

# Ad-Hoc Environmental Planning and Permitting Work Group

March 15, 2021



# Agenda

- Revised Draft EIR/Supplemental Draft EIS
  - Administrative Draft Chapters in Review
- Permitting
  - Biological Assessment / Incidental Take Permit
    - Terrestrial Species
    - Fisheries
  - Section 106 Briefing
- Schedule and Dashboard Update
- Upcoming Priorities and Timing of Next Meeting

# Revised Draft EIR/ Supplemental Draft EIS

# Discussion Goals

- Administrative Draft Chapters Development
  - Discuss and provide direction on impact findings for Batch 1B Admin. Draft Chapters

# Administrative Draft Chapters Development

- Batch 1A: 19 Draft Chapters & Appendices
  - Completed in December
- Chapter 2, Project Description and Alternatives
  - Posted 2/19/21
- Introductory Chapters Revised for Submittal to Responsible Agencies in mid-March
  - Ch. 1, Introduction
  - Ch. 3, Environmental Analysis
  - Ch. 4, Regulatory and Environmental Compliance
- Batch 1B: 8 Draft Chapters & Appendices
  - Completed in January

# Batch 1B RDEIR/SDEIS Chapters & Appendices

- Agricultural Resources
- Recreation
- Public Health and Environmental Hazards
- Other Required Analysis (e.g., growth inducing)
- Consultation and Coordination and List of Preparers
- EIR/EIS Document Distribution
- Appendix: Environmental Records Search
- Appendix: 2017 Draft EIR/EIS Chapter 36, Consultation and Coordination

# Batch 1B Preliminary CEQA/NEPA Determinations Based on 1/25 Submittal

- Requiring Mitigation Measures
  - Agricultural Resources
- Significant Unavoidable/Adverse
  - Agricultural Resources
- Less than Significant/No Adverse
  - Public Health and Hazards
  - Recreation
- No Determinations
  - Other Required Analysis (e.g., growth inducing)
  - Consultation and Coordination and List of Preparers
  - EIR/EIS Document Distribution
  - Appendix: Environmental Records Search
  - Appendix: 2017 Draft EIR/EIS Chapter 36, Consultation and Coordination

# Next Steps

- Work on remaining outstanding chapters and appendices
- Modify Batch 1A and 1B chapters based on comments
- Reservoir Committee and Authority Board presentations:
  - March Board presentation on CEQA process
  - Key findings and outcomes will be presented to the Board in 3 parts at meetings in April, May and June
- Final Briefing and Recommendation for Release in July
- Public Draft Release August 26, 2021



# Permitting



# Discussion Goals

- Biological Assessment / Incidental Take Permit
  - Terrestrial Species
  - Fisheries
  - Review initial results and provide direction and feedback
- Section 106 Programmatic Agreement
  - Review approach and provide direction
- Status update on Permitting

# Terrestrial Species Permitting Update

Ellen Berryman

# Impacts on State and Federally Listed Species

Species	Federally Listed	State Listed	Acres Permanent	Acres Temporary
Keck's checker-mallow	X		10,094	700
Palmate-bracted bird's beak	X	X	21	8
Vernal pool crustaceans	X		330	37
Valley elderberry longhorn beetle	X		13,535	983
California red-legged frog	X		513 Aquatic/6,826 Upland	22 Aquatic/426 Upland
Giant garter snake	X	X	2 Aquatic/26 Upland	21 Aquatic/19 Upland
Tricolored blackbird		X	13,487 Foraging/42 Nesting	1,043 Foraging/19 Nesting
Swainson's hawk		X	14,170 Foraging/1,083 Nesting	1,035 Foraging/50 Nesting
Western yellow-billed cuckoo	X	X	TBD	TBD
Bank swallow		X	TBD	TBD

