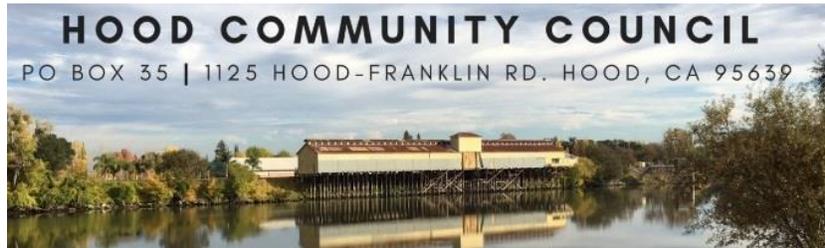


North Delta CARES Action Committee



LOCKE
MANAGEMENT
ASSOCIATION



June 19, 2019

Via email

Gary Lippner, Deputy Director
Delta Conveyance Office
California Department of Water Resources
1416 9th Street
Sacramento, CA 95814

Dear Deputy Director Lippner,

We thank you for your prompt response to our letter of May 12, 2019, and we appreciate the disclosure of the proposed scope of the continued engineering design and geotechnical work for the project formerly known as WaterFix by the Delta Conveyance Design and Construction Authority (“DCA”) for the May 20, 2019 meeting. We also appreciate your offer to meet with us. However, recent actions require written documentation of our continuing protests.

Rushing forward with engineering design and geotechnical work

We are shocked by the decision of the Delta Conveyance Office (“DCO”) to combine preparation of the new Delta Conveyance environmental documents with an aggressive

schedule for engineering design and geotechnical work to develop the DCA's proposed project. This is a project which has not been approved and for which no public notice and comment period has been provided.

The DCA Executive Director's report for the May 20, 2019 DCA Board meeting¹ states that "the conceptual engineering services that the DCA anticipates providing should help DWR address mitigation for issues raised by Delta interests, including traffic, noise and recreation impacts." We strongly disagree with this approach of rushing forward with engineering design and geotechnical work. The way to mitigate impacts of the project on Delta legacy communities and fish is to first reconsider the project design in consultation with Delta stakeholders. This process must start with DWR addressing the requirements of the Delta Reform Act to reduce reliance on the Delta, and to restore, enhance, and protect the Delta as an evolving place. Pursuant to the National Historic Preservation Act DWR must also start with an early consultation on historic properties.

We are protesting the fact that your office appears to have already reviewed and approved the DCA's proposed budget of \$82 million in 2019-20. The \$82 million includes \$35 million for engineering, \$20 million for field work (including geotechnical studies), and \$4.3 million for property access and acquisition. This appears, on the face of it, to be a plan to continue work under the engineering design, geotechnical, survey and right of way mapping, and real estate acquisition planning contracts executed for the WaterFix project. Reason, logic and the governor's executive order demand that preliminary engineering should only be done under contract with DWR after review and assessment of the Delta conveyance in the Water Resiliency Portfolio process and after the Notice of Preparation for the Delta conveyance EIR has been issued, and alternatives have been identified in that CEQA process. Pre-construction planning should only be done after there is an approved project.

Work based on the WaterFix project specifications

Your letter states,

Neither the Department of Water Resources (DWR) nor the Delta Conveyance Design and Construction Authority (DCA) is continuing work on that project or currently performing any new planning based on the previous WaterFix approvals.

This statement appears to be carefully parsed, and the implication that further engineering design based on the WaterFix project specifications is not being done is questionable. As described below, your office has recently authorized geotechnical work which is clearly based on the withdrawn WaterFix project tunnel alignment and intake locations.

¹ The packet for the May 20, 2019 Delta Conveyance Design and Construction Authority Board of Directors meeting is available at <https://www.dcdca.org/pdf/2019-06-20-DCABODPacketVF.pdf>

Furthermore, DWR had previously stated about the geotechnical work, “the scope of necessary work could not be determined until the project's Administrative Draft (“Supplemental”) EIR/EIS had been completed.” “New planning” is not what is questionable, geotechnical work based in part on a withdrawn project’s specifications is questionable.

