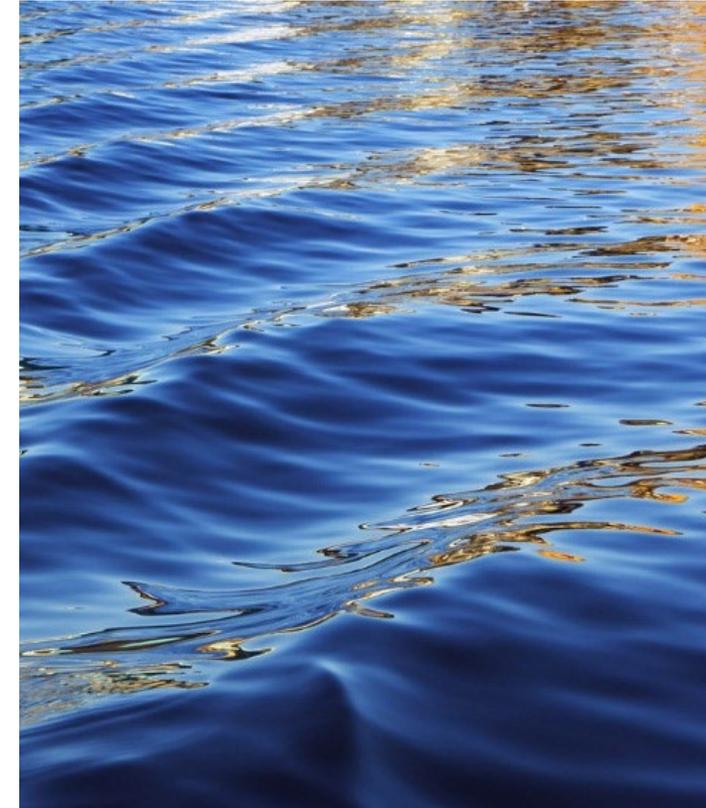




San Joaquin County
Solano County
Yolo County
Central Delta Water Agency
Local Agencies of the North Delta
Consistency Appeal for the Delta Tunnel

(Cert. ID: C20257; Appeal No. C20257-A9)
February 26-27, 2026



Overview of Issues Subject to Appeal by Delta Agencies and Counties

- Delta Plan Regulatory Policy DP P2 – Respect Local Land Use When Siting Water or Flood Facilities or Restoring Habitats. (Cal. Code Regs., tit. 23, § 5011, subd. (a).)
- Delta Plan Regulatory Policy ER P1 – Consistency With Delta Flow Objectives of the Bay Delta Plan. (Cal. Code Regs., tit. 23, § 5005.)
- Delta Plan Regulatory Policy WR P1 – Reduce Reliance on the Delta Through Improved Regional Water Self-Reliance. (Cal. Code Regs., tit. 23, § 5003.)
- G P1, subd. (b)(2) – Include All Feasible Delta Plan Mitigation or Equally Effective Measures. (Cal. Code Regs., tit. 23, § 5002, subd. (b)(2).)
- GP 1, subd. (b)(3) – Covered Actions Must Use Best Available Science. (Cal. Code Regs., tit. 23, § 5002, subd. (b)(3).)
- GP 1, subd. (b)(4) – Include Adequate Resources to Ensure Continued Implementation of Adaptive Management. (Cal. Code Regs., tit. 23, § 5002, subd. (b)(4).)
- The Community Benefits Program Fails to Address the Impacts of the Delta Tunnel.

Delta Tunnel Consistency Certification Fails to Satisfy Plain Language of DP P2 to Respect Local Land Use

- Delta Plan Policy DP P2 Requires that Water Conveyance Facilities must be “be sited to avoid or reduce conflicts with existing uses.”
- Siting analysis requires consideration of how various designs and alternatives might avoid resources in the first instance. The Certification shows no evidence of this analysis for most resources.
- Muck stored at massive muck sites would likely not be reusable, which would conflict with existing uses.
(LAND-1, ¶ 12 [DCP.V2.22.00001].)

