

November 8, 2019

Delta Conveyance Design and Construction Authority
Stakeholder Engagement Committee Members

Subject: ***Materials for the November 13, 2019, Regular Committee Meeting***

Members of the Stakeholder Engagement Committee:

The first regular meeting of the Delta Conveyance Design and Construction Authority (DCA) Stakeholder Engagement Committee is scheduled for **Wednesday, November 13, 2019 at 3:00 p.m.** at the **Delta Diamond, 15175 CA-160, Isleton, CA 95641.**

Enclosed are the materials for the committee meeting in a PDF file, which has been bookmarked for your convenience.

- **Meeting Agenda**
- **Item 4 - Meeting Presentation**
- **Item 4c - Handouts**
 - o SEC Charter
 - o Guidelines for Avoiding Serial Meetings

Regards,

Sarah Palmer

Sarah Palmer, DCA Board Member
Stakeholder Engagement Committee Chair



**DELTA CONVEYANCE DESIGN AND CONSTRUCTION AUTHORITY
STAKEHOLDER ENGAGEMENT COMMITTEE MEETING**

REGULAR MEETING

Wednesday, November 13, 2019

3:00 p.m.

DELTA DIAMOND

15175 CA-160, Isleton, CA 95641

Thank you for joining us today. The purpose of the Stakeholder Engagement Committee is to create a forum for Delta stakeholders to provide input and feedback on technical/engineering issues related to the DCA's current activities. Please note, this Committee and its meetings are **not** part of any California Environmental Quality Act process related to a potential Delta Conveyance project. All items are information only. Members of the public may speak regarding items on the agenda when recognized by the Chair. Speakers are limited to three minutes each; however, the Chair may limit this time when reasonable based on the circumstances. Persons wishing to speak are requested to complete speaker cards.

AGENDA

1. CALL TO ORDER

2. ROLL CALL

3. WELCOME/INTRODUCTIONS

4. DISCUSSION ITEMS/PRESENTATIONS

- a. Committee Overview and Purpose
- b. Roles & Responsibilities: DCA and DWR
- c. Ralph M. Brown Act & Public Records Act (PRA) Training

5. PUBLIC COMMENT

This is the time and place for members of the public to address the Committee on matters that are within the Committee's jurisdiction but that are not on the agenda. Speakers are limited to three minutes each; however, the Chair may limit this time when reasonable based on the circumstances. Persons wishing to speak are requested to complete speaker cards. As these items have not been agendaized, the Committee is not legally able to discuss these items at this meeting unless a recognized exception applies.

6. FUTURE AGENDA ITEMS

7. ADJOURNMENT

* * * * *

The next scheduled DCA Stakeholder Engagement Committee meeting will be December 11, 2019. Time and location will be confirmed.

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested person must request the accommodation at least two working days in advance of the meeting by contacting the Design and Construction Authority support staff at (916) 347-0486.



STAKEHOLDER ENGAGEMENT COMMITTEE (SEC)

Memo

Contact: Valerie Martinez, SEC Facilitator

Date: November 13, 2019 SEC Meeting

Item No. 4

Subject: Meeting Presentation

Please see the attached document as support for **Item 4 – Meeting Presentation**.

The following presentation will guide discussion during the first regular meeting of the Delta Conveyance Design and Construction Authority (DCA) Stakeholder Engagement Committee, scheduled for **Wednesday, November 13, 2019 at 3:00 p.m.** at the **Delta Diamond, 15175 CA-160, Isleton, CA 95641**.



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STAKEHOLDER ENGAGEMENT
COMMITTEE (SEC)

Stakeholder Engagement Committee (SEC)

Orientation: November 13, 2019

MEETING OVERVIEW

- SEC Overview & Purpose
- Roles & Responsibilities: DCA & DWR
- Brown Act & Public Records Act (PRA) Training
- Public Comment
- Next Meeting: Wednesday, Dec. 11, 2019



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STAKEHOLDER ENGAGEMENT
COMMITTEE (SEC)

SEC Member Introductions

- Sarah Palmer, Chair
- Barbara Keegan, Co-Chair
- Paul Clausen, Recreation
- James Cox, Sports Fishing
- Cecille Giacom, Public Safety
- David Gloski, At Large Contra Costa
- Douglas Hsia, At Large Sacramento
- Lindsey Liebig, Agriculture
- Mel Lytle, Ph.D., Delta Water District
- Karen Mann, South Delta Local Business
- Phillip Merlo, At Large San Joaquin County
- Barbara Barrigan Parrilla, Environmental Justice
- Isabella Gonzales Potter, Environment NGO - Aquatic
- Anna Swenson, At Large Yolo County
- Jesus Tarango, Tribal Government (Alt)
- Malissa Tayaba, Tribal Government
- James Wallace, Delta History/Heritage
- Angelica Whaley, North Delta Local Business
- Sean Wirth, Environmental NGO, Terrestrial
- Gilbert Cosio, Ex-Officio
- Michael Moran, Ex-Officio



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STAKEHOLDER ENGAGEMENT
COMMITTEE (SEC)

DCA/DWR Team Introductions

- **Kathryn Mallon:** DCA, Executive Director
- **Carolyn Buckman:** DWR, Environmental Manager
- **Janet Barbieri:** DWR, Communications Manager
- **Nazli Parvizi:** DCA, Stakeholder Engagement
- **Melisa Bittancourt:** DCA, Stakeholder Liaison
- **Valerie Martinez:** DCA, SEC Facilitator
- **Pat Clark:** DWR, Stakeholder Liaison
- **Julie Spezia:** DWR, Stakeholder Liaison
- **Rebecca Nicholas:** DWR, Stakeholder Liaison
- **Hannah Flanagan:** DCA, SEC Support
- **Claudia Rodriguez:** DCA, Board Secretary
- **Jasmine Runquist:** DCA, Board Clerk



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COMMITTEE (SEC)

Meeting Schedule through May 2020

- Duration: Approximately 2-3 hours
- Timeframe: Between 3 pm - 6 pm
- Tentative Meeting Dates:
 - December 11, 2019
 - January 8, 2020
 - January 22, 2020
 - February 12, 2020
 - February 26, 2020
 - March 11, 2020
 - March 25, 2020
 - April 8, 2020 (if needed)
 - April 22, 2020
 - May 13, 2020 (if needed)
 - May 27, 2020



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COMMITTEE (SEC)



Clarifications?



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STAKEHOLDER ENGAGEMENT
COMMITTEE (SEC)

Committee Overview

Purpose, Guidelines, How Meetings will be Conducted, SEC Report-Outs

General Purpose



Technical/Engineering Feedback

Committee provides a forum for Delta stakeholders to provide input and feedback on technical/engineering issues related to the DCA's current activities.

Discuss Measures to Offset Effects

Opportunity to identify engineering and design considerations that would avoid, reduce or offset effects from constructions and facility siting.

Connect to Community Groups

Committee members can relay information between their respective groups and the Stakeholder Engagement Committee.



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General Guidelines

- Consider the interests of local and wider community
- Help move the planning process forward in the spirit of compromise and cooperation
- Participate in open communication among differing interests
- Listening is as important as speaking
- Self-monitor the amount of time you are speaking to ensure everyone has the opportunity to provide feedback
- Seek clarification if you are unclear of a term or concept
- No value judgements on other participants' comments



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COMMITTEE (SEC)

How Meetings Will Be Conducted

- All meetings are subject to the Brown Act
- Chair will preside over meetings
- Facilitator will guide discussion
- Each meeting will be goal-oriented and purpose-driven
- Information is not binding
- Committee holds no formal voting authority
- We will seek consensus
- All views will be recorded and reported



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SEC Report-Outs

- To be distributed the Friday following SEC meetings
- Will present highlights of committee discussions
- Designed to present all views of each topic, including opposing or conflicting views
- Includes next steps
- These are not minutes, but rather a snapshot to capture the highlights of the meeting in order to support next steps and outreach



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Clarifications?