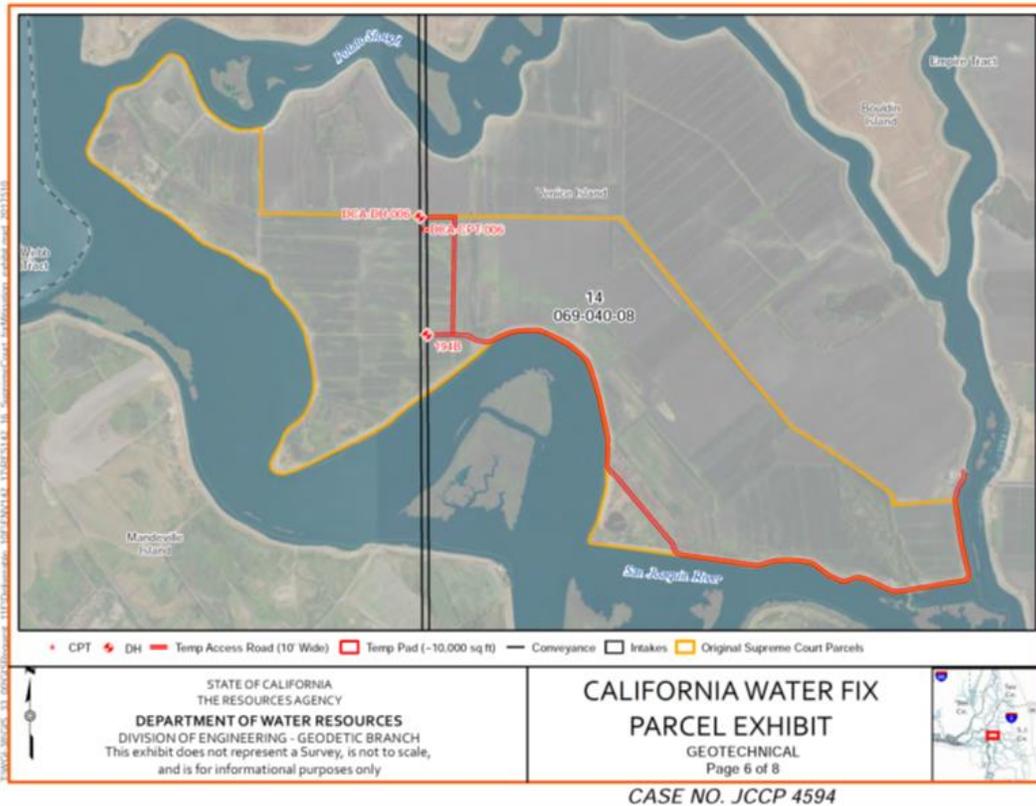
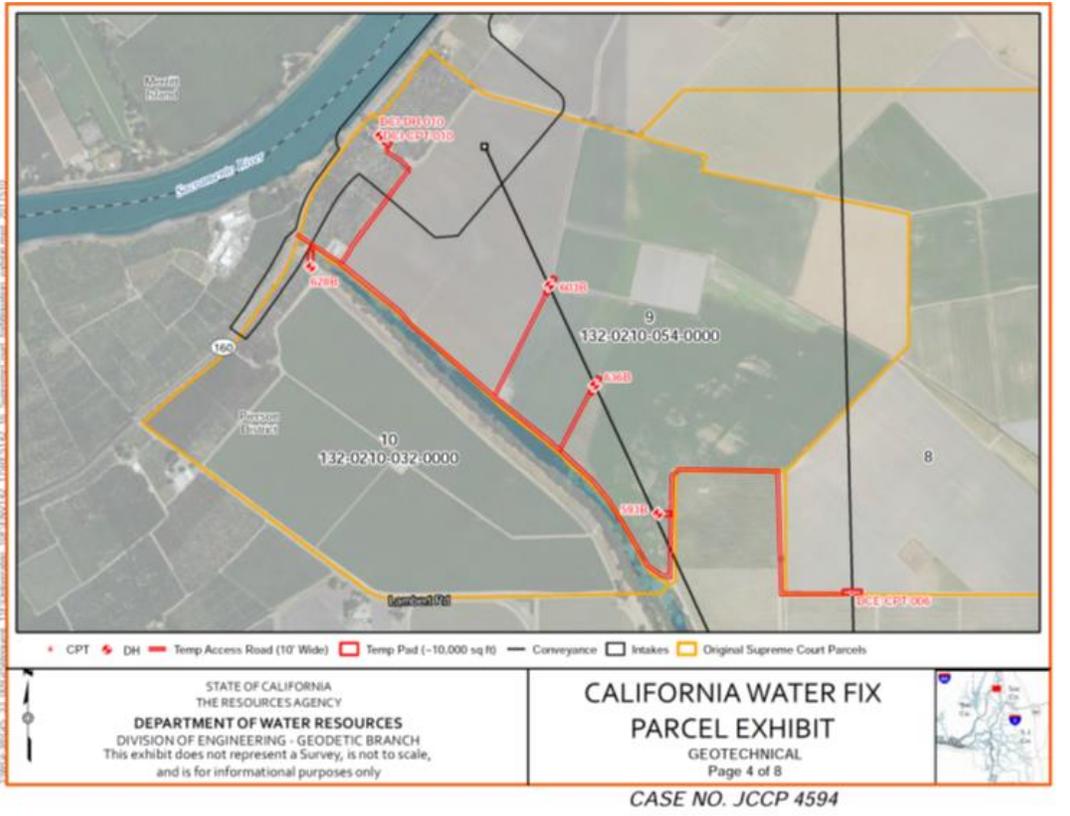
As you know, on June 10, 2019, geotechnical work began at 19 sites in three Delta counties (San Joaquin, Sacramento, and Contra Costa.) The geotechnical work includes borehole drilling 150-200 feet down, to the depth of the main tunnels. The drilling requires a crew of five to six people for up to 11 days at each site.