Delta Plan Regulatory Policy DP P2: Tunnel Muck Impacts Would be Severe in North Delta

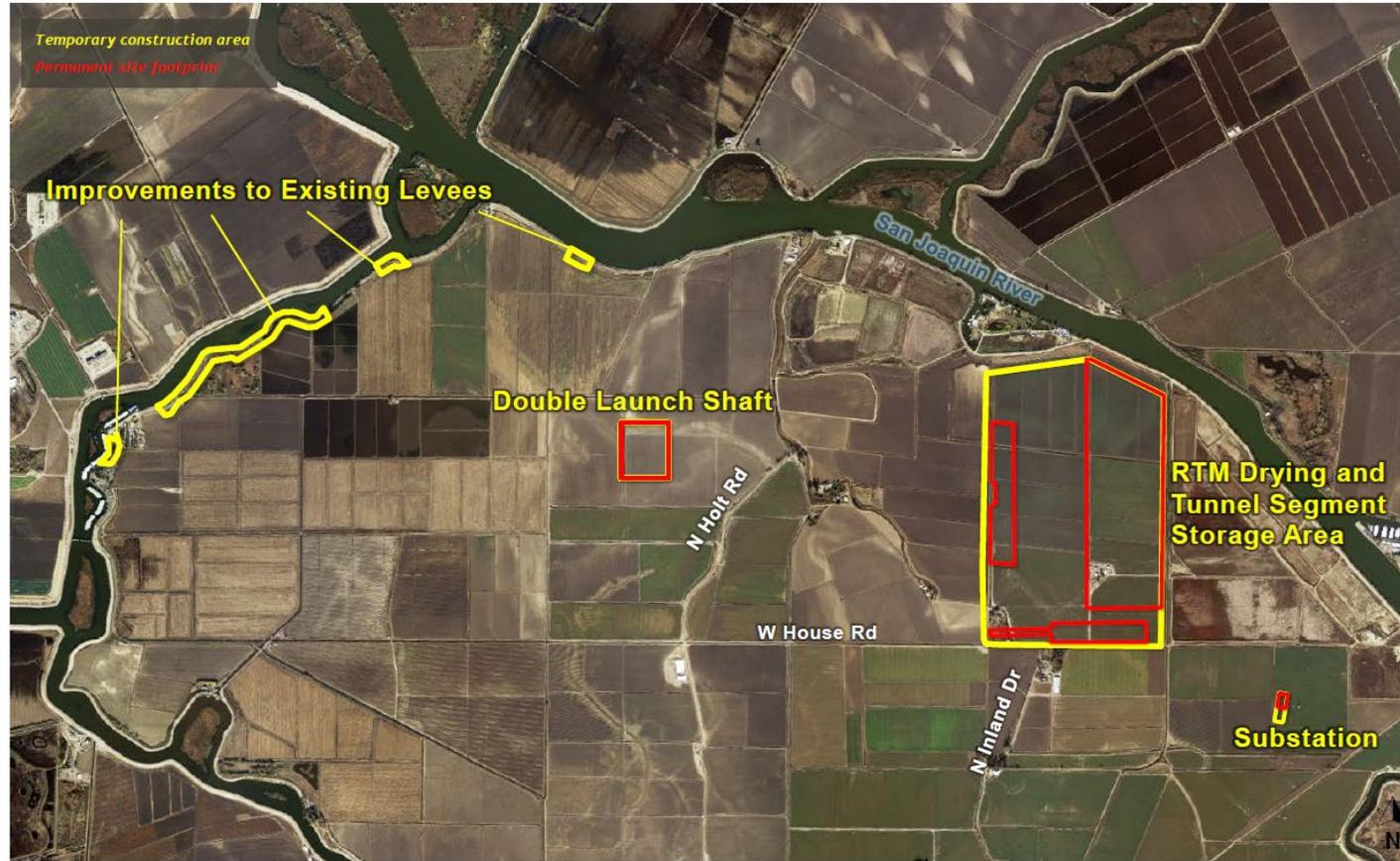
Photo Render of Stockpiles at Twin Cities



Source: Delta Conveyance Authority. 2024. *Delta Conveyance Map, Bethany Reservoir Alignment*

Delta Plan Regulatory Policy DP P2: Tunnel Muck Impacts Would be Severe in South Delta

Lower Roberts Island Double Launch Shaft Site Aerial, Construction Impact Area



Disclaimer: These pages are for discussion purposes only. They do not represent a decision by the DCA or DWR. Final decisions about the project will be made by DWR and will NOT be made until the concluding stages of the CEQA process.