# Subsequent Refinements

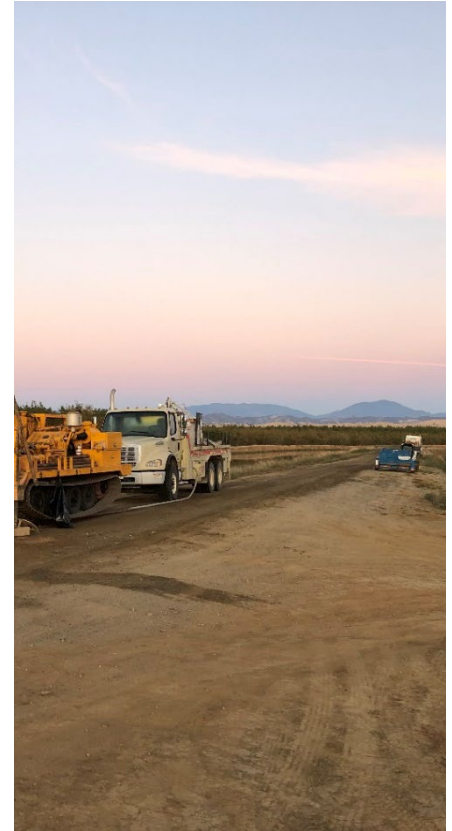
- Current impact acreages based on
  - Species models
  - Aerial imagery
  - No current field species surveys or habitat mapping
- Subsequent refinements needed
  - Project design changes
  - Land cover mapping
  - Species surveys

# Mitigation Modification Process

- Will require re-initiation of Section 7 and 2081 ITP amendment
- Write process into project description in anticipation of modifications to facilitate the process
- Seek mutual agreement with USFWS and CDFW on procedures (and possibly timelines) for modifications, and commitments in Biological Opinion and ITP

# Project Design

- Develop general schedule for finalizing project design (by component) and incorporate into BA and ITP application
- Ensure that the Biological Opinion and ITP anticipate these future modifications



Proposed refinements prior to start of construction

# Land Cover Mapping

- Needed for model refinement
  - Describe process in BA and ITP application
  - Complete as soon as access is granted to help refine models and assess where surveys are needed
- Most critical for the following species
  - Vernal pool crustaceans
  - California red-legged frog
  - Valley elderberry longhorn beetle
  - Tricolored blackbird
  - Swainson's hawk



# Species Surveys

- May result in removing species from permit take coverage or reduce mitigation depending on survey results
- Timing based on access, species, and construction timing
- Most important for the following species
  - California red-legged frog
  - Vernal pool crustaceans
  - Listed plant species

# Next Steps

- Coordination with Reclamation on approach
- Draft approach into project description chapter of BA
- Submit language to USFWS for their review

# Aquatic Species Permitting Update

Mike Hendrick

# Key Aquatic Species Being Analyzed

- Fall-Run Chinook Salmon, Magnuson-Stevens Fishery Conservation and Management Act EFH
- Winter-Run Chinook Salmon, ESA and CESA listed
- Spring-Run Chinook Salmon, ESA and CESA listed
- California Central Valley Steelhead, ESA listed
- Green Sturgeon, ESA listed
- Delta Smelt, ESA and CESA listed
- Longfin Smelt\*, CESA listed

# Key Aquatic Tools/Methods

- URDSOM: Daily-flow data
- CALSIM II: Hydrological planning tool that provides monthly average flows for the entire SWP and CVP system
- HEC-5Q: Model outputs can be used to evaluate potential (temp-related) changes in upstream habitat conditions
- DSM2: This analysis focuses on potential changes at key channels and junctions throughout the north, central, and south Delta
- Anderson and Martin Model: Estimate water temperature-related mortality of winter-run Chinook salmon eggs to fry

# Model Baseline Assumptions Summary

- Contains Actions Within:
  - 2019 Reinitiation of Consultation on the CVP and SWP
  - 2020 SWP Incidental Take Permit
- Examples include:
  - Delta Smelt Summer-Fall Habitat Action (X2)
  - American River 2017 Flow Management Standard
  - Shasta Cold Water Pool
  - Multiple OMR flow requirements



# **Sample of Preliminary Aquatic Results**

# Preliminary Results: Longfin Smelt Basic Information

- Longfin smelt is a pelagic estuarine fish that resides in San Francisco Bay
- They spawn in tidal fresh water, through the estuary's low-salinity zone (where brackish and fresh waters meet) and in freshwater in tributaries to the Bay, seaward and into the coastal ocean
- Life cycle of 2 to 3 years, reach a size of 90 to 110 mm (maximum size of 120 to 150 mm)

