

South Delta Water Agency's Written Submission Cover Sheet

Proposed Covered Action: Delta Conveyance Project

Certification Number: C20257

Party Submitting the Document: Appellant South Delta Water Agency

Date of Submittal: January 2, 2026

Document Title: South Delta Water Agency's Written Submission in
Support of its Appeal (C20257-A8) of DWR's DCP
Certification of Consistency

South Delta Water Agency's
Written Submission in Support of its Appeal (C20257-A8)
of DWR's DCP Certification of Consistency

In its memorandum in support of its appeal, the South Delta Water Agency (“SDWA”) comprehensively explained why DWR’s proposed construction and operation of its Delta Conveyance Project (“DCP”) are substantially and fundamentally inconsistent with the Delta Reform Act of 2009, the Delta Plan, and the DSC’s regulatory policies, and will result in widespread, unmitigated significant adverse impacts on the achievement of the co-equal goals that will be felt throughout the entire Delta and beyond. The proposed operation of the DCP to substantially increase exports from the Delta beyond historical levels will also entirely undermine and make a mockery of the Legislature’s statutory mandate to reduce reliance on the Delta, a mandate the Legislature determined was essential to bring the ailing Delta into balance. The Certification should accordingly be remanded in its entirety and DWR should undertake a good faith review of alternatives to such a harmful and destructive project, including the through-Delta Freshwater Pathway alternative, that are consistent with and in full compliance with the Delta Reform Act’s statutory and regulatory policies and mandates.

1. Request to Supplement the Certified Record with Additional Documentation and Request for Official Notice of Additional Documents.

SDWA hereby requests to supplement the certified record with the following fifteen (15) additional documents pursuant to California Code of Regulations, title 23, sections 5026 and 5032:

- (1) A copy of DWR’s January 21, 2025 “Petition for Extension of Time to Perfect Conditional Water Rights Under the State Water Project Permits (SWP) 16478, 16479, 16481, and 16482 for water supply and Permits 16477 and 16480 for hydropower operations,” including the one page cover letter (“memorandum”) submitted therewith, totaling 19 pages. (These documents were included as Exhibit A to SDWA’s appeal.)

Justification:

- These documents are public records that were “part of the record before the certifying agency but [were] not included in the certifying agency’s submission to the council.” (DSC Regulation 5026, subd. (b).)
- These documents are official public records “that may be judicially noticed by a court.” (DSC Regulation 5032, subd. (c)(3)(B).)

- (2) A copy of DWR’s “Economic Analysis of the California WaterFix—Benefits and Costs to Project Participants,” prepared by David L. Sunding, Ph.D, dated September 20, 2018, totaling 42 pages. (This document was included as Exhibit C to SDWA’s appeal.)

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Justification:

- This document is a public record that was “part of the record before the certifying agency but was not included in the certifying agency’s submission to the council.” (DSC Regulation 5026, subd. (b).)
- This document is an official public record “that may be judicially noticed by a court.” (DSC Regulation 5032, subdivision (c)(3)(B).)
- This document was also included as Attachment 3 the Central Delta Water Agency’s “CDWA SUPPLEMENTAL Comments on the Delta Conveyance Project Draft Environmental Impact Report,” dated December 16, 2022, at PDF pp. 133-174.

(3) A copy of the “Further Corrected Case-in-chief Testimony [of] Gregory F. Wilson, P.E.” that SDWA submitted as its exhibit “SDWA-21b” on October 9, 2025 in the SWRCB’s pending proceeding on DWR’s petition to add new points of diversion for the DCP, totaling 22 pages. (This document was included as **Exhibit D** to SDWA’s appeal.)

Justification:

- This document is a public record that was “part of the record before the certifying agency but was not included in the certifying agency’s submission to the council.” (DSC Regulation 5026, subd. (b).)
- This document is an official public record “that may be judicially noticed by a court.” (DSC Regulation 5032, subdivision (c)(3)(B).)

(4) A copy of the “Further Corrected Case-in-chief Testimony [of] Thomas K. Burke, P.E.” that SDWA submitted as its exhibit “SDWA-1b” on October 14, 2025 in the SWRCB’s pending proceeding on DWR’s petition to add new points of diversion for the DCP, totaling 44 pages. (This document was included as **Exhibit E** to SDWA’s appeal.)

Justification:

- This document is a public record that was “part of the record before the certifying agency but was not included in the certifying agency’s submission to the council.” (DSC Regulation 5026, subd. (b).)
- This document is an official public record “that may be judicially noticed by a court.” (DSC Regulation 5032, subdivision (c)(3)(B).)