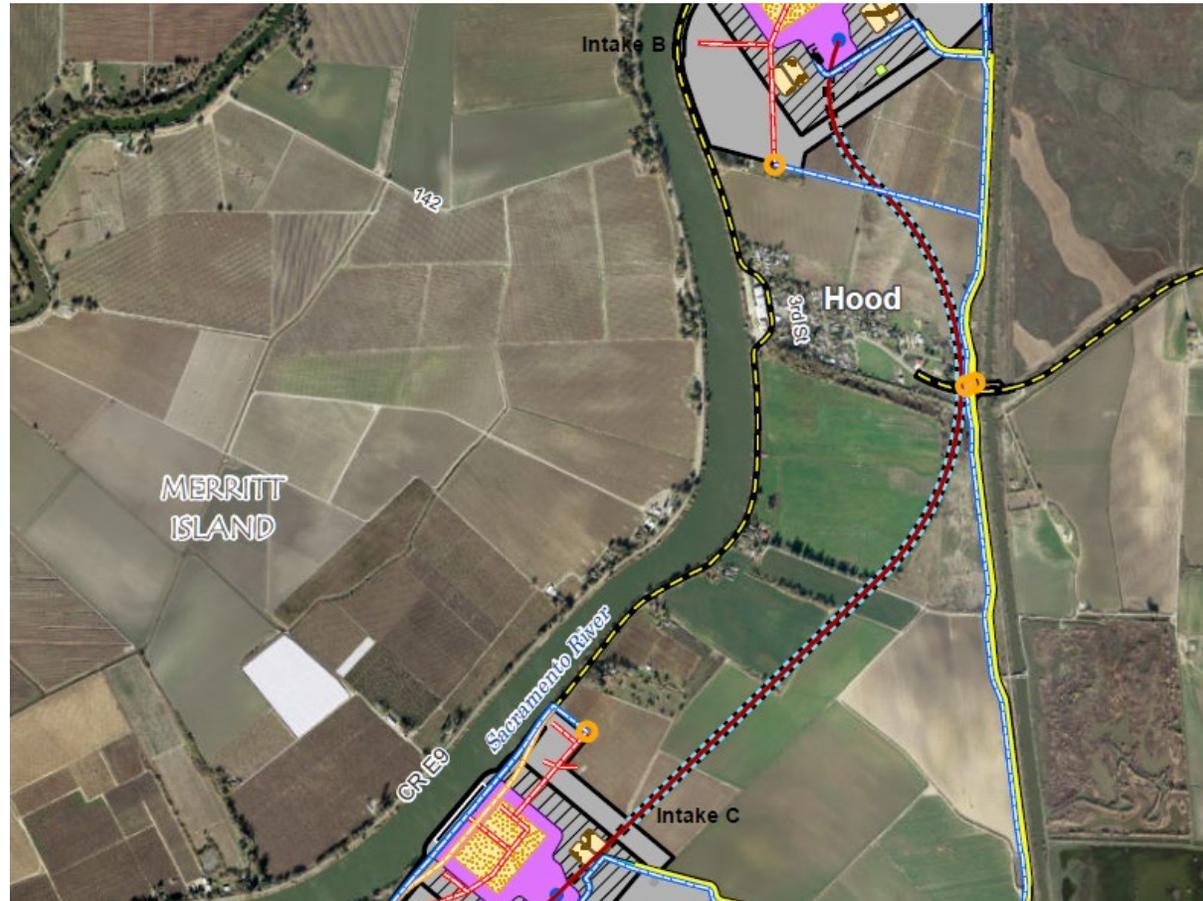
OCTOBER 2024 18

Delta Tunnel Consistency Certification Fails to Satisfy Plain Language of DP P2

- Town of Hood would be surrounded by new, incongruent industrial facilities.
- Combined footprint of 232-acres for intake facilities and related features near the town of Hood would be 10 times the area of Sacramento International Airport Terminals A and B, or almost 13 average Amazon fulfillment centers. (DPC, November 13, 2025 Staff Report and Maps, p. 2.)
- Certification ignores the impacts in the vicinity of Hood with regard to the lost recreational values.

