

April 23, 2021

Delta Conveyance Design and Construction Authority
Stakeholder Engagement Committee Members

Subject: ***Materials for the April 28, 2021 Regular Committee Meeting***

Members of the Stakeholder Engagement Committee:

The fourteenth regular meeting of the Delta Conveyance Design and Construction Authority (DCA) Stakeholder Engagement Committee is scheduled for a remote video conference on **Wednesday, April 28, 2021 at 3:00 p.m.**

Please join our meeting from your smartphone, computer or tablet.

<https://webinar.ringcentral.com/j/1480658465>

SEC Members are asked to join the meeting at 2:45pm to ensure priority entry by the meeting hosts and to resolve any technical issues prior to the start of the meeting.

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

- **Meeting Agenda**
- **Meeting Minutes**- February 24, 2021 Regular SEC Meeting
- **Brown Act Memo**

All files presented during the meeting will also be available at dcdca.org by the Monday following the meeting.

Regards,



Sarah Palmer, DCA Board Member
Stakeholder Engagement Committee Chair



Barbara Keegan, DCA Board Member
Stakeholder Engagement Committee Co-Chair



DELTA CONVEYANCE DESIGN AND CONSTRUCTION AUTHORITY STAKEHOLDER ENGAGEMENT COMMITTEE
REGULAR MEETING AGENDA

Wednesday, April 28, 2021, 3:00 p.m.

Remote – Conference Access Information:

Phone Number: 1 (650) 242-4929 **Access Code:** 148 065 8465

Electronic Meeting Link:

Please join our meeting from your smartphone, computer or tablet.

<https://webinar.ringcentral.com/j/1480658465>

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 meeting is **not** part of the Department of Water Resources' California Environmental Quality Act public outreach process related to a potential Delta Conveyance project and therefore comments made in this meeting will not be recorded or tracked for those purposes. All items are information only.

In compliance with state and county health orders, the meeting will be held electronically only through the listed meeting link and telephone number. Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990; requests for accommodations can be made by contacting staff at (888) 853-8486 or info@dcdca.org. 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 at her discretion. Please note that Items 4 and 5 are single discussion items; subparts are listed for clarity. **Persons wishing to provide public comments remotely on Agenda Items must complete the online public comment form at <https://tinyurl.com/dcapubliccomment-SEC> by 4:00 pm.** The public may also provide written public comment by email to publiccomment@dcdca.org. All written comments received prior to the conclusion of the meeting will be included in the written record for the meeting but will not be read during the meeting. Additional information will be provided at the commencement of the meeting.

- 1. WELCOME/CALL TO ORDER**
- 2. ROLL CALL**
- 3. MINUTES REVIEW: February 24, 2021 Regular SEC Meeting**
- 4. UPDATES & COMMITTEE DISCUSSION**
 - 4a. DCA Review and Updates
 - 4b. DWR CEQA Status Update
 - 4c. SEC Questions or Comments on February 24th Meeting Presentation
 - 4d. Public Comment on Item 4
- 5. PRESENTATIONS & COMMITTEE DISCUSSION**
 - 5a. Design Changes
 - 5b. Ongoing Outreach Efforts
 - 5c. Environmental Justice Survey Results
 - 5d. Community Benefits Program Update
 - 5e. Public Comment on Item 5
- 6. FUTURE AGENDA ITEMS & NEXT MEETING**
 - 6a. Community Benefits Framework
 - 6b. Design Change Updates
- 7. NON-AGENDIZED SEC QUESTIONS OR COMMENTS**

8. PUBLIC COMMENT ON NON-AGENDIZED ITEMS

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. To provide public comment, complete the online public comment form at <https://tinyurl.com/dcapubliccomment-SEC> by 4:00 pm with their name, phone number or other identifier. As these items have not been agendized, the Committee is not legally able to discuss these items at this meeting unless a recognized exception applies.

9. ADJOURNMENT

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Next scheduled meeting: **Regular Stakeholder Engagement Committee Meeting: June 23, 2021 at 3:00p.m.**

Memo

Contact: Valerie Martinez, SEC Facilitator

Date: April 28, 2021 SEC Meeting

Item No. 3

Subject: Meeting Minutes

The meeting minutes from SEC Meeting 15 (February 24, 2021) are attached for your review. Please send any edits to hannahflanagan@dcdca.org by **noon Tuesday, April 27, 2021**. Since the SEC is not a voting group, this process will facilitate the review process and allow us to efficiently address the minutes at the meeting.

STAKEHOLDER ENGAGEMENT COMMITTEE

MINUTES

REGULAR MEETING

Wednesday, February 24, 2021

3:00 PM

(Paragraph numbers coincide with agenda item numbers)

[Editor's Comment: Minutes are provided to ensure an accurate summary of the Stakeholder Engagement Committee's meetings. The inclusion of factual comments and assertions does not imply acceptance by the Delta Conveyance Design and Construction Authority.]

1. WELCOME/CALL TO ORDER

The regular meeting of the Delta Conveyance Design and Construction Authority (DCA) Stakeholder Engagement Committee (SEC) was called to order via RingCentral video conference at 3:00 pm.

Director Palmer welcomed the SEC and meeting guests and thanked all for their participation. The meeting is being held via phone and video conference pursuant to Governor Newsom's Executive Order N-29-20 in response to the COVID-19 State of Emergency.

The purpose of the SEC is to create a forum for Delta stakeholders to provide input and feedback on technical and engineering issues related to the DCA's current activities. The SEC is a formal advisory body to the DCA Board of Directors. As such, and like the DCA itself, the SEC is subject to public transparency laws applicable to local public agencies like the Brown Act and the Public Records Act. It is important to note that the SEC and its meetings are not part of the Department of Water Resources' (DWR's) California Environmental Quality Act (CEQA) public outreach process related to any potential Delta Conveyance project and therefore comments made at this meeting will not be tracked or recorded for those purposes. SEC member comments at this meeting will be recorded and tracked, but only for the purposes of the DCA.

2. ROLL CALL

Committee members in attendance were Angelica Whaley, Anna Swenson, Barbara Barrigan-Parrilla, Cecille Giacoma, David Welch, Douglas Hsia, Gia Moreno, James Cox, Jim Wallace, Karen Mann, Lindsey Liebig, Malissa Tayaba, Mike Hardesty, tribal representative alternate Chairman Jesus Tarango, Dr. Mel Lytle and Sean Wirth. Ex-officio members Gilbert Cosio and Michael Moran were also in attendance.

Members Isabella Gonzalez-Potter and Philip Merlo were not in attendance.

DCA Board Members in attendance were Director Sarah Palmer (Chair) and Barbara Keegan (Vice Chair). In addition, DCA and DWR staff members in attendance were Kathryn Mallon, Valerie Martinez, Joshua Nelson, Graham Bradner, Phil Ryan, Nazli Parvizi, Claudia Rodriguez, Jasmine Runquist and Carrie Buckman.

Ms. Palmer reviewed meeting guidelines and norms. All meetings are subject to the Brown Act. The Chairperson presides over meetings and the Vice-Chairperson presides over the meeting in her absence. Discussion will be guided by the meeting facilitator, Valerie Martinez. Staff will provide technical information to support the committee's work. Each meeting will be goal-oriented and purpose-driven. The information provided is for purposes of discussion only and is subject to change. The committee holds no formal voting authority. We will seek consensus. All views will be listened to, recorded and reported. Participation in the SEC does not imply support for any proposed conveyance project.

Ms. Palmer stated that this meeting has a change of platform within RingCentral which places the SEC members in a different virtual meeting room than attendees. The SEC discussion and public comment processes remain the same. Attendees will remain muted and not have a video option unless they are speaking during public comment. The DCA will unmute the speaker however the speaker will have the option to turn on their video. The SEC members have full control of their video and audio. The chat function will not be used in this meeting even though it can be seen.

Ms. Palmer reviewed housekeeping items. Members of the public can request to speak during the public comment period by emailing publiccomment@dcdca.org. Written comments will be added to the record but not read during the meeting. Patience is appreciated, as this is the first teleconference for the SEC. DCA will work to ensure everyone is heard and receives the information needed.

