



● **Summary of Public Comments received at the December 8, 2020 Board Meeting regarding Item 7-4 on the Delta Conveyance Project**

Summary

Metropolitan's Board authorized the execution of a Funding Agreement with California Department of Water Resources (DWR) for a Metropolitan share of 47.2 percent of the Delta Conveyance Project (DCP) planning and pre-construction costs at its December 8, 2020 Board meeting, Agenda Item 7-4. The Board also authorized execution of the Joint Powers Agreement Amendment for the Delta Conveyance Design and Construction Joint Powers Authority. More than 80 public speakers provided comments during the public comment period on Item 7-4. At the December 8, 2020 Board meeting, Director Smith requested staff provide a summary of public comments and responses.

Purpose

To provide formal response regarding Director Smith's request at the December 8, 2020 Board meeting.

Attachments

Attachment 1: Summary of Additional Public Comments Regarding December 8, 2020 Board Meeting Item 7-4.

Detailed Report

Summary of Comments

More than 80 people spoke during the public comment period related to Item 7-4 at Metropolitan's December 8, 2020, Board meeting. Many of the public comments contained reoccurring themes and statements, while a handful of comments were distinct. In an effort to be responsive to the Board's request for a summary of the comments and responses, staff has summarized the more frequent public comment themes within this board report and provided a summary of the less frequently posed public comments and responses in Attachment 1, "*Summary of Additional Public Comments Regarding December 8, 2020, Board Meeting Item 7-4.*"

Input from the public provided insight into the types of information that may be beneficial to provide in future meetings and presentations, specifically related to the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Delta) and DWR's DCP. Staff is evaluating when to present detailed information focused on key topics at upcoming Bay-Delta Committee meetings. The following summarizes frequently posed public comment themes regarding Item 7-4 at the December 8, 2020, Board meeting. Staff responses are provided below to each of the public comment themes, and additional staff responses to more distinct public comments are included in the attachment to this report.

Public Comment Theme: *Metropolitan should complete Integrated Resources Plan (IRP) process before voting on whether to fund a share of the cost to conduct environmental review and planning for the DCP.*

Response: In December 2020, the funding agreement approval by the Metropolitan Board was for environmental review, planning and other associated pre-construction costs for the DCP. Updates on the progress of the planning and pre-construction will be provided to the Metropolitan Board during the planning phase, which is currently anticipated to take four years (2021-2024). DWR needed funding commitments from State Water Project contractors who are considering investing in the DCP before the start of calendar year 2021 to continue and complete the planning work needed to study the proposed DCP. The IRP update is expected to be complete in late 2021, well before the Board would consider commitments to investing in the DCP, and that update, in combination with the environmental review and planning, will enable the Board to make a fully informed decision. The IRP does not pre-determine the Board's future decisions; it serves as an important reference point for assessing progress, understanding changing needs, and determining how individual actions can cost-effectively address them. Thus, the IRP

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update will assist the Board in evaluating the potential benefits and risks of participating in the DCP, among other investments needed to achieve regional reliability, under a range of long-range future conditions.

Metropolitan and many other water agencies throughout Southern California are actively involved in efforts to increase water conservation and local sources of water supplies. At the same time, the State Water Project (SWP) provides a vital source of affordable water supplies for Southern California and provides water quality that is critical to water recycling and groundwater management. The capability to store SWP supply during wetter periods supports the ability of the region to prepare for the impacts of climate change in the future. It is both consistent with long-standing board policies and prudent to support the environmental review and planning needed to reach a future decision on whether to participate in the DCP, and at the same time continue to evaluate the SWP needs within the IRP process.

Public Comment Theme: *Metropolitan should not invest in studying the DCP during the current economic decline.*

Response: A biennial budget is considered and adopted by Metropolitan's Board for capital expenditures and for operating and maintenance purposes.

During the budget process, all expenditures are reviewed and considered by the Board. The Board also reviews critical financial information, including revenues and financial outlook, prior to adopting a budget. The financial outlook considers existing economic conditions, market variability, and financial policies, among several other factors, to provide analysis by which the Board evaluates the budget for adoption.