(Sources: DPC November 13, 2025 Staff Report and Maps, Attachment 1, p. 17; Attachment 2, p. 2; FEIR, p. 18D-8 [FEIR Appendix 18D, DCP.D1.1.00160].)

Delta Plan Policy DP P2: Visualizing Impacts to the Town of Hood

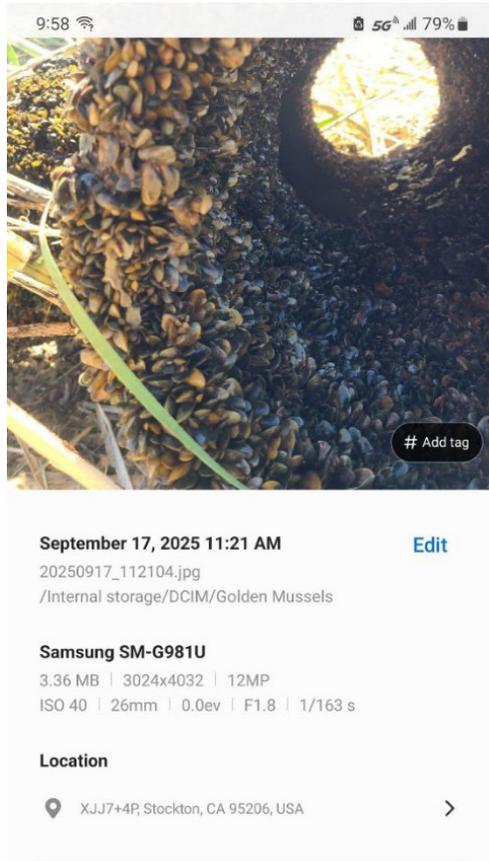


Source: FEIR Mapbook, Figure 3-3: Bethany Alignment [DCP.D1.1.00027].

Consistency Certification Fails to Include Mitigation to Address Golden Mussel Required by Delta Plan Policy G P1(b)(2)

- Golden mussels (*Limnoperna fortunei*) are a new, widely known invasive species in the Delta.
- “Covered actions not exempt from CEQA must include all applicable feasible mitigation measures adopted as part of Appendix O and incorporated into the Delta Plan as amended June 23, 2022, which is hereby incorporated by reference. . . .”
(Cal. Code Regs., tit. 23, § 5002, subd. (b)(2).)
- Delta Plan Mitigation Measure 4-1(e) requires a robust approach to management of invasive species including but not limited to early detection, notification, and eradication.
(Delta Stewardship Council. June 2022. Delta Plan Appendix O. Delta Plan Ecosystem Amendment MMRP.)

Delta Plan Policy G P1(b)(2) – Delta Plan Mitigation Measures



Delta Tunnel would create a tremendous amount of new substrate upon which golden mussels could attach.

- Intakes
- Sedimentation Basins
- 36-foot internal diameter tunnel, 45 miles long

This is combined area of roughly 9.5 million square feet of new habitat for golden mussel!

(Sources FEIR Chapter 3, p. 3-15 [DCP.D1.1.00010]; Alternative 5 Mapbook, pp. 2-3 [Alternative 5 Mapbook, DCP.D1.1.00026].)

Images: October 6, 2025, Facebook Post showing irrigation pipe covered with mussels inside and out in San Joaquin County

Delta Plan Policy GP₁(b)(3) Delta Tunnel Certification Fails to Use Best Available Science for Golden Mussel Invasion

Delta Plan Regulatory Policy GP₁(b)(3) requires the use of best available science in support of certifications of consistency.

DWR fails to include any information regarding golden mussel even though the species was officially found in the Delta in October 2024 according to the State of California Golden Mussel Response Framework.

