

**PUBLIC NOTICE FOR  
CALIFORNIA WATERFIX PROJECT  
CLEAN WATER ACT 401 WATER QUALITY CERTIFICATION  
BEFORE THE STATE WATER RESOURCES CONTROL BOARD**

An application for water quality certification under section 401 of the Clean Water Act for the following project was filed with the State Water Resources Control Board (State Water Board).

**RECEIVED:** September 24, 2015  
**PROJECT:** California WaterFix Project  
**APPLICANT:** California Department of Water Resources  
**CONTACT:** Mr. Michael Bradbury  
**COUNTIES:** Sacramento, San Joaquin, Contra Costa, and Alameda  
**PUBLIC NOTICE:** October 30, 2015  
**PROJECT STATUS:** Pending

**COMMENTS:** Written comments and correspondence regarding the application for water quality certification may be emailed to: [cwf401@waterboards.ca.gov](mailto:cwf401@waterboards.ca.gov), or hard copy mailed to:

State Water Resources Control Board  
Division of Water Rights  
Water Quality Certification Program  
Attn: Jeff Wetzel  
P.O. Box 2000  
Sacramento, CA 95812-2000

**PROJECT DESCRIPTION:** The California Department of Water Resources (DWR) has applied for water quality certification to construct and operate the California WaterFix Project (Project). Specifically, DWR is seeking authorization under section 401 of the Clean Water Act to construct and operate a new water conveyance facility that will be part of the State Water Project (SWP) and operated in coordination with the United States Bureau of Reclamation's (USBR) operation of the Central Valley Project (CVP). The Project includes three main elements: (1) construction of three new water diversion intakes along the Sacramento River near the communities of Clarksburg and Hood; (2) construction of the North Tunnels (two 28-foot diameter tunnels and one 40-foot diameter tunnel totaling 14 miles) that will connect the intakes to a new intermediate forebay on Glanville Tract west of Interstate 5; and (3) construction of the Main Tunnels (two 40-foot diameter gravity-flow tunnels, each approximately 30 miles long) to convey water from the intermediate forebay to the existing state and federal pumping facilities. Additional facilities and activities that are part of the Project include, but are not limited to: expansion of Clifton Court Forebay by approximately 590 acres with the addition of a pump station; 11 disposal sites for excavated tunnel material; and a permanent operational barrier at the head of Old River. Figure 1 provides an overview of the Project. This notice includes discussion of a separate, but related action that the State Water Board will need to make on a request for changes to water right permits and licenses conditions, as discussed below.

**Related Action – Petition for Change in Water Right Permit and License Conditions:**

On August 26, 2015, DWR and USBR submitted a joint petition for change in water right permit and license conditions (petition) for the SWP and CVP to add three new points of diversion that would authorize the diversion of water from the Sacramento River in connection with the Project. The State Water Board is providing separate notice of the petition and a related evidentiary hearing, and State Water Board staff propose to process the application for water quality certification and the change

petition separately. The notice of the petition and hearing provides information on how interested parties may participate in the hearing process. The information is available online at: [http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/bay\\_delta/california\\_waterfix/](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/)

In light of the fact that a hearing will be held on the petition, the prohibition against *ex parte* (i.e., “off-the-record”) communications to the State Water Board Members concerning substantive and controversial procedural issues related to the Project is now in effect. For information on water right evidentiary hearings please see [The Hearing Process](#). For additional information regarding *ex parte* communications, please see the Office of Chief Counsel memorandum entitled [Ex Parte Questions and Answers](#).

**401 WATER QUALITY CERTIFICATION PROCESSING:** California Code of Regulations, title 23, section 3858, subdivision (a) requires the Executive Director of the State Water Board to provide public notice of an application at least twenty-one (21) days before taking certification action on the application. In this case, the State Water Board anticipates action will not be taken on the water quality certification application earlier than late 2016 due to the complexity and magnitude of the Project, and pending items that will be needed before the State Water Board can take action (e.g., completion of a final Environmental Impact Report needed to comply with the California Environmental Quality Act).

Because the water quality certification for the Project is associated with a water right action (see information on Related Action [above](#)), the State Water Board, Division of Water Rights is responsible for processing the application for water quality certification. The State Water Board’s Executive Director has been delegated the authority to issue a decision on a water quality certification application. (Cal.Code Regs., tit. 23, § 3838, subd. (a).) The Executive Director will rely on some or all of the information in the hearing record that is developed for the Project’s petition to the extent the information is available and relevant to the water quality certification decision. The Executive Director also may rely on additional information not included in the hearing record. The Executive Director may take action on the water quality certification before completion of the hearing on the petition. The Executive Director’s decision on the application will be subject to reconsideration by the State Water Board.

**401 WATER QUALITY CERTIFICATION BACKGROUND:** Construction of the Project would involve the discharge of dredged or fill material into waters of the United States, which requires a permit from the United States Army Corps of Engineers under Section 404 of the Clean Water Act. Section 401 of the Clean Water Act (33 U.S.C. § 1341) requires any applicant for a federal license or permit to conduct an activity that may result in a discharge into navigable waters to obtain certification that the project will comply with specified provisions of the Clean Water Act, including water quality standards developed in accordance with state law and in satisfaction of section 303 of the Clean Water Act (33 U.S.C. § 1313), and any other appropriate requirement of state law. The State Water Board is designated as the state water pollution control agency for all purposes stated in the Clean Water Act and any other federal act, and is the certifying agency in California. (Wat. Code, § 13160.)