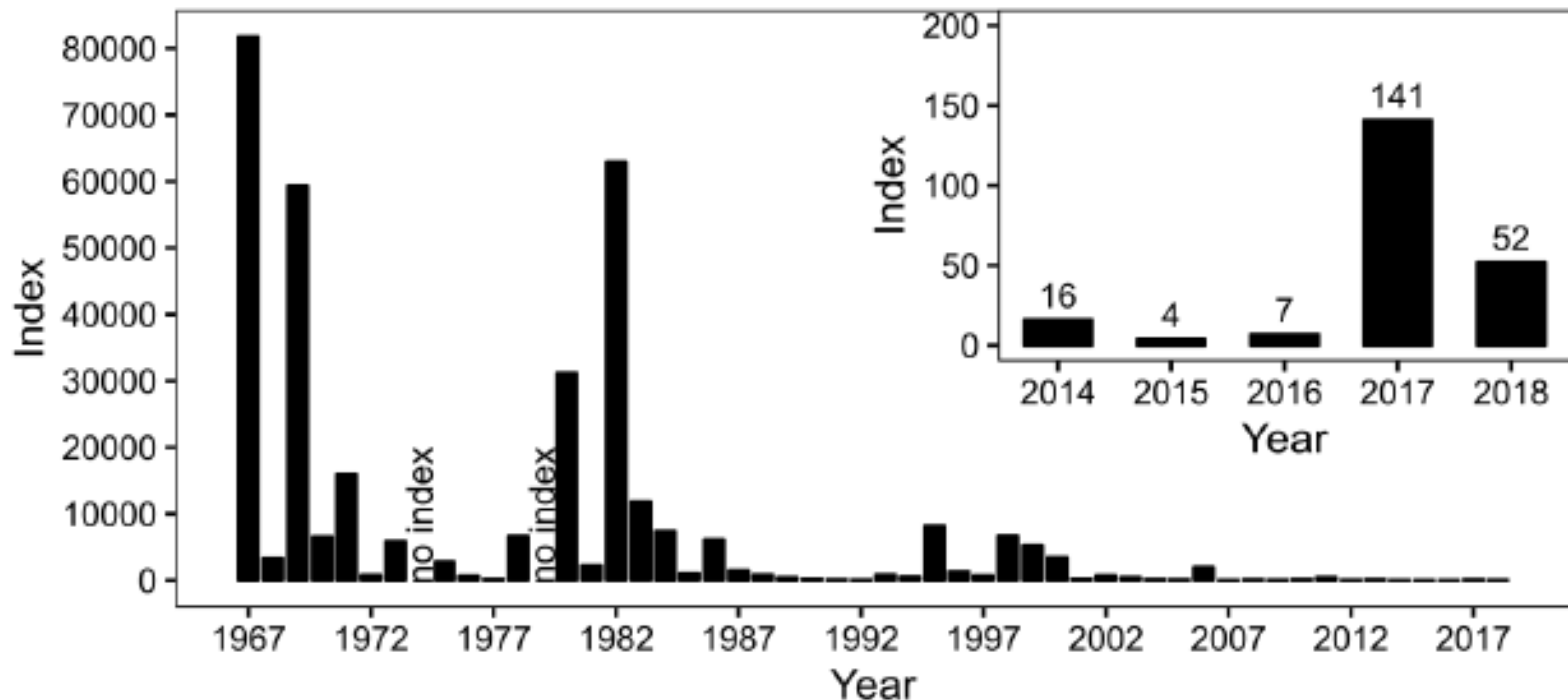




# Preliminary Results: Longfin Smelt Sites Operational Effects

- Longfin smelt would not be affected by **summer/fall flow releases from the Colusa Basin Drain** because the species occurs well downstream of the Delta at this point in its life cycle
- **Entrainment:** During the main winter-spring months of potential adult, larval, and juvenile longfin smelt entrainment risk, CalSim modeling indicates little difference between the NAA and Alternatives 1–3. This, together with the fact that south Delta entrainment risk for longfin smelt would continue to be limited based on the California Department of Fish and Wildlife (2020) SWP ITP under the NAA and Alternatives 1–3, suggests that the effect from Alternatives 1–3 on longfin smelt south Delta entrainment risk would be similar to the NAA.
- **Flow-Related Effects...**