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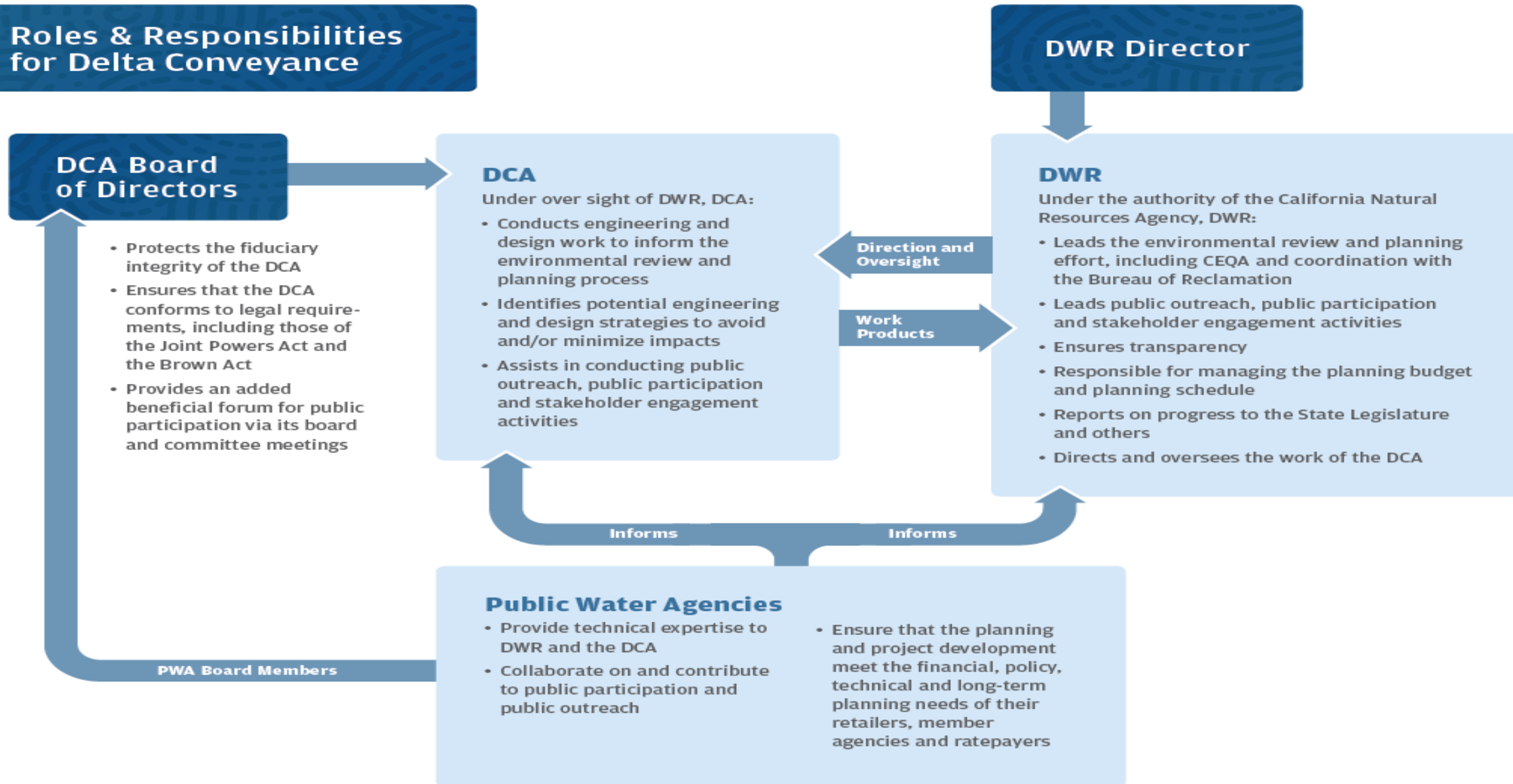
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Roles & Responsibilities: DWR & DCA

An Introduction

DWR/DCA Team Organization

Roles & Responsibilities for Delta Conveyance





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COMMITTEE (SEC)

Department of Water Resources (DWR)

Delta Conveyance Environmental Review

November

2019

Delta Conveyance Environmental Review

Carrie Buckman

Environmental Program Manager



Background

February 2019: Governor Newsom announces new direction for Delta conveyance that builds upon previous work.

DWR Actions:

- Withdrew WaterFix environmental compliance documentation
- Began to prepare for new environmental compliance process for a single tunnel





DWR Role

Lead Agency under the California Environmental Quality Act (CEQA)

Under the authority of the California Natural Resources Agency, DWR:

- Leads the environmental review and planning effort, including CEQA and coordination with the Bureau of Reclamation
 - Will prepare an Environmental Impact Report that complies with the National Environmental Policy Act should federal agencies initiate environmental compliance process
- Leads public outreach, public participation and stakeholder engagement activities
- Ensures transparency
- Is responsible for managing the planning budget and planning schedule
- Reports on progress to the State Legislature and others
- Directs and oversees the work of the DCA



DCA Role

DCA Responsibilities Under Oversight of DWR:

- Conduct engineering and design work to inform the environmental review and planning process
- Identify potential engineering and design strategies to avoid and/or minimize impacts
- Assist in conducting public outreach, public participation and stakeholder engagement activities





Public Water Agency Role

PWA Responsibilities:

- Provide technical expertise to DWR and the DCA
- Collaborate on and contribute to public participation and public outreach
- Ensure that the planning and project development meet the financial, policy, technical and long-term planning needs of their retailers, member agencies and ratepayers





Environmental Impacts Analyzed

Under CEQA, the effects of Delta conveyance on the physical, human and natural will be evaluated.

Resources Studied:

- Water Supply
- Surface Water
- Groundwater
- Water Quality
- Geology and Seismicity
- Soils
- Fish and Aquatic Resources
- Terrestrial Biological Resources
- Land Use
- Agricultural Resources
- Recreation
- Socioeconomics
- Aesthetics and Visual Resources
- Cultural Resources
- Transportation
- Public Services and Utilities
- Energy
- Air Quality and Greenhouse Gas
- Noise
- Hazards and Hazardous Materials
- Public Health
- Mineral Resources
- Paleontological Resources
- Environmental Justice
- Climate Change
- Growth Inducement and Other Indirect Effects



Notice of Preparation

Expected for Release in December 2019

Documents the Intent to Develop an EIR for Delta Conveyance:

- Triggers Start of Scoping
- Public Comment Period
- Public Meetings

The NOP will include:

- Description of Proposed Project
- Proposed Project Objectives
- Proposed Project Area
- Proposed Project Facilities





Key Milestones

Delta Conveyance CEQA Milestones

Environmental Compliance Schedule

CEQA

- Public scoping
- Proposed Project Preliminary Design
- Alternative Identification and Design
- Impact Analysis
- Draft EIR
- Public Review
- Comment Responses
- Final EIR
- Notice of Determination

ESA/CESA

- Draft Biological Assessment and Incidental Take Permit Application
- Final Biological Assessment and Incidental Take Permit Application
- Biological Opinion
- Incidental Take Permit

Water Rights

Delta Plan Consistency

Other Environmental Permits

2020

2021

2022



CALIFORNIA DEPARTMENT OF
WATER RESOURCES



Future Proposed Soil Investigations

Delta Conveyance CEQA Milestones

DWR is proposing to gather data to inform and evaluate alternatives for Delta conveyance over an approximate 36 month period including:

- Soil borings (on-land and overwater)
- Cone Penetration Tests
- Geophysical surveys

Currently undergoing CEQA Analysis

Mitigated Negative Declaration Expected November





How Does this Committee Intersect with the CEQA Process?

DWR leading public involvement effort for CEQA

Discussions during the SEC are intended to provide recommendations to DCA Board of Directors

Comments for CEQA must be made through DWR CEQA process





Stakeholder Engagement Committee

Provides critical input to the design and engineering that will be considered as part of the environmental review process.

Construction Effects Considered:



Logistics



Roadways



Transportation



Noise



Air Quality



Dual
Benefit
Facilities



Ways to Stay Informed

Learn more on DWR website & stay up to date
with news and more on social media.



DWR Website

<https://water.ca.gov/Programs/State-Water-Project/Delta-Conveyance>



Twitter

@CA_DWR



Project Hotline

866.924.9955



Project Email

DeltaConveyance@water.ca.gov



November

2019

Questions?



