

## **Chapter 1. Introduction**

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This Final Environmental Impact Report (FEIR) for the Delta Wetlands Project has been prepared under the direction of the State Water Resources Control Board (SWRCB) in accordance with the requirements of the California Environmental Quality Act (CEQA). The environmental impacts of the Delta Wetlands Project were analyzed in the 1995 Delta Wetlands Project Draft Environmental Impact Report and Environmental Impact Statement (1995 DEIR/EIS) and the 2000 Revised Draft Environmental Impact Report and Environmental Impact Statement for the Delta Wetlands Project (2000 REIR/EIS). This FEIR has been prepared to respond to comments received on the 1995 DEIR/EIS and the 2000 REIR/EIS, and incorporates those two documents by reference.

## PROJECT OVERVIEW

### Project Purpose and Project Facilities

Delta Wetlands proposes a water storage and habitat enhancement project on four islands in the Sacramento-San Joaquin Delta (Delta). The project would involve the following components:

- diverting and storing water on Bacon Island and Webb Tract (“reservoir islands”) for later discharge for export or to meet outflow or environmental requirements,
- diverting water seasonally to create and enhance wetlands and to manage wildlife habitat on Bouldin Island and most of Holland Tract (“habitat islands”), and
- building recreation facilities for boating and hunting along the perimeter levees on all four islands.

To operate the project, Delta Wetlands would improve and strengthen levees on all four islands and would install additional siphons and water pumps on the perimeters of the reservoir islands. Delta Wetlands would operate the habitat islands under a habitat management plan (HMP) to compensate for impacts on, and promote the recovery of, state-listed threatened or endangered wildlife species and other special-status species, and to provide additional wetlands and wildlife habitat in the Delta.

The Delta Wetlands Project is analyzed as a stand-alone water storage facility, operated independently of the State Water Project (SWP) and the Central Valley Project (CVP), and without regard to the specific entities to which the water could be sold.

## Regulatory Compliance History

Delta Wetlands applied to the SWRCB in 1987 for water rights to store water seasonally on all four of its project islands. The Delta Wetlands Project, as originally proposed, was analyzed in a draft environmental impact report/environmental impact statement (EIR/EIS) released in December 1990. In 1993, Delta Wetlands submitted new water right applications based on a revised project description that proposed two reservoir islands and two habitat islands. Delta Wetlands' applications requested new appropriative water rights for direct diversion to and storage on the project reservoir islands. Delta Wetlands also applied to the U.S. Army Corps of Engineers (USACE) for a permit under Section 404 of the Clean Water Act for the discharge of dredged or fill materials into waters of the United States and under Section 10 of the Rivers and Harbors Act of 1899 for other project activities in navigable waters.

To issue decisions on Delta Wetlands' applications, the SWRCB and USACE must assess potential project impacts in compliance with CEQA and the National Environmental Policy Act (NEPA), respectively. The 1995 DEIR/EIS was prepared at the direction of the SWRCB and USACE, acting as the lead agencies under CEQA and NEPA, to assess the environmental effects of the Delta Wetlands Project based on the 1993 project description.

The SWRCB and USACE distributed the 1995 DEIR/EIS for public review and comment in September 1995. They also held a public meeting on October 11, 1995, to receive comments on the document; a court reporter was in attendance and a transcript was prepared for the administrative record. The lead agencies received numerous comment letters during the public review period, which ended on December 21, 1995.

In 1997, the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) issued no-jeopardy biological opinions regarding effects of the Delta Wetlands Project on federally listed fish species. The California Department of Fish and Game (DFG) issued a no-jeopardy opinion in 1998 on project effects on state-listed fish, wildlife, and plant species. The "reasonable and prudent measures" of the biological opinions included detailed project operating parameters, referred to as the Delta Wetlands "final operations criteria" (FOC). The FOC were developed by the SWRCB, USACE, NMFS, and DFG as part of the formal consultation process for listed fish species.

Also in 1997, the SWRCB convened a water right hearing to consider Delta Wetlands' petitions for new water rights and changes to existing water rights. A substantial amount of testimony was presented. Several unresolved issues remained after the proceedings concluded. The lead agencies directed that the 2000 REIR/EIS be prepared to clarify those issues and to present updated simulations of project discharges and diversions that would reflect the operating restrictions included in the FOC and other biological opinion terms.