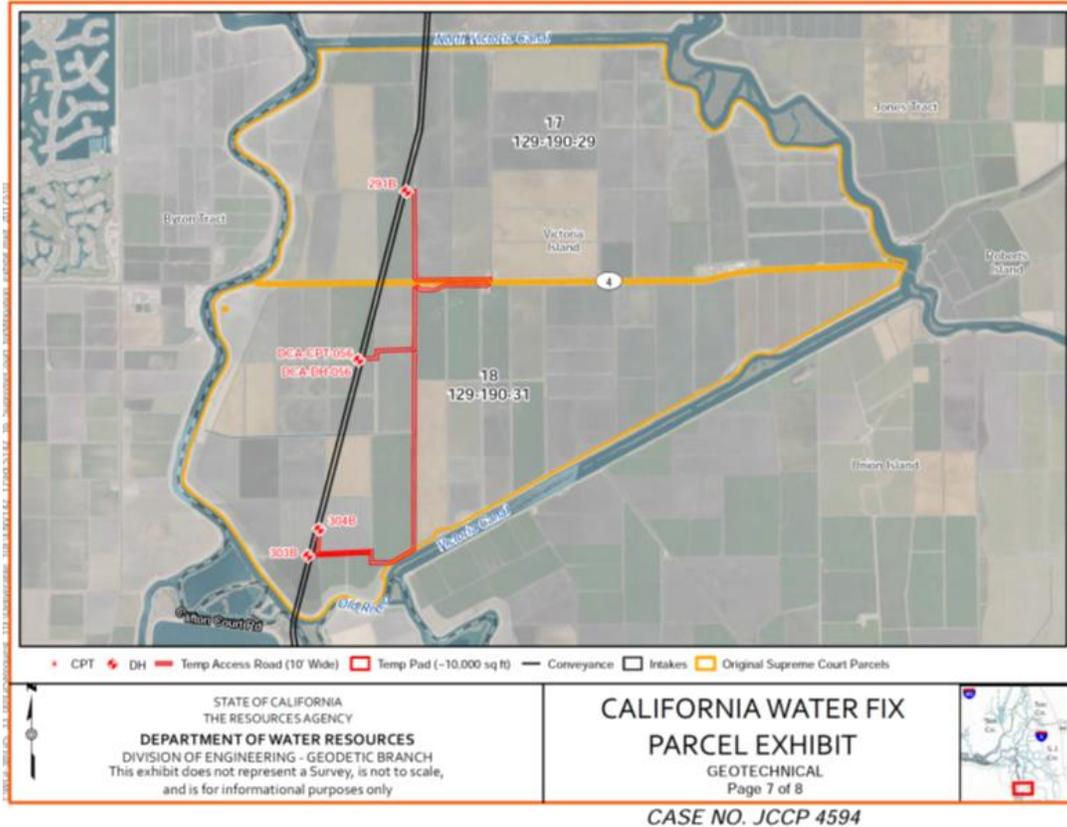


Picture of drilling crew and equipment, June 17, 2019

The *June 16, 2017 Order Permitting Entry and Investigation of Real Property for Geological and Drilling Purposes* clearly shows that the borehole drilling is in the tunnel alignment and at the intake locations for the WaterFix project. Some of the maps of the geotechnical work from that Order are shown below. Borehole locations are marked as DH, for “drillholes.” Locations include the WaterFix North tunnel from the southernmost WaterFix intake, the main WaterFix tunnel alignment on Venice Island and Victoria Island and WaterFix temporary construction pads in the North Delta.

The *First Amendment to June 16, 2017 Order Permitting Entry and Investigation of Real Property for Geological and Drilling Purposes -- Order Extending Time to July 31, 2019 to Complete Geologic and Drilling Activities* (“First Amendment to the Order”) shows that this is *not* planning level geotechnical work. The First Amendment to the Order shows DWR asked for an extension of a year to do the