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COMMITTEE (SEC)

Delta Conveyance Design & Construction Authority (DCA)

An Introduction

Discussion Topics

- Who is the DCA?
- DCA Role in Planning Period
- DCA Schedule
- Committee Expectations
- Engineering Presentation Format
- Question and Answer



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Who is the DCA?

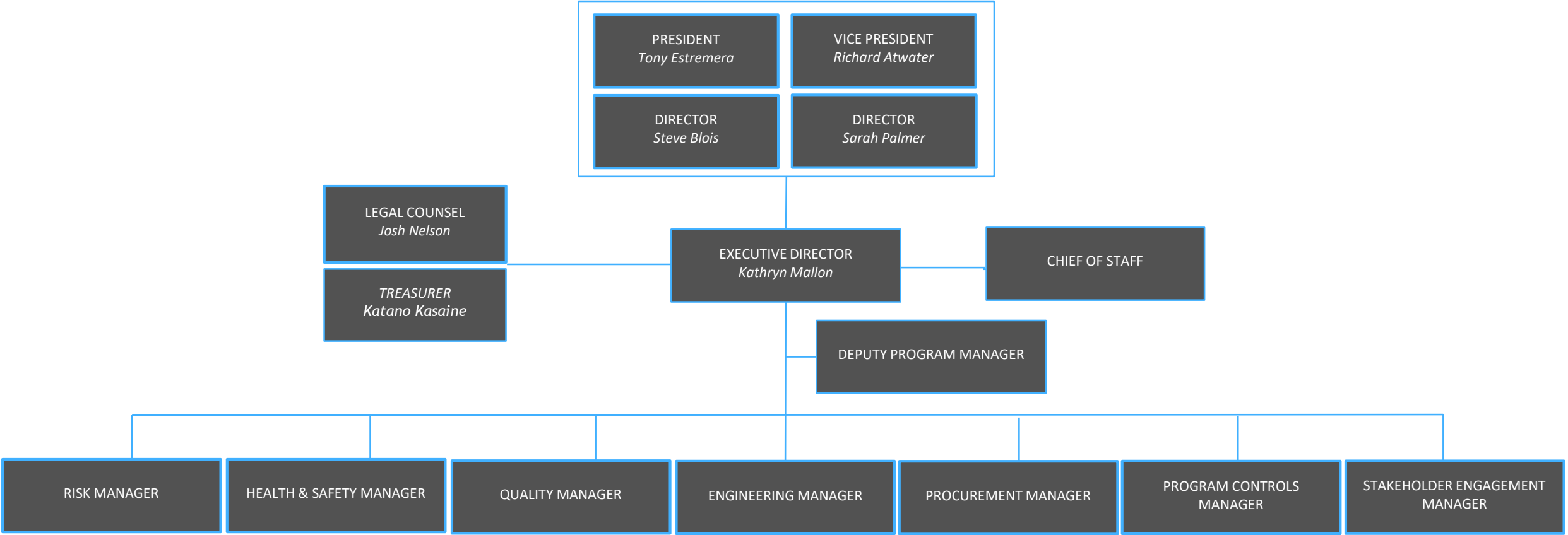
- **Formation & Purpose:** Joint powers agency formed in May 2018 via a Joint Powers Agreement between participating Public Water Agencies (PWAs) for the purpose of design and construction of the Delta Water Conveyance Project
- **Services:** Engineering and related services in support of DWR's environmental process for the consideration of a potential Delta Water Conveyance Project and appropriate alternatives (outlined in a Joint Exercise of Powers Agreement (JEPA) between the DCA and DWR)
- **Oversight:** DCA is under the ultimate control and oversight of DWR
- **Governance:** Board of Directors comprised of representatives of the participating Public Water Agencies, currently:
 - 2 members from the Metropolitan Water District of Southern California (Richard Atwater and Steve Blois)
 - 1 member from Santa Clara Valley Water District (Tony Estremera)
 - 1 member from Zone 7 (Sarah Palmer) representing at large contractors
- **Staff Appointments:** DCA Board appoints Executive Director (Kathryn Mallon), General Counsel (Josh Nelson - Interim) and Treasurer (Katano Kasaine). The Executive Director is responsible for providing overall direction and management of DCA staff to execute the work requested by DWR. Authority is outlined in the Joint Powers Agreement and DCA By-Laws.



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DCA Organizational Structure



DCA Role in Planning Period



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Background



- On May 2, 2019 all approvals of California WaterFix were withdrawn and the DWR initiated a new planning and environmental documentation process for a proposed Delta Conveyance Project
- The role and authority of the DCA during the new Planning Period was agreed in an Amendment to the JEPA (Amendment No. 1, June 27, 2019)
- DWR is the owner, operator and water right holder for the State Water Project and, if approved, the proposed Delta Conveyance Project and is responsible for providing direction and oversight of all DCA Activities
- DWR provides this oversight through their Delta Conveyance Office (DCO), under the management of Executive Director, Anthony Meyers.



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DWR Has Directed DCA to Perform the Following Work



1. Engineering

Conduct engineering and design work to inform the environmental review and planning process.

Identify potential engineering and design strategies to avoid and/or minimize construction effects in the Delta.

2. Stakeholder Support

Assist DWR in conducting public outreach, public participation and stakeholder engagement activities.

Host and support the DCA Stakeholder Engagement Subcommittee to solicit input to the DCA engineering work that will be submitted for environmental review.

3. Program Controls

Establish a program controls office to support the management of risks, procurement, costs, schedule and document control related to the activities of the DCA.



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DCA Schedule for Upcoming Year

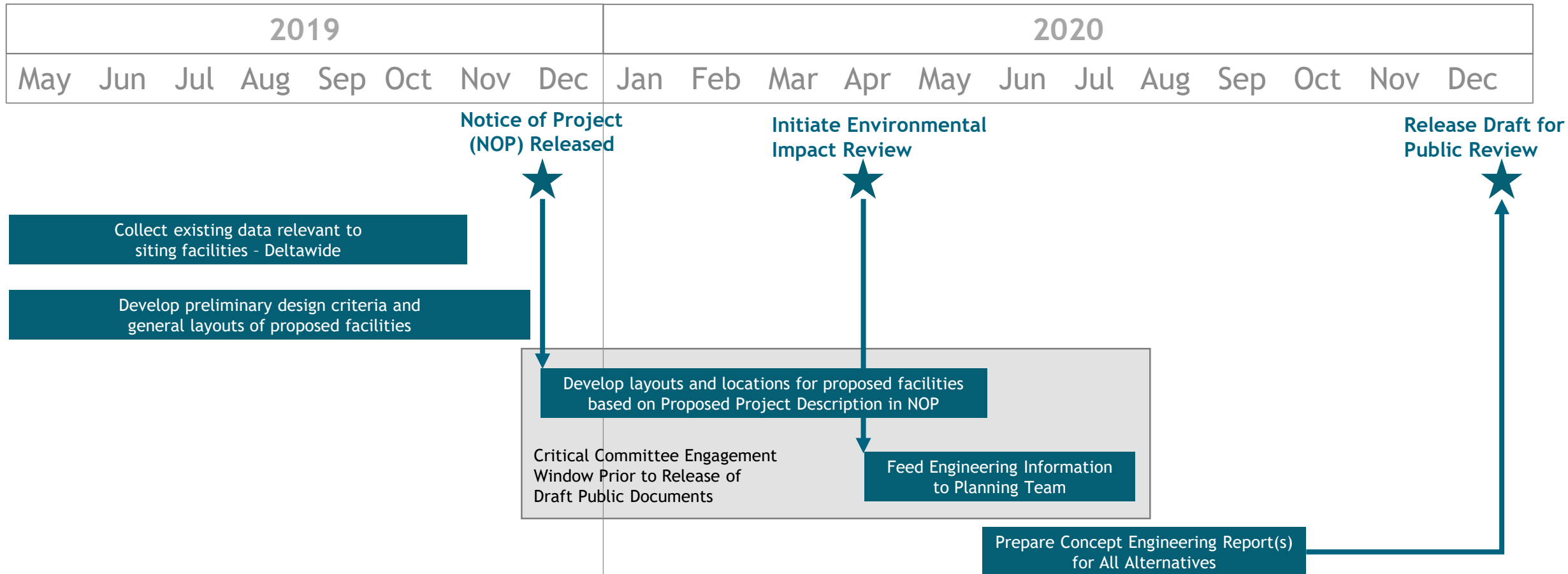
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DCA Workplan and Key Milestones



SEC Collaboration



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SEC Parameters



1. DCA's defined role in this Planning Phase limits the areas of discussion within the Stakeholder Engagement Committee.
2. The DCA seeks to collaborate with **Delta Stakeholders to minimize the effects of construction through** engineering design, logistics optimization, and facility siting.
3. DCA's engineering and Delta stakeholder engagement efforts will be described in a DRAFT Concept Engineering Report to be delivered to DWR for their use in the environmental review of a proposed Delta Conveyance Project.
4. Neither the DCA nor this SEC will review or decide the case for the proposed project, the alternatives to be evaluated in the environmental documentation process, the flow and operating parameters of the proposed project and alternatives, or the assessment of environmental impacts under the CEQA process.