Public Comment Theme: *Recommend investing in local projects that are better for supply reliability, sustainability, more cost-effective, and support local job creation.*

Response: Metropolitan's long-standing policies have directed staff to pursue more reliable SWP supplies and invest in local and regional projects and programs. As explained in prior presentations to the Board and various committees, reliable, high-quality SWP supplies are needed to ensure the long-term reliability of Metropolitan's imported supplies, meet the regional water quality salinity blending objective, and improve the sustainability of groundwater and recycled water in Metropolitan's service area. In terms of local and regional projects and programs, Metropolitan provides substantial support for local water projects as most recently described in our annual report on Achievements in Conservation, Recycling and Groundwater Recharge. Metropolitan invested more than \$43 million in conservation, recycling, and groundwater recovery programs in fiscal year 2019/20, bringing its total cumulative investment to \$1.5 billion since 1990. Within this cumulative total, Metropolitan has invested \$72 million of capital investment and Proposition 13 grant funding for conjunctive use programs. More than 112 regional projects funded through the Local Resources Program since 1990 have produced more than 4 million acre-feet.

Notably, in partnership with the Sanitation Districts of Los Angeles County, Metropolitan recently launched its \$17 million Regional Recycled Advanced Purification Center, a demonstration plant to test an innovative purification process that could potentially be used in a full-scale plant. In November 2020, Metropolitan's Board voted to initiate environmental planning, engineering, and technical studies for the project, at a cost of about \$30 million, and in December 2020, Metropolitan's Board authorized an agreement with the Southern Nevada Water Authority to contribute to the planning costs. If fully realized, the project would take cleaned wastewater from the Sanitation Districts' Joint Water Pollution Control Plant in Carson and purify it using innovative treatment processes, producing up to 150 million gallons of water daily –enough to supply more than 500,000 homes. The planning effort for this potential project will also inform further investments by Metropolitan, guided by the IRP.

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Public Comment Theme: *The DCP does not increase or stabilize SWP supplies in response to Climate Change.*

Response: The DCP is designed to address risks to SWP supplies from climate change, extreme weather, and rising sea-levels that will increasingly impact the Delta. DWR's environmental review will include both quantitative and qualitative analysis of the DCP considering potential of climate change, which will inform any future board action to participate in the project. Preliminary modeling for the DCP indicates a potential reliability benefit for SWP supplies in future climate change and sea level rise scenarios provided to the Board at the September 22, 2020, Bay-Delta Committee meeting, and this very preliminary work will be better informed by the planning effort that Metropolitan is supporting. See Item 6-a, slide 14 of the presentation at <http://www.mwdh2o.com/WhoWeAre/Board/Board-Meeting/Board%20Archives/2020/09%20-%20Sept/Presentations/09222020%20Bay-Delta%206a%20Presentation.pdf>

Public Comment Theme: *The DCP will harm the Delta and is bad for the environment.*

Response: As the California Environmental Quality Act (CEQA) lead agency, DWR will disclose and analyze any potentially significant environmental impacts to the Delta, and it will study potentially feasible project alternatives and propose feasible mitigation to address such impacts. If there are significant and unavoidable impacts, DWR will be required to adopt a Statement of Overriding Considerations before approving the project. If DWR approves the project, Metropolitan's Board will consider the Final Environmental Impact Report (EIR), as well as DWR's Findings, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program before it takes any action to approve participation.

In addition to the environmental review and planning, DWR will determine baseline conditions and potential project-related impacts and benefits for the Delta's diverse communities. DWR will continue this engagement with disadvantaged communities in all phases of the project - from planning and environmental review through the project's design and construction, as well as post-construction period. (see DWR website at <https://water.ca.gov/Programs/State-Water-Project/Delta-Conveyance/Environmental-Justice>)

DWR is also consulting with Native American Tribes (see DWR website at <https://water.ca.gov/Programs/State-Water-Project/Delta-Conveyance/Tribal-Engagement>) and has recently launched an outreach process for Delta stakeholders to develop a framework for a Community Benefits Program (see DWR website at <https://water.ca.gov/News/Blog/2021/January/Introduction-to-Community-Benefits-Program-Development>).