The meeting is being recorded and will be posted on the website following the meeting. Please be mindful of your background, and please mute your microphone and/or stop your video if you need to step away during the meeting. In order to provide organized comments and allow SEC members to speak without talking over one another, SEC members are asked to use the "Raise Hand" feature in order to be recognized to speak during the meeting by Meeting Facilitator Valerie Martinez.

Ms. Palmer noted that this meeting pertains to engineering topics only and discussion can only contain topics in the DCDA purview.

3. MINUTES REVIEW: December 9, 2020 Regular SEC Meeting

Mr. Gloski commented on page 13 of the minutes. He would like to clarify that what he was trying to figure out was that if a new pumping station is put in, if the Bethany Alternative is carried out, could either an existing one or a new one be used interchangeably? The change was noted and will be applied to the minutes.

4. DCA/SEC Housekeeping Updates

a. AB 922 Brown Act Amendment – Social Media Postings by SEC Members

Ms. Palmer addressed some updates made to the DCA Board, as well as to the SEC. Mr. Robertson has stepped down from the SEC for personal reasons. Sean Wirth has also stepped down from his position.

Mr. Nelson presented an overview of AB 992. He presented the background of the Brown Act and who it impacts.

Mr. Nelson discussed serial meetings, which happen to be the most prominent issue with violations of the Brown Act. He then discussed emails and the importance of avoiding the “reply all” option. Depending on how far an email thread develops, it could violate the Brown Act. Mr. Nelson proceeded to talk about the new legislation that went into effect on January 1, 2021. This new legislation affects social media posts made by members of both the DCA and the SEC. He clarified that members of the legislative body can use social media to communicate with the public using an internet-based social media platform that is open and accessible to the public regarding a matter that is within the subject matter jurisdiction of the agency. It is permitted to answer questions and provide information to the public. These means of communication could be subject to the Public Records Act. However, a majority of the members may not use an internet-based social media platform to discuss agency business. Further, a member may not directly respond to any communication posted or shared by another member regarding agency business on an internet-based social media platform. These are special rules that only apply in the social media context, but it does apply to the SEC the same way it applies to the DCA Board and any other legislative body subject to the Brown Act.

Ms. Martinez mentioned that Mr. Nelson would be available for personal question via phone call after the meeting.

Ms. Barrigan-Parrilla asked what exactly is defined as Agency Business, is it how the SEC runs? Are they allowed to discuss topics of discussion if they need to gather feedback from people?

Mr. Nelson said that anything discussed at the SEC qualifies as agency business. One of the purposes of the SEC is to increase outreach, which gets at the first part of the bill. It clarifies that it is appropriate for members of the SEC to use social media to talk to the public. Those type of exchanges are not a problem. The only issue would be if one SEC Member were to reply to the posting of another SEC Member. Mr. Nelson advised that each person focus the outreach to their specific stakeholder group and ensure that they aren’t responding to another member’s social media post on that specific platform.

Ms. Barrigan-Parrilla asked if collaboration would be allowed between a minority of members over social media? They collaborate more online now than they do in-person due to the global pandemic.

Mr. Nelson said a minority of members can correspond with one another virtually, as long as it is not a social media posting. It is a bit confusing, because of the way the bill is written, it is something still being navigated and worked through. It does create a new and separate standard that applies to social media postings only. Hosting a webinar does not count as a social media posting. Hosting a webinar with less than the majority of the SEC would not be an issue. However, using Facebook to have a discussion with 3 other SEC Members about a topic through a posting, for example, would violate AB 922.

Ms. Moreno asked what would happen if they are already involved in another organization that falls under the Brown Act, does one cancel the other one out when having a discussion? This issue applies to multiple Board members.

Mr. Nelson said the majority of concern was about the type of forum the conversations and means of communication were conducted through. Colleagues are allowed to collaborate, as long as it is not through a social media posting. There is a new separate standard the bill places when regarding social media postings. If one were to host a webinar, they may do so as long as it maintains less than the majority of the SEC members.

Ms. Swenson requested a memo that outlines how the SEC qualifies as being covered by the Brown Act, as well as the SEC's relevance to the new law. She expressed the need for further understanding of the Brown Act and what its update entails. It feels like the SEC is being silenced. It's concerning that these limitations affect how members can communicate with each other and the general public during a pandemic.

Mr. Nelson said a memo was sent out to the SEC, but it can be resent. Further communication with Ms. Swenson to address her questions and concerns can be conducted one-on-one. Mr. Nelson said these updates were not something that the DCA came up with. He clarified that this was a bill that came down from the legislature and that it applies to all local agencies. He also mentioned that these updates were addressed to figure out how they could be adopted. Mr. Nelson said that it might be something the legislature might want to revisit after they think through some of the consequences. However, there is an obligation for DCA to comply with state law.

Ms. Palmer expressed that this is not something that one can adjust to easily, but that it is necessary in the moment.

Ms. Swenson said she doesn't understand why the SEC is governed by the Brown Act when they do not vote. She said they should not be considered a Board if they cannot vote.

Mr. Nelson clarified that the Brown Act does not define who falls into a legislative body depending on whether or not they vote. He also explained that committees formed by a legislative body do qualify. When the SEC was formed, it was known that they would be subject to the Brown Act.

b. DCA Board Update

Ms. Mallon went over updates regarding the DCA Board structure. There were new Board members present who she wanted to give background information to. Current and future DCA member agencies have voted on participation in the ongoing planning work for the Delta Conveyance Project. The vote included decisions on the level of participation in DCP, the funding agreement with DWR for DCP, and approval of a revised DCA JPA. A total of 16 Member Agencies signed the Revised Joint Power Agreement, which is the document that governs the DCA. All the member agencies signed the amended JPA.

Ms. Mallon reviewed the original Board composition and the current Board composition. The original Board composition consisted of four members: Metropolitan Water District of Southern California (two seats), Kern County Water Agency (Vacant), Valley Water (one seat), and all other classes (one seat each). The current Board composition consists of seven members: Metropolitan

Water District of Southern California (one seat), Kern County Water Agency (one seat), Valley Water (one seat), Class 8 (two seats), Class 2 (one seat), Class 3 and 7 (one seat each). There will be a continuation of SEC representation by Sarah Palmer (SEC Chair) and Barbara Keegan (SEC Vice Chair). They will remain in their respective roles.

Ms. Mallon discussed recent Board activities. The Member Agencies finalized their appointments of Board members and backups. The appointments ended in January. A Public Special Session was held on February 3, 2021. It was an Orientation Session that helped new Board members get orientated with paperwork, background on the DCA, and basic information to help them get better adjusted to their new role. The first regularly scheduled Board Meeting was held on February 18, 2021. The Board Meetings are regularly held on the third Thursday of the month. The reason there is a new Board layout is largely because of the amended JPA that occurred as the various agencies approved participation in the program.

Mr. Hsia asked who are the 16 DCA Agency members.

Ms. Mallon said DCA has a list on the website and that information would be sent out to SEC members during the meeting.

Ms. Swenson asked how many stakeholders are on the Board.

Ms. Mallon said that seven members represent the 16 agencies. Some of the members represent multiple agencies. Ms. Mallon asked Ms. Palmer to explain what her role is.

Ms. Palmer said that they are part of a Class 2. She used to represent 27 agencies, but now represents two agencies. Those agencies are Zone 7 and Alameda County Water District. They would probably tradeoff between representation of the two agencies.

Ms. Mallon encouraged participants to watch the Orientation Session to learn more about the new Board members. The new Board members introduced themselves during the Orientation Session and explained their role and the agency they represent.

Mr. Anabtawi briefly joined the meeting and introduced himself. He is one of the two Class 8 Board seats. Class 8 is essentially the Southern California Contractors who get water from the State Water Project on the East Branch of the California Aqueduct, excluding Metropolitan. He is one of the recently appointed Board members. Director Robert Cheng is also a Class 8 Board Member. Mr. Anabtawi's background is in the water business. He's been with the Mojave Water Agency for nearly two years.

