

Environmental Planning and Permitting Work Group

June 7, 2023



Agenda

- 1.1 Final EIR/EIS, Part 3 (continued) status briefing in preparation for approval of the Project
- ~~1.2 Status of National Historic Preservation Act, Section 106 Programmatic Agreement~~
- 1.3 Contracts with Cachil Dehe Band of Wintun Indians and Paskenta Band of Nomlaki Indians
- 1.4 Status of Biological Assessment/Biological Opinion and State Operations Incidental Take Permit Application
- 2.0 EPP Manager's Report

Status Briefing on the Final EIR/EIS, Part 3 of 3 (continued)

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Final EIR/EIS Briefings in Preparation for Approval of Project

- February 2023, Part 1
 - Review Final EIR/EIS requirements and format
 - Provide overview of changes to the project based on design refinements and operations
 - Discuss revisions to modeling
- March 2023, Part 2
 - Overview of key comments and master responses; ongoing public and local community, tribal and NGO outreach
- April 2023, Part 3
 - Overview of refinements to impacts and mitigation measures; Mitigation Monitoring and Reporting Program
- May 2023, Part 3, Continued
 - Statement of Overriding Considerations
- June 2023, Part 3, continued
 - Overview of Findings; Water Quality and Tribal Cultural Resources
- July 2023
 - Any last items
- August 2023, Board Hearing → Considering September in light of Governor's legislative package
 - Next steps post EIR, EIR Certification
 - Decision to Approve Project

Project Findings

- The Board will need to adopt findings in compliance with CEQA and the CEQA Guidelines, including:
 - Findings regarding the environmental review process and the contents of the Final EIR
 - Findings regarding the environmental impacts of the Project and the mitigation measures for those impacts identified in the Final EIR and adopted as conditions of approval
 - Findings regarding alternatives and the reasons that such alternatives are rejected or accepted

Project Findings (continued)

- Findings to be accompanied by a summary of impacts and mitigation measures for the Project
- Findings must be supported by substantial evidence in the record
- When making the findings, the Authority will also adopt a Mitigation Monitoring and Reporting Program
 - Required to report on or monitor the measures that have been required to avoid or substantially lessen significant environmental effects
 - Measures must be fully enforceable through permit conditions, agreements, or other measures

Water Quality

- Recent efforts have been undertaken to bolster the water quality analysis in the Final EIR/EIS, to:
 - Be responsive to comments from the public
 - Clarify information
 - Further support analysis and resolve confusion or misunderstandings
- Efforts focused on:
 - Harmful Algae Blooms (HABs)
 - Mercury
 - Monitoring and Adaptive Management

Harmful Algae Blooms (HABs)

- Concerns expressed regarding downstream effects to water users due to HABs
- Revisions to Final EIR/EIS analysis and/or text:
 - Revisited Inlet/Outlet Tower operations and releases from Sites Reservoir
 - Expanded on temperature modeling and effects
 - Bolstered discussion of benthic HABs
 - Strengthened existing mitigation and monitoring requirements

Mercury

- Concerns raised regarding:
 - Mercury in native soils and atmospheric deposition
 - Relationship of mercury to Sacramento River Flow
 - Analysis approach
- Revisions to Final EIR/EIS analysis and/or text:
 - Additional analysis and expanded, None of the geologic units in the study area/watershed of the Sites Reservoir are known to contain mercury
 - Additional analysis and expanded, No or minimal relationship between Sac River flows and increased/elevated mercury levels
 - Expanded on why approach to mercury different than approach used for other metals

Monitoring and Adaptive Management

- Addition of more detail to the Reservoir Management Plan (RMP):
 - Added new section - Adaptive Management of Water Quality in Reservoir Release
 - Modified to expand monitoring constituents and increase frequency of HABs monitoring if HABs are present
 - Added quagga and zebra eDNA monitoring

Tribal Cultural Resources

- Recent efforts have been undertaken on the following:
 - Detailed review to scrub carefully for biases, characterizations, unnecessary grouping, etc
 - Describe the conclusion of the AB 52 process and next steps

Context

- The Project is on lands that have traditional and cultural affiliation with Patwin and Nomlaki California Native Americans
- Governor's apology (Executive Order N-15-19) acknowledged the violent relationship of the State with California Native Americans
 - This relationship has shaped and biased the views of Non-Native Americans
- Written history is biased
 - Towards physical expression of archeologic sites on the surface
 - Towards what is put in writing
 - Much of the current information and understanding of California's Native Americans comes from non-Native Americans in the 20th century, some of whom identified with, practiced, and perpetuated a legacy of genocide, removal policies, and assimilation