Large infrastructure projects such as the proposed DCP inevitably create effects to the communities and the local environment in which they are built. Some of these effects are beneficial and provide significant increases in economic activity in the Delta during construction. The proposed DCP may have ancillary benefits in terms of training, infrastructure, and possibly multipurpose facilities that can serve the community for years to come. DWR recognizes, however, that the construction and operation of the DCP may also adversely affect the Delta's unique values and envisions a comprehensive Community Benefits Program as a way to work collaboratively with Delta communities to identify and build in additional aspects of the project that can provide lasting benefits to the Delta. A Community Benefits Program is a defined set of commitments made by project proponents and created in coordination with the local community. These commitments are made separate from, and in addition to, permit conditions or environmental mitigation. They can include a wide range of benefits; including jobs training programs and local hiring targets to funding for parks and other recreational facilities. Their purpose goes beyond traditional concepts of "mitigation" and is to demonstrate goodwill and a concern regarding adverse effects the communities endure through construction of major capital construction works and to provide greater flexibility in addressing these effects than what is afforded in existing environmental review regulatory processes.

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Public Comment Theme: *Water quality (such as salinity, and pollution concentration, etc.) and flow (influx of Sacramento River and outflow) will be adversely impacted by the DCP.*

Response: The EIR will analyze impacts associated with the DCP and project alternatives, so it is premature to conclude that the DCP will have significant adverse impacts on water quality. The State Water Resources Control Board identifies beneficial uses in the Delta and larger watershed. Those uses, such as municipal, agricultural, recreation, and public trust resources, are protected by state and federal water quality standards. Additionally, the project cannot harm other legal uses of water. This means that flow cannot be altered to cause injury to other water rights holders. The DCP will be required to comply with all applicable water quality standards in the Delta, among them standards to protect agriculture and public trust resources.

Public Comment Theme: *DWR should study additional alternatives.*

Response: This comment is directed to DWR as the lead agency under the (CEQA). DWR solicited comments on the DCP during an extended scoping process in 2020. Consistent with CEQA, DWR conducted a screening analysis to determine which alternatives should be carried forward for detailed analysis in the EIR.

Under CEQA, the lead agency must study a reasonable range of potentially feasible alternatives that would achieve the proposed project's fundamental goal and most of its objectives while avoiding or substantially lessening potentially significant impacts. Alternatives that would not achieve the fundamental goal and alternatives that would not avoid or substantially lessen significant impacts need not be carried forward for analysis in an EIR. See DWR website at <https://water.ca.gov/News/Blog/2021/January/Delta-Conveyance-Project-Alternatives-Screening-Process> for additional information regarding Delta Conveyance Alternative Screening process.

Public Comment Theme: *Agriculture should reduce usage/should not be subsidized.*

Response: Metropolitan's long-standing policies regarding new Delta conveyance include a commitment to the "beneficiaries pay" principle. Any future commitment to participate in the DCP would be directly proportional to the benefits received, so Metropolitan's investment would not subsidize any other water contractors.

Public Comment Theme: *Concerns about the impacts on communities already experiencing poor air quality and depressed local economies.*

Response: DWR is engaging with vulnerable populations as part of its ongoing environmental analysis to determine baseline conditions and potential project-related impacts and benefits for the Delta's diverse communities. DWR will continue this engagement with disadvantaged communities in all phases of the project - from planning and environmental review through the project's design and construction, as well as post-construction period. See DWR's DCP Environmental Justice web page at <https://water.ca.gov/Programs/State-Water-Project/Delta-Conveyance/Environmental-Justice> for the most recent updates and a copy of its "Your Delta, Your Voice" Community Survey.

Public Comment Theme: *Concerns about impacts to Native American Tribes and their engagement related to the project.*

Response: DWR has initiated tribal engagement, including formal tribal consultation under AB 52, consistent with state policy and law. For information about the engagement to date, see DWR's DCP Tribal Engagement webpage at <https://water.ca.gov/Programs/State-Water-Project/Delta-Conveyance/Tribal-Engagement>.