Ms. Giacomini requested that every time a memo is to be sent out, that it goes to everyone.

Mr. Nelson said he was planning on sending out memos to the entire SEC so that everyone would have a copy.

Ms. Palmer shared that she finds it helpful to send memos to her attorney to send out to ensure that there are no Brown Act violations. She mentioned that Mr. Nelson is a helpful resource for this and other Brown Act-related matters.

Mr. Gloski asked whether the representation or the number of Board members corresponds with the number of dollars contributed to building the tunnel. How is DWR involved with the Board? Has there been any discussion of having some Delta representation on the Board?

Ms. Mallon said that there is not really any proportional representation, everything is distributed across all 16 water agencies. This is done so that there is a good distribution of voices heard within the DCA. The DCA Board governs the actions and activities of the DCA. When it was originally formed, the Board was anticipating a Design and Construction Authority. Now that they are back in planning, the JEPA clarified the role of the DCA to provide support to DWR. The DCA performs work at the direction of the DWR under the JEPA and they are also governed by a Board of Directors that is made up of the State Water Contractors that are paying for the project.

Mr. Nelson said that the relative share of planning cost is attached to the by-laws that were adopted earlier this month, in the DCA Board packet as an exhibit. He said that the DCA itself and its Board is just a collection of participating water agencies. The DCA's interaction with DWR is governed by the Joint Exercise of Powers Agreement (JEPA). It is a contract between the DCA and the DWR which clarifies what services are provided to the DWR during the planning phase. Mr. Nelson added that when the participating water agencies formed the JPA, they determined how the Board composition would be organized.

Dr. Lytle commented that the introduction to the new Board Members was important in understanding the changes to the Board and how it pertains to activities of the project, as well as what the SEC is doing. Dr. Lytle is trying to corral information in the sense that the DCA Board meets independently once a month or during Special Meetings. The SEC does this as well, but it is hard to cover activities of the DCA Board as well. If there is significant action taken by the Board, where the SEC can have part of their program dedicated to being briefed on DCA activities? He feels it is important to understand the dynamics of what is going on outside of what the SEC is tasked with.

Ms. Mallon said that they would be able to make those accommodations.

c. Public Comment on Item 4

Ms. Osha Meserve, Local Agencies of the North Delta, noted that there was a mention of amendments to the JEPA. A key point was that the date of payment for the \$43 million loan to the DCA from the DWR was extended two years to January 10th, 2023. The previous deadline for those funds to be returned to the DWR was on January 10th, 2021. The districts who were asked whether they would pay for the planning cost of the tunnel in the fall don't think this money was authorized. So instead of that money getting paid back, there is a trail of debt of the JEPA to the DWR which could potentially put water districts at risk. It is unclear that their funds are being used for tunnel activity. This is irresponsible and should've been included in the update to the SEC. When Mr. Wirth resigned from the committee, he provided a letter explaining his reasoning for his resignation, which said that he doesn't feel comfortable participating in the community benefits discussion because of the organizations that he works with. This letter, along with the letter of the other member who have resigned, should be given to the other committee members.

5. Technical Updates & Committee Discussion

a. **DWR CEQA Status Update**

Ms. Buckman provided an update on the CEQA Process. At this point the Initial Outreach portion is complete. They have now moved into the Project Definition process. The first step of this section is Alternative Analysis which means working to identify a set of alternatives, so that there is a reasonable set of alternatives included in the EIR. There are still aspects of that step that are being worked on. The next step would be Project Definition which focuses on defining those alternatives to an extent in which they can be analyzed in the EIR. The majority of that work is what the DCA is doing in collaboration with the SEC. The third step is technical reports. Since this is an engineering-related committee, it would be technical from an engineering perspective. This mostly pertains to a technical environmental analysis. Technical background is being gathered for the environmental analysis. This would focus on things such as air quality and transportation. A lot of the technical analysis form the basis for the Impact Analysis and the EIR. These pieces are all in various stages of movement. This will be moving into an Impact Analysis and Identification of Mitigation. From that point, there would be an Internal Admin Draft that will be reviewed. Then a public draft of the EIR will be released in early 2022 which will be available for public review and comment during the public meetings of that time. Then there will be a final EIR that will take into consideration the comments made during the public review period. It will then be documented in a Notice of Determination.

Ms. Buckman then reviewed the current CEQA status. The team is currently working to identify the methodology for some of the different impact analyses, as well as working on the technical studies to support that impact analysis. For NEPA, the Army Corps of Engineers is working to develop an EIS. This is similar to what CEQA is doing. For soil investigations, there was field work that was completed under the Initial Study of Mitigated Negative Declaration in 2020. The field work is on hold during the winter season, but it will start up again in mid-March. Outreach regarding entry permissions is starting next week, the first week of March. When the Initial Study was started, it was much earlier in this process. As things have been moving forward, they have identified the need to look in different locations. There were some sites removed, as well as some that were added. It was taken into consideration whether or not the new sites would change the effects that were already analyzed. It was determined that they did not change the impacts that were already analyzed. An addendum was completed and documented on the website which is available for review. The Environmental Justice Community Survey closed in December and the results are still being compiled into a report. That data is expected to be shared at the next SEC meeting in April.

Ms. Moreno commented that she does not feel that due diligence was done regarding outreach to the communities within the Delta. There is no information in Spanish. There is a large population of individuals who do not speak or read English well, let alone know that this project is happening. She mentioned that there might not be anyone on the SEC who is fluent enough in Spanish to inform these people what is going on. She added that the SEC had suggested to halt meetings during the pandemic because there is poor internet in the Delta. This left many people without the means to voice their opinion or gather information on what was going on. Ms.

Moreno asked if there is a way for the low income and marginalized communities to be heard before the project gets pushed through.

Ms. Buckman said that when they first starting the scoping process, in early 2020, materials were released in multiple languages. There was, and still is, a hotline available for individuals to call if they would like to receive additional materials in different languages. When the Environmental Justice Survey was released, there were multiple language translations, including Spanish and Chinese. However, there are still ways being explored to involve stakeholders who speak different languages. One thing currently being explored is how to reach those individuals who may not be able to attend meetings as easily as others. Language is a key part in what they are keeping in mind when communicating to the public.

Ms. Parvizi said that there are many reasons why it is difficult to have an internet meeting compared to that of in-person. There are also many reasons why individuals attend and do not attend these meetings. The average attendance of the number of people in the in-person meetings were 10 to 15 people, and virtually there are regularly about 50 people in attendance.

Ms. Moreno said that an entire town of Hood did not know about the project, even though they are in the center of it all. There were postcards given, but the majority of people thought they were junk mail.

Ms. Parvizi said that it is tricky finding the right people to entrust with certain parts of outreach, because it is a partnership at the end of the day. Sometimes it is a partnership with individuals who oppose the project and may not want the information to go out. Material has been left at post offices and libraries, which are two trusted institutions. DCA also left material at the Firehouse. She reiterated that the team can always do better. There are a lot of gatekeepers when it comes to information with regard to who wants it to be withheld and who wants it to go out. There are people getting threatened by lawyers and other individuals who do not want information about the project to be shared. The feedback of the general public determines whether or not certain translations need to be done. If 300 responses in Mandarin are received, then that is taken into consideration and adjusted accordingly. Basic information would be posted in English to get things started. It is only then that, depending on feedback, information would be adjusted according to the needs of various individuals. There could be special meetings for individuals who need them to help spread information. She does understand that there is an equitable access issue, however, there are more tools to participate online than there ever were before. There are more individuals joining the meetings now than there ever were during an in-person meetings. She believes the equity question goes both ways. It is essential to pivot and make sure that information is being made available to more people.

Ms. Palmer added that she does also recognize that internet access is a significant issue in the Delta.

Ms. Barrigan-Parrilla said that she is worried about people receiving the correct information. Surveys were being pushed out, as well as online organizational work. She does recognize that

there is a digital and cultural divide. As COVID-19 restrictions loosen up, it is important to come up with a strategy to reach other groups in the Delta who are not normally involved. There are a third of people in the state that do not yet know that this project is under consideration. Data is important, during the pandemic there must be a reliance on data to understand what is going on within communities and how to reach people.