Detailed Review to Scrub Carefully

- Detailed review to scrub carefully for biases, characterizations, unnecessary groupings, and similar that marginalize Native American people
- Concerted effort to represent data objectively
 - Acknowledgement of the biases and data limitations in much of the current information and understanding
 - Acknowledgement of the bias toward the written record and the surface expression of archeological sites
- Commitment to work throughout the life of the Project to better understand and respectfully incorporate and honor the Tribes from their perspective

AB 52 Consultation

- In 2014, California Assembly Bill (AB) 52 established:
 - That a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment
 - A detailed, stepwise process for lead agency consultation with California Native American Tribes that are traditionally and culturally affiliated with the geographic area of a proposed project
- AB 52 specifically instructs a Tribe to notify California public agencies of their interest in being informed of projects proposed for the geographic area traditionally and culturally affiliated with the Tribe

Consulting Tribes

- Two Tribes—Cachil Dehe Band of Wintun Indians and Yocha Dehe Wintun Nation – responded to the 2017 notification of the Project
 - Ongoing consultation efforts and meetings since 2017
 - Existing studies and data on known cultural resources have been provided to the Tribes
 - Outreach has been focused on receiving Tribal input on the RDEIR/SDEIS and proposed mitigation
 - No specific comments from consulting Tribes on the RDEIR/SDEIS
 - Tribes have provided field monitoring for geotechnical investigations
- Paskenta Band of Nomlaki Indians recently verbally expressed interest

Conclusion of AB 52 Consultation

- AB 52 consultation needs to be concluded prior to EIR certification, when either of the following occurs:
 - The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists to a tribal cultural resource; or
 - A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code § 21080.3.2, subd. (b)).
- Tribal cultural resources will be significantly impacted by the Project
 - To date, unable to reach a clear agreement on specific measures to mitigate or avoid significant impacts to tribal cultural resources
 - Mitigation measures for addressing significant impacts to tribal cultural resources have been identified and will be refined and further developed through continued coordination

Ongoing Collaboration and Coordination

- Authority committed to working with Tribes beyond the AB 52 process:
 - Tribal Government Working Group would provide opportunity for ongoing meaningful communication and collaboration
 - Preparation of a Memorandum of Agreement (MOA) would formalize a collaborative partnership
 - Continue to identify tribal cultural resources, and methods to avoid, minimize, and mitigate impacts to and manage tribal cultural resources
 - Provide a framework for continued collaboration during Project planning, implementation, and operations
 - Commitment to working with the Tribes throughout the life of the Project to better understand and respectfully incorporate the Tribes from their perspective
 - AB 52 may be “concluded” but the commitment to working with Tribes through these mechanisms, or other similar ones (as works best for the Tribes), continues forward

Next Steps in Briefing Process

- July 2023, Update on Final EIR/EIS
 - Last items prior to approval in August
- August 2023, Board Hearing → Considering September in light of Governor's legislative package
 - Any last items
 - EIR Certification
 - Adoption of Findings, Statement of Overriding Considerations and Mitigation, Monitoring and Reporting Program
 - Decision to Approve Project
 - Next Steps
 - Local considerations with MOUs and Local Community Working Group
 - Tribal considerations with MOA and Tribal Working Group

Contracts with Cachil Dehe Band of Wintun Indians and Paskenta Band of Nomlaki Indians

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Five Tribes with Traditional or Cultural Affiliation with the Project Area

- Nomlaki descendants:
 - Grindstone Indian Rancheria of Wintun-Wailaki Indians
 - Paskenta Band of Nomlaki Indians (Nomlāqa Bōda)
- Patwin descendants:
 - Cachil Dehe Band of Wintun (Colusa Indian Community)
 - Kletsel Dehe Wintun Nation (Cortina Indian Rancheria)
 - Yocha Dehe Wintun Nation (Rumsey Indian Rancheria)



Existing and Proposed Contracted Efforts

- Existing Contracted Efforts
 - Yocha Dehe Wintun Nation
 - Currently conducting geotechnical monitoring
- Proposed Contracts
 - Cachil Dehe Band of Wintun → \$120,000
 - Geotechnical monitoring
 - Previously conducted geotechnical monitoring
 - Existing contract, slight modification to reinitiate efforts
 - FY 23 and FY 24 efforts
 - Paskenta Band of Nomlaki Indians → \$250,000
 - Geotechnical monitoring, primarily for areas in Glenn County
 - Ethnographic study for Paskenta and Grindstone
 - FY 23 and FY 24 efforts
- Future Efforts (working on when to begin these efforts)
 - Ethnographic studies for Cachil Dehe, Kletsel Dehe, and Yocha Dehe

