

Delta Levees Investment Strategy Regulation Update

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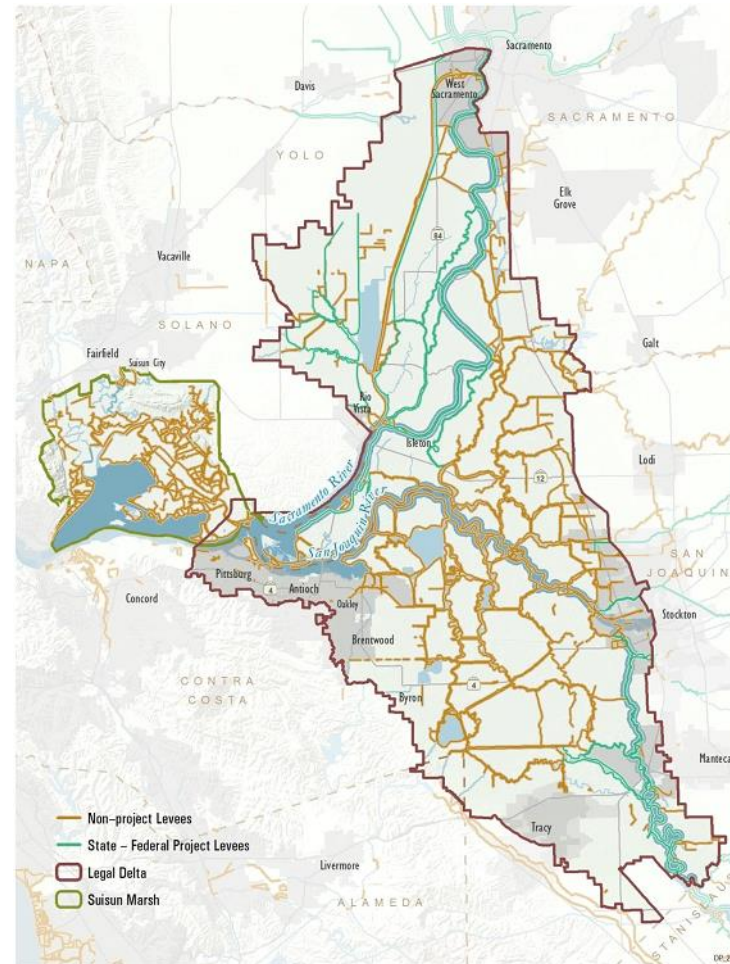


Summary

- Review background and Council authority, prior actions, and rulemaking process for amendments to Delta Plan Policy RR P1
- Discuss new information that could impact the estimation of risks to State interests in the Council's Delta Levees Investment Strategy (DLIS)
- Staff request for Council action to:
 - Withdraw the proposed amendments to Delta Plan Policy RR P1 from rulemaking; and
 - Direct staff to evaluate if the new information could change the prioritization of Delta levees and tracts in the DLIS

Background

- The Delta includes more than 1,000 miles and the Suisun Marsh includes about 230 miles of levees constructed during reclamation
- State provides financial assistance to maintain and improve Delta levees
- No comprehensive strategy to prioritize levee investments



Delta Reform Act

“The council, in consultation with the Central Valley Flood Protection Board, shall recommend in the Delta Plan priorities for state investment in levee operation, maintenance, and improvements in the Delta, including both levees that are part of the State Plan of Flood Control and nonproject levees.”

Water Code section 85306

Prior Council Actions

2013 Policy RR P1 (23 CCR section 5012)

- Guides **interim** State spending priorities for:
 - emergency preparedness
 - response and recovery
 - integrated flood management
- Interim priorities establish 3 benefit categories and 3 goals
- Policy expects the Department of Water Resources (DWR) to balance achievement of the goals over time
- 2013 Delta Plan also committed the Council to prepare a risk-based Delta Levees Investment Strategy (DLIS)

Prior Council Actions

2013 Policy RR P1 Interim Priorities

Goals	Localized Flood Protection	Levee Network	Ecosystem Conservation
1	Protect existing urban and adjacent areas by providing 200-year flood protection.	Protect water quality and water supply conveyance in the Delta, especially levees that protect freshwater aqueducts and the primary channels that carry fresh water through the Delta	Protect existing and provide for a net increase in channel-margin habitat
2	Protect small communities and critical infrastructure of statewide importance (located outside of urban areas).	Protect floodwater conveyance in and through the Delta to a level consistent with the State Plan of Flood Control for project levees.	Protect existing and provide for net enhancement of the floodplain habitat.
3	Protect agriculture and local working landscapes.	Protect cultural, historic, aesthetic and recreational resources (Delta as Place).	Protect existing and provide for net enhancements of wetlands.