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Areas of SEC Collaboration



Construction Effects

Provide feedback on proposed methods to reduce facility construction effects focused largely on traffic, noise, air emissions and dust control.

Contribute insights on additional considerations that may help minimize effects.

Facility Siting

For some facilities, there will be flexibility in site selection. For these facilities, provide input on sites that best address the critical siting considerations.

Dual Benefits

Some of the facilities provide opportunities to design with a goal of dual purpose between water conveyance and community benefit.



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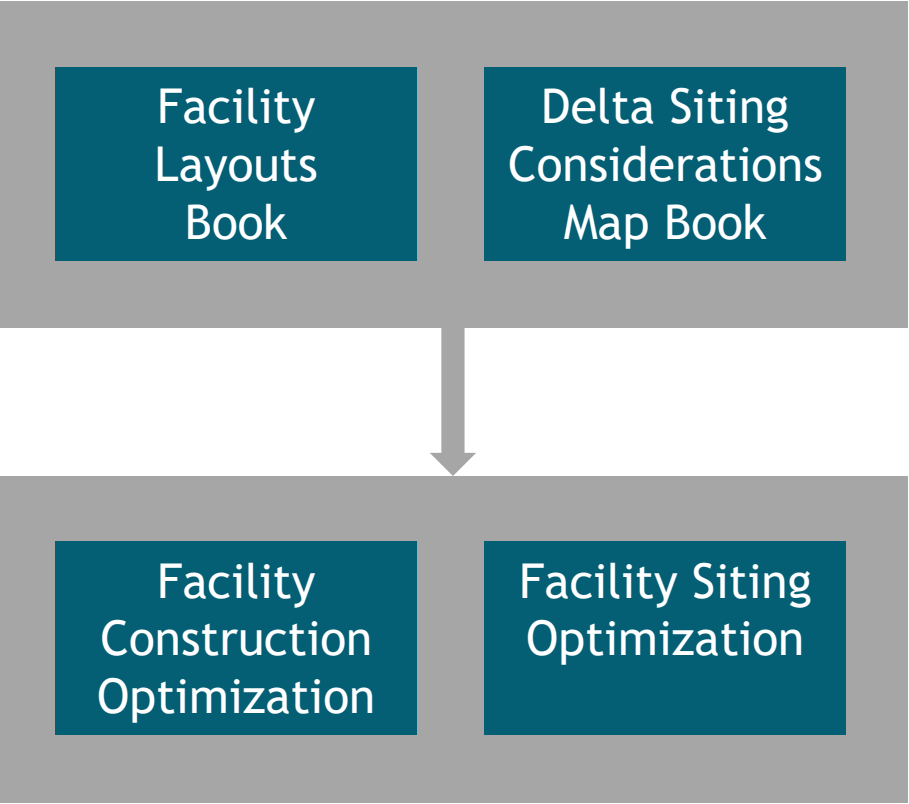
Engineering Information



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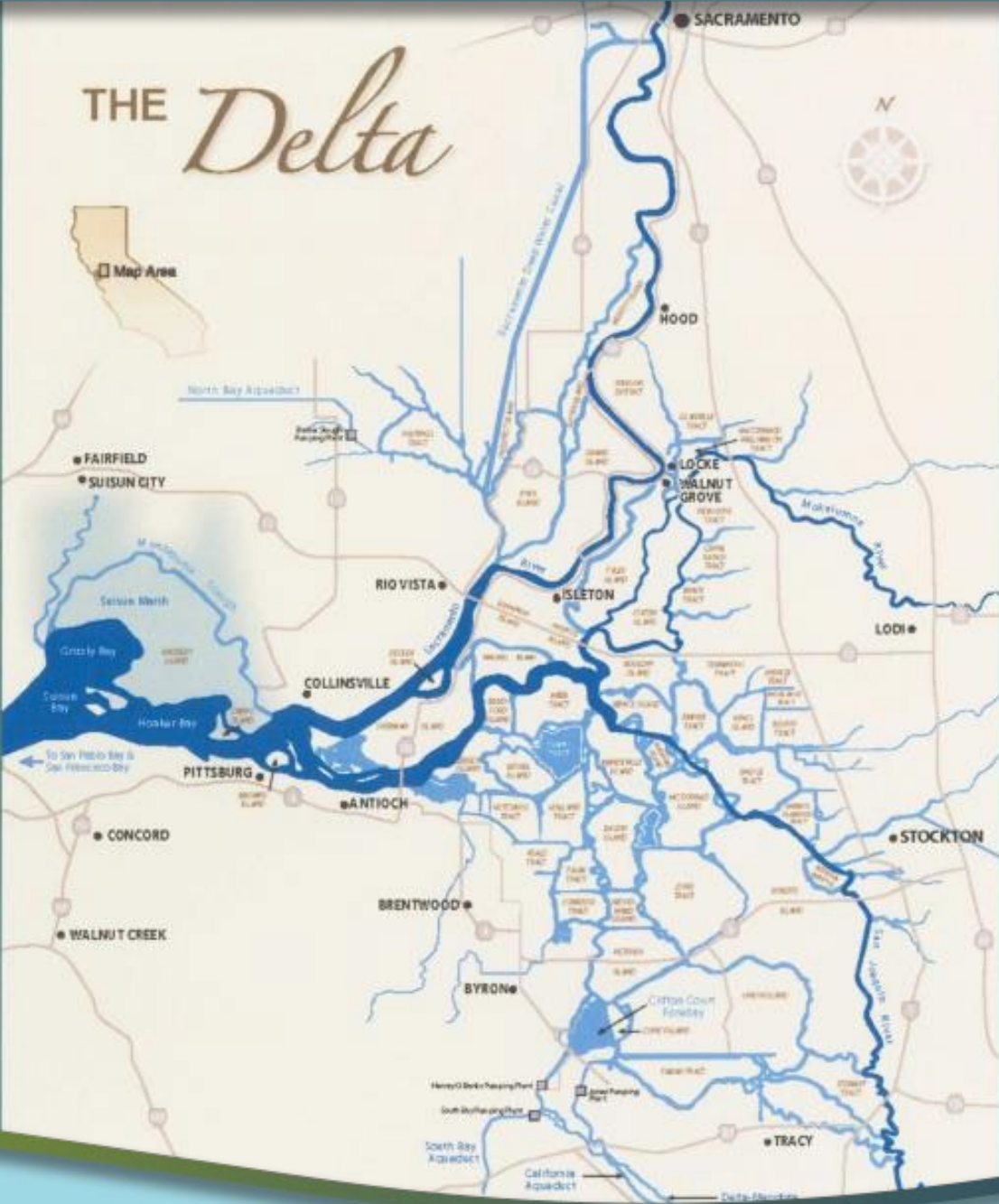
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Engagement Roadmap



Systemwide Discussion
(December)

Individual Facility
Discussions
(January through April)



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Facility Discussions

- General Purpose of Facility
- Facility Renders
- Proposed Site Layout(s)
- Construction Duration and Key Activities
- Construction Sequence Animation
- Key Construction Effects (e.g. Trucks, Noise)
- Proposed Reduction Measures
- Introduction to Siting Considerations



