

Funding

Under executed funding agreements for the BDCP and DHCCP, the participating State Water Contractors and the San Luis & Delta Mendota Water Authority have provided funding for the program, including geotechnical explorations.

Reminder of the four findings to be made by the Commission

- Public interest and necessity require the project.
- The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
- Property is necessary for the project.
- Offer has been made to owner of record.

Authority to Carry Out the Project for Geotechnical Investigations

The Authority of the Department of Water Resources for the State Water Project

Two key sets of statutes authorize and guide the design, planning, construction, operation and maintenance of the State Water Project. These include the Central Valley Project Act, Water Code Section 11100 et seq., and the California Water Resources Development Bond Act, Water Code Section 12930 et seq. (commonly referred to as the Burns-Porter Act).

- (Water Code Section 11125)(approval and authorization of the State Water Project)
- (Water Code 11160)(authority to take actions for SWP)
- (Water Code Section 11260)(authority for Feather River and Delta Diversion works)
- (Water Code Section 11290)(authority to add additional units to SWP)
- (Water Code Section 11551)(obligation to design SWP works)
- Burns-Porter Act defined "State Water Facilities" to include an aqueduct system to transport water from or near the Delta, including intake and diversion works, conduits, tunnels, siphons, pipelines and pumping systems. (Water Code Section 12934(d).) The definition of "State Water Facilities" also includes master levees, control structures, channel improvements and appurtenant facilities in the Delta for water conservation, water supply in the Delta, transfer of water across the Delta, flood and salinity control and other functions. (Water Code Section 12934(d)(3).)

The Department's Authority to Acquire Interests in Real Property

The Central Valley Project Act and other statutes create the Department's authority to acquire the necessary interests in real property for the water project.

- (Water Code Section 11575)(broad authority to acquire interests in real property)
- (Water Code Sections 11577, 11580) (authority to use eminent domain)
- Other provisions that allow the Department to acquire by eminent domain Water Code Sections 250, 253. Acquire for future needs Water Code Section 258.
- Code of Civil Procedure Section 1245.010 (authority for access for studies)
- The Department is pursuing permanent easements for the geotechnical investigations based on the trial court's determination that the proposed entry was too invasive to allow without the payment of just compensation.

The Department Has Ample Authority to Study Water Resource and Related Issues

The Department has numerous bases of specific and general authorities to study a wide variety of water resource project related issues; a few of these are described below:

- Water Code Section 225 (authority for surveys and investigations)
- Water Code Section 229 (authority for water quality investigations)
- Water Code Section 139.2 (authority to study effects of subsidence, earthquakes, flood and climate change)
- Water Code Section 139.4 - The Department, in cooperation with the Department of Fish and Game, is charged with determining the principal options for addressing various Delta problems, such as: the potential disruption of water supplies; improving quality of drinking water; reducing salinity; maintain Delta water quality; preserving Delta islands; and protecting infrastructure, including levees.
- Water Code Section 85320 - The Sacramento-San Joaquin Delta Reform Act of 2009 provided additional direction and authority to study Delta improvements, including the Bay Delta Conservation Plan (BDCP).
- (Water Code Section 85320(b)(2)(B).) - This Act required the Department to study and analyze a reasonable range of Delta conveyance alternatives, including the through-Delta, dual conveyance, and isolated conveyance alternatives and including further capacity and design options of a lined canal, an unlined canal, and pipelines.

The Department Has Ample Authority to Study Water Resource and Related Issues (cont'd)

The Water Resources Law of 1945 provides various specific and general authority to the Department of investigating potential water resources projects:

- 1.(Water Code Section 12606)(authority to conduct investigations)
- 2.(Water Code Section 12609)(authority for studies, surveys and investigations)
- 3.(Water Code Section 12616)((authority for investigations)
- 4.(Water Code Section 12617)(authority for investigations and surveys)
- 5.(Water Code Section 12618)(recommendations for construction of water projects)
- 6.It is the Legislature's intent that the Department shall investigate all phases of any proposed water project so that the public and the Legislature may have the benefit of the investigations and recommendations for such projects in order to assure the fullest development of the water resources of the State. (Water Code Section 12627.)