Mr. Cosio asked if there any way to notify the local reclamation district that they will be on the island when the borings for the EIR plans are taking place.? Some of the borings, even though they're on county roadways, are on the levees. It would be helpful to know when these borings are occurring because sometimes there are problems in some of these areas and if Reclamation Districts (RD) are unaware where they're taking place, RDs cannot advise on whether it's a good place to bore or if you could come across problems. One of the reclamation district clients on Bouldin Island, owned by MWP, had their attorney request permits to bore, so conditions were put on the borings. It would be great to receive notification, just to be able to provide some input because there are local conditions to think about. Is there a way, outside of the Public Records Act, to get the boring logs to be able to use when looking at levee or subsurface issues that could lead to seepage?

Ms. Buckman said that those questions would be addressed later in the meeting during the Geotechnical Investigation presentation. More will be done to address certain notices and make them available ahead of time for the borings. The temporary entry permits that they have with a majority of the landowners have specifics about what information can and cannot be shared.

Ms. Swenson mentioned that looking through the presentation, there was nothing regarding the noise survey. It would be good to talk through that at one of these meetings to get participants and what would be needed. A presentation on that is important. As someone who works hard to get information out, the social media restrictions will make things more difficult. Library notices are not helpful at this time. More noticing on meetings would be good. Post offices might be better to utilize because people have to go there to receive their mail. Communicating with individuals that are struggling during this time is hard. There has never been good communication with all communities in the Delta throughout this project. It's been an ongoing problem and hopefully it can be worked on. The noise survey is important and will provide great feedback.

Ms. Parvizi said a notice about the noise monitoring was sent out to the SEC members. This information can be sent again. The Brown Act social media updates were not DCA's idea. She recommended those who are against it, call their legislators and give feedback because they would probably appreciate it.

b. Bethany Alternative Wrap-Up

Ms. Mallon introduced the discussion on the Bethany Alternative. She stated that all this material has been gone over in previous meetings. She wants to do a summary highlight over the Bethany Alternative, as well as the key findings. The Bethany Alternative will be gone over again in this meeting to garner any further comments about the Bethany Alternative as it is being wrapped up.

Ms. Mallon began the discussion on the Bethany Alternative. She said that the material has already been discussed before in previous meetings. Today they will be presenting a summary highlight and key findings of the Bethany Alternative.

Mr. Ryan presented an overview of the Bethany Alternative. He said that the purple section at the top of the on-screen visual is the same as the Eastern Corridor. The green section at the bottom of the on-screen visual is the modification for the Bethany Alternative. The Eastern Alignment is at the top above Lower Roberts, then there are two additional maintenance shafts on the Southern end at Upper Jones and Union Island. The tunnel reach from Lower Roberts extends to the Bethany Complex located near the existing Central Valley Project facilities. The Pumping Plant then diverts flow up to a discharge structure along the shore of the Bethany Reservoir. The Central and Eastern Alignments both come down to the Southern Forebay, which is where the Pumping Plant is located.

Gravity then takes the flow through another set of dual tunnels, then through some control structures, and into the channel that feeds the state's Banks Pumping Plant. The difference with the Bethany Alternative is that the tunnel is starting at Lower Roberts instead of the Southern Forebay. One of the big facility issues is that they do not have a Southern Forebay to balance between the two dual conveyance facilities in the same way, but the Southern Forebay is not needed. Because there is no heavy reliance on the Southern Forebay, there is minimal use for the RTM within the project.

The tunnel comes in at the Bethany Complex to the Pumping Plant in the reception shaft under the surge basin. There is another buried conduit that comes off the side of the tunnel shaft that feeds into the middle of the Pumping Plant. This is where the pump is lifted up into buried aqueduct pipelines that go up to the reservoir. There are surge tanks behind each aqueduct for the pipeline surge. The surge basin is for the tunnel surge. There are various supporting buildings, such as the electrical buildings and the Surge Station. It is right across the street from the Tracy Substation, which is right next to the Jones Pumping Plant. The aqueduct comes out of the Pumping Plant and travels up to the Reservoir.

There are two tunnels along the route. One is for crossing the discharge pipelines coming from the Central Valley Projects Pumping Plant. The other is used to get in underneath the conservation easements to avoid any impacts to the flora and fauna. It is longer than the conservation easement because of the topography in the area. There is a tunnel for each of the four aqueducts for the 6,000 cfs capacity. They come up in shafts, then flow out through control gates into the Bethany Reservoir. It is a passive structure that redirects flow into the Reservoir. The RTM will not be used for the Southern Forebay but will still be there to manage. There are only two substantial tunneling sites on the project for the Bethany Alternative. One site is at Twin Cities, which is 6.6 mil cubic yard. The other site is Lower Roberts, which is 7.5 mil cubic yards. The total RTM production is 14.1 mil cubic yards. There is not a Southern Forebay on the Bethany Alternative, so there is no need to transport RTM from Twin Cities to the Southern facility site.

There are two options for RTM management. One option is to stockpile on-site, the other option would be to haul off-site by rail or trucking. The option selected was storing it on-site because of the reduction in truck traffic and decreased greenhouse gas emissions. One other reason to stockpile material was to leave material available for Delta area Reclamation Districts. On-site

stockpiling would also allow for the industry to advance electrified hauling of vehicle technology. One of the cons of on-site stockpiling would be the aesthetic issue of having on-site stockpile material, as well as significant land requirements for drying and stockpiling. Off-site disposal would have less construction and permanent area required at Twin Cities and Lower Roberts Tract sites. However, it would add significant truck traffic and associated emissions, as well as greenhouse gas emissions along the I-5 Corridor and near Port of Stockton. There would also not be material left for local beneficial use.

Mr. Ryan said that construction would have an impact on traffic. The area near Lower Roberts at SR-4 was going to be pushed to Category F LOS. A park-n-ride in Stockton would eliminate this problem. Near the Byron Highway area, close to the Bethany Complex, there are a variety of issues with the Byron Highway traffic. Options were found to make a specific stretch of Byron Highway be able to handle the traffic without significant impacts. A new interchange would be put down there. A system would also be implemented to allow those coming from multiple directions with different material to be able to reach the site.

Ms. Mann asked if anyone has reached out to the residents of Mountain House? Mountain House is not necessarily part of Discovery Bay, but it does have its own community. Traffic may have a significant impact on them. She would like them to be included in the SEC Committee.

Mr. Ryan said that there have been a few discussions already with Mountain House. Recently there has been a more detailed discussion with Mr. Nejad, who was in the meeting. Most topics of discussion with Mountain House revolved around traffic and how to resolve that issue. The whole project has been introduced to their team.

Mr. Nejad said they have passed along comments that they received to DCA. Most of these comments were regarding traffic on Byron Road and on Grant Line Road. He has shared with the DCA the plans for widening Grant Line Road already, especially at the intersection that was supposed to be upgraded. This was done so that the two projects may be coordinated. The major concern over Grant Line Road is that it is the main commute for Mountain House residents. There is concern over truck traffic at peak hours. He will be submitting a letter requesting that truck traffic not interfere with peak hour commutes for the residents, which would cause the LOS to reach F. It would make it difficult for the residents to be able to reach the freeway.

Ms. Parvizi said she had emailed all the Board members of the Mountain House Community Council regarding the project. She was told she was in violation of their Brown Act for writing to all of them. Communication was made with the manager of Mountain House to see if they would like to organize a larger community meeting that the DCA would attend. DCA has made sure to provide materials and information to Mountain House.

Ms. Swenson asked at what point people at Twin Cities would be notified. They would be in the midst of all the activity and potential widening. She would like an in-depth discussion as to how that might impact the local community there. She said that residents may be caught off guard and not be aware of plans that are being made. Twin Cities is a major community and hauling road. Transparency is much needed for people in that area. Ms. Swenson also asked if there was a use for RTM in levee repair.