This deficit makes the Certification inconsistent with the requirements of the Delta Stewardship Council regulations.

Delta Tunnel Consistency Certification Fails to Include Mitigation to Address Recreation Impacts Required by Delta Plan Regulatory Policy G P₁(b)(2)

- **Delta Plan Mitigation Measure 18-2 requires the covered action proponent to ensure that visitors seeking recreational opportunities are directed to replacement options, as necessary.**
(Mitigation Crosswalk Table, p. 59; Delta Conveyance Project, FEIR Chapter 16, Recreation [FEIR Chapter 16, DCP.D1.1.00149].)
- **The combined waterside impacts, upland impacts near the town of Hood, and influx of construction workers will put a severe strain on recreational opportunities.** (SOSC-1, Testimony of David Yee, ¶¶ 5-6 [SOSC-1, DCP.V2.31.00001].)
- **DWR fails to provide equivalent mitigation to Delta Plan Mitigation Measure 18-2.**

Delta Tunnel Consistency Certification Fails to Show Adequate Resources to Fund Adaptive Management

- **Delta Plan Regulatory Policy G P1(b)(4) requires:**
 - (A) An adaptive management plan that describes the approach to be taken consistent with the adaptive management framework in Appendix 1B; and
 - (B) Documentation of access to adequate resources and delineated authority by the entity responsible for the implementation of the proposed adaptive management process.

- **DWR claims that no SWP contractor has defaulted on its payment obligations and that taxes may be levied on property in the SWP service areas if necessary.**

(Consistency Certification, p. 187.)

Delta Tunnel Consistency Certification Fails to Show Adequate Resources for Adaptive Management (Cont.)

- Despite requirements of Delta Plan Policy G P1(b)(4), DWR fails to provide documentation of funding that could support adaptive management. (Certification, pp. 186-188.)
- Existing permits and overall implementation of the Delta Tunnel would require extensive adaptive management for fisheries, ecological responses, water quality, and hydraulic monitoring. (AHO-065, ITP No. 2081-2024-018-00, Construction and Operation of the Delta Conveyance Project [AHO-065 ITP, DCP.V3.3.00065].)
- DWR fails to disclose that it currently lacks authority to issue bonds that could fund the Delta Tunnel and necessary adaptive management. (*DWR v. MWD* (2025) 117 Cal.App.5th 751.)

Community Benefit Program Does Not Match the Location of Impacts or Meaningfully Address Impacts

- Thus far, the Community Benefits Program appears to allocate funding to entities around the edges of or outside of the Delta. If finalized, the draft agreements would use up almost half of the available funding (\$200 million), leaving little funding for other affected communities.

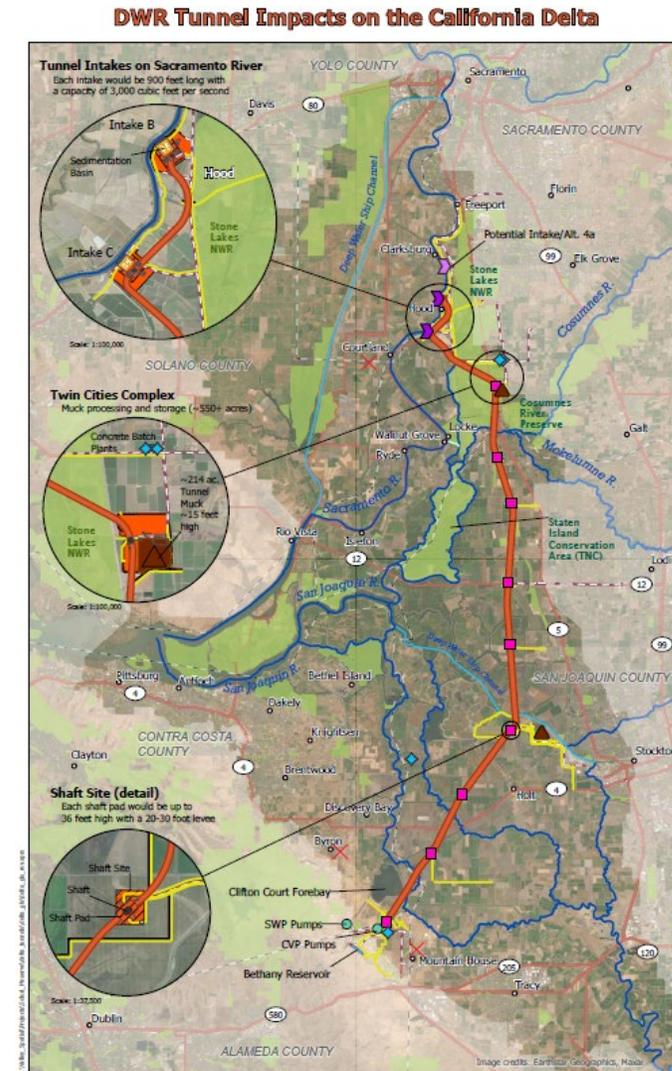
Existing Funding Estimates for Community Benefit Program

