-long, 40 foot diameter tunnels that would connect to the new intakes and move water by force of gravity to state and federal pumping facilities near Tracy.

According to the press release, the State Water Board will review the request to ensure that the change petition includes required fish and wildlife protections, meets “appropriate Delta flow criteria” under the Delta Reform Act and does not injure other legal users of the water. A public hearing will also be held to receive public comment on the petition before the State Water Board makes a final decision on approval. A fact sheet on the California WaterFix water right petition process is available at:

[http://www.swrcb.ca.gov/waterrights/water\\_issues/programs/bay\\_delta/california\\_waterfix/docs/ca\\_waterfix\\_factsheet.pdf](http://www.swrcb.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/docs/ca_waterfix_factsheet.pdf)