Mr. Cosio said that if the material is adequate, it can be used. Some of the work that the Metropolitan Water District has been doing, since they now own levees in the Delta, has shown that these toe berms can benefit the levee as far as seismic resistivity. However, if the location on Twin Cities Road is not conducive to hauling it to where it is needed, that could make it hard to use.

Ms. Mallon asked Mr. Cosio where the RTM is most needed?

Ms. Martinez suggested that question be tabled, for it would get into the logistics of the project that would soon be covered in the meeting.

Ms. Barrigan-Parrilla said that she hopes the EIR will robustly deal with the issue of water quality standards. She feels like the standards will change once the project is completed. She is concerned that it seems like full mitigation discussions are not happening when they should be happening. She wants to know what the long-term impacts will be. What will the project look like in the long haul?

Ms. Buckman said that one of the things they always run into is the difficulty of analyzing something without fully knowing what project facilities are going to look like. There is a lot of concern that the project facilities are being defined in a way that might have impacts. DWR has worked with the DCA to define the project first. There has been a request to minimize impacts to local communities. However, the DCA has not been given all the information regarding how the project will impact things in the long run. Once the impacts are made available, there will be decisions made to avoid, minimize, or mitigate them. If there is a shaft site that has noise impacts to a local sensitive receptor, there would be communication with the DCA to talk about moving the shaft site or exploring other available options. Many options involve coming back to the DCA to make some modifications to the project design. While not a major component at the SEC, it is a major component in the EIR. There cannot be any discussion of mitigation because they have yet to assess any potential impacts. Right now, they are defining operations and analyzing if there are potential impacts. Mitigation will be reached; it is just not at that point yet.

Mr. Hsia asked how many TBMs will be running at the same time at the height of construction.

Mr. Ryan said he believes there will be four TBM's running simultaneously throughout the Delta at the peak of construction. There will be two from each launch shaft.

Mr. Hsia asked since the Bethany Alternative is competing against the Eastern Alignment, what is the possibility that the Eastern Alignment would not be chosen?

Mr. Ryan said they cannot comment on the choice. They provide the DCO with information and they would go through it with their environmental analysis. They cannot comment on the result.

Ms. Mallon said DCA is neutral, that they just do the engineering work.

Ms. Buckman said that it is also based on the availability for each alternative to meet their objectives and to have less of an impact on environmental effects.

Mr. Moran said there are 14.1 million acres of RTM coming out and asked if any of that is expected to be lost through compaction, drying, or erosion, for the life of that stockpile.

Mr. Ryan said none is expected to lose any to erosion. No acreage is going to really be lost. When it is dug out of the ground it is known as bank volume, then it fluffs up into loose excavated volume. It is then dried, then shrinks a little bit, then it is compacted back into place. It is all accounted for in the same number.

Mr. Bradner said he agrees with the statements that Mr. Ryan gave. When it comes out of Banks in bulks, it is 1.3. There is then a water reduction factor as it dries, then a compacting factor as it is put back into place. As it turns out, the factor is .99 from bank to compact. The reason it is different when compared to a surface excavation is because it is usually on the order of .9. It is coming from depth, so it is a bit more compressed. It is in a bit more consolidated in the compressed state. 14.1 is the wet material and it will shrink at the surface.

Mr. Moran asked if it'll ever drop down below the need for the levee repair and embankments?

Mr. Bradner said they would not have enough. Material is more or less usable in different ways with levee repair. There would be a substantial quantity of material, though it would not meet the 13.1 million cubic feet need.

Dr. Lytle believes they are just looking at book-end alternatives in the sense that there is an attempt to accommodate less impact to climate change with a direct impact that would come from stockpile material. It seems odd that options are being considered for future climate change and less truck trips, rather than diminishing the direct impact of the stockpiled material. If a levee is breached at Lower Roberts or Twin Cities, that material will go everywhere. That material needs to be dealt with. Stockpiling is a poor option, and evidence has backed this. Contamination due to this needs to be evaluated. This is something that needs to be looked at in a more defined way. There has to be better middle ground. The concept that this is flood building material needs more information. The money to do this project is key.

Ms. Mallon said this was talked about at the meeting. She is certain that there is going to be electric modification of the fleet in the future. This is something that can be revisited in the future.

Mr. Lytle said that is a redirected impact. There may be an electric powered semi-truck that can move materials around, but will that vehicle need to be charged? What is going to be the source the power which charges the trucks? Will it be green and renewable energy?

Ms. Martinez stated that we are working with the information we currently have been presented with during the meeting. The State of California is in the middle of a transition but for the moment, things are where they are.

Mr. Cox was curious about the makeup of the EIR. He asked if there is going to be dependance on electric vehicles that do not exist now, or only on that of available equipment today?

Ms. Buckman said there is no dependance on any equipment that does not currently exist.

Ms. Mallon said that this topic may be revisited in the future.

c. Geotechnical Field Work Update

Mr. Finney presented a Geotech field work update. To date, 21 soil explorations have been completed. There are a total of 65 soil explorations that are planned to be completed in 2021 and 2022. There have been a few challenges. The field program was originally developed to minimize inconvenience to private landowners. County and State right-of-way were going to be used wherever possible. Unfortunately, there was a group of attorneys making threats about underlying right of way ownership rights. San Joaquin County was evoking restrictions on explorations as well. This was after they had issued a valid encroachment permit. These issues will be addressed by DWR in the coming weeks. The geotechnical contractors experienced a protest that had individuals blocking busy roads, which required the Sherriff and CHP to show up. While the issues are resolved, relocation of explorations to adjacent private property had to be done. This will require additional requests for temporary entry.

In the fall and the winter there were challenges with the weather, as any field exploration project might experience. There have also been challenging drilling conditions. The Delta is known to have deep sequences of sand that are under artesian pressures that are challenging during drilling. There is also a need to schedule work around agricultural operations that provides difficulties as well.

Mr. Finney then presented an update on the environmental testing completed this fall. He explained that previous environmental testing had been completed on soil samples that came from deep below the Delta. There were also environmental test data from samples mixed with the foaming agents that the tunnel boring machines use to determine the constituents of these additives. The results of these tests were previously presented to the SEC. There was no indication from any data they have that currently suggests that the native deep soils or the additives were in any way harmful to the environment or to people. There were a number of questions that were related to the prior testing that were discussed with the SEC previously. In particular, there were some constituents that were not well represented in the prior test data, including Methyl Mercury and Hexavalent Chromium. It was also discussed that no data were available to compare the tunnel depth soils with the shallow soils across the Delta.

Mr. Finney explained that in an effort to understand any differences between the surface soils and the tunnel depth soils, a series of tests were conducted at Background Depth (0 to 3 ft), Shallow Depth (0-10 ft), and Tunnel Depth (115 to 160 ft). On the presentation graphic, all the green markers were completed in fall 2020. Locations are scattered all over the Delta to get a better understanding of conditions there. There is also a brief summary of what was found. The major metals that were being looked at were those like Methyl Mercury, Hexavalent Chromium, and Arsenic. They were all at Non-Detect Levels or at extremely low levels, with the exception of Arsenic. Arsenic is a natural occurring metal that is present in the west and the graphic presented that the detected levels were typical of the background level of Arsenic detected in California soils. The Arsenic levels detected were higher in the background and shallow soils that they were in the tunnel depth samples. There were also other analytes that were looked for as well, including Petroleum Hydrocarbons, PAH's, and Pesticides. Almost all of these came back as Non-Detects. There were some traces at the surface.

Mr. Finney discussed the sample locations towards the top of the presentation graphic. These locations are Lower Roberts Island, Glanville Tract, Staten Island, and Bouldin Island. All of the locations generally had a shallow and Tunnel Depth Sample. Bouldin Island only had a shallow sample.

