



Summary of Key Arguments

Sierra Club and Friends of the River et al. Delta Tunnel Water Rights Protest

Background

The California Environmental Quality Act (CEQA) requires public agencies to analyze and disclose impacts of proposed projects to the public, often through an Environmental Impact Report (EIR). The California Department of Water Resources (DWR) is the proponent of the Delta Tunnel (also called the Delta Conveyance Project) and prepared its EIR. DWR later submitted a water rights application to change its point of diversion for its major exports—moving it from the south Delta to the Sacramento River in the north Delta. That initiated a period for the public to file a formal “protest” of DWR’s water rights application. The application relies on the EIR for project information and disclosure of impacts. Thus, many issues raised in the Sierra Club and Friends of the River et al. Protest (Protest) are related to the deficient EIR. This document summarizes key arguments in the Protest.

Geographic Scope and Operational Impacts

1. Inadequate Environmental Analysis:

- The Environmental Impact Report (EIR) did not evaluate impacts to surface water or water supply. The Tunnel Project is a water project with massive new intakes and a long tunnel to divert large quantities of water from the Sacramento River, ultimately decreasing freshwater flows downstream and through the Delta. Despite that, the EIR does not evaluate the impacts of the diversions on surface water—volume, flows, temperature.
- The EIR did not consider upstream impacts, focusing only on the project footprint within the Delta, thus artificially limiting its scope and concealing impacts from the public.
- This narrow scope overlooks how the Tunnel could facilitate new dams and export projects in Northern California, which could have significant environmental repercussions.
- By failing to analyze potential indirect impacts, the EIR leaves upstream communities and ecosystems vulnerable to unanticipated consequences, such as reservoir expansions that could conflict with state and federal environmental laws.

2. Operational Uncertainty and Risks:

- The State Water Project (SWP) and Central Valley Project (CVP) are not yet fully built-out, making their ultimate operational configurations and water deliveries uncertain.

- The EIR did not sufficiently address how the Tunnel might enable increased water exports under current operational constraints (turning “paper” water into “wet” water), or how the Tunnel could facilitate physical expansion of these projects.
- Operational changes or additional infrastructure induced by the Tunnel, which the EIR did not consider, will increase the risk to public trust resources in Northern California.

Environmental and Economic Impacts

1. Threats to Wild and Scenic Rivers:

- The proposed project does not include safeguards for state- or federally-designated Wild and Scenic Rivers.
- It relies on current legal protections without considering the historical context of Delta export efforts, which have often sought to repeal these protections.
- Specific concerns include the potential facilitation of the Shasta Dam Raise, which is illegal under California law, would destroy parts of the McCloud River, and impact the Wild and Scenic Lower American River.
- Protecting these rivers is mandated by the California Wild and Scenic Rivers Act, yet the EIR fails to fulfill the legal obligation to analyze and address the impacts adequately.

2. Economic Burden on Southern California:

- The Delta Conveyance Project is projected to cost approximately \$20 billion.
- The Metropolitan Water District of Southern California could be responsible for around \$10.335 billion, translating to \$450 million per year for 40 years. These estimates are based on a prior total project cost of \$16 billion (*The Cost of the Delta Tunnel Threatens Socal’s Water Future*, Doug Obegi, October 30, 2020, <https://www.nrdc.org/bio/doug-obegi/cost-delta-tunnel-threatens-socals-water-future>) This significant financial burden could dramatically increase the cost of imported water for Southern California residents.
- The additional financial strain could have a disproportionate impact on vulnerable communities, exacerbating existing economic disparities.

3. Impact on Local Ecosystems and Economies:

- Increased export capacity via the Tunnel would make investments in north-state reservoirs (like Sites Reservoir and Dam) more attractive to export customers, threatening local communities, economies, and ecosystems.
- Dams and diversions could fragment ecosystems, block fish passage, and alter riparian habitats, leading to substantial environmental degradation.

- The economic value of local ecosystems, such as the Upper American River Watershed, which supports significant recreation and tourism activities, could be compromised. Outdoor recreation, often river recreation, is the glue that holds some of these communities together.
- Short-term financial gains from water sales must be balanced against the long-term ecological and economic benefits of preserving local watersheds.

Key Takeaways

- The Delta Tunnel raises critical legal, environmental, and economic concerns.
- The EIR's failure to consider impacts to surface water and supply, its narrow geographic scope, and its lack of consideration for upstream and operational impacts undermine its reliability. The EIR is not a credible document to use as the basis of a historic water rights decision with statewide repercussions.
- The project threatens to facilitate new dams and diversions, risking significant harm to Northern California's rivers and ecosystems, a discussion that is worryingly absent from the EIR.
- Economic analysis indicates substantial costs for Southern California residents and potential damage to local economies in source regions, highlighting the need for a more balanced and sustainable water management approach.