(5) A copy of the “Analytical Study on Flood Induced Seepage Under River Levees,” by Senda Ozkan, dated May 2003, totaling 247 pages. (This document was included as **Exhibit F** to SDWA’s appeal.)

Justification:

- This document is a public record that was “part of the record before the certifying agency but was not included in the certifying agency’s submission to the council.” (DSC Regulation 5026, subd. (b).)
- This document is an official public record regarding a “generally accepted technical or scientific matter[s] within the council’s jurisdiction” and a

matter “that may be judicially noticed by a court.” (DSC Regulation 5032, subds. (c)(3)(A) & (c)(3)(B).

- SDWA submitted this document to DWR and the DSC as an exhibit (exhibit “A”) in SDWA’s appeal of the “2024-2026 Geotechnical Activities,” filed on November 7, 2024.
- This document was also included as an enclosure to the Central Delta Water Agency’s “CDWA SUPPLEMENTAL Comments on the Delta Conveyance Project Draft Environmental Impact Report,” dated December 16, 2022, at PDF pp. 245-491.

(6) A copy of the U.S. Army Corps’ regulation ER 1110-1-1807, entitled “Engineering and Design, Drilling in Earth Embankment Dams and Levees,” dated December 31, 2014, totaling 16 pages. (This document was included as Exhibit G to SDWA’s appeal.)

Justification:

- This document is a public record that was “part of the record before the certifying agency but was not included in the certifying agency’s submission to the council.” (DSC Regulation 5026, subd. (b).)
- This document is an official public record regarding a “generally accepted technical or scientific matter[s] within the council’s jurisdiction” and a matter “that may be judicially noticed by a court.” (DSC Regulation 5032, subds. (c)(3)(A) & (c)(3)(B).
- SDWA submitted this document to DWR and the DSC as an exhibit (exhibit “B”) in SDWA’s appeal of the “2024-2026 Geotechnical Activities,” filed on November 7, 2024.
- This document was also included as an enclosure to the Central Delta Water Agency’s “CDWA SUPPLEMENTAL Comments on the Delta Conveyance Project Draft Environmental Impact Report,” dated December 16, 2022, at PDF pp. 1000-1015.

(7) A copy of a January 13, 2020 Memorandum prepared by Gilbert Cosio, Jr., an Engineer with MBK Engineers, to the CA Central Valley Flood Control Association re “Soil Investigations for Data Collection in the Delta IS/MND,” totaling 4 pages. (This document was included as Exhibit H to SDWA’s appeal.)

Justification:

- This document is a public record that was “part of the record before the certifying agency but was not included in the certifying agency’s submission to the council.” (DSC Regulation 5026, subd. (b).)
- SDWA submitted it to DWR and the DSC as an exhibit (exhibit “C”) in SDWA’s appeal of the “2024-2026 Geotechnical Activities,” filed on November 7, 2024.

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(8) A five (5) page collection of photos of boils that have erupted within Delta reclamation districts from preferential seepage paths. (These photos were included as Exhibit I to SDWA's appeal.)

Justification:

- These photos are public records that were “part of the record before the certifying agency but [were] not included in the certifying agency’s submission to the council.” (DSC Regulation 5026, subd. (b).)
- SDWA submitted these photos to DWR and the DSC as an exhibit (exhibit “D”) in SDWA’s appeal of the “2024-2026 Geotechnical Activities,” filed on November 7, 2024.
- These photos were also included as an enclosure to the Central Delta Water Agency’s “CDWA SUPPLEMENTAL Comments on the Delta Conveyance Project Draft Environmental Impact Report,” dated December 16, 2022, at PDF pp. 1035-1030.

(9) A copy of Chapter 11 – “Cone Penetrometer” from the USDA/NRCS’ “Part 631 Geology National Engineering Handbook,” issued January 2012, totaling 33 pages. (This document was included as Exhibit J to SDWA’s appeal.)

Justification:

- This document is a public record that was “part of the record before the certifying agency but was not included in the certifying agency’s submission to the council.” (DSC Regulation 5026, subd. (b).)
- This document is an official public record regarding a “generally accepted technical or scientific matter[s] within the council’s jurisdiction” and a matter “that may be judicially noticed by a court.” (DSC Regulation 5032, subds. (c)(3)(A) & (c)(3)(B).)
- SDWA submitted this document to DWR and the DSC as an exhibit (exhibit “E”) in SDWA’s appeal of the “2024-2026 Geotechnical Activities,” filed on November 7, 2024.