The State Water Board has adopted a water quality control plan for the San Francisco Bay/ Sacramento-San Joaquin Delta Estuary. In addition, the Regional Water Quality Control Boards for the San Francisco Bay Region and the Central Valley Region have adopted, and the State Water Board has approved, water quality control plans for the San Francisco Bay Basin and the Sacramento River and San Joaquin River Basins, respectively. The three water quality control plans designate the beneficial uses of waters within the Bay-Delta watershed and establish water quality objectives designed to protect those uses. The beneficial uses together with the water quality objectives and antidegradation requirements constitute water quality standards within the meaning of section 303 of the Clean Water Act. For the California WaterFix Project, the State Water Board must consider whether and under what conditions the Project would comply with all three water quality control plans.

In a water quality certification, the state may set conditions to implement applicable water quality standards and any other appropriate state law requirements. The state's water quality certification conditions shall become conditions of any federal license or permit for the project. (33 U.S.C. § 1341(d).) No license or permit can be granted until water quality certification has been issued or has been waived. (33 U.S.C. § 1341(a)(1).)

**ADDITIONAL INFORMATION:** Information on the Project, including the 401 water quality certification application and the water right change petition, is available online at: [http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/bay\\_delta/california\\_waterfix/](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/). The California Natural Resources Agency also maintains a Project website (<http://www.californiawaterfix.com/>), which includes the most current Project description, next steps, and contact information.

**QUESTIONS:** Questions regarding the Project, including the water quality certification and petition, may be directed to the State Water Board's California WaterFix Phone Line at: **(916) 319-0960**.

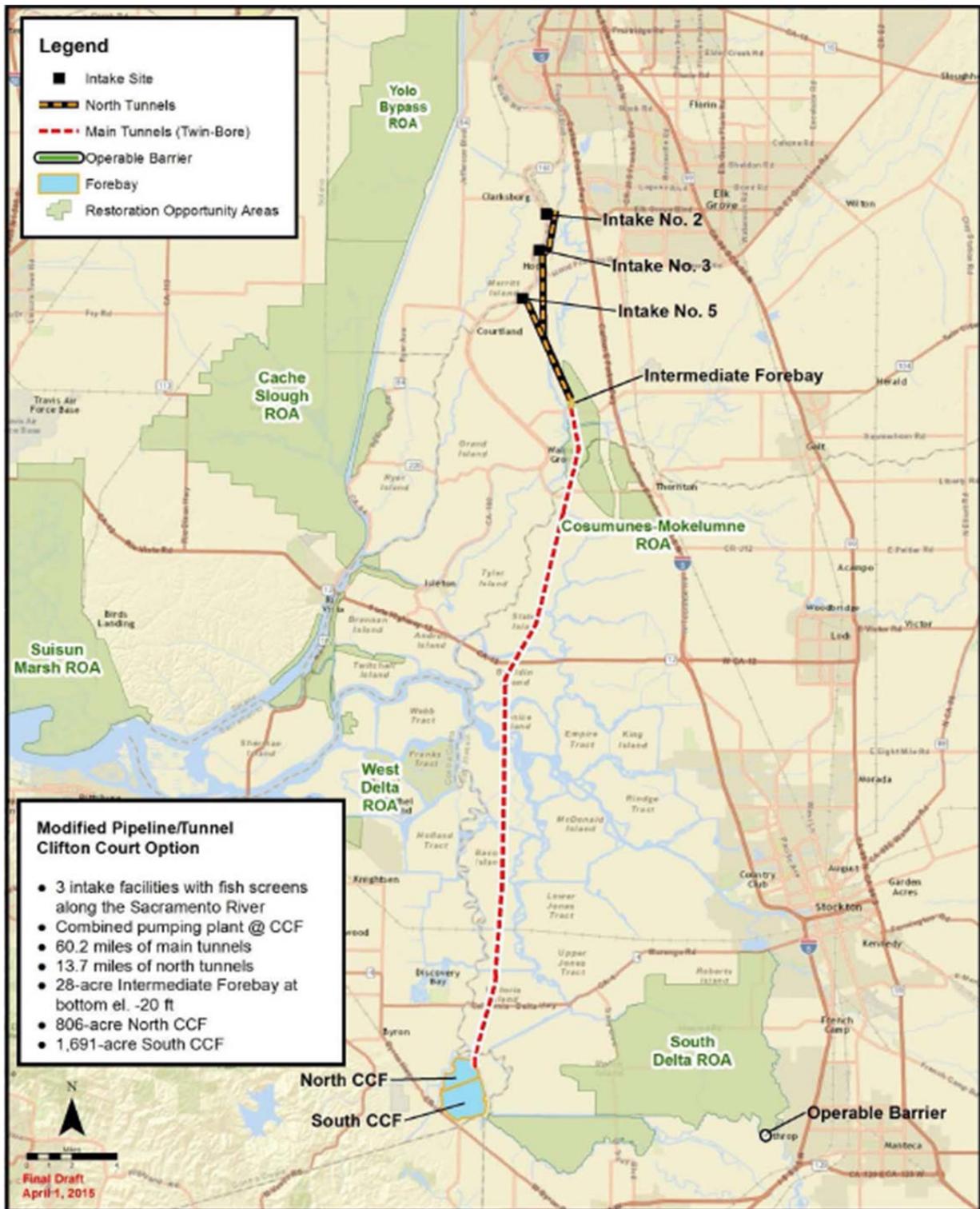


Figure 1: Project Overview (source: California Department of Water Resources)