

Updated August 2015

California WaterFix (Alternative 4A)/Recirculated Environmental Analysis Frequently Asked Questions

1. What is the purpose and need for California WaterFix (Alternative 4A)?

The California Department of Water Resources' (DWR's) primary purpose in proposing California WaterFix (Alternative 4A) is to make the physical and operational improvements to the California's main water delivery system in the Sacramento-San Joaquin Delta (Delta) that will protect water supplies, restore and protect ecosystem health, and improve water quality within a stable regulatory framework.

The Delta has long been an important resource for California, providing municipal, industrial, agricultural and recreational uses, fish and wildlife habitat, and water supply for 25 million Californians. However, the Delta is in crisis. There is an urgent need to improve the conditions for threatened and endangered fish species within the Delta. Improvements to the conveyance system are needed to respond to increased demands upon and risks to water supply reliability, water quality, and the aquatic ecosystem.

2. What is the new California Environmental Quality Act (CEQA)/National Environmental Policy Act (NEPA) preferred alternative?

California WaterFix (Alternative 4A) has been identified as the new CEQA and NEPA Preferred Alternative, replacing Alternative 4 (the proposed Bay Delta Conservation Plan). Alternative 4A includes an underground conveyance facility, three northern intakes capable of diverting a combined total of up to 9,000 cubic feet per second, and mitigation measures and environmental commitments to meet the requirements of CEQA, NEPA, the federal Endangered Species Act (ESA) Section 7, section 2081(b) of the California Endangered Species Act (CESA), and other environmental requirements. California WaterFix (Alternative 4A) achieves the co-equal goals by securing state water supplies from climate change and seismic risk, and improving operations and environmental conditions to benefit fish species. California WaterFix (Alternative 4A) was developed in response to public and agency input, as well as an interest in exploring multiple regulatory approaches (e.g. Section 7 consultation) to achieving the dual goals.

3. Who are the lead agencies for California WaterFix (Alternative 4A)?

The Partially Recirculated Draft Environmental Impact Report/Supplement Draft Environmental Impact Statement (RDEIR/SDEIS) associated with California WaterFix (Alternative 4A) is a joint document prepared by DWR as the CEQA lead

agency and the Bureau of Reclamation (Reclamation) as the NEPA lead agency. The National Marine Fisheries Service (NMFS) and United States Fish and Wildlife Service (USFWS) serve as NEPA cooperating agencies, and the lead agencies will consult with NMFS and USFWS under Section 7 of the ESA. The California Department of Fish and Wildlife serves as a CEQA responsible and trustee agency and will be considering the issuance of the Section 2081(b) permit after EIR/EIS approval.

4. Why is there a recirculated environmental document?

The RDEIR/SDEIS has been prepared to provide the public and interested agencies an opportunity to review engineering refinements made to the water conveyance facilities; to introduce new sub-alternatives (Alternatives 4A, or California WaterFix, 2D and 5A); and, to include updated environmental analyses that in part were conducted in response to issues raised in the more than 12,000 comments received on the 2013 Bay Delta Conservation Plan (BDCP) Draft EIR/EIS.

5. What is the difference in the regulatory strategy between the BDCP (Alternative 4) and California WaterFix (Alternative 4A)?

DWR's initial regulatory strategy proposed a habitat conservation plan, presented as Alternative 4 in the 2013 BDCP Draft EIR/EIS (i.e. a conservation plan that seeks 50-year permits as a Habitat Conservation Plan (HCP) through Section 10 of the ESA and a Natural Community Conservation Plan (NCCP) through the California Natural Community Conservation Planning Act (NCCPA)). The proposed habitat conservation plan would provide for both broad-scale regional habitat restoration and new Delta water delivery infrastructure for the State Water Project (SWP). California WaterFix (Alternative 4A) reflects an alternative regulatory strategy (through federal ESA Section 7 consultation and the CESA Section 2081(b) permit process) to meet the project purpose and need and includes the new Delta water delivery infrastructure for the SWP, the same as proposed in Alternative 4, without a habitat conservation plan. California WaterFix (Alternative 4A) allows for other state and federal programs to address broader habitat conservation efforts over a shorter timeframe.

Both Alternative 4 and 4A propose new infrastructure (updated in the RDEIR/SDEIS) to modernize the SWP's water delivery system to address water supply reliability needs in conjunction with related ecosystem improvements, such as significantly reducing reverse flows and direct impacts to fish species associated with the existing south Delta intakes.

6. Why did the state select the alternative regulatory strategy of California WaterFix (Alternative 4A) as the preferred alternative?

