



Legal & Claims Committee

Update on Delta Conveyance Project CEQA Litigation

Item 7b

February 13, 2024

Item 7b Introduction

Subject

- Update on nine cases challenging the California Department of Water Resources' compliance with the California Environmental Quality Act and other environmental laws regarding its certification of a Final Environmental Impact Report for and approval of the Delta Conveyance Project

Purpose

- Provide an initial overview of the parties and causes of action

Next Steps

- Regular updates in written GC reports and committee

Background

Project Approval and CEQA Actions Dec. 21, 2023

- DWR certified the Final EIR
- Adopted CEQA findings, a statement of overriding considerations and a Mitigation Monitoring and Reporting Program
- Approved the DCP (Alt 5)
- Filed a Notice of Determination → 30-day statute of limitations

Nine Cases

(DWR is the only named defendant)

- City of Stockton v. DWR
 - County of Butte v. DWR
 - County of Sacramento v. DWR
 - County of San Joaquin et al. v. DWR
 - Sacramento Area Sewer District v. DWR
 - San Francisco Baykeeper, et al. v. DWR
 - Sierra Club, et al. v. DWR
 - Tulare Lake Basin Water Storage District v. DWR
 - South Delta Water Agency & Rudy Mussi Investm't L.P. v. DWR
- Sacramento County
- San Joaquin County

34 Plaintiffs

- 13 Environmental NGOs
- 5 Delta Counties
- 5 Fishing NGOs
- 5 In-Delta Agencies
- 2 SWP Contractors
 - Butte County
 - Tulare Lake Basin WSD
- 1 Tribe
- 1 Tribal Environmental NGO
- 1 City (Stockton)
- 1 Delta Landowner

AquAlliance
California Indian Environmental Alliance
California Sportfishing Protection Alliance
California Water Impact Network
Center for Biological Diversity
Central Delta Water Agency
City of Stockton
Contra Costa Water Agency
County of Butte
County of Contra Costa
County of Sacramento
County of San Joaquin
County of Solano
County of Yolo
Environmental Council of Sacramento
Friends of Stone Lakes National Wildlife Refuge
Friends of the River
Golden State Salmon Association
Institute for Fisheries Resources
Local Agencies of the North Delta
North Coast Rivers Alliance
Pacific Coast Federation of Fishermen's Associations
Planning and Conservation League
Restore the Delta
Rudy Mussi Investment L.P.
Sacramento Area Sewer District
Sacramento Audubon Society
San Francisco Baykeeper
Save Our Sandhill Cranes
Shingle Springs Band of Miwok Indians
Sierra Club
South Delta Water Agency
The Bay Institute
Tulare Lake Basin Water Storage District

Causes of Action

- CEQA
- Delta Reform Act
- Public Trust Doctrine
- Delta and Watershed Protection Acts
- Fully Protected Species Statute (Birds)
- Prop. 9
 - 1982 referendum on Peripheral Canal
- Central Valley Project Act
 - Exceeds DWR's authority to modify the SWP

Next Steps

Cases in very early stage

- Cases will be coordinated or consolidated before one judge
- Feb. 16 case management conference in the 8 Sacramento cases
- DWR will prepare the Administrative Record
- Regular updates in the monthly GC Report and at Legal & Claims