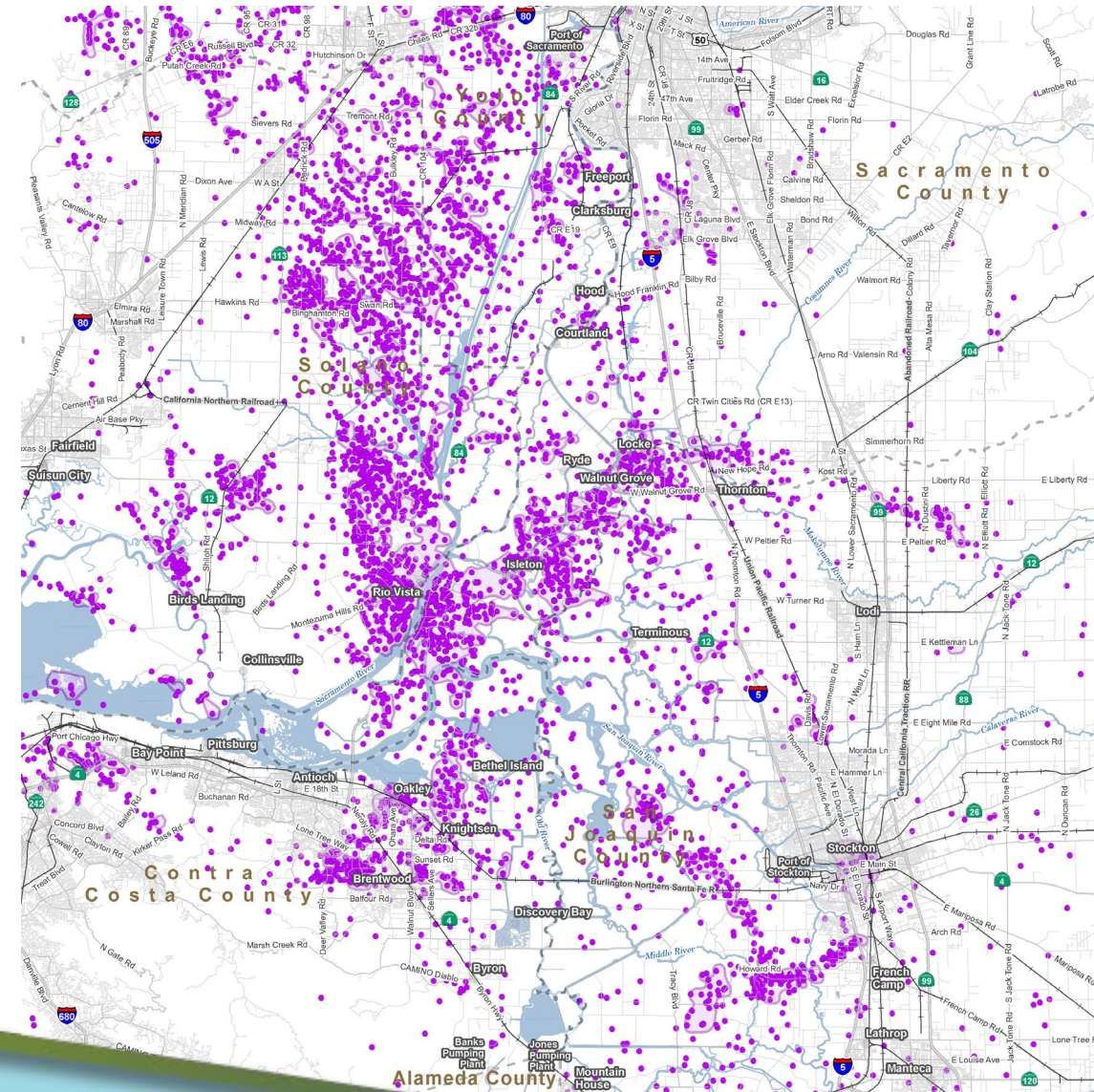
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Siting Driver Discussions

- Review Facility Siting Drivers - Engineering or Operations
- Review Key Siting Considerations (e.g. Transportation Corridors or ESA)
- Review Site Alternatives Identified
- Discussed Proposed Sites against the Key Siting Considerations

MAP OF DELTA AREA OIL & GAS LOCATIONS





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Clarifications?



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Brown Act and Public Records Act

Introduction & Overview

Overview

- Brown Act
 - Application of the Act
 - What is a Meeting?
 - Serial Meetings
 - Open and Public
- Public Records Act
 - What is a Record?
 - Electronic Records
 - Best Practices
- More Information
- Questions?



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Ralph M. Brown Act



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Application



Brown Act

Government Code § 54950
California's open meeting law for local
agencies
Ensures most discussions and deliberations
occur in public



Basic Rule

Meetings of
Local Legislative Bodies
Must be Open and Public



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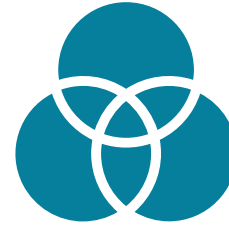
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Application



Local Agency

Means a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency



Legislative Body

Governing body;

Board, commission, committee created by formal action of the governing body;

Private organizations (in limited circumstances).



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Application

Meeting

- Any gathering of a majority of the members at the same time and place to hear, discuss or deliberate upon any matter under their jurisdiction
- Majority = 10 members of the SEC, excluding ex officio members



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Application

Not a Meeting

- Individual contacts;
- Purely social or ceremonial occasions;
- Meetings with other legislative bodies - a majority of the governing body may attend as long as they do not discuss among themselves issues related to the agency.



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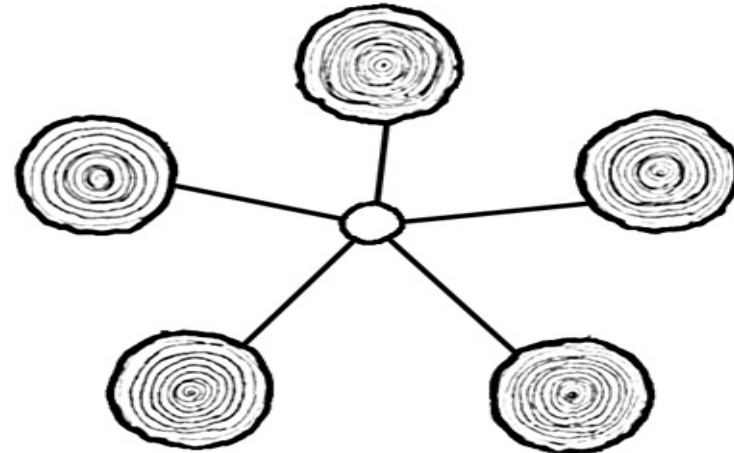
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Serial meetings

- Hub and spoke

OR

- Daisy chain



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Serial Meetings

Ways Serial Meetings Can Occur

- Personal Meeting
- Telephone
- Email
- Written Correspondence
- Use of Intermediaries
- Social Networking sites such as Facebook and Twitter



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Open and Public

Agenda

- 72 hours for regular meeting and 24 hours for special meeting
- Posted online and at a location freely accessible to the public
- Packet is a public record once distributed to the SEC
- SEC can only discuss items on the agenda

Public Comment

- Comment must be provided on agenda items and non-agenda items
- Time limits are permissible
- SEC members should not engage with the public



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Public Records Act

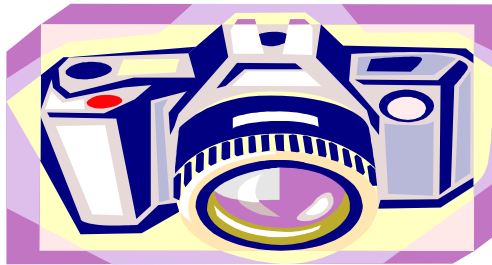
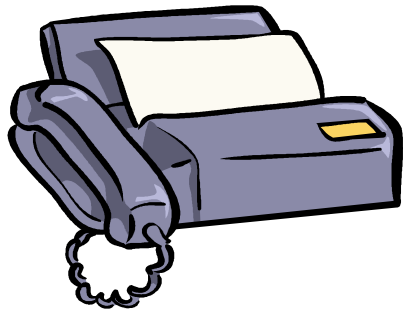


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Public Records Act

Public record: “any writing containing information **relating to the conduct of the public’s business** *prepared, owned, used, or retained by any state or local agency* regardless of physical form or characteristics.” Gov. Code § 6252(e).