DWR Tribal Engagement Policy is available at:

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https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Delta-Conveyance/Tribal-Engagement/DWR_Tribal_Engagement_Policy_508.pdf?la=en&hash=6C38228E4F44F37FE282BAC2C2DB4074D3C43E9F&hash=6C38228E4F44F37FE282BAC2C2DB4074D3C43E9F

Additional information on CEQA and AB 52 consultation is included in the California Environmental Quality Act and AB 52 Consultation Milestones (September 2020) document at:

https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Delta-Conveyance/Tribal-Engagement/DCP_AB52_CEQA_FS_Sept2020_Final_508.pdf?la=en&hash=E7F25E61DCCECFC25626E859BF3DE25296EBED5E&hash=E7F25E61DCCECFC25626E859BF3DE25296EBED5E

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Public Comment A: *“This money that you want to spend on this boondoggle, why not spend that, instead, in support regenerative agriculture?”*

Response: Metropolitan is exploring regenerative agriculture on its Delta Islands to improve sustainability and reduce oxidation and land subsidence. However, while regenerative agriculture may help stop or reverse subsidence in the Delta, it would require widespread adoption and would take decades to completely reverse subsidence. Even if it succeeded, it would not address risks to SWP supplies from climate change, sea level rise, and seismic events, which are among the DCP’s fundamental purposes.

Public Comment B: *“This is also a state that has altered its hydrology to such a point that we are now selling paper water. And I want you to use more sophisticated underwriting when looking at each investment that you make towards the Delta tunnels. .*

Response: Preliminary DCP cost information and comparisons were presented to the Board in late Summer 2020 and Fall 2020 for informational purposes. This information was provided to aid public water agencies in decisions related to participation in DCP planning and pre-construction costs, but not a final project participation decision. More developed and detailed information about construction and operation costs will be presented to the Board as a result of the planning effort being funded, prior to any future action to approve Metropolitan’s participation in the project.

Also, generalized, high-level costs for various water supply portfolios will be considered as part of the 2020 IRP Update to be completed in 2021.

Public Comment C: *“The EIR has not been completed, the CEQA has not been completed and you should see all of these documents before [you] vote”*

Response: The Board’s action approved Metropolitan’s share to prepare the EIR in compliance with CEQA. The Board will consider the Final EIR, and other relevant information, before it decides whether to participate in the DCP.

Public Comment D: *“Ensure best available science. Postpone vote until DCA analyzes performance of North Delta Intake locations.”*

Response: DWR will be required to demonstrate that its analysis is based on best available science to show consistency with one of the Delta Plan policies in a written certification of consistency that must be submitted to the Delta Stewardship Council before DWR can initiate construction. In addition, both the federal and state Endangered Species Acts require reliance on the best available science in the incidental take permitting process that will apply to the new intakes.

The North Delta Intake locations were studied extensively in the Bay Delta Conservation Plan/California WaterFix (BDCP/CWF) environmental review and planning process by multi-disciplinary teams of engineers, technical consultants, and state and federal fish agency biologists as reported in the BDCP/CWF Final EIR, Appendix 3F- Intake Location Analysis.

Under DWR direction, the DCA conducted additional analysis of potential locations and screen designs, the results of which have been reported to the DCA’s Stakeholder Engagement

Committee (SEC) on Jan. 22, 2020. (Abridged Presentation: Introduction to Intakes available at <https://www.dcdca.org/wp-content/uploads/2020/06/1-22-20-SEC-3-Introduction-to-Intakes.pdf>; see also pages 18-20 of the SEC December 11, 2019 presentation Siting Drivers for Proposed Delta Conveyance Systems Facilities available at <https://www.dcdca.org/wp-content/uploads/2020/06/Delta-Conveyance-Siting-Drivers.pdf>.) As part of the CEQA alternatives screening process, DWR considered proposals to locate the intakes much farther north on the Sacramento River, along the Sacramento Deepwater Ship Channel, and locations in the west Delta. DWR determined those alternatives would not meet most of the project objectives or would not reduce potential significant impacts and will not be carried forward for detailed environmental analysis in the EIR as reported by DWR on its website at <https://water.ca.gov/News/Blog/2021/January/Delta-Conveyance-Project-Alternatives-Screening-Process>; see also DWR's presentation on the subject at the July 2020 SEC meeting available at <https://www.dcdca.org/wp-content/uploads/2020/07/2020-07-22-SECMeetingPresentation.pdf>.