Mr. Finney presented the prior results, the new results, and the CA reference limits. The reference limits are early screening values for residential or commercial use of a property, it is just a guide to determine whether certain values are of significant concern. Arsenic levels are all generally around the California background level which have been measured before. If it is present at higher levels in the shallow samples, it is more likely the result of rodenticides and pesticides used in agricultural operations. Cadmium was detected at non-hazardous levels in the prior work and were not deleted at all in the current work and may have been an anomaly in the earlier lab results. Hexavalent Chromium is challenging and a bit more toxic, there were no detections on the samples tested. Mercury was not found at shallow levels or deep tunnel levels. Methyl Mercury had some very low trace levels in a few shallow samples. According to an SEC comment, this could possibly come from coal-burning power plants in China. TPH as Motor Oil was not detected at tunnel depth. There were detections in the shallow samples, but those levels are very low. The conclusions from these new data are 100% consistent with the prior conclusion. There is nothing in the RTM material that is in any way hazardous. This is not the last of the environmental testing, it will go on continuously throughout the Geotechnical Exploration Program. There will be another focus on the tunnel zone and shallow excavation soils to make sure that there is a complete understanding of them. There is a need to understand what is in the RTM as it is brought to the surface and what is already there in the shallow soils.

Ms. Swenson said it would be foolish to say that testing looks good. This is because there is nowhere near enough sampling in the area that is being tested. As a person that was protesting the GeoTech, there was never an obstruction of roads. There was communication with the County Sherriff. They had permission from the landowner, even when the drillers did not have permission from the landowners. The drillers had their equipment and vehicles parked on landowner property without permission. The drillers were not wearing masks, and they had poor traffic control on Twin Cities. The Sherriff's office forced them to put out better signage, for the drillers did not coordinate traffic properly. An accident could've happened. They should be earnest about what is preventing them from completing this, which is not some protesting of the Geotechnical Drilling. The County and law enforcement supported the protesters. The crew doing the Geotechnical Drilling was given warnings about not following protocols or wearing masks. They were also given warnings about not having traffic cones to control traffic. They were only doing what was their given right, which was to pretest and voice their opinions. [see Editor's Note on page 1]

Ms. Barrigan-Parrilla said she does agree with the statements made with Ms. Swenson in regard to the sample size. She then referred everyone to the work done by Dr. Shilling at UC Davis. He had done an incredible amount of tracking around Mercury and Methyl Mercury issues in the Delta. He is a source that is regularly used at the Water Boards. As soil is being tested, one might want to use it as a source document about where they need to be looking or analyzing. She understands that Mercury methylates when introduced to nitrates, it did not look like there was legacy mercury at any notable level. If it is found in other places, does it not change into Methyl Mercury because of nitrogen pollution? That is when things end up with a water contamination

problem. Her understanding is that the size of a quarter of methyl mercury could make a swimming pool deadly for people to swim in. Though the samples are small, methyl mercury is so deadly because it does not take much.

Mr. Finney said there was going to be continuous sampling and that he was just presenting the results of the testing completed to-date. The Geotechnical Samples obtained will be suitable for environmental testing, and that testing will not stop. The point was to give an update during the winter pause about where they were and what they found. It was information that needed to be shared. What was heard in the earlier SEC meeting was a reanalysis of legacy data which had been collected between 2009 and 2017. There were not red flags but there were data gaps. Some of those data gaps were around methyl mercury. The SEC's concerns were definitely being addressed. He is aware that this is not a sample size suitable for giving the RTM a clean bill of health.

Ms. Barrigan-Parrilla asked for clarification that DCA is just sharing what information they have so far,

Mr. Finney said DCA is only sharing what they have so far. In regard to Methyl Mercury, he is not a ground, water, or soil chemist. He does understand that it is not only the nitrates, but that PH has to be at a particular range in order for that compound to begin to form. It is generally low oxygen environment. He says they found trace amounts of methyl mercury at the surface, but did not find traces of mercury. Mercury is more associated with legacy mining; it is used to leech the gold out of the soils. He would not expect to see a lot of mercury outside the historic river channels, so that did not surprise him. He would be surprised to find more naturally occurring mercury on the ground. He agreed with Ms. Barrigan-Parrilla that where ground water is in contact with surface water, and where there is mercury in the surface sediments in the old rivers that has been moved down from the gold rush days, it can be a serious issue.

Dr. Lytle recommended that Mr. Finney report all his detects on any of the elements he was looking for. That would be fair and helpful. He understands this is a summary. Using Mr. Finney's reference for industrial and residential reference criteria could be put into more environmental terms, that way it could be available for agricultural and environmental use. It would be a fair look at the quality of soil that comes up from depth. It would be helpful to report chloride concentration in the soils. Outside of heavy metals, chloride is going to be difficult. If there are high levels of chloride in the RTM, that is going to be problem going forward. He asked if there was testing on ground water at depth.

Mr. Finney answered that there was not any testing on ground water at depth at this time, just soil samples.

Mr. Lytle said that that it would be an interesting data point as well. When this type of thing is being looked at, one looks at the soil's analysis, but ground water analysis can be looked at to see what is essentially available.

Mr. Finney said the point here was to summarize the major terms and metals that were raised as constituents of concern with RTM and the prior SEC meetings. The chloride data is available. They have all the data. Full EPA sweeps are being run. All of the data will be shared as part of the record.

Mr. Cox needed a bit of clarification with the chart that was presented. On the Reference Limits column, for Arsenic, there is a range from .11 to 3.6. On the findings, there is only one number in between that range, everything else is way over that range. Mr. Cox asked Mr. Finney to explain what all that means.

Mr. Finney said that it is something that environmental professionals deal with all the time in California, and generally in the west. In the valley there are high naturally occurring arsenic, it is just a fact of life. It was in the rocks that formed the Sierras, it is weathered now and shows up in the soils. It shows up in drinking water as well. When he gives the reference limits there are very low. They are used by ecological risk assessors. They do this work day in and day out. They look at things like increased cancer risks and other things. They study pathways to ingestion, through dermal contact or drinking it in water or breathing it in air or eating it in fruits and vegetables. One of the most conservative pathways is called The Residential Pathway and particularly where people are planting vegetables and gardens, not in raised beds, but in the native soils. Those plants are sucking up whatever is in the soils, then people are eating it. The Industrial Pathway could be another. To answer Dr. Lytle's earlier questions, the Agricultural Pathway will typically be at a higher value. At this point, the framework has not been developed, but it will not be more stringent than that of the Residential Pathway. The numbers on the CA Reference Limits are extremely conservative based on the state of California, which is more rigorous than the EPA. The state and the federal government that in areas of naturally occurring high metals, sometimes, they establish a baseline value, which are the Background Levels. They talk about everything in terms of additional risk over and above that. At the bottom of the chart, there is an average background value available to look at. That value is at 3.5 mg/kg in California. That number may be higher in the Delta. No one has really obtained a lot of soil samples and really studies that. He believes the average high-end is 10 mg/kg in California. In California, the naturally occurring arsenic is higher than what the state would like to see us dealing with.

Ms. Martinez concluded that this was a great discussion because it elaborated more on the chart and brought up topics of discussion that may have been left unanswered if participants had only been given the chart.

Mr. Cosio asked if the project team would be looking into what the Regional Water Quality Control Board thinks if there are chlorides? The water table is right at the surface of these levees and it's always been an issue with dredge material that we cannot contaminate the groundwater. Is there the possibility of some of this washing off into the farm fields and will that affect growing crops? The analysis should be done up front. Is there any soil classification data for the material at tunnel depth?

Mr. Finney said regarding notification of levee borings, work had been done with the RD on Bouldin Island because the original plan was to advance some soil borings within the levee prism. In terms of budget prioritization, the team opted not to do those at this time. When the information is available, it will be shared. Boring information through a tunnel, over an island bridge, etc. would all go out in that LMA. The environmental team will look at the material, the dust from construction, etc. The information to date shows there is nothing in the material that would present a problem. It would not be surprising if this material came back as needing amendments for plant sustainability. Agronomics tests have been run but have not yet been reviewed. Everything will be addressed.

Mr. Cosio mentioned that the first week of December he was called out to Reclamation District 813 because drilling was taking place on Lambert Rd., which is right-of-way, but on the levee. He was able to talk to the contractor and someone at DWR that allowed him to monitor the backfilling but no one notified the Reclamation District. On the map in the presentation, there was an orange dot indication a boring done on Empire Tract. How close was this to the levee? It should be made sure that none of the borings are on a levee. Is there any soil classification information for the material at tunnel depth?