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Public Records Act

- Must respond within 10 days of the request
- May take 14-day extension for “unusual circumstances”
- Records provided within a reasonable time
- Direct copying costs only
- All records are disclosable unless an exemption applies
 - Personnel (BUT salaries)
 - Attorney-client privileged records



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Public Records Act: Best Practices

- All SEC records should be assumed to be public
- This includes all emails sent or received by SEC members regarding the SEC
- Please use your DeltaStakeholders.org email for SEC business
- IF NOT, you must cc your DeltaStakeholders.org email on all sent emails and forward copies of all received emails to your DCDCA email account



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More information

- SEC Charter
- Guidelines for Avoiding Serial Meetings
- Open and Public V*
- The People's Business*

* Available at <https://www.cacities.org/Resources/Open-Government>



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COMMITTEE (SEC)



Questions?

Josh Nelson

joshuanelson@dcdca.org

916-551-2859 (office)

916-677-7403 (cell)

NEXT SEC MEETING

- DATE: December 11, 2019
- TIME & LOCATION: TBD
- TOPICS*: System and Siting Overview (pending NOP)
 - Review of Notice of Preparation
 - DCA Direction to perform Concept Engineering work in these corridors
 - System and Facilities
 - Siting Process Overview

**Subject to change*



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STAKEHOLDER ENGAGEMENT
COMMITTEE (SEC)



STAKEHOLDER ENGAGEMENT COMMITTEE (SEC)

Memo

Contact: Valerie Martinez, SEC Facilitator

Date: November 13, 2019 SEC Meeting

Item No. 4c

Subject: Meeting Handouts

The attached documents support **Item 4c – Handouts**. The documents include:

- SEC Charter
- Guidelines for Avoiding Serial Meetings

The following documents are informational materials that support discussion during the first regular meeting of the Delta Conveyance Design and Construction Authority (DCA) Stakeholder Engagement Committee.

- **SEC Charter**
The SEC Charter was unanimously passed and adopted by the Delta Conveyance Design and Construction Authority (DCA) during their September 19th Board Meeting. It outlines the intent of the SEC, its construct, and details regarding organization.
- **Guidelines for Avoiding Serial Meetings**
DCA counsel will provide a training on the Ralph M. Brown Act and Public Records Act to support SEC members in their new roles on a publicly noticed committee. These materials provide informational support for that presentation.

BOARD OF DIRECTORS OF THE DELTA CONVEYANCE**DESIGN AND CONSTRUCTION AUTHORITY****RESOLUTION NO. 19- 12**

Introduced by Director Richard Atwater

Seconded by Director Sarah Palmer

CREATION OF THE DELTA STAKEHOLDER ENGAGEMENT COMMITTEE

WHEREAS, the Delta Conveyance Design and Construction Authority (DCA) is a joint powers agency formed pursuant to the Joint Powers Agreement Forming the DCA effective May 14, 2018 (JPA) to design and construct new Delta water conveyance facilities to be owned and operated by the Department of Water Resources (DWR) that would convey water from the Sacramento River north of the Delta directly to pumping plants located in the south Delta (Conveyance Project); and

WHEREAS, DCA and DWR executed the Joint Exercise of Powers Agreement (JEPA) outlining the scope of the DCA's planned activities for the Conveyance Project; and

WHEREAS, the initial Conveyance Project was commonly known as the California WaterFix and was more particularly described in the Joint Exercise of Powers Agreement; and

WHEREAS, the State has set a new water policy for California, and on May 2, 2019, DWR withdrew its approval of the California WaterFix project and announced it will embark on new planning and environmental documentation for a potential Conveyance Project; and

WHEREAS, DWR will be responsible for considering a potential Conveyance Project and alternatives and complying with all applicable environmental and related laws, including acting as lead agency under the California Environmental Quality Act; and

WHEREAS, the DCA and DWR amended the Joint Exercise of Powers Agreement in that Amendment No. 1 (collectively, the JEPA) to permit the DCA to provide design, engineering and field work services and ancillary activities, including stakeholder engagement and facilitation, to DWR to assist its environmental process for consideration of a potential Conveyance Project during the Planning Phase as defined in the JEPA; and

WHEREAS, Article X of the JPA provides for the creation of advisory committees and the Board wishes to provide an advisory forum for interested Delta stakeholders to provide input, receive updates and otherwise participate in the DCA's work during the Planning Phase; and

WHEREAS, this Resolution creates the Delta Stakeholder Engagement Committee for this purpose.

Now, therefore, the Board of Directors hereby resolves as follows:

1. RECITALS

The above recitals are incorporated into this Resolution by reference.

2. ESTABLISHMENT, GENERAL PURPOSE AND TERM

A. The Delta Stakeholder Engagement Committee (Committee) will provide technical and related advisory input to the DCA during the conduct of its Planning Phase activities as defined in the JEPA (DCA Activities). The Committee may be extended to include input during the design and construction phase. The Committee is further intended to foster robust, candid and thoughtful discussion between stakeholders regarding engineering-related aspects of the Conveyance Project.

B. The Committee's term is intended to continue until the completion of the Planning Phase or as otherwise determined by the Board.

3. SCOPE

A. To ensure focused, relevant, and effective discussions, the Committee's business shall consist of the following:

1. To provide a forum for DCA staff to publicly present and receive feedback on technical, engineering issues related to DCA Activities. Such discussions will likely include problem-solving efforts to consider engineering and design considerations in the development and design of a Conveyance Project that avoid, reduce, or mitigate significant impacts to environmental and cultural resources in the Delta and affected communities. These considerations should be reasonable and responsible from a resource and feasibility perspective and consistent with the identified project objectives. These considerations will likely also include general stakeholder outreach on DCA Activities with an emphasis on providing a venue for the exchange of information and collaboration between various stakeholders.

2. If requested by DWR, to provide a similar forum for DWR discussions of its activities during the Planning Phase. In this event, the Committee's activities shall be necessarily limited to logistics issues in accommodating DWR's request. In no event shall the Committee's scope expand beyond the DCA Activities.

B. The Committee's business discussions shall be only focused on DCA Activities and the Committee is expressly not the proper forum for:

1. Debates or deliberations regarding whether or not DWR should undertake a Conveyance Project.

2. DWR's consideration of the Conveyance Project and any alternatives under the California Environmental Quality Act or other applicable laws. A separate public process will be undertaken by DWR for this purpose.

4. MEMBERSHIP

A. The Committee shall consist of up to eighteen (18) members as set forth in this Section.

B. Two (2) members of the Committee shall be Board Directors or appointees and shall act as Chair and Vice-Chair. In all cases, the Chair or Vice-Chair shall be a Director.

C. Sixteen (16) members of the Committee, representing various stakeholders, shall be appointed by the Board. Members should be selected from various stakeholder groups affected by or interested in the Conveyance Project. This is expected to include public water agencies, tribal governments and unincorporated communities within the Delta. It is also expected to include representatives from affected industries or interest groups, including environmental and fisheries, construction and trades, and environmental justice.

D. Five (5) ex officio members may participate in the Committee. These members should represent state and local agencies with relevant expertise, including transportation, emergency operations, and workforce and economic development. Ex officio members are not official members of the Committee and shall not be counted when determining a quorum or for determining whether consensus has been reached. Ex officio members represent their appointing agency and act as its representative to the Committee.

5. TERMS OF OFFICE

As an advisory committee, Committee members shall not serve a fixed term of office. Members shall serve until their resignation or removal.

6. APPOINTMENT AND REMOVAL

A. The members of the Committee excepting the Chair and Vice-Chair shall be appointed by the Board after a public application process. Members may be removed by the Board for any or no reason.

B. The Chair and Vice-Chair shall be appointed and may be removed by the Board. Unless otherwise determined by the Board, the Chair shall be or be appointed by the Director identified as the Chair of the Environmental Compliance and Mitigation Committee (Environmental Committee) in Exhibit B of the JPA for Year 3-4. Unless otherwise determined by the Board, the Vice-Chair shall be or be appointed by the Director identified as the Vice-Chair of the Environmental Compliance and Mitigation Committee (Environmental Committee) in Exhibit B of the JPA for Year 3-4

7. VACANCIES

Vacancies on the Committee shall be filled in the same as manner as the initial appointment.