The 2000 REIR/EIS supplemented information presented in the 1995 DEIR/EIS in the following resource areas:

- water supply and operations,
- water quality,
- fisheries,
- levee stability and seepage, and
- natural gas facilities and pipelines.

The 2000 REIR/EIS was issued for public review on May 31, 2000. Several comment letters were received during the public review period, which ended on July 31, 2000.

The water right hearing was resumed and completed in October 2000. Delta Wetlands and California Urban Water Agencies (CUWA) submitted to the SWRCB an agreement that Delta Wetlands would operate according to the terms of the Delta Wetlands Project Water Quality Management Plan (WQMP) negotiated by Delta Wetlands and CUWA. During the October 2000 hearing, CUWA stated that it will withdraw its opposition to the Delta Wetlands water right permits based on the inclusion of the WQMP as a permit term or condition. East Bay Municipal Utility District (EBMUD) and Contra Costa Water District (CCWD) also entered into protest dismissal agreements with Delta Wetlands and submitted these to the SWRCB. The agreements include programs to ensure the stability of project island levees, protections against seepage from the reservoir islands to neighboring islands, and limits on the project's water quality effects. Copies of these agreements are included in the Appendix to the Responses to Comments.

### **Project Alternatives**

The 1995 DEIR/EIS analyzed three project alternatives and a No-Project Alternative in an equal level of detail. Alternatives 1 and 2 both represent Delta Wetlands' proposed project, consisting of water storage on two reservoir islands and implementation of an HMP on two habitat islands, but these alternatives offer two different scenarios for the discharge of stored water. Under Alternative 3, all four Delta Wetlands Project islands would be used as reservoirs and limited compensation wetland habitat would be provided on Bouldin Island.

The 1995 DEIR/EIS identified the proposed project (Alternatives 1 and 2) as the environmentally superior alternative and compared the differences in effects of Alternatives 1 and 2 on aquatic resources, consumptive use of water, hydrodynamics, and water quality. The subsequently issued biological opinions and protest dismissal agreements specify numerous restrictions on project operations; with these restrictions incorporated into project operations, there would be little difference between the environmental effects of Alternatives 1 and 2. Therefore, the proposed project, as mitigated by the biological opinions and other project limits, is considered the environmentally superior alternative.

## **PURPOSE OF THE FINAL ENVIRONMENTAL IMPACT REPORT**

CEQA requires a lead agency that has completed a Draft EIR to consult with and obtain comments from public agencies that have legal jurisdiction with respect to the proposed project, and to provide the general public with opportunities to comment on the Draft EIR (State CEQA Guidelines Sections 15086 and 15087). This FEIR has been prepared to respond to comments received from agencies and members of the public on the 1995 DEIR/EIS and 2000 REIR/EIS for the Delta Wetlands Project.

### **CEQA REQUIREMENTS FOR RESPONDING TO COMMENTS ON A REVISED DRAFT ENVIRONMENTAL IMPACT REPORT**

A lead agency must evaluate comments on significant environmental issues that it receives from persons who reviewed the Draft EIR and must prepare written responses to those comments (State CEQA Guidelines Section 15088). Section 15088.5(f)(2) describes the requirements for and lead agency discretion in responding to comments on chapters or portions of a Draft EIR that have been recirculated. In responding to comments on a Draft EIR that is partly recirculated, the lead agency need only respond to:

- comments received during the initial circulation period that relate to chapters or portions of the document that were not revised and recirculated, and
- comments received during the recirculation period that relate to the chapters or portions of the earlier EIR that were revised and recirculated.

The 2000 REIR/EIS is a partial revision of the information and analysis included in the 1995 DEIR/EIS; it includes revised information on water supply and operations, water quality, fisheries, levee stability and seepage, and natural gas facilities and transmission pipelines. Therefore, the SWRCB applied the direction described above in responding to comments on the 1995 DEIR/EIS.