California WaterFix (Alternative 4A) would allow for an alternative implementation strategy for the new Delta water delivery infrastructure under

Section 7 of the ESA and Section 2081(b) of CESA, and reflects the lead agencies interest in exploring alternate regulatory approaches that could facilitate expeditious progress on Delta solutions. California WaterFix (Alternative 4A) was developed in response to input from the 2013 BDCP Draft EIR/EIS comment period as well as from agencies' comments regarding the challenges with meeting the standards required to issue long-term assurances associated with compliance with Section 10 of the ESA and the NCCPA. These challenges relate to the difficulties in assessing species status and issuing assurances over a 50-year period, in light of climate change, and accurately factoring in the benefits of long-term conservation in contributing to the recovery of the covered species. There were also questions raised as to the ability to implement large-scale habitat restoration and an interest in early implementation of certain restoration actions, untethered to the water infrastructure approval.

7. What is the difference between ESA Section 7 consultation and Section 10 permitting? What is the difference between compliance with the NCCPA and Section 2081 CESA permitting?

A project's compliance with the Federal ESA varies depending on federal agency involvement and the project's potential effects to listed species. Where a project is proposed by a non-federal entity and the proposed project would "take" a listed species, Section 10 of the ESA provides USFWS and NMFS with the authority to issue incidental take permits with an approved HCP. Where a project would involve the take of a species listed under CESA, the California Fish and Game Code provides the California Department of Fish and Wildlife (DFW) with the authority to allow for take of listed species and issue assurances for a larger list of covered species, with an approved NCCP and through a Section 2081(b) incidental take permit.

The primary requirement for issuance of the incidental take permit is that the action must minimize and fully mitigate the impacts of the proposed take. Where long-term assurances are sought for a range of actions affecting a large list of covered species (as with the BDCP), the HCP/NCCP necessarily requires detailed documentation as to the potential effects to those species, sufficiency of mitigation for those effects, and sufficiency of funding for that mitigation over the entire permit term. Like the BDCP, these types of HCPs/NCCPs can also require a complicated Implementation Agreement to specify management actions over the life of the permit.

Section 7 of the ESA requires that federal agencies ensure their actions do not jeopardize the continued existence of a listed species or adversely modify or destroy critical habitat. Section 7 may require formal consultation with USFWS and NMFS where the federal action could adversely affect a listed species, including where take could occur. Through formal consultation, USFWS and NMFS issue biological opinions that may, among other things, authorize the

taking of the listed species. Measures may be required as part of the opinion to minimize the impacts of take; however, because no long-term assurances are issued for a large list of covered species, the same level of detailed documentation as to the potential effects to species, sufficiency of mitigation for those effects, and sufficiency of funding for that mitigation over the entire permit term is not required. The duration of the ESA authorization under Section 7 does not have a “permit term” or Implementation Agreement and instead the authorization and management of actions relate to the triggers for re-initiation of consultation.

California WaterFix (Alternative 4A) is not presented as habitat conservation /natural community conservation plans according to ESA Section 10 and the NCCPA. A 50-year permit and long term assurances are not being sought and the proposed BDCP habitat restoration and stressor reduction measures (i.e., CM2 through CM21) that are presented in the Draft BDCP (and proposed to meet that stringent requirements of Section 10 of the ESA and NCCPA) are not carried forward fully for California WaterFix (Alternative 4A), except where elements of the former conservation measures are retained to mitigate the potential impacts of the proposed project in compliance with CEQA, NEPA, and other environmental regulatory permitting requirements. Under the proposed California WaterFix (Alternative 4A), compliance with the federal ESA would be achieved by Reclamation, and DWR as the permit applicant, under Section 7 through formal consultation with the USFWS and NMFS. Under California WaterFix (Alternative 4A), take authorization for state-listed species would be obtained by DWR through Section 2081(b) of CESA and DFW’s incidental take permit process.

8. Why is the BDCP still referenced in the environmental analysis?

All alternatives will be included for decision-makers to consider. The alternatives, including Alternative 4 (BDCP), and the environmental analysis in the 2013 BDCP Draft EIR/EIS, along with the additional alternatives and environmental analysis contained in the RDEIR/SDEIS and comments received on the both documents, will be considered in agency decision-making when preparing the Final EIR/EIS and determining whether to approve the proposed project. The analysis for Alternative 4 also forms the basis for California WaterFix (Alternative 4A) due to the overlap in the proposed conveyance facilities. California WaterFix (Alternative 4A) has been added to the environmental analysis as the new CEQA and NEPA preferred alternative. No final decisions have been made regarding the proposed action or in selecting an alternative; those decisions will only occur after the completion of the environmental review process.