8. OFFICERS OF THE COMMITTEE

The officer of the Committee shall be the Chair and Vice-Chair. No other officers shall be elected or appointed.

A. The Chair of the Committee shall call the meetings to order at the appointed time, shall have all the powers and duties of the presiding officer, shall appoint any sub-committees and shall perform such other duties as may from time to time be prescribed by the Committee.

B. The Vice-Chair of the Committee shall have all the powers and perform all the duties of the Chair in the case of absence or inability of the Chair to act. The Vice-Chair shall perform such other duties as may from time to time be prescribed by the committee or the Chair.

9. MEETINGS OF THE COMMITTEE

The Committee shall establish a regular time and place of meeting and shall hold regular meetings. Special meetings of the Committee may be called by the Chair. Personal notice must be given to all members of the Committee. If personal notice cannot be given, email notice must be sent to such members at least twenty-four (24) hours prior to the meeting, unless the notice requirement is waived by the member. Notice of regular and special meetings shall be provided in accordance with the Ralph M. Brown Act. The DCA Executive Director (Executive Director) shall administer the Committee's activities.

10. QUORUM

For the purpose of regular and special meetings, a quorum of the Committee shall consist of a majority of the total membership.

11. CONDUCT OF BUSINESS

The Committee shall conduct its meetings in compliance with the Ralph M. Brown Act, this Resolution and any other terms and conditions set forth by the Board. The Committee is not a decision-making body, and the bulk of Committee business is expected to involve informal discussions, technical evaluations and the exchange of views and ideas. As such, no formal input, opinions or recommendations shall be provided by the Committee without the request of the Board, the Executive Director or DWR. If such authority makes a formal request to the Committee, the requested input, direction, guidance or recommendation shall be provided with the consensus of the Committee. If unanimous consensus cannot be reached, the Committee may provide a consensus position with the opportunity for one or more alternative positions. The Chair shall determine whether unanimous consensus has been reached and whether alternative position(s) are necessary or advisable. The Chair shall delegate the preparation of such consensus and alternative positions to Committee members, DCA staff or other appropriate parties.

12. STIPEND AND REIMBURSEMENTS

In lieu of cost reimbursements, Committee members shall receive a stipend of \$250 per meeting. DCA Directors serving on the Committee shall not receive a stipend but shall be entitled to reimbursement for their necessary and reasonable expenses.

13. RECORDS

The Chair and his/her designee shall keep minutes of regular and special Committee meetings. Minutes shall be approved by the Committee by consensus. The Committee shall comply with the California Public Records Act, the DCA's Records Retention Policy and other applicable law or DCA policy. The DCA Executive Director shall also prepare a monthly report summarizing the Committee's activities for the month and provide this report to the DCA's Board.

* * * * *


This Resolution was passed and adopted this 19th day of September 2019, by the following vote:

Ayes: 4


Noes: 0

Absent: 0

Abstain: 0

DocuSigned by:
 11/1/2019
197E0FB0AE23405...
Tony Estremera, Board President

Attest:

DocuSigned by:
 11/7/2019
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Sarah Palmer, Secretary

BOARD OF DIRECTORS OF THE DELTA CONVEYANCE
DESIGN AND CONSTRUCTION AUTHORITY
RESOLUTION NO. 19-17

Introduced by Director Sarah Palmer

Seconded by Director Richard Atwater

INITIAL APPOINTMENT OF THE DELTA STAKEHOLDER ENGAGEMENT COMMITTEE

WHEREAS, the Delta Conveyance Design and Construction Authority (DCA) created the Delta Stakeholder Engagement Committee (Committee) to act as an advisory committee to the DCA Board of Directors as set forth in Resolution No. 19-12; and

WHEREAS, the DCA conducted a public application process for the initial public members of the Committee; and

WHEREAS, the DCA has further identified two ex officio members for the Committee; and

WHEREAS, the DCA Board of Directors wishes to appoint the initial public and ex officio Committee members and modify Resolution No. 19-12 as set forth in this Resolution.

Now, therefore, the Board of Directors hereby resolves as follows:

1. RECITALS

The above recitals are incorporated into this Resolution by reference.

2. AMENDMENT OF RESOLUTION NO. 19-12

A. Section 4.A of Resolution No. 19-12 is amended to read in full as follows:

A. The Committee shall consist of up to nineteen (19) members as set forth in this Section.

B. Section 4.C of Resolution No. 19-12 is amended to read in full as follows:

C. Seventeen (17) members of the Committee, representing various stakeholders, shall be appointed by the Board. Members should be selected from various stakeholder groups affected by or interested in the Conveyance Project. This is expected to include public water agencies, tribal governments and unincorporated communities within the Delta. It is also expected to include representatives from affected industries or interest groups, including environmental and fisheries, construction and trades, public safety and environmental justice. The Board may, but is not required to, appoint an alternate member for any Committee member. Such alternate shall participate in Committee meetings

and act on behalf of the Committee member when such member is unavailable or absent. Alternate members shall not be considered members of the Committee except when acting on behalf of the unavailable or absent member. However, if an alternate attends any Committee meeting, whether or not they are acting on behalf of a member, he or she shall receive the stipend identified in Section 12.

C. Section 4.D of Resolution No. 19-12 is amended to read in full as follows:

D. Up to five (5) ex officio members may participate in the Committee. These members should represent state and local agencies with relevant expertise, including transportation, emergency operations, and workforce and economic development. Ex officio members are not official members of the Committee and shall not be subject to the provisions of this Resolution applicable to Committee members. Rather, ex officio members represent their agency and act as its representative to the Committee. Ex officio members may be appointed by the Board when recommended by an applicable local or state agency or the DCA and may be removed from the Committee in the same manner as public Committee members. Vacancies shall be filled as provided in Section 7 for Committee members.

D. Section 7 of Resolution No. 19-12 is amended to read in full as follows:

7. VACANCIES

Vacancies on the Committee shall be filled in the same as manner as the initial appointment, except that in the event of a vacancy where an alternate member has been appointed, the Board may appoint the alternate in lieu of conducting a public application process.

3. PUBLIC MEMBERS

A. Pursuant to Sections 4.C and 6.A of Resolution No. 19-12 as amended by Section 2 of this Resolution, the following sixteen individuals are appointed as public members of the Committee:

- Paul Clausen
- James Cox
- Cecille Giacomini
- David Gloski
- Douglas Hsia
- Lindsey Liebig
- Mel Lytle, Ph.D.
- Karen Mann
- Phillip Merlo
- Barbara Barrigan Parrilla
- Isabel Gonzales Potter
- Anna Swenson
- Malissa Tayaba
- James Wallace
- Angelica Whaley
- Sean Wirth

B. In an effort to ensure robust participation in the Committee from tribal government representatives, Jesus Tarango is hereby appointed as the alternate Committee member for Malissa Tayaba.

4. EX OFFICIO MEMBERS

Pursuant to Sections 4.D and 6.A of Resolution No. 19-12 as amended by Section 2 of this Resolution, the following two individuals are appointed as ex officio members to serve as representatives to the Committee on behalf of the indicated agencies:

Gilbert Cosio, Various Delta Reclamation Districts

Michael Moran, East Bay Regional Park District

* * * * *

This Resolution was passed and adopted this 17th day of October 2019, by the following vote:

Ayes:

Noes:

Absent:

Abstain:


Tony Estremera, Board President

Attest:


Sarah Palmer, Secretary



MEMORANDUM

To: PUBLIC AGENCY CLIENTS
From: BEST BEST & KRIEGER LLP
Date: JUNE 12, 2018
Re: GUIDELINES TO PREVENT SERIAL MEETINGS

INTRODUCTION

The purpose of this memorandum is to provide members of “legislative bodies,” which include not only the governing body, but commissions, committees and standing subcommittees, advisory or decision-making, with practical suggestions to prevent “serial meetings” in violation of the Ralph M. Brown Act (Gov. Code § 54950, et seq.) related to open and public meetings.