Existing Funds in Amendment 3

- Funding within the existing Amendment 3 Work Plan

	FY 23	FY 24	Total
Cachil Dehe	\$60,000	\$60,000	\$120,000
Paskenta	\$150,000	\$100,000	\$250,000
Yocha Dehe	\$70,800 (\$11,260 spent as of 4/2023)	\$60,000	\$130,800
Total	\$280,800	\$220,000	\$500,800

Status of Biological Assessment/Biological Opinion and State Operations Incidental Take Permit Application

Ali Forsythe

Revised Federal ESA Approach

- Original BA approach was project-level analysis
 - Both construction and operations
- Reconsultation on the CVP/SWP LTO BiOp requires a pivot
- Revised approach
 - Step 1 – Mixed programmatic consultation for Sites
 - Programmatic operations in the Reconsultation on the CVP/SWP BA/BiOp AND
 - Sites Project-level construction BA/BiOp
 - Step 2 – Project-level operations
 - Reinitiate consultation after Reconsultation on the CVP completed to cover Sites operations at a project-level
 - Continued work with agencies on this approach






State ITP Operations Consultation Status

- Operations ITP Application largely complete
 - Ready to submit shortly
- Will start consultation with CalSim II modeling and current CVP/SWP operations baseline
 - May amend application in late 2023 with CalSim 3 with new CVP/SWP operations baseline
- Process will be more fluid than normal considering all the changes going on in CA water
- Likely result in additional time for CDFW to issue permit, but still think this is the most expeditious process possible

Environmental Planning and Permitting Manager Report

Ali Forsythe

Dashboard Update

Deliverable	Finish	Status	Notes, New or Potential Issues
Water Right Application			
• Submit to State Board	May-22		Application Submitted May
• Complete Protest Resolution Period	Jan-24		Notice issued June 2, 2023
• Receive Water Right Permit	Dec-24	N/S	
Federal ESA			
• Construction – Biological Opinion	Feb-24		
• Operations – Programmatic Biological Opinion	Feb-24		Working with agencies on approach; tied to CVP/SWP Reconsultation efforts
• Operations – Project-level Biological Opinion	Mar-25	N/S	
State ITPs			
• Receive Construction ITP	Dec-23		
• Submit Operations ITP to CDFW	July-23		
• Receive Operations ITP	May-24	N/S	Date adjusted

N/S = Not Started;  = On track;  = Area of Potential Concern;  = Delayed;  = Completed

Dashboard Update

Deliverable	Finish	Status	Notes, New or Potential Issues
Section 106 – Cultural Resources			
• Final Programmatic Agreement	Aug-23	●	
• Programmatic Historic Properties Management Plan	Jun-23	●	
Clean Water Act 404/401			
• Submit Final Permit Applications	Aug-23	●	
• Receive 404 and 401 Permits	Aug-24	●	
Streambed Alteration Agreement			
• Prepare and Submit Application	July-23	●	Schedule adjusted
• Receive Master Agreement	Jan-24	●	
Eagle Permit			
• Short-Term and Nest Take Permits Issued	April-23	●	Received and completed compensatory mitigation for this calendar year
• Long-Term Permit Issued	Mar-24	●	

N/S = Not Started; Green = On track; Yellow = Area of Potential Concern; Red = Delayed; Blue = Completed

Dashboard Update

Deliverable	Finish	Status	Notes, New or Potential Issues
Final EIR/EIS			
• Complete Final EIR/EIS	Aug-23	●	May move to September
• Certify Final EIR/EIS and approve preferred project and MMRP	Aug-23	●	May move to September

N/S = Not Started; **Green** = On track; **Yellow** = Area of Potential Concern; **Red** = Delayed; **Blue** = Completed

Upcoming Meetings

- Next Work Group Meeting –
August 9, 2023, 10 to 11 AM
 - Topics –
 - Continued Final EIR/EIS briefings
 - Cultural and Tribal Resources commitments under the National Historic Preservation Act (Section 106)
- Other upcoming meetings
 - Joint Reservoir Committee and Authority Board
 - Friday, June 16, 2023 – 9 AM to 12 PM

Thank you!