# Preliminary Results: Longfin Smelt Sites Flow-Related Effects



Source: White 2019

Longfin Smelt Fall Midwater Trawl Abundance Index, 1967–2018

# Preliminary Results: Longfin Smelt Sites Flow-Related Effects

- The analyses of flow-related effects (differences in Delta outflow) suggested the potential for small negative effects under the alternatives

**Mean Longfin Smelt Fall Midwater Trawl Index Based on January–June X2**

Water Year Type	NAA	Alt 1A	Alt 1B	Alt 2	Alt 3
Wet	591	586 (-1%)	585 (-1%)	586 (-1%)	586 (-1%)
Above Normal	360	351 (-3%)	351 (-3%)	351 (-3%)	351 (-3%)
Below Normal	158	152 (-4%)	152 (-4%)	152 (-4%)	152 (-4%)
Dry	72	70 (-3%)	70 (-3%)	70 (-3%)	70 (-2%)
Critically Dry	24	22 (-4%)	23 (-4%)	23 (-4%)	22 (-4%)

Percentage values in parentheses indicate differences of alternatives compared to NAA.

# Preliminary Results: Longfin Smelt Sites

## Potential Mitigation

- Mitigation would be required for the small, uncertain negative outflow-related effects seen in Alternatives 1 – 3
- However, Alternative 1–3 operational impacts would be less than significant with mitigation incorporated for longfin smelt
- Currently, we are proposing tidal habitat restoration mitigation. Tidal habitat would expand the diversity, quantity, and quality of longfin smelt rearing and refuge habitat consistent with recent tidal habitat mitigation required for outflow impacts to the species
- As shown by multiple recent tidal habitat restoration projects in the Delta, there are potential feasible opportunities for tidal habitat restoration directly applicable to longfin smelt
- Tidal habitat restoration mitigation for longfin smelt was calculated based on the same method recently applied by DWR
- Mitigation requirement for each alternative varies between 11 and 15 acres

# Aquatics: Next Steps

- Continued development and refinement of:
  - Effects Analysis
  - Effects Determinations
  - Mitigation
- Internal, including Sites Project Authority, technical discussions related to aquatics chapter development
- Technical interagency correspondence
- Increased activity related to ESA (draft BA) and CESA (draft ITP Application)
- Aquatics workshop with agencies in early April

# Section 106 Update

Danielle Risse / Susan Lassell

# Section 106 - Overview

- Section 106 of the National Historic Preservation Act (NHPA) requires federal agencies to consider the effects of their undertakings on historic properties (i.e., cultural resources listed in or eligible for listing in the National Register of Historic Places [NRHP])
- Reclamation has agreed to be the lead federal agency responsible for Section 106 compliance for the Project
  - USACE also has Section 106 compliance responsibilities but has tentatively agreed that Reclamation can serve as the lead federal agency

# Section 106 – The Basics

- Basic Section 106 compliance steps:
  - INITIATE Section 106 and determine if it applies to a given project
  - IDENTIFY historic properties in the project area
  - ASSESS the effect of the project on identified historic properties
  - RESOLVE adverse effects to historic properties by exploring alternatives to avoid, minimize, or mitigate the effects
- Key Component: Section 106 requires consultation with consulting parties
  - Tribes, agencies, SHPO, the Advisory Council on Historic Preservation [ACHP], if they choose to participate, the Authority, and other interested parties



# Section 106 – PA Development

- Project effects to historic properties cannot be readily determined
  - Large Project footprint
  - Private land without current access
  - Multiple alternatives, constructed in phases
- A Programmatic Agreement (PA) is the right mechanism to address these challenges
- Developed through consultation with the Section 106 consulting parties