9. What has changed since the 2013-2014 Public Draft EIR/EIS?

The recirculated environmental documents cover several substantive changes, including:

- Introduction of three new sub-alternatives -- Alternative 4A (California WaterFix) as the new preferred alternative, Alternative 2D, and Alternative 5A. These alternatives were designed to reduce environmental effects, respond to public and agency input, and explore multiple regulatory approaches.
- Design modifications to Alternative 4 (also applied to Alternatives 4A, 2D and 5A) to reduce impacts to Delta communities, minimize disturbances or dislocation to greater sandhill cranes, and improve the long-term reliability and operation of the conveyance facilities.
- Updated Fish and Aquatic Habitat analysis to include additional rationale for impact conclusions and methods for determining impacts.
- Additional Water Quality analysis and modeling to more accurately characterize the potential for exceedances of water quality standards, resulting in the reduction of several water quality impacts to less than significant.
- Inclusion of downstream effects, including an assessment of water quality and fish and aquatic resources in the San Francisco Bay.
- Updated engineering, construction assumptions, performance standards, and air quality models for the Air Quality, Health Risk Assessment, Traffic and Noise impact analysis.
- Updated analyses of water facility construction to include geotechnical investigations
- Inclusion of Additional NEPA Determinations – includes NEPA determinations on conclusions previously deemed “No Determination.”

10. Will the public have an opportunity to comment?

Yes. The public can comment on the recirculated environmental analysis from July 10, 2015 through August 31, 2015. Comments received on the RDEIR/SDEIS will be considered in the Final EIR/EIS and decision-making process.

11. What is the proposed operational structure for the conveyance facilities?

Implementation of California WaterFix (Alternative 4A) will include operations of both new and existing water conveyance facilities (“dual conveyance”) once the new north Delta facilities are operational. The dual conveyance facilities will be operated as directed by California WaterFix environmental compliance requirements, and in compliance with the USFWS (2008) and NMFS (2009) Biological Opinions and D-1641 guidelines. These operations may be subject to adjustments through an adaptive management process consistent with and similar to the program already described in the 2008 and 2009 Biological Opinions. The proposed project incorporates existing criteria from the 2008 and 2009 Biological Opinions (including Fall X2) and adds additional criteria for spring outflow and new minimum flow criteria at Rio Vista from January through August.

12. Will habitat restoration/protection be proposed as part of California WaterFix (Alternative 4A)?

Based on ongoing review of potential construction and operation impacts, mitigation for California WaterFix (Alternative 4A) construction and operation will include about 2,300 acres of habitat restoration and up to 13,300 acres of habitat protection (e.g. conservation easements). This additional acreage will focus primarily on preserving the existing cultivated lands habitat and working landscape values in the Delta. DWR and Reclamation anticipate these revised acreage targets for habitat restoration and protection will be the maximum amount required for mitigation. Final determinations will be based on actual project impacts and consultation with fish and wildlife agencies. All habitat restoration and protection costs for California WaterFix (Alternative 4A) will be paid for exclusively by water agencies benefiting from the project.

13. What additional habitat restoration does the state of California plan to implement?

Separate from California WaterFix (Alternative 4A) and over the next 5 years, California will pursue more than 30,000 acres of critical Delta habitat restoration under the California EcoRestore program, pursuant to pre-existing regulatory requirements such as the 2008 and 2009 Biological Opinions and various enhancements to improve the overall health of the Delta ecosystem. Proposition 1 funds and other state public dollars will be directed exclusively for public benefits unassociated with any regulatory compliance responsibilities.

14. What is the anticipated yield for California WaterFix (Alternative 4A)?

California WaterFix (Alternative 4A) is estimated to include an average annual yield of 4.9 million acre-feet and provides the greatest complement to local water supply projects by allowing the safe capture of water in wet and above-normal years so that it can be stored and used in dry years.

15. What is the anticipated cost for California WaterFix (Alternative 4A)?

The cost to fix California's primary water delivery system is estimated at \$14.9 billion – or about \$5 a month for urban water users – and will be paid for by public water agencies that rely on the supplies.

16. When will the lead agencies respond to my comments on the Draft EIR/EIS and the recirculated environmental document?

DWR and Reclamation, as the state and federal lead agencies, will consider and prepare responses to all substantive comments received during the public review periods for the Draft EIR/EIS (December 13, 2013 through July 29, 2014) and RDEIR/SDEIS (July 10, 2015 through October 30, 2015). (On July 22, 2015, lead agencies announced an extension of the comment period to October 30, 2015.) Responses will appear in the Final EIR/EIS, which is the next milestone in

the environmental planning process. Comments will be sorted, coded, and logged into a tracking system, categorized by subject area, and then a response to the comment will be drafted. The comments will be assessed both individually and collectively and the Final EIR/EIS will include copies of the comments received and the responses prepared. If the EIR/EIS was changed in response to comments, these changes will be referenced in the responses.

17. When can the public expect a Final EIR/EIS?

Following completion of the RDEIR/SDEIS public review period, DWR and Reclamation will prepare a Final EIR/EIS. The timing associated with preparation and publication of the Final EIR/EIS will depend on the volume and nature of the comments received on the Draft EIR/EIS and RDEIR/SDEIS. To allow sufficient time to adequately meet all requirements associated with completion of a Final EIR/EIS, it is anticipated this document will be available in late 2015 or early 2016.

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