Delta Levees Investment Strategy (DLIS) Process

- Council developed a comprehensive method to analyze State interests and risks in the Delta between 2014 and 2018
- State interests
 - risk to public safety, property, infrastructure
 - water supply reliability
 - Delta ecosystem
 - unique Delta as Place attributes
- Risk
 - probability x consequences
- Decision support tool (DST) to support deliberations

Prior Council Actions

2018 Delta Plan Amendments

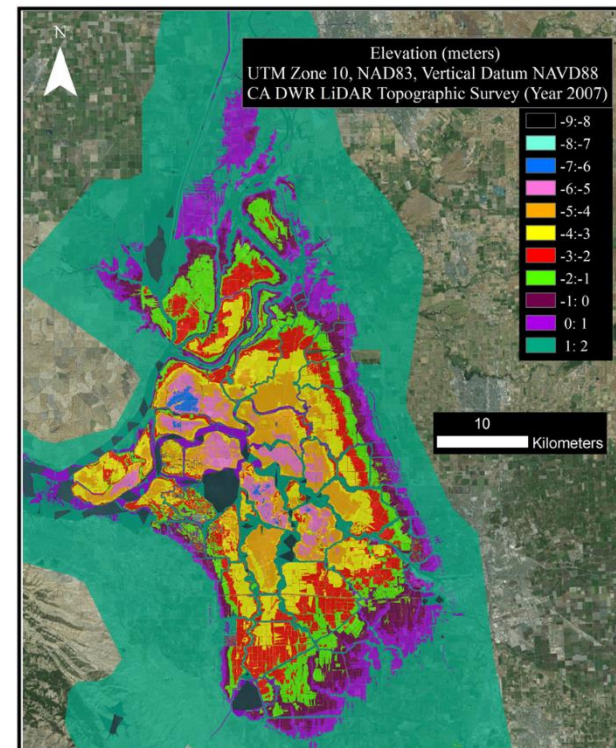
- Council adopted Delta Plan Amendments in April 2018 (Resolution 2018-01)
 - Amended Chapter 7 to incorporate DLIS and amended Policy RR P1 to establish DLIS priorities for Delta islands and tracts
 - Added new terms used in Policy RR P1 to Delta Plan glossary
 - Certified a Program Environmental Impact Report for the Delta Plan Amendments
 - Directed staff to initiate rulemaking process to amend Section 5012 to implement the amended Policy RR P1 and add the new definitions to Section 5001
 - Authorized Executive Officer to make non-substantive and technical changes identified and directed by the Council at the April 2018 meeting and those identified subsequent to that meeting