Mr. Finney said that the orange dots were not on the levee and the team has the Delta levee geometry which is used as a screening tool. One was on the embankment itself on Lambert Rd. He was told there was a thick section of highway. We can further discuss offline. Bentonite is required in all boring backfill, up to 10%, whatever the county or state has allowed as the maximum percentage. Some thick sequences of sand have been found east of Walnut Grove, even high plasticity silts.

Ms. Palmer stated that this is an ongoing process. There are still many things to be discussed. She said that there was still much to go over in the meeting. There is more testing to be reported, that they would have to cut this discussion a bit short. She does want to cover the Community Benefits Program because the people that are needed are present. The Project Finance may have to be put off until March.

d. SEC Questions or Comments on December 9th Meeting Presentation

Ms. Martinez said this meeting dovetailed off the last meeting, so there may not be too many questions or clarifications related to the December meeting. In December there was a conversation about the Bethany Alternative, regarding the complex, the traffic, and an introduction to the Community Benefits Program. There will be another conversation about community benefits. There then will be a short discussion regarding the possibility of fitting the Finance Discussion into the March or April Meeting.

Ms. Martinez said that they always welcome texts, emails, and messages about specific issues that may not be answered during the meeting. Certain issues may be addressed at a later time or in another meeting.

Ms. Parvizi said that any questions received will be added to the Q&A Matrix and shared with everyone.

e. Public Comment on Item 5

Ms. Meserve representing the Local Agencies of the North Delta was concerned regarding the way the community's concerns regarding geotechnical drilling were discussed by Mr. Finney. San Joaquin was concerned about the activity on the roads, but the permits didn't look into those concerns further. It's not appropriate to say these concerns are ridiculous simply because you approached challenges. There are subsurface rights and I think there needs to be a closer look into this. These geotechnical sites are a tiny disturbance that this project will bring to the Delta so

I expect the DCA and DWR should be more respectful when people have concerns regarding property rights. The attitude has been very disrespectful towards the local communities.

6. DWR PRESENTATIONS & COMMITTEE DISCUSSION

a. Community Benefits Program Update

Ms. Martinez said there are a number of people in the meeting in regards to the Project Finance Overview, so they will go ahead and go over Finance instead of the Community Benefits Discussion.

Ms. Palmer agreed that the Community Benefits Discussion will bring about many questions and areas of discussion. It would be best to table the Community Benefits discussion and revisit it at a later time. She wants to make sure that everyone gets a good chance to provide their thoughts on it. This agenda item will be skipped for this meeting.

b. Project Financing Overview

Chris Martin, DWR attorney, provided a presentation about financing of the proposed Delta Conveyance Project.

Mr. Martin said it is his understanding that there had been some interest in hearing about how the Department would finance this project upon approval. The presentation will help describe the high-level concepts of how the State Water Project is financed. Financing of a Future Delta Conveyance Project is not that much different than how the State Water Project is financed today. The department issues hundreds of millions of dollars in debt to maintain, reconstruct, and repair facilities every year. The way this project is financed is the same as that of how the State Water Project is financed. This is a facility that has been in the state for about 60 years now. It is said to serve Southern California, but it actually serves the San Francisco Bay Area all the way down to the Southern parts of the state.

The people who established the State Water Project back in the 1950's did a remarkable job in setting up the framework that is being used. The way the State Water Project is paid for is divided by two different categories. Operations and Maintenance is one category. It is a pay as you go basis. Then, there are Capital Costs. Capital Costs are the only ones immediately financed, that is issued with debt. The Central Valley Project Act provides the rules for how the Department finances things. It allows the Department to issue bonds and fund both facility construction and planning costs. It is helpful in a situation like this, for planning costs are expected to be high in a project like this. Bonds are like loans. People purchase bonds from the Department via investment banks or other brokers. In exchange, the Department agrees to repay that loan using revenue using revenue from the State Water Project, and it is paid with interest. Investors purchase their bonds and use the proceeds of those bonds to build things. In return the department promises to repay those bond holders using Water Project Revenue. State Water Project Revenues are actually not an obligation for the State of California. The State of California is not on the hook to repay those bonds, so this is distinct from what most people are familiar with. Most people are familiar with general obligation bonds. Those are bonds that are backed by the full faith and credit of the State of California. A general bond would repay using tax revenue that the state collects. It is a big contrast, and it is something that is not always well understood.

People that buy their bonds have to understand where the money will come from when it is time to be repaid.

Mr. Martin explained the bonds issued by the Department are limited obligations of the Department of Water Resources, not an obligation of the State of California, nor the taxing power of the state, nor the credit of the state, nor the “good faith” of the state is pledged to the repayment of the bonds. That raises the question of where does the money come from? The Department of Water Resources, in a way, sits in the position of a wholesaler. The State Water Project does not send a bill to individual families and businesses in the State of California if they get water from the project. They supply water and other related services to other public agencies. It is the responsibility of those public agencies to then raise revenue to pay the bill they get from the Department. When the local public agencies raise revenue, they use some of that revenue to pay some of that State Water Project bill, but also to pay for any other water supply sources they have. That money that the Department receives for paying their bill, is what the Department will use as SWP Revenue. That revenue is inscribed and governed in the contract that the Department has with the Public Water Agencies that are parties to long term water supply contracts with the Department. Each of those 29 public agencies has a contract with the Department. They agree to pay fixed costs, which do not vary every year. It is also to pay variable costs, which are the costs of things like electrical power that is used to move water. They pay the department those costs and they pay for other services also provided by the Department.

Some people wonder if DWR gets its revenue from the public water agencies that participate in the State Water Project, where do the agencies get their money? The answer is, the public agencies get their money from their customers and people within their service areas. They do that through one of two processes. They either charge water rates, an amount of money paid per unit of water or they get their money through local property taxes. They become part of the tax bill that people receive from their county. Of the 29 different contractors, they all vary in how they balance generating revenue.

Mr. Martin discussed how the Delta Conveyance facility will be financed, if the project is approved. The Department of Water Resources would issue revenue bonds to raise capital for construction of the facility because they are using State Water Project revenue to pay back the bonds. The environmental review, planning and design costs may also be financed by revenue bonds issued in the future. If the Department were to issue revenue bonds, the flip side would be that someone would have to pay for those. This would occur in the same manner it always does with the State Water Project. The Department would issue bonds, a debt service would be incorporated into the bills that get sent to the local water agencies, then those public water agencies would pay those bills according to the terms of their water supply contract. Before the Department would issue revenue bonds for the Delta Conveyance Project, the Department is asking a court for its authority to issue bonds, in a special kind of lawsuit of validation called a validation action or case. These types of cases are unusual because typically courts won't let one come and ask an opinion of them in the absence of some sort of dispute. Validation cases are different because one party is asking the court for an advisory opinion. It is very important for purchasers of debt to know that entity they are purchasing the debt from still has value within the debt. They do not want to, at one point, have debt with no value that was issues in the absence of authority. A lawsuit like a validation case is a way for the department to demonstrate that the authority has been carefully examined and that the decision has been made final. Once

that decision is final, people cannot come in and question the authority or validity of that debt. It makes the folks who purchased the debt comfortable that they've made a sound investment.

Ms. Swenson said that whenever hearing about financing with DWR, there is a lot of hand waving regarding who pays for what. In the end, the taxpayer and the ratepayer are on the hook. It's irresponsible for a state agency like DWR to accrue this level of debt. Future generations will need to carry this. It's important to be extra conscientious with this in mind. The work needs to be done on the aqueducts. 30% of water is lost on evaporation and it's not seismically sound. DWR should figure out the cost of repairs and upgrades for that.

Mr. Martin said understands that the magnitude of the costs seems very large. It isn't the case that these costs are imposed on the residents of California. The decision to spend money on this project, in terms of cost in comparison to other water options. These costs are carefully considered, the relative cost to this water supply compared to other options. The idea of saddling kids with this, it isn't the state taxpayers generally who are paying for this project, it is people who are receiving the water through this project that will be paying for it.