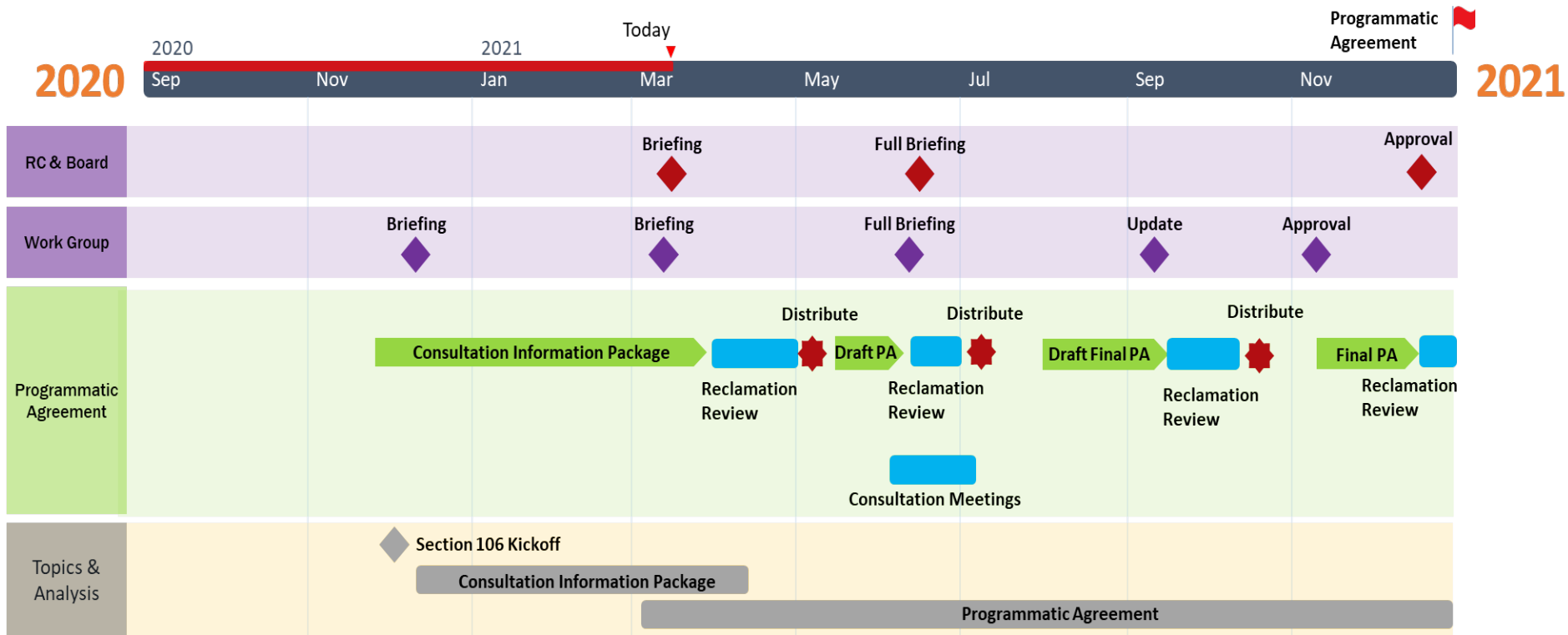
# Section 106 – PA Development Continued

- PA will outline the procedures for identifying and considering historic properties that could be affected by the Project
- Authority will be an invited signatory to the PA and will be responsible for implementing much of the procedures and protocols outlined in the PA
- Activities conducted under the PA may include:
  - Preparation of a Cultural Resources Management Plan
  - Cultural resources inventories and evaluations
  - Cultural resources excavations or other mitigation measures
  - Implementation of cemetery/burial plans for known cemeteries
  - Inadvertent Discovery Plan

# Section 106 – Current Status

- Authority has provided Reclamation a draft PA and Section 106 initiation package
- Biweekly Section 106 work group meetings with Reclamation and USACE staff
- Upcoming activities:
  - Reclamation to initiate Section 106 consultation with Native American tribes, SHPO, and other interested parties
  - Authority to assist Reclamation with Section 106 consultation meetings with consulting parties
  - Consulting parties to develop working draft PA – Reclamation to lead this effort
  - Following consultation on the draft PA, PA will become final and will be executed (will occur prior to the NEPA ROD)