(10) A copy of DWR’s Bulletin 74-90 entitled, “California Well Standards,” dated June 1991, totaling 112 pages. (This document was included as Exhibit K to SDWA’s appeal.)

Justification:

- This document is a public record that was “part of the record before the certifying agency but was not included in the certifying agency’s submission to the council.” (DSC Regulation 5026, subd. (b).)
- This document is an official public record regarding a “generally accepted technical or scientific matter[s] within the council’s jurisdiction” and a matter “that may be judicially noticed by a court.” (DSC Regulation 5032, subds. (c)(3)(A) & (c)(3)(B).)
- SDWA submitted this document to DWR and the DSC as an “additional document” in SDWA’s “Written Submission” for its appeal of the “2024-2026 Geotechnical Activities,” filed on November 27, 2024.

(11) A copy of U.S. Fish and Wildlife Service’s “National Wetlands Inventory” maps, dated March 15 and 16, 2023, totaling 6 pages. (These maps were included as **Exhibit M** to SDWA’s appeal.)

Justification:

- This document is a public record that was “part of the record before the certifying agency but was not included in the certifying agency’s submission to the council.” (DSC Regulation 5026, subd. (b).)
- This document is an official public record regarding a “generally accepted technical or scientific matter[s] within the council’s jurisdiction” and a matter “that may be judicially noticed by a court.” (DSC Regulation 5032, subds. (c)(3)(A) & (c)(3)(B).)
- This document was included as an exhibit to the Central Delta Water Agency’s comments on the U.S. Army Corps’ Draft Environmental Impact Statement for the DCP entitled, “DEIS Delta Conveyance Project—DJN Sr. Part One,” dated March 16, 2023, at PDF pp. 216-221.

(12) A copy of the Internal Technical Review Panel’s Memorandum re “ITR December Workshop on [DCP] Tunnel and Shafts – Report,” dated January 31, 2020, totaling 20 pages. (This document was included as **Exhibit N** to SDWA’s appeal.)

Justification:

- This document is a public record that was “part of the record before the certifying agency but was not included in the certifying agency’s submission to the council.” (DSC Regulation 5026, subd. (b).)
- This document is an official public record regarding a “generally accepted technical or scientific matter[s] within the council’s jurisdiction” and a matter “that may be judicially noticed by a court.” (DSC Regulation 5032, subds. (c)(3)(A) & (c)(3)(B).)
- This document was included as an exhibit to the Central Delta Water Agency’s comments on the U.S. Army Corps’ Draft Environmental Impact Statement for the DCP entitled, “DEIS Delta Conveyance Project—DJN Sr. Part One,” dated March 16, 2023, at PDF pp. 222-241.

(13) A copy of Dante J. Nomellini, Sr.’s (attorney and general manager of the Central Delta Water Agency) handwritten markup of the map on page 9 of the above-referenced Internal Technical Review Panel memorandum, totaling one page. (This document was included as **Exhibit O** to SDWA’s appeal.)

Justification:

- This document is a public record that was “part of the record before the certifying agency but was not included in the certifying agency’s submission to the council.” (DSC Regulation 5026, subd. (b).)
- This document was included as an exhibit to the Central Delta Water Agency’s comments on the U.S. Army Corps’ Draft Environmental Impact Statement for the DCP entitled, “DEIS Delta Conveyance

Project—DJN Sr. Part One,” dated March 16, 2023, at PDF p. 242.

(14) A copy of the Central Delta Water Agency’s “CDWA SUPPLEMENTAL Comments on the Delta Conveyance Project Draft Environmental Impact Report,” dated December 16, 2022, totaling 1039 pages.

Justification:

- This document is a public record that was “part of the record before the certifying agency but was not included in the certifying agency’s submission to the council.” (DSC Regulation 5026, subd. (b).)
- This document was submitted to DWR on December 16, 2022.

(15) A copy of the Central Delta Water Agency’s comments on the U.S. Army Corps’ Draft Environmental Impact Statement for the DCP entitled, “DEIS Delta Conveyance Project—DJN Sr. Part One,” dated March 16, 2023, totaling 242 pages.

Justification:

- This document is a public record that was “part of the record before the certifying agency but was not included in the certifying agency’s submission to the council.” (DSC Regulation 5026, subd. (b).)
- This document was submitted to the U.S. Army Corps on March 16, 2023.

The following is a link to download complete copies of each of these documents:

<https://spaces.hightail.com/receive/W1sfwnna0y>

(This link will also be provided in the transmittal email to the DSC and the parties in the event this embedded link does not work properly.)

Respectfully submitted,



Dante J. Nomellini, Jr.
Attorney for the
South Delta Water Agency