drilling in 2018 because the WaterFix project tunnel alignment was being re-evaluated. DWR’s request for an extension stated that “the scope of necessary work could not be determined until the project's Administrative Draft (“Supplemental”) EIR/EIS had been completed.” (emphasis added.)

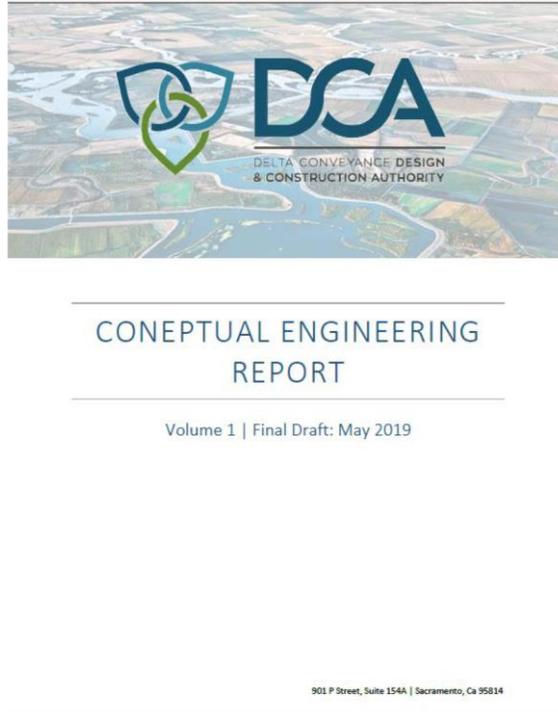




Authorization of work

It is not clear to us how the June 10, 2019 geotechnical work came to even be authorized by the Delta Conveyance Office. From your statement to the DCA Board on May 16, 2019, it seems clear that you understood that the October 26, 2018 Amended and Restated Joint Exercise of Powers Agreement between the Department of Water Resources and the Delta Conveyance Design and Construction Authority (“Joint Exercise of Powers Agreement.”) only authorizes work to design and construct the WaterFix project. We were therefore shocked and dismayed to discover that the June 10, 2019 geotechnical work had apparently been authorized by your office before an amendment to the Joint Exercise of Powers agreement had even been executed.