Citation	Entity and Location	Amount
DCP.AA2.1.00010, p. 4	Courtland Fire Protection District	\$5,590,000
DCP.AA2.1.00011, p. 4	Courtland Town Association	\$10,000,000
DCP.AA2.1.00013, p. 3	Sacramento Audubon Society	\$11,500,000
DCP.AA2.1.00012, p. 2	East Bay Regional Park District (Oakland)	\$3,750,000
DCP.AA2.1.00014, p. 4	Sacramento Audubon Society and the Institute for Bird Populations (Petaluma)	\$1,000,000
DCP.AA2.1.00009, p. 4	City of Mountain House	\$10,000,000
DCP.AA2.1.00007, p. 4	Byron Bethany Irrigation District (Byron)	\$46,570,000
DCP.AA2.1.00106, p. 4	Center for Land-Based Learning (Woodland)	\$588,291
	Grand total	\$88,998,291

Community Benefit Program Does Not Match the Location of Impacts or Meaningfully Address Impacts

- **Community Benefit Agreements:**
 - Are a hodgepodge of organizations, many of which are not based in the Delta.
 - Are not associated with all regions that would be impacted by the Tunnel.
 - Are not finalized.
 - Are not funded.

Draft Agreements are not evidence of consistency with DP P2.



Impact of The Delta Tunnel's Inconsistencies with Delta Plan on the Coequal Goals

- The basis for appeals of certifications of consistency requires a showing that the inconsistency will have a substantial adverse impact on the achievement of the coequal goals. (Wat. Code, § 85225.10, subd. (a).)
- Unaddressed impacts of the Delta Tunnel arising from the failure to conduct a siting analysis required by Regulatory Policy DP P2 means that tunnel muck disposal sites and other project features will have a substantial adverse impact on the Delta ecosystem and existing land uses. (Wat. Code, § 85054 [coequal goals].)
- Unaddressed impacts from golden mussel would damage the Delta ecosystem and thus damage the protected values of the Delta. (Wat. Code, § 85020, subds. (a)(b) [policies inherent in coequal goals].)
- The failure to incorporate required mitigation, to use the best available science, and to show funding for adaptive management also deprives the Certification of substantial evidence necessary to demonstrate protection of the Coequal Goals.

Delta Tunnel is not Consistent with the Delta Plan nor the Goals of the 2009 Delta Reform Act

- The Delta Tunnel would export water to entities that have not complied with the dual requirements of reducing Delta reliance and improving regional self-reliance.
- The Tunnel also fails to demonstrate consistency with ER P1, which requires the demonstration of present and likely future compliance with D-1641.
- Impacts of the Tunnel would substantially undermine the goal of “protecting, restoring, and enhancing the Delta ecosystem.” (Wat. Code, § 85054.)
- Failure to adopt feasible mitigation, ensure adequate funding for adaptive management, provide best available science, and respect local land uses exacerbate the impacts on Delta waters and land uses, and the coequal goals.

Certification must be remanded to DWR.

Thank you for your attention!

Any Questions?

Delta Tunnels Consistency Appeal
(Cert. ID: C20257)
February 26-27, 2026

