



ACTION ITEM

Tribal and Environmental Justice Issue Paper

Summary

The 2019 Five-Year Review of the Delta Plan (2019 Review) adopted by the Delta Stewardship Council (Council) identified environmental justice (EJ) as a key issue for Council focus. The 2019 Review recommended that Council staff prepare an issue paper to inform potential future policy actions to address EJ and better serve disadvantaged communities in the Council's mission of furthering and achieving the coequal goals of "providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem.... in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place." (Wat. Code, § 85054.) Since initiating this effort, Council staff's understanding of EJ has evolved, resulting in an expansion of the issue paper to include tribal justice.

Council staff presented a public review draft of the issue paper to the Council in September 2024 during the issue paper's public review period.

At today's Council meeting, Council staff will present the issue paper, summarizing the changes made in response to tribal consultations and public comment.

Requested Action

Council staff requests the Council adopt the tribal and environmental justice issue paper (issue paper), *Tribal and Environmental Justice in the Sacramento-San Joaquin Delta: History, Current Perspectives, and Recommendations for a Way Forward*, and its recommendations.

Background

California was one of the first states in the nation to codify Environmental Justice (EJ) in statute in 1999 as part of a program establishing the Governor's Office of

Planning and Research (now Office of Land Use and Climate Innovation) as the coordinating agency in State government for EJ programs. Pursuant to Government Code section 65040.12, subd. (e), EJ means "the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins, with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies." As the issue paper notes, the concept of EJ primarily describes the disproportionate burden of environmental impacts, such as air, land, or water contamination, borne by certain communities, and calls for ensuring that the communities most vulnerable to pollution are included in the development and implementation of laws, programs, and policies that affect the environment.

Over the past two decades, the State has worked to incorporate EJ principles into policy, planning, and funding priorities. Many of the Council's peer state agencies have recently adopted or are developing EJ policies, principles, or guidelines.

Similarly, the State has attempted to address, acknowledge, and apologize for the long-term injustice experienced by California Native American Tribes. In his June 2019 Executive Order No. N-15-19, Governor Gavin Newsom described this history as "fraught with violence, exploitation, dispossession, and the attempted destruction of tribal communities" and recognized it as "historically sanctioned over a century of depredations and prejudicial policies against California Native Americans." In that executive order, Governor Newsom also publicly apologized on behalf of the citizens of California for "the many instances of violence, maltreatment, and neglect California inflicted on tribes."

The Council's 2019 Review identified Environmental Justice as a key issue, noting a specific need for more information and analysis to inform potential future Council actions. The Council adopted a recommendation that an issue paper be prepared "to investigate the potential need for additional strategies or responses within the Delta Plan to address disadvantaged communities and environmental justice."

Tribal and Environmental Justice Issue Paper

Issue Paper Objectives

In response to the Council's recommendation, Council staff developed the following objectives for the issue paper:

- Build a network of community leaders and organizations to inform and support the Council's EJ work
- Identify EJ issues within and around the Sacramento-San Joaquin Delta
- Identify policy options to address those issues

The issue paper presents Council staff's understanding of past tribal and environmental injustices in the Delta and current tribal and EJ issues. The issue paper recommends actions to better address those issues within the scope of the Council's mission, authority, and influence. The issue paper focuses on tribal justice and EJ within and around the present-day legal boundaries of the Sacramento-San Joaquin Delta and Suisun Marsh (Wat. Code, § 85058; Delta) and the mission, duties, and responsibilities set forth in the Sacramento-San Joaquin Delta Reform Act of 2009. (Wat. Code, § 85000 et seq.)

Council staff recognizes that tribes view the "legal Delta" as an artificial construct. It's important to acknowledge that this paper is not a full exploration of all tribal justice and EJ issues in the watershed and how tribal and environmental issues manifest upstream (e.g. cultural significance and damage to tribes from damming the tributaries in the upper watershed) and downstream (e.g. access to clean, affordable water in tribal and EJ communities in the Central Valley and southern California) of the Delta, which is a topic deserving rigorous study but beyond the scope of this issue paper.

Furthermore, the issue paper expresses Council staff's evolving understanding of tribal justice and EJ issues and provides foundational context from which the Council can build and grow its tribal justice and EJ work into the future.

Issue Paper Development Process

To the greatest extent possible, Council staff developed the issue paper using peer-reviewed literature and empirical data on EJ issues in the Delta. Council staff supplemented these limited resources by drawing upon multiple data sources,

including new primary interview data collected following established social scientific methods, past public comments submitted to the Council, tribal consultations, the Council's April 2023 tribal listening session, community outreach events, EJ expert group meetings, and an EJ webinar series. These data are woven together following a mixed methods approach, widely accepted and applied in health and social sciences, to integrate multiple rigorously collected quantitative and qualitative data sources. In addition to the objectives noted above, Council staff seeks to make significant contributions to further both original data and synthesis of many existing, disparate data sources on the topic of tribal justice and EJ in and around the Delta.

An EJ expert group was formed to inform and help guide development of the issue paper. To form the expert group, Council staff reached out to 60 community-based organizations and tribes with cultural ties to the Delta. Council staff hosted a meeting to explain the purpose of the expert group and the scope of the issue paper. Four organizations expressed interest in participating in the expert group:

- Restore the Delta
- Little Manila Rising
- California Indian Environmental Alliance
- Sacramento Regional Coalition to End Homelessness

Council staff believes the EJ expert group has provided valuable insight throughout each step of this effort and has been invaluable in building diverse community relationships in the region. Their contributions included reviewing early drafts of the issue paper.

Organization of Issue Paper

The issue paper is organized to tell the story of what the Council can do to better incorporate tribal justice and EJ lenses into our work and why. To stress the importance of following this paper with action, the recommendations are presented early in the paper, following the introduction. The paper then defines tribal and environmental justice, describes the history of tribal and environmental justice in the Delta, and presents a summary of current tribal and environmental justice issues in and around the Delta.

Tribal Consultation, Public Review, and Changes Since the Public Review Draft

The public review draft of the issue paper was released on September 3, 2024, which opened a tribal consultation period and a 60-day public review period. During this time, Council staff consulted with three tribes and received 14 written and verbal public comments. This includes comments raised during Council staff presentations and tabling at community events and comments from Councilmembers and members of the public at the September 2024 Council meeting. Staff also made relevant changes to the issue paper to be consistent with other Council initiatives, new research findings, and partner organization documents.

Both clarifying edits and more substantive changes were made, including, but not limited to:

- Clarified the intent and scope of the issue paper
- Added results from interviews conducted with tribes on interweaving Traditional Knowledge
- Incorporated tribal justice into the EJ framework utilized throughout the issue paper;
- Addressed interplay between the issue paper recommendations and Delta Adapts
- Expanded description of historical, state-sanctioned violence against tribes
- Added further context around the Chinese Exclusion Act and Alien Land Law
- Incorporated relevant findings from the 2023 Delta Residents Survey

Attachment 2 provides a section-by-section summary of changes.

Today's Council Meeting

At today's Council meeting, Council staff will present the final issue paper, focusing on changes made in response to tribal consultations and public comments. Staff recommends that the Council adopt the issue paper and its recommendations.

Fiscal Information

Not applicable.

List of Attachments

Attachment 1: Issue Paper

Attachment 2: Summary of changes from public review draft to final

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