We were also shocked to see a picture of what appears to be the DCA’s May 2019 Final Draft Conceptual Engineering Report on p. 55 of the June 20, 2019 DCA Board of Directors meeting packet. We request that you explain what this document is and how the DCO came to approve its preparation.



The DCA’s 2018/2019 budget Task Order #1/Rev 2² also indicates that the DCA has spent \$2.9 million since March 2019 to “Assess single tunnel scheme.” After review we believe scope of the October 26, 2018 Amended and Restated Joint Exercise of Powers Agreement between the Department of Water Resources and the Delta Conveyance Design and Construction Authority does not extend to these actions by the DCA. If you had authority to authorize these actions by the DCA please let us know what it was and provide documents to that effect.

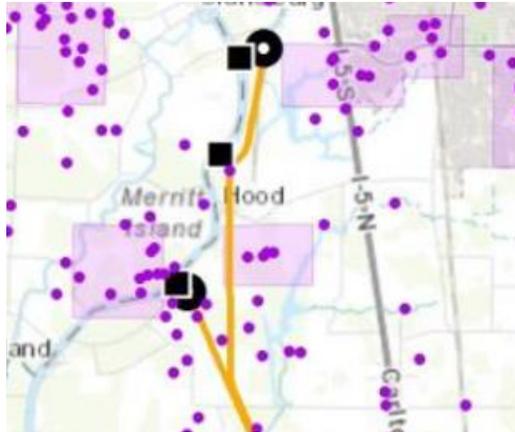
Compliance with local laws and regulations

The commencement of the geotechnical work also appears to be in violation of the requirement in term 8 in Appendix F of the Joint Exercise of Powers Agreement that the Authority and its “subcontractors, employees and representatives shall at all times comply with all applicable laws, codes, rules and regulations in the performance of this Agreement.” It is our understanding that neither DWR nor the DCA have complied with the June 7, 2019 request by the County of San Joaquin or the June 14, 2019 request by the County of Sacramento that DWR obtain the appropriate County permits prior to the drilling. Advance notice was also not given to our communities, nor the fire department. Numerous gas lines are in these areas, as well as abandoned gas wells. The counties

² The DCA’s 2018/2019 budget is on page 38 of the packet for the June 20, 2019 Delta Conveyance Design and Construction Authority Board meeting.

might have required that the DCA address public safety and other environmental considerations as part of any permits. As shown by MWD's Sylmar tunnel disaster, there is a serious potential for harm caused by the disturbance of these wells.

We respectfully request that you immediately direct that the DCA stop further geotechnical work until the County requests for permits and the issues of environmental compliance have been fully addressed.



2 Closeup of map of gas wells in the tunnel alignment

Thank you very much for your prompt response to our previous requests for information, and for your time in answering these questions.

Sincerely,

Handwritten signature of Barbara Daly in blue ink.

Barbara Daly
Co-Chair
North Delta Cares Action Committee
bdalymn@citlink.net
916 761-4726

/s/ Mario Moreno
Mario Moreno
Co-Chair
Hood Community Council
modfromhood@yahoo.com

/s/ Russell Ooms
Russell Ooms
Chair
Locke Management Association
RussellOoms@gmail.com



Bill Wells
Executive Director
California Delta Chambers & Visitor's Bureau
commodorewells@msn.com

/s/ Dan Whaley
Dan Whaley
Facilitator
Delta Defenders
dwhaley500@gmail.com

cc:

Karla Nemeth, Director, Department of Water Resources

Kathryn Mallon, Executive Director, Delta Conveyance Design and Construction Authority

The Honorable Wade Crowfoot, Secretary of Natural Resources

Thomas Gibson, Deputy Secretary and Special Counsel for Water, Natural Resources Agency

Delta Counties Coalition

City of Stockton

Central Delta Water Agency

South Delta Water Agency

Local Agencies of the North Delta

Save the California Delta Alliance