

Max Overland

From: Molly Culton <molly.culton@sierraclub.org>
Sent: Thursday, January 9, 2025 5:40 PM
To: Clerk of the Board; Board of Directors; John Varela; Tony Estremera; Shiloh Ballard; Richard Santos; Jim Beall; Nai Hsueh; Rebecca Eisenberg
Cc: Katja
Subject: Sierra Club Comment Letter for Item 3.5 1/14
Attachments: Letter to SCVWD re_ Tunnel Vote January 2025.pdf

***** This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. *****

Hello,

Please find attached a comment letter pertaining to Item 3.5: *Approve Funding of Planning and Pre-Construction Work for the Delta Conveyance Project for Calendar Years 2026 and 2027 in an Amount Not-To Exceed \$9,690,000 and Adopt a Resolution Making Responsible Agency Findings Under the California Environmental Quality Act* on the agenda for the Valley Water board meeting on Tuesday, Jan. 14.

Regards,

--

Molly Culton (she/her/hers)
Chapter Organizing Manager
Sierra Club California
909 12th Street, Suite 202
Sacramento, CA 95814
Ph: 916-557-1100 x1100
molly.culton@sierraclub.org
www.sierraclubcalifornia.org

Like us on [Facebook](#).

Follow [@SierraClubCA](#) on Twitter.

THIS PAGE INTENTIONALLY LEFT BLANK

January 9, 2025

Board of Directors
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118

Via email to:

Clerk of the Board <clerkoftheboard@valleywater.org>

Board of Directors <Board@valleywater.org>

John Varela <jvarela@valleywater.org>

Tony Estremera <testremera@valleywater.org>

Shiloh Ballard <sballard@valleywater.org>

Richard Santos <rsantos@valleywater.org>

Jim Beall <jbeall@valleywater.org>

Nai Hsueh <nhsueh@valleywater.org>

Rebecca Eisenberg <reisenberg@valleywater.org>

Re: Item 3.5: Approve Funding of Planning and Pre-Construction Work for the Delta Conveyance Project for Calendar Years 2026 and 2027 in an Amount Not-To Exceed \$9,690,000 and Adopt a Resolution Making Responsible Agency Findings Under the California Environmental Quality Act.

Dear Chair Estremera and esteemed Board of Directors,

We hope this letter finds you well. On behalf of Sierra Club California, the undersigned, and our more than 500,000 members and supporters statewide, many of whom reside in the Santa Clara Valley Water District (Valley Water) service area, **we write to express our opposition to funding the next round of permitting and planning of the Delta Conveyance Project (DCP) at \$9.69 million and ask that you vote no on Agenda Item 3.5 at the upcoming January 14, 2025 Board of Directors meeting.**

Cost

In an era of unaffordability and uncertainty, this is not the time to take on large expenses. [Voters](#) polled after the recent election said they chose the president-elect for economic reasons and they think he would help with the burden of inflation. This was misguided; the president-elect has promised to expand tariffs, which will cause the cost of construction materials to skyrocket. This may delay production and shipping of these materials, adding to construction cost overruns. A permit application filed for the extension of the water right with the State Water Resources Control Board said that construction may extend through 2055, a full thirteen years after their previous prediction. Californians cannot afford to continue to incur these costs, especially in light of more sustainable alternatives that would come online sooner than DCP.

Development, “Doing Nothing,” and Saying “No”

A representative for a business association at a recent Metropolitan Water District (MWD) roundtable discussion said that we use lawsuits to create warfare, or to use their buzzword, “lawfare.” It is a shame that they think of our mission to create environmental protections for our shared water, lands, and communities as warfare. Warfare assumes violence, conquering, and bloodshed. If we want to pontificate on violence, we can think about the colonization of water in California. How much water is owned by settler communities versus Indigenous people? How was that water acquired? Who is water being imported to and exported away from across our state? What is the legacy of water in California? We have

an opportunity right now to write a new legacy by not building a tunnel so widely opposed by Tribal communities.

Another business representative at the roundtable said that in California, we “no longer make anything because all we say is ‘no.’” The theme of the business interests was that housing developments and construction will suffer if the board does not fund the DCP. Sierra Club has a thoughtful and well-researched [housing policy](#) that focuses on infill development and centering housing near existing public transportation hubs.

We support the continued development of local water recycling and purification projects; and acknowledge that Valley Water has been a statewide leader in water conservation and conjunctive use of groundwater. We have proposed levee maintenance and additional fish screens as far cheaper solutions, coupled with further efficiency and conservation. If levee conditions were improved from a [100-year](#) criteria to a 300-year criteria, we would see the same seismic and sea level protections proposed by the DCP. Should any of the business groups want to fund research for new ideas on groundwater storage, water recycling opportunities, local stormwater capture, sustainable agricultural innovations, or other new technology- we would love to work together on these projects.

DWR frequently mentions the “cost of doing nothing.” No one has ever said to “do nothing.” The DCP does not offer a new supply of water- which DWR confirms- just a means of moving existing supply. We have advocated for improving the existing levees to protect the reliability of the SWP. DWR has said that levee protection is a separate, and recommended, project. We cannot afford billions in levee maintenance, the Delta Conveyance Project, Sites Reservoir, and local resource projects. A representative for the State Water Contractors has even said that there would be some redundancies between the levee maintenance projects and the DCP, and that the levees need repairs, even without the Delta tunnel.