Public Comment E: *“Now, these problems can be mitigated or solved completely by doing what was done in - was studied and proposed in 1929, namely a saltwater barrier in the river, just above Vallejo and the Carquinez Straits. That saltwater barrier project was studied in great detail by the Division of Water Resources, Department of Public Works, in 1929, and published in the (unintelligible) Division of Water Resources.”*

Response: DWR's predecessor agency, the Division of Water Resources analyzed the feasibility and comparative costs and benefits of constructing a salinity barrier in the Carquinez Strait. (Cal. Dept. of Public Works, Division of Water Resources, Bulletin No. 25, Report to the Legislature of 1931 on State Water Plan (1930) at pp. 117-123.) That report concluded that it would be considerably more cost effective to control salinity in the Delta for water supply through upstream reservoir releases. It noted that a salinity barrier could affect commercial fisheries, presumably by impeding fish migration, and would create water quality problems behind the barrier due to lack of flushing flows and increase levee maintenance costs in the Delta. State Bulletins 27 and 28 reached similar conclusions.

In a series of bills enacted in the 1950's, the Legislature directed further study of several salinity barrier concepts. (Abshire-Kelly Salinity Control Barrier Acts of 1953, 1955, and 1957.) DWR subsequently studied the possibility of constructing salinity barriers in the Delta at Junction Point or near Chipps Island, including a modification of the Junction Point salinity control barrier concept called the Biomond Plan. (DWR, Bulletin No. 60, Interim Report to the California State Legislature on the Salinity Control Barrier Investigation (March 1957).) DWR did not reach a recommendation on whether to construct a salinity barrier at that time, instead focusing on the cost-benefit ratios of each alternative, but again noting water quality and fish passage issues that would have to be dealt with.

In 1960, DWR prepared the Preliminary Edition of Bulletin 76, which evaluated four salinity barrier concepts: (1) the Chipps Island Barrier Project; (2) a Single Purpose Delta Water Project, similar to the Biomond Plan, with barriers on the Sacramento River near Walnut Grove, Steamboat Slough, San Joaquin River, Piper Slough, Holland Cut, Old River at Connection Slough, and head of Old River to maintain the freshwater within the central and south Delta, and the Contra Costa Canal would be expanded to provide freshwater to the western Delta communities and industries; (3) a Typical Alternative Delta Water Project, which was the same as Single Purpose Delta Water Project with additional levee improvements along Mokelumne and San Joaquin Rivers to improve flood protection; and (4) a Comprehensive Delta Water Project, which was the same as Typical Alternative Delta Water Project with additional barriers along

Middle River to improve freshwater flows in the central and western Delta. The analysis concluded that a Chipps Island barrier would present problems with water quality, water temperature, and fish upstream of the barriers, and higher tidal amplitudes requiring levee improvements downstream of the barrier. The California Department of Fish and Game concluded that the Chipps Island barrier “would probably cause a disastrous reduction of almost all species of fish found in the Delta.”

These plans were further evaluated in 1963 by the Coordination of Delta Planning Subcommittee of the Interagency Delta Committee (IDC) in coordination with analysis of a “peripheral canal.” The results of the 1963 report states: “The construction of a physical barrier [as described for Chipps Island Barrier in the Preliminary Edition of Bulletin 76] and the creation of a fresh-water pool operated for water supply could effectively conserve water and provide local water supply. This approach, however, would limit future development of navigation in the two Central Valley deep water ports. In addition, the fisheries resources of the Delta area would be jeopardized. Water quality problems related to necessary waste discharge of industry and agriculture within the Delta area are not, as yet, entirely defined but in general would tend to the disadvantage of this plan” The subcommittee recommended further study of the peripheral canal concept.

Early in the CEQA analysis of the BDCP, DWR considered, but screened out, an alternative to the conveyance component called the Initial Screening Conveyance Alternative C3, Through Delta Conveyance with West Delta Salinity Barrier. (BDCP/CWF Final EIR, App. 3A (July 2017) at pp. 50-51.) At that time, DWR concluded that this alternative “would not meet the BDCP objectives of a brackish water system in the Delta that would support the estuarine habitat required by the BDCP covered species and would reduce the ability of fish passage for anadromous fish. This alternative would not support project objectives and aspects of the project purpose and need that focus on creating ecological improvements in the Delta ecosystem and contributing to recovery of declining listed species. Nor would the alternative meet the coequal goal under the 2009 Delta Reform Act of “protecting, restoring, and enhancing the Delta ecosystem.”

