



Informational Briefing on the Yolo Bypass Salmonid Habitat Restoration and Fish Passage Project (Big Notch Project)

Introduction

The Department of Water Resources has secured nearly all necessary permits and approvals to move forward with construction of the Yolo Bypass Salmonid Habitat Restoration and Fish Passage Project (Big Notch Project or Project). The Project will improve fish passage and increase floodplain fisheries habitat in the Yolo Bypass and the lower Sacramento River basin. It entails constructing a gated notch in the Fremont Weir, and increasing the flooding of a portion of the Yolo Bypass to allow juvenile salmon to move from the Sacramento River onto the floodplain and adult salmon and sturgeon access into the Sacramento River from the Yolo Bypass. The Project is required by the 2019 National Marine Fisheries Service Biological Opinion and the 2020 the California Department of Fish and Wildlife Incidental Take Permit for the continued long-term operations of the State Water Project.

As a key flood management feature, the Yolo Basin is seasonally flooded. Landowners of property within the basin have flood easements on their property for flood control purposes. The Project increases the depth and duration of seasonal flooding of parts of the Yolo Bypass, including private land. This requires an additional flood easement on specific properties within the Yolo Bypass. The Department of Water Resources (Department) must initiate negotiations pursuant to the State's eminent domain authority to obtain these additional easements. The Department continues to work with landowners in the proposed project footprint. The Department may need to use its eminent domain authority in cases where negotiations for the additional flood easement have reached an impasse. The Department's eminent domain authority requires a Resolution of Necessity from the California Water Commission if an impasse occurs. The Commission received a briefing about the Commission's Resolution of Necessity Process in June 2021.

Background

California Water Code section 11575 allows the Department to acquire land to construct, maintain or operate the State Water Project. Water Code section 11580 allows the Department to use eminent domain proceedings if the Department cannot reach an agreement with the landowner. California Code of Civil Procedure sections 1245.210 and 1245.220 require the Department to obtain a Resolution of Necessity from the California Water Commission (Commission) before proceeding to initiate court action to obtain property rights from private citizens. This agenda item is also consistent with Goal Three of the Commission's Strategic Plan, to carry out its "statutory authorities associated with the Department ... to ensure that the Department's decisions on key programs and activities are based on sound information and

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advance climate resiliency.” Goal Three specifically includes the Commission’s eminent domain obligations within its objectives.

Meeting Overview

At this meeting, Maninder Bahia, from the Division of Integrated Science and Engineering will present an overview of the Project, including its goals and impacts on the State Water Project operations. Rachel Taylor, from the Department’s Office of General Counsel, will present the legal considerations surrounding Resolutions of Necessity. These briefings are distinct from the Commission process of adopting Resolutions of Necessity.

This is an informational item.

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