Rulemaking Process

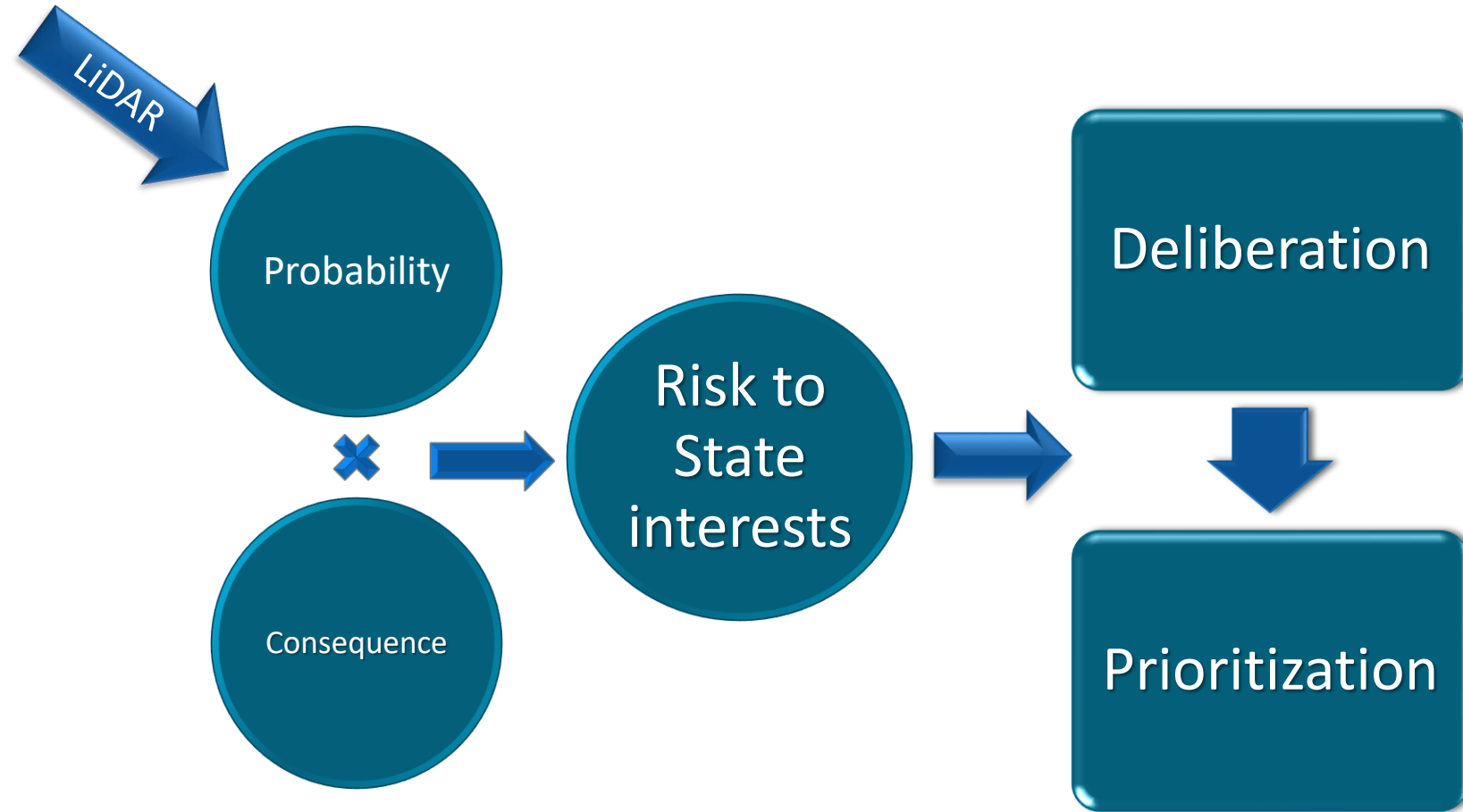
- Notice of Proposed Rulemaking
 - Filed and published in California Regulatory Notice Register on July 5, 2019
 - 45-day public comment period July 2, 2019 through August 19, 2019
 - Public hearing August 22, 2019
- ***Rulemaking must be completed within one year of the notice***
- Council staff have reviewed comments received on draft rulemaking
 - Will be considered in formulation of future rulemaking

New Information

- DWR recently published LiDAR imaging for 2017
 - Updated information describing heights of levees and island/tract floors
- Current DLIS proposal is based on similar information from 2007, which was best available at the time
- DST uses this information as part of risk calculations for each island and tract
- Risk calculations inform DLIS levee priorities (Very-high, high, other)