Most recently, as part of the DCP alternatives screening process, DWR considered a through-Delta alternative with levee improvements and new gates that would create a path for water conveyance through the Delta that would be separated from the rest of the Delta and the western Delta salinity barrier would provide a salinity barrier between the Delta and the San Francisco Bay. DWR did not carry either alternative forward for detailed analysis in the EIR. The through-Delta alternative would have limited protection from earthquake risk because the barriers and gates could be damaged during an earthquake, and because it would rely on only existing south Delta facilities, it would offer limited operational flexibility. The system of gates would be operable and allow boat and fish passage; therefore, it would be difficult to manage such an alternative to fully address climate resilience and water supply. Therefore, this alternative did not pass the first level of screening because it would not achieve most of the DCP’s fundamental objectives.

DWR determined that a salinity barrier in the western Delta would provide limited protection from earthquake risk and would offer limited operational flexibility, so it could achieve some of the fundamental objectives. However, it did not pass through the second screening filter because it would not reduce potentially significant environmental effects and could cause different types of significant adverse impacts. Among them, a western Delta salinity barrier alternative would block fish passage for sensitive fish species, so it did not pass the second screening filter.

Public Comment F: “Native Americans and wildlife should at least have a seat at the table when decisions are made.”

Response: DWR has initiated tribal engagement, including formal tribal consultation under AB 52, consistent with state policy and law. For information about the engagement to date, see DWR’s DCP Tribal Engagement webpage at <https://water.ca.gov/Programs/State-Water-Project/Delta-Conveyance/Tribal-Engagement>.

DWR will disclose and analyze impacts to aquatic species and other wildlife in the EIR and, if any impacts are significant, it must propose feasible mitigation to lessen such impacts. It will also need to produce a biological assessment and obtain biological opinions with incidental take statements from the U.S. Fish and Wildlife Service and National Marine Fisheries Service for species listed as threatened or endangered under the federal Endangered Species Act, and it must obtain an incidental take permit for any fish or other wildlife listed under the California Endangered Species Act.

Public Comment G: “*Degraded lands on the western side of the San Joaquin Valley should be reclaimed, retired, and repurposed for more a sustainable usage, like solar power production.*”

Response: The fundamental purpose of the DCP is to develop new diversion and conveyance facilities in the Delta necessary to restore and protect the reliability of SWP water deliveries and, potentially, Central Valley Project water deliveries south of the Delta, consistent with the state’s Water Resilience Portfolio. DCP objectives include addressing risks to reliable SWP supplies from sea level rise, climate change, and seismic risks. In the EIR, DWR will study a reasonable range of potentially feasible alternatives that achieve most of the project’s objectives while avoiding or lessening potentially significant impacts. Reclaiming or retiring lands on the west side of the San Joaquin Valley would not achieve the DCP’s objectives, so it is not an alternative DWR is required to or should study in the EIR.

Public Comment H: “*Is there one person that can point to a diversion project that has resulted in the restoration of that ecosystem?*”

Response: The Delta is widely regarded as one of the most managed estuaries on earth. More than 1,100 miles of levees within the Delta have eliminated an estimated 95 percent of the original wetlands habitat. Upstream, levees and other flood protection efforts have eliminated a similar percentage of the original floodplain. In the Delta watershed, most of the diversions are upstream of the estuary, not within the Delta itself.

Metropolitan has been an enthusiastic supporter of science-based restoration projects that can restore important ecological functions of the original Delta, including its investment of \$30 million under the 1994 Bay-Delta Accord to kickstart aquatic ecosystem restoration in the Delta watershed. Within the Delta and Suisun Marsh, Metropolitan is helping to fund 8,000 acres of wetlands restoration to provide food and shelter for native fish species. Upstream of the Delta, Metropolitan is helping to fund an estimated 17,000 acres of floodplain restoration in the Yolo Bypass floodplain to improve habitat for salmon, sturgeon, Sacramento splittail, and other fish species. Further upstream on Butte Creek, a key tributary of the Sacramento River for salmon species, Metropolitan has long helped fund restoration efforts to enhance spawning and habitat. These and other efforts, combined with carefully timed flows and pumping restrictions, are intended to improve the ecological conditions of the native fish species.