The Brown Act is meant to promote transparency and public participation in local government: “All meetings of the legislative body of a local agency shall be open and public. . . .” (Gov. Code § 54953.) The Brown Act’s definition of a “meeting” is broad:

“meeting” means any congregation of a majority of the members of a legislative body at the same time and location, including teleconference location as permitted by Section 54953, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body. (Gov. Code § 54952.2(a).)

To hold a meeting, the Brown Act requires public notice to be posted that includes the items of business to be discussed at the meeting. (Gov. Code § 54954.2.) Unless there is a properly noticed meeting, a majority or quorum of the Brown Act body members may not take action, deliberate, discuss—or even “hear”—items within the subject matter of their council, board, commission, committee, or standing subcommittee. It is easy for any observer to determine now when a majority or quorum



of Brown Act body members have congregated in the same place: Just count them. And when they do so congregate (other than at a noticed public meeting), they cannot discuss their Brown Act body's business.

NO SERIAL MEETINGS

Even when they have *not* congregated in *one place*, the Brown Act still prohibits communications among a majority or quorum of members about their Brown Act body's business. ((Gov. Code § 54952.2(b)(1).) That means that, outside of a meeting, a majority of members must not communicate *indirectly* —through intermediaries or technology— about business:

(b)(1) A majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body. (Gov. Code § 54952.2(b)(1).)

No one and nothing may be used to facilitate relevant communications among a majority of Brown Act body members outside of a meeting: not a staff person, not a member of the public, not an email forward, not a Facebook page, etc. These types of communications among a majority of Brown Act body members (made through intermediaries or technology and not while congregated in one place) are called “serial meetings.”

Serial meetings pose a special danger because they can occur *unintentionally*. Avoiding illegal serial meetings requires Brown Act body members to know the dangers and take affirmative steps to avoid them. These guidelines will help.



OLD SCHOOL PROBLEMS

A. Contacts with staff

The goal of the Brown Act is to have local government bodies deliberate and make decisions in an open and public meeting. If a staff member met individually with each Brown Act body member and served as an intermediary to forge consensus among the members, what is sometimes termed a “wheel meeting” because the staff member serves as the hub communicating with individual members, the spokes, the public would be deprived of the opportunity to observe and participate in the decision making process. On the flip side, if Brown Act body members showed up to conduct business without the benefit of a staff report or an opportunity to have new concepts or history explained, the meeting may become inefficient and the members would be unprepared to conduct the People’s business. Neither of these two scenarios serves the public well.

The Brown Act recognizes the value of staff briefings, but imposes limits to protect its goals. (Gov. Code § 54952.2(b)(2).) It allows staff members to answer questions and provide information to Brown Act body members, but prohibits staff from communicating the positions of the Brown Act body members to other members of that same body:

[The Brown Act provides that the prohibition on serial meetings] shall not be construed as preventing an employee or official of a local agency, from engaging in separate conversations or communications outside of a meeting authorized by this chapter with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency, if that person does not



communicate to members of the legislative body the comments or position of any other member or members of the legislative body. (Gov. Code § 54952.2(b)(2).)

Staff can inadvertently (or intentionally) become a conduit among a majority of the Brown Act body members in the course of providing briefs on local agency business items. Multiple members of the Brown Act body could separately give staff direction thereby shaping the ultimate recommendation to the Brown Act body as staff attempts to reconcile the differing views or direction. Members and staff of Brown Act bodies should be careful not to cross this line.

To avoid discussing, deliberating, or taking action---meaning, reaching a collective decision, commitment or promise to make a decision or actual vote by a majority (Gov. Code § 54952.6)---by way of staff briefing, please consider the following guidelines:

1. Limit your interactions during individual staff briefings to asking questions and acquiring information.
2. Avoid providing staff with your views and positions during individual staff briefings (unless it is absolutely clear that the staff member is not discussing the matter with other Brown Act body members).
3. Do not ask staff to describe or speculate about the views of other Brown Act body members.

B. Contacts with constituents, developers and lobbyists

A constituent, developer, or lobbyist can also become an intermediary among a majority of a Brown Act body causing a violation of the Brown Act. Remember, this can happen even if the Brown Act body member did not intend to participate in a violation of



the Brown Act. If members share their positions with third parties, they create a potential intermediary to cause a violation of the Brown Act. And also remember, only members of the body are liable for compliance with the Brown Act.

Many constituents' unfamiliarity with the requirements of the Brown Act aggravate this potential problem because they may believe that a Brown Act body member should, in the ordinary course of performing his or her public duty, commit to a position in a private conversation in advance of a meeting.

To avoid discussing, deliberating, or taking action by way of constituent conversation, please consider the following guidelines:

1. In private meetings, state the ground rules up front. Make it clear that the constituent should not disclose the views of other members during the conversation.
2. Engage in more listening and asking questions rather than expressing views or opinions.
3. Explain to the constituent that you will not make a final decision on a matter prior to the meeting on the subject matter.
4. At the end of the conversation, if you have disclosed your thoughts about a matter, counsel the constituent not to share your thoughts with other members of the Brown Act body.

C. Contacts with fellow Brown Act body members

Direct contact concerning local agency business with fellow members of the same Brown Act body is the most obvious means by which an illegal serial meeting can occur. This contact can occur through face-to-face or telephone conversations or text or email messages.



This is not to say that a Brown Act body member is precluded from discussing items of agency business with another member of the body outside of a meeting; as long as the communication does not involve a *majority* of the body, no meeting has occurred.

But, there is always the risk that one participant in the communication will disclose the views of the other participant to another member, thereby creating a serial meeting in violation of the Brown Act. This is sometimes referred to as a “chain meeting” as one member communicates with another and that member then communicates with a third member until a majority of the body is linked to the communication.

If you are a member of a five-member Brown Act body, you could designate an exclusive “Brown Act body buddy” with whom you discuss local agency business. (If you are on a seven-member body, you can designate two Brown Act buddies.) Be explicit in the arrangement so that you can speak freely without concern that your views will be shared with other members of the body.

21ST CENTURY PROBLEMS

Technology has increased the opportunity for communication outside of a noticed meeting and consequently has also increased the potential for violating the Brown Act. Social media creates the potential for an illegal serial meeting since members of the Brown Act body can learn other members’ views—outside of a meeting—from the privacy of the home, car, or office. These types of communication impede the Brown Act’s goal of promoting transparency and public participation in local government. Special care is warranted.

A. Emails and text messages

To avoid discussing, deliberating, or taking action by way of emails and text messages (which can be considered “public records” under the Public Records Act



(Gov. Code § 6250, et seq.; see, *City of San Jose v. Superior Court* (2017) 2 Cal.5th 608), please consider the following guidelines:

1. Do not send emails or text messages to the whole Brown Act body.
2. Use “bcc” in email communications when sending informational items to other Brown Act body members. This will help avoid the unintentional group message in the event a member hits “reply all.”
3. Remind Brown Act body members to refrain from clicking “reply all” in response to your email communication.
4. Ask the city clerk or city manager to forward the informational items to other Brown Act body members.

B. Social media

Social media platforms, such as Twitter, Facebook, Instagram, etc., allow members of Brown Act bodies to share information, which may include information relating to the Brown Act body’s business. If a majority of Brown Act body members are all friends on Facebook or follow each other on Twitter, those platforms could host an illegal serial meeting if the Brown Act body’s business is the topic of the social media post. (And these records are also likely to be considered “public records.”)

To avoid discussing, deliberating, or taking action by way of social media, please consider the following guidelines:

1. Keep information about upcoming matters before your Brown Act body *general* on social media – encouraging participation in noticed meetings is a good use of social media, but using social media as an alternative to noticed public meetings runs afoul of the goal of the Brown Act.



2. Do not enter a group page or chat for the members of your Brown Act body.
3. Do not contribute content that expresses your position regarding upcoming Brown Act body business on the City's social media page. This is more of a concern for administrative or "quasi-judicial" actions (like planning or business license applications).



These suggested guides for conduct may seem restrictive and may make it more difficult to gather information. But following the guidelines will help assure that your conduct comports with the Brown Act's goal of achieving open government and affording the public a meaningful opportunity to participate in local government.

If you have questions about compliance with the Brown Act in any given situation, please contact your Best Best & Krieger counsel or one of the authors for further guidance and advice.

CHRISTI HOGIN
JANE ABZUG