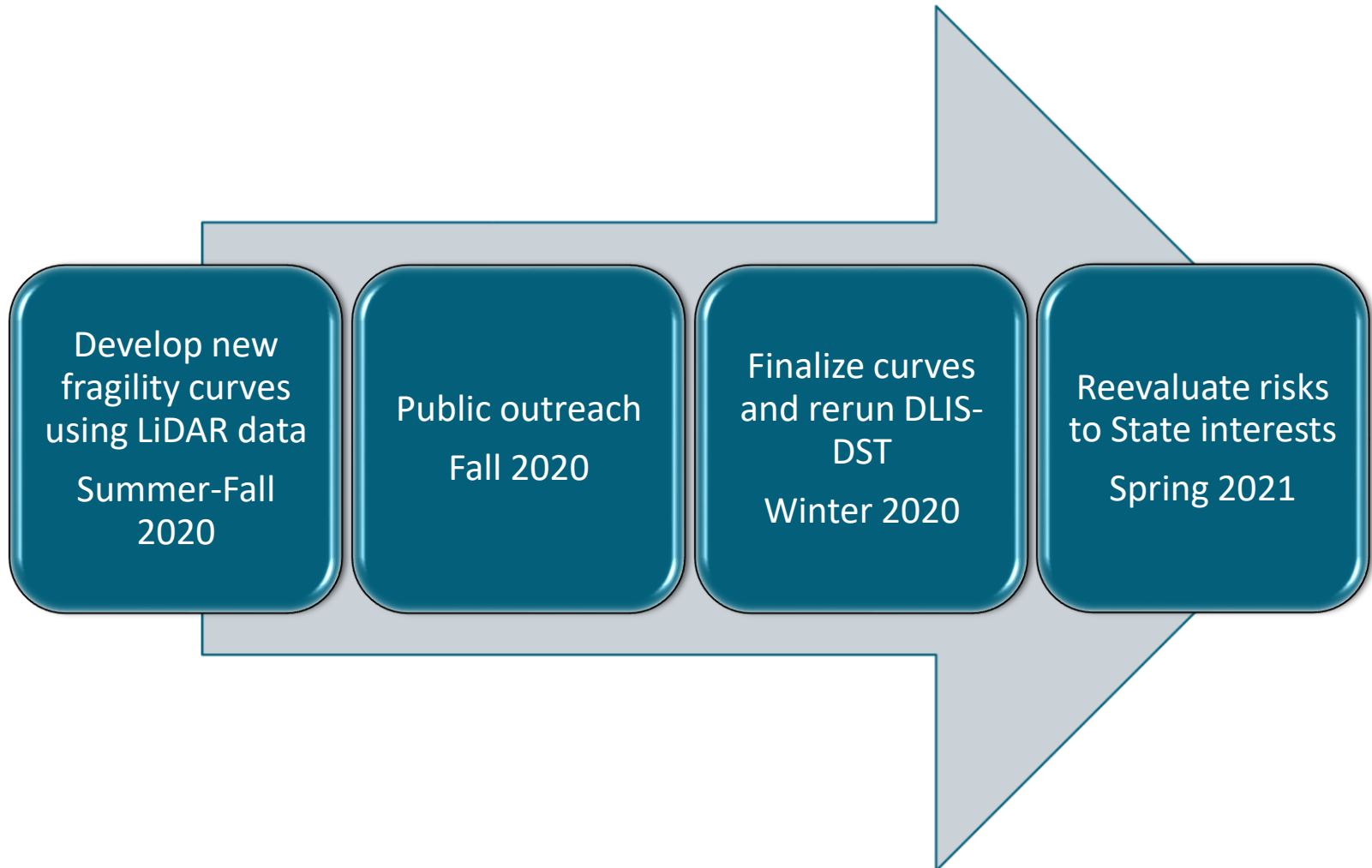
DLIS Process



DLIS Decision
Support Tool

Council Process

DLIS Tool Next Steps



Public Process

- Offer webinars and attend standing meetings to engage key stakeholders
 - Discuss the Council's analysis/evaluation of the LiDAR data
 - Step through the methodology used to develop updated curves, and
 - Provide Reclamation Districts and others opportunity to provide feedback on revised curves and the data that was used.
- Results of new analysis will be presented to the Council for deliberation at Council meetings

Delta Plan Chapter 7

- Staff recommends rescinding portions of Chapter 7 discussing Policy RR P1 and DLIS as amended in 2018 and restoring discussion on the interim levee priorities that was adopted in regulation in 2013 (Cal. Code Regs., title 23, section 5012)
- This would make the Delta Plan consistent with currently adopted regulations

Staff Recommendation

Adopt Resolution 2020-01 (Attachment 1 to the Staff Report) which would:

- Amend Chapter 7 of the Delta Plan to delete text describing DLIS and Policy RR P1 and restore text describing these items previously adopted in 2013 but removed from the Delta Plan in 2018;
- Authorize the Executive Officer to prepare and submit to the Office of Administrative Law (OAL) a Notice of Decision Not to Proceed on Proposed Rulemaking for Section 5001 (Definitions) and Section 5012 (Delta Levees Investment Strategy) of Title 23 of the California Code of Regulations (Government Code section 11347); and
- Direct Council staff to evaluate the new information to determine if further modifications to Chapter 7 are needed, and report to the Council at a future date; and
- Determine that these actions are exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines sections 15061(b)(3) and 15262



Questions and Discussion