### **REQUIREMENTS FOR CERTIFICATION AND FUTURE STEPS IN PROJECT APPROVAL BY THE LEAD AGENCIES**

Before it can issue a decision approving Delta Wetlands' permit applications, the SWRCB must certify that the FEIR was prepared in compliance with CEQA, was considered before the project was approved, and reflects the SWRCB's independent judgment. The SWRCB may proceed with its decision on Delta Wetlands' water right applications once the FEIR has been certified. If the SWRCB approves the water right applications, it will make findings for each significant environmental effect identified in the 1995 DEIR/EIS and the 2000 REIR/EIS. The SWRCB also will include in the decision a statement of overriding considerations for any impacts determined to

be significant and unavoidable. The SWRCB will also adopt a program for monitoring implementation of mitigation measures required as part of Delta Wetlands Project approval.

USACE will issue a final EIS (FEIS) for public review separately. If USACE determines that the FEIS meets NEPA requirements, it will adopt the document. When it decides on Delta Wetlands' Section 404 and Section 10 permit applications, USACE will prepare a record of decision regarding its determination, the alternatives analyzed, the mitigation measures required as a condition of permit approval, mitigation measures presented but not required, and monitoring and enforcement of the required mitigation measures.

Other agencies may also use this FEIR and the FEIS in their review and approval of related actions; see Chapter 4, "Permit and Environmental Review and Consultation Requirements", of the 1995 DEIR/EIS for a listing of agencies and actions that may be involved in project approval and implementation.

## **ORGANIZATION AND FORMAT OF THE FINAL ENVIRONMENTAL IMPACT REPORT**

According to the State CEQA Guidelines (Section 15132), the FEIR must consist of:

- the Draft EIR or a revision of the Draft EIR;
- comments and recommendations received on the Draft EIR, either verbatim or in summary;
- a list of persons, organizations, and public agencies commenting on the Draft EIR; and
- the responses of the lead agency to significant environmental points raised in the review and consultation process.

This FEIR is organized as follows:

- Chapter 1, "Introduction", provides an overview of the project and describes the purpose and content of the FEIR.
- Chapter 2, "Master Responses: Discussions of Recurring Themes", presents detailed discussions of several subjects that were raised frequently in comment letters on the 1995 DEIR/EIS and the 2000 REIR/EIS. Each section provides a comprehensive discussion of a subject that was raised in several comments; the discussion serves as a "master response" to those individual comments.

- Chapter 3, “Comments and Responses to Comments on the 1995 Draft Environmental Impact Report/Environmental Impact Statement”, contains a list of all agencies and persons who submitted comments on the 1995 DEIR/EIS during the public review period, copies of the comment letters received, and responses to the comments.
- Chapter 4, “Responses to Comments on the 2000 Revised Draft Environmental Impact Report/ Environmental Impact Statement”, contains a list of all agencies and individuals who submitted comments on the 2000 REIR/EIS during the public review period, copies of the comment letters received, and responses to the comments.
- Chapter 5, “Citations”, lists supporting references used in the preparation of the FEIR.
- Chapter 6, “List of Preparers”, list the individuals who assisted in the preparation and review of the FEIR.
- The Appendix to the Responses to Comments includes information on endangered species consultation issued after the 2000 REIR/EIS was published, and protest dismissal agreements submitted to the SWRCB. These materials are referred to in the responses to comments.

This document, the 1995 DEIR/EIS, and the 2000 REIR/EIS constitute the FEIR. The 1995 DEIR/EIS and the 2000 REIR/EIS are hereby incorporated by reference. Copies of the 1995 DEIR/EIS and the 2000 REIR/EIS are available for public review at public libraries located in the following cities in California:

- Antioch,
- Concord,
- Vallejo,
- Lodi,
- Martinez,
- Oakland,
- Rio Vista,
- Fairfield,
- Stockton,
- Tracy, and
- Sacramento (the main public library and the California State Library).

Additional copies are available for review during normal business hours Monday through Friday, excluding holidays, at the following locations:

California State Water Resources  
Control Board  
Division of Water Rights  
1001 I Street  
Sacramento, CA 95814

U.S. Army Corps of Engineers  
Regulatory Branch, Sacramento District  
1325 J Street, Room 1480  
Sacramento, CA 95814