# Section 106 – Schedule



# Section 106 – Future Topics

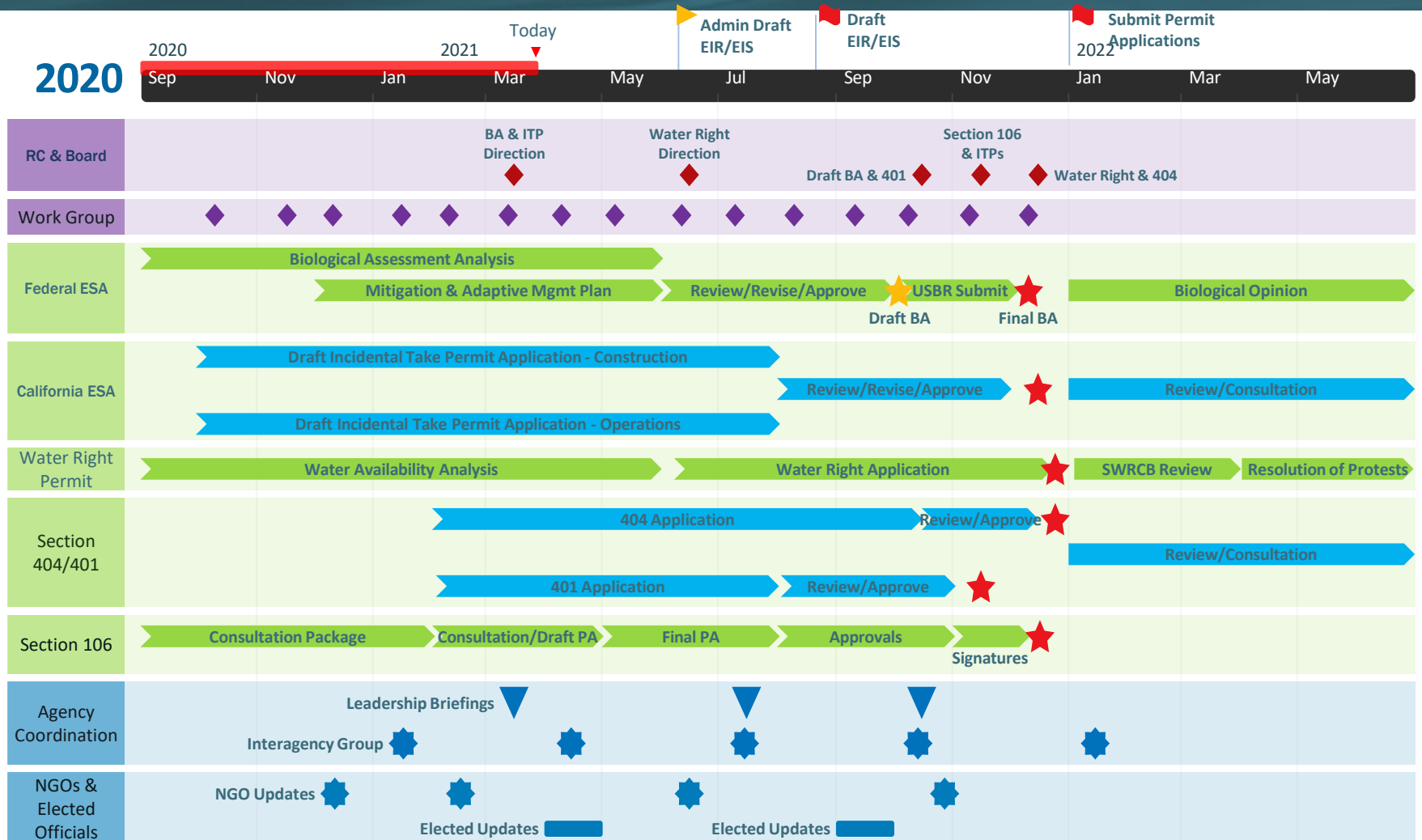
- Detailed review of PA and potential commitments
- Schedule for PA implementation

# Schedule and Dashboard Update

# Schedule Update

2020

2022



# Dashboard Update

## Key

- Prepared:** Internal work by team
- Presented:** Provided to agencies for review
- Reviewed:** Reviewed and discussed with agencies
- Revised:** Agency comments considered and addressed
- Resolved:** Agency issues/concerns discussed and resolved
- Deferred:** Deferred to further negotiations after application
- Confirmed:** Agencies have confirmed acceptance/agreement