Other Regulations to Consider

The Delta Tribal Environmental Coalition’s (DTEC) Title VI complaint is still under review and process with the US EPA. Neither the Bay Delta Water Quality Control Plan (Plan) nor the DCP’s final EIR have identified Tribal Beneficial Uses of Water or standards for monitoring harmful algal blooms to protect Delta resident’s public health. The current Plan will likely be taken up as a civil rights issue by DTEC or other parties beyond the Title VI complaint because no monitoring sites have been set in place to protect water for Tribal uses or for public health protection.

In addition to the Title VI complaint, we have repeatedly called for the project planning to wait until after the State Water Board has completed updates to the Plan, which likely will be adopted this year. As part of these updates, the Board is considering amending regulations for water allocations and in-stream flow requirements in order to protect water quality and imperiled species. Any changes will impact the potential operations of future projects in the Delta, and must be incorporated into the planning, evaluation, and permitting process for the DCP. Premature planning and permitting will likely slow down the permitting process because revisions will need to be made after the fact to comply with updated regulatory requirements, and may increase planning and permitting costs. There are over 40 parties actively opposing the change petition for the DCP. Even if the president-elect supports over consumption of natural resources like the freshwater of the Bay Delta, an administration change is likely to delay federal permit processes. Therefore, this current round of funding is premature and costly.

Capture & Storage

DWR said recently, “If we had an alternate diversion, we could have captured an additional 941 TAF, or supply 3.3m households without affecting the steelhead [in winter 2023 when threats to salmon led to flow restrictions].” Even the possibility of storing some supplies in Sites Reservoir would still leave

imported water supplies vulnerable to potential disruptions in the Delta. Conversely, if Valley Water did locate more storage options and could capture more during wet years, the demand for water would continue to drop as California moves to the water efficiency standards set by the State Water Board, making funding of the DCP more reliant on rate increases.

Flawed Data & Plans

DWR's assumptions are based on MWD's 2020 Integrated Resource Plan figures for demand, before the extreme wet years that significantly reduced demand, and thus, sales. Future demand projections have changed rapidly in the last 4-5 years. DWR has said this is the most recent data they have, which is disappointing considering that about 40% of the cost of planning is for overhead, which should include accurate data. Also, DWR only looked at projections through 2045 to make assumptions through 2070, which does not include reduced demand or reduced population. Not only are the projections outdated, they were based on Scenario D, the most extreme demand scenario of all modeled scenarios. Regulations will also change by 2030 and 2045, making it more likely that the DCP will be a stranded asset, especially since DWR now predicts that construction could last through 2055.

Despite what DWR's FAQs say, the DCP does not benefit fish. The Plan does not set a cap or sliding scale for the capture of excess flows. DWR refers to "existing water rights" which have limitations on diversions, but they are not currently recognized as applicable to the DCP at 10,350 cfs. There is no definition for "excess flows." What is the historical maximum that DWR can operate under? It was said at the MWD roundtable that the pumps will be used 80% of the time, which is clearly more often than excess flows will be available.

In another loophole, the Plan says that only under an operational advantage would there be diversions through the north intake facilities, but it is not clear what the conditions would be for these diversions to take place. The monitoring site locations all seem to avoid showing the realities of flows to the Sacramento River tributaries and along the river. Tributaries are necessary habitats for young fish species and other wildlife. There are currently six endangered species endemic to the Bay Delta. Minimum bypass flow requirements are set each season to protect them as they migrate. Additional pulse protections safeguard them, and safeguards cannot be removed until flows hit 20,000 cfs for an extended duration. How protections are triggered and how flows will be monitored is unclear and inadequate- except at sites south of the confluence at Rio Vista, Jersey Point, and Emmaton, which have historically high and consistent flow levels, unlike the fluctuating flows further up the Sacramento River. The Plan only mentions one other monitoring site ahead of the first intake in Hood at Freeport, which would inform Bypass Flow requirements, with no indication of other meters for additional flows along the tunnel alignment route. The proposed monitoring sites are not representative of real-time consequences of diversions and can skew data needed to correctly indicate the needs of fish populations. The salmon fisheries will likely be closed for a third year now, despite record wet years. Entire populations and economies rely on getting this right.

Conclusion

A bigger straw does not solve the problem of an unreliable imported water supply, especially without further water supply solutions south of the Delta. The DCP is a flawed project that Valley Water ratepayers cannot afford, and even without delays from litigation and regulations, 2055 is too long to wait. There are other alternatives that will meet Valley Water's needs for lower costs. This is crucial when the current business model relies on a dwindling natural resource. **If you will not consider voting against this wasteful project, at least consider waiting until the Bay Delta Water Quality Control Plan is finalized this year, so as not to waste time and money on a project that will need updates due to the Plan's regulations.** Thank you for your time and consideration.

Signed,

Molly Culton
Chapter Organizing Manager
Sierra Club California

Katja Irvin, AICP
Guadalupe Group Conservation
Chair
Sierra Club Loma Prieta Chapter

Bill Martin
Co-Chair, Water Committee
Sierra Club California

Peter Drekmeier
Policy Director
Tuolumne River Trust

Gia Moreno
Secretary, Hood Community
Council