Ms. Swenson said that generally there is just a lack of stakeholders and a lack of public understanding. Regarding agencies getting free choice whether or not to join, there has been pressure on them and the threat of loss of contracts. Disagree that this is considered a free will situation. A lot of disadvantaged communities will be paying for this project and have no idea about the project.

Ms. Barrigan-Parrilla said that there is currently \$1 billion of outstanding debt in water districts in California. How many of those districts are a part of the State Water Project? 28 million people served by the State Water Project are going to be hit with a combination of the parcel taxes and higher water rates. Water affordability in LA and San Diego is already a problem. Water debt is supposed to be an 8hr work day at minimum wage for what a water bill should be monthly and that is being exceed throughout the SWP. MWD during the last iteration went to water districts and said they can opt out of the project; they won't get the water. Which actually adds more debt for those who opt in and will cause inequities. If water districts do go belly up, it is that State of California who will have to pay that debt.

Mr. Martin said that that's not true. There is no recourse to the State of California. The bonds issued by the Department are issued according to a resolution adopted by the Department that constitutes a contract between the Department and the owner of the bonds.

Ms. Barrigan-Parrilla asked what would happen if a water district goes belly-up?

Mr. Martin said they would then have to look at the specific water district.

Ms. Barrigan-Parrilla said it's a problem for this project because there are water districts who are already in the SWP that are under financial pressure. The fear is that you're taking on more debt within districts who won't be able to handle it and when it fails it does incur cost for the state.

Mr. Martin said that's why it's important that local water boards are considering the cost issue. It's up to the local agencies to determine what works best for them. They know their areas more than anyone else.

Mr. Barrigan-Parrilla said that he is correct about that. It is not necessarily the DCA's function, nor is it necessarily DWR's function. What is most upsetting about the presentation, is that if they are looking at 50% reduced flow, according to the climate vulnerability assessment, there is going to be less and less water. There is going to be fixed debt that has to be paid. The question of water affordability and how we are going to come out of COVID-19 and these districts are solvent to pay for a long time. That is the big issue.

Mr. Martin said it is fair and reasonable to be concerned about that. Anecdotally, all he can say is that, having worked with their water contractors for a decade now, they are very concerned about cost and cost control. While numbers are being thrown around, some that might not seem like they go together, they actually do. They are looking at the variety of options to be able to provide good, reliable services to their residents. In his experience, contractors tend to be very cost conscious.

Ms. Barrigan-Parrilla said that because of the cost and because the water districts are not in sound financial shape going into this, where is the cost cutting going to come? Is it going to come in the form of what needs to be done for good mitigation? It is the debt for families that cannot afford it, and where is the cost cutting come from? It comes from the Delta community.

Ms. Palmer addressed that they are out of time now completely. She said that it was a good discussion that could be kept going for some time. These topics will have to be revised in the near future.

Ms. Martinez clarified that this is an information item. This is not a place where decisions are being made, this is a place where information is being shared and responses are being heard.

Ms. Hsia said apparently on the right side of the balance sheet there is liability where the bonds are issued, is there any equity on the bottom of the balance sheet?

Mr. Martin said certainly, the water project has assets, and assets have value. That is beyond the scope of this meeting.

Mr. Cox asked what happens if the project does not happen? The people that bought these bonds, do they get paid back by the water users? If there is no project, then there are no water users. Are the water users still stuck with this?

Mr. Martin said that the department has not issued any debt to fund this project yet, so it is not being paid.

Mr. Cox said that he is confused because he understood there was a court case going on to issue these funds. Though they have not been issued, they intend to.

Mr. Martin said debts will be issued only if the project is approved.

Mr. Moran asked what is the interplay of the bonds and expenditures on Davis Dolwig and the Community Benefits Plan, if at all?

Mr. Martin said that Davis Dolwig could be another conversation. It addresses an issue related to who pays for recreation and enhancement of fish and wildlife and that goes back into philosophical notions that were state policy debates in the 60s when the project was built. He's unsure about community benefits as he's not familiar with the discussion at this point.

c. Public Comment on Item 6

There were no public comments.

7. FUTURE AGENDA ITEMS & NEXT MEETING

The next meeting is April 28th, 2021; 3:00 to 6:00 PM. The agenda includes the DWR CEQA, the DCA updates, and the community benefits program.

a. DWR Communications Plan 2021

Chair Palmer suggested that the SEC members start to think about what issues or topics they would like to hear and talk about in the future. Most of the main engineering work is done, but there are further studies going on and there will be more engineering questions in the future. What questions should we dig deeper on? Should we develop sub-committees for specific topics? The SEC members are invited to help setup agendas and encourage different paths.

8. NON-AGENDIZED SEC QUESTIONS OR COMMENTS

This is the time and place for SEC members to address the Committee on matters that are within the Committee's jurisdiction but that are not on the agenda.

Mr. Gloski said that his issues have been heard in regard to redundancy between pumps and Banks and also the ability of the project to provide fresh and high-quality water to the South Delta. Ms. Mallon and Ms. Buckman were helpful to connect him with some people that were knowledgeable in these areas. That leads him to still be strong in his convictions of these two capabilities. The original canal project of the 1970's had 6000 cubic feet aimed at water quality. More water was being used with that canal. We need to continue to discuss the project and its delivery.

9. PUBLIC COMMENT ON NON-AGENDIZED ITEMS

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. As these items have not been agendized, the Committee is not legally able to discuss these items at this meeting unless a recognized exception applies.

There were no public comments.

10. ADJOURNMENT

Chair Palmer adjourned at 6:17 P.M.

11. Next scheduled meeting: Regular Stakeholder Engagement Committee Meeting: April 28, 2021 at 3:00p.m.



Memo

Information Only

From: Josh Nelson, DCA Legal Counsel

Date: April 23, 2021 SEC Meeting

Subject: Explanation of Brown Act's Applicability to the SEC

BRIEF OVERVIEW

At its February meeting, the Stakeholder Engagement Committee (SEC) discussed AB 992. This new law modifies portions of the Ralph M. Brown Act (Brown Act) related to social media postings by members of legislative bodies subject to the Act. During this discussion, some SEC members requested additional clarification why the SEC is subject to the Brown Act. As discussed in this memorandum, the SEC qualifies as a "legislative body" under the Brown Act because it is an advisory committee formed by formal action of the Delta Conveyance Design and Construction Authority's (DCA) Board of Directors.

ANALYSIS

The Brown Act (Gov. Code § 54950 et seq.) governs meetings conducted by local legislative bodies. Most importantly, "[a]ll meetings of the legislative body of the local agency shall be open and public...." (Gov. Code, § 54953(a), emphasis added.) "Local agency" includes all cities, counties, school districts, municipal corporations, special districts, and all other local public entities. (Gov. Code, § 54951.) The DCA is a local agency under this definition.

Government Code section 54952 defines "legislative body." This includes the governing body of a local agency like the DCA Board of Directors. (Gov. Code, § 549542(a).) It also includes "[a] commission, committee, board, or other body of a local agency, whether permanent or temporary, decision making or advisory, created by charter, ordinance, resolution, or formal action of a legislative body." (Gov. Code, § 549542(b).) The SEC meets these requirements. First, it is a committee or other body of the DCA. Second, it is advisory to the DCA Board and its staff.¹ Third, the DCA Board formed the SEC by resolution. Therefore, the SEC is a legislative body subject to the Brown Act.

Lastly and as a non-legal matter, transparency is a core value of the DCA, and this value may be best served by having the SEC as a Brown Act body. This provides a public forum that facilitates open and frank discussions with the public, DCA staff, and the SEC.

We appreciate everyone's diligence in complying with the Brown Act to date, and please let us know if you have any additional questions.

¹ Importantly, the Brown Act exempts ad hoc advisory committees from the definition of a legislative body. The SEC would not fit under this exception because ad hoc committees can only be composed of members of another legislative body (i.e., the DCA Board of Directors). Here, with two exceptions, SEC members are members of the public.