Complete	Activity completed
In Process	Activity in progress
Challenge	Team and agencies discussing how to resolve issues
Roadblock	Significant issues slowing progress; escalation may be needed

Permit	Summary Status	Permit Topics/Considerations	Agreement Status with Agencies						
			Prepared	Presented	Reviewed	Revised	Resolved	Deferred	Confirmed
<b>Biological Assessment/ Biological Opinion</b>	●	Project Description							
		Species List							
		Terr. Species Modeling Approach							
		Aquatic Species Modeling Approach							
		Mitigation Approach							
		Species Modeling							
		Effects Analysis							
		Essential Fish Habitat Analysis							
		Construction Effects Analysis							
		Aquatic Effects Analysis							
<b>Reclamation USFWS NMFS</b>	●	Mitigation and Adaptive Mgmt Plan							
		Project Description							
		Species List							
		Species Modeling Approach							
		Mitigation Approach							
		Species Modeling							
		Effects Analysis							
		Mitigation and Adaptive Mgmt Plan							
		Project Description							
		Species List							
<b>Incidental Take Permit – Construction</b>	●	Species Modeling Approach							
		Mitigation Approach							
		Species Modeling							
		Effects Analysis							
		Mitigation and Adaptive Mgmt Plan							
		Project Description							
		Species List							
<b>Incidental Take Permit – Operations</b>	●	Modeling Approach							
		Mitigation Approach							
		Species Modeling							
		Effects Analysis							
		Mitigation and Adaptive Mgmt Plan							
		Project Description							
		Diversion Criteria							
<b>Water Right Permit</b>	●	Water Availability Analysis							
		Draft Water Right Application							
		Internal Review /Revise							
		Submit Water Right Application							



# Dashboard Update

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Clean Water Act - Section 404  USACE	●	Desktop Wetland Delineation							
		LEDPA* Analysis							
		Pre-Application Meeting							
		404 Permit Application							
		Compensatory Mitigation Plan							
		Internal Review/Revise							
		Approve/Submit 404 Application							
Clean Water Act - Section 401  SWRCB	●	Pre-Application Meeting							
		Draft 401 Application							
		Review/Revise							
		Approve/ Submit							
Section 106 Consultation  Reclamation SHPO Tribes	●	Consultation Information Package							
		Phased Identification Work Plan							
		Draft Programmatic Agreement							
		Consultations							
		Final Programmatic Agreement							
		Reviews							
		Final PA for signature							
		Execution							
EIR/EIS  Reclamation & Cooperating Agencies	●	Project Description & Alternatives							
		Modeling Baseline & Approach							
		Fisheries Impacts							
		Tribal Cultural Resources							
		Terrestrial Impacts							
		Water Quality							
		Water Rights							
		Cumulative Impacts & CHCs							

\* LEDPA Least environmentally damaging practicable alternative

# Upcoming RDEIR/SDEIS Work and Priorities – March/April

- Continue NGO Group meetings
- Share Chapters 1-4 with Cooperating and Responsible Agencies
- Continue operations analysis and drafting operations-related chapters
- Revised Batch 1A and 1B sections to include TRR West and Alternative 3

# Upcoming Permitting Work and Priorities – March/April

- BA/ITP:
  - Continue construction desktop analysis
  - Continue operations analysis
  - Continue discussions on operations criteria and effects to species with agencies
- 404/401 – Continue desktop analysis and finalize desktop delineation; continue discussions with USACE and State Board; confirming permit approach
- Section 106 PA – Address Reclamation’s comments on consultation information package and initiate consultation; prepare draft PA with Reclamation
- Water Rights – Continue Water Availability Analysis; continue discussions with State Board staff on approach and key parameters
- Mitigation Working Group – kickoff

# Timing of Next Meeting

- Next meeting – Target week of April 12
  - Topics –
    - EIR/EIS – Status of NGO Group meetings
    - EIR/EIS – Part 1 EIR/EIS complete briefing (in prep for July approval)
    - Permitting – Update on progress on all Amendment 2 permitting activities including coordination with agencies
- Will be scheduling meetings 3 months out (to hold dates and times)

**Thank you!**

