



September 29, 2015

VIA E-MAIL

Ben Nelson
U.S. Bureau of Reclamation
Bay-Delta Office
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Re: Draft Environmental Impact Statement for the Coordinated Long-Term
Operation of the Central Valley Project and State Water Project

Dear Mr. Nelson,

The Coalition for a Sustainable Delta (Coalition) is a California nonprofit corporation comprised of agricultural, municipal, and industrial water users, as well as individuals in the San Joaquin Valley. The Coalition and its members depend on water from the Sacramento-San Joaquin Delta (Delta) for their continued livelihood. Individual Coalition members frequently use the Delta for environmental, aesthetic, and recreational purposes; thus, the economic and non-economic interests of the Coalition and its members are dependent on a healthy and sustainable Delta ecosystem.

The Coalition appreciates the opportunity to review the Draft Environmental Impact Statement for the Coordinated Long-Term Operation of the Central Valley Project (CVP) and State Water Project (SWP) issued on July 31, 2015 (DEIS). The Coalition also appreciates the Bureau of Reclamation's (Bureau) efforts to involve stakeholders in the scoping process, as well as during the preparation of the DEIS. The Coalition believes that this collaborative approach will enable the Bureau to fully evaluate the potential environmental impacts of the proposed action and to otherwise fulfill its obligations under the National Environmental Policy Act (NEPA).

The Coalition has reviewed the DEIS and has a few concerns regarding the following:

1. The improperly narrow purpose of the proposed action;
2. The range of alternatives;
3. The disparate treatment of scientific uncertainty;

4. The assumptions regarding groundwater;
5. The lack of factual support for the Bureau's conclusions as respects ocean harvest; and
6. The failure to fully incorporate relevant, high quality scientific information.

The Coalition encourages the Bureau to consider these concerns, which are discussed in further detail below, as it moves forward in preparing the final environmental impact statement (EIS).

I. Purpose of the Proposed Action.

As noted by the Coalition in its prior letter to the Bureau dated July 13, 2015, the purpose of the proposed action is defined too narrowly, so as to preclude evaluation of potentially significant changes to CVP and SWP operations. In pertinent part, the DEIS states that the purpose of the proposed action is to continue the operation of the CVP and SWP in a manner that "[i]s similar to historic [sic] operational parameters with certain modifications." DEIS at 2-1. This statement improperly restricts the scope of the Bureau's environmental review, and precludes consideration of alternatives that would alter operations from those implemented in the past. This statement also does not reflect the "underlying" purpose of the proposed action, which is more general in nature. See 40 C.F.R. § 1502.13; see also *City of Carmel-By-The-Sea v. U.S. Dept. of Transp.*, 123 F.3d 1142, 1155 (9th Cir. 1997) (it is an abuse of discretion to define project objectives in unreasonably narrow terms because "[t]he stated goal of a project necessarily dictates the range of 'reasonable' alternatives.") (citation omitted). Thus, the Coalition urges the Bureau to revise the purpose of the proposed action to omit any reference to "historical operational parameters."

II. Description of Alternatives.

The Coalition recognizes and appreciates that the Bureau has developed Alternatives 3 and 4 based on scoping comments submitted by the Coalition. However, the Coalition has concerns regarding two of the Bureau's conclusions relating to the Coalition's proposed suite of actions.

A. San Joaquin River Inflow.

Action IV.2.1 of the Reasonable and Prudent Alternative (RPA) included in the National Marine Fisheries Service's (NMFS) 2009 Biological Opinion (BiOp) imposes an inflow to export (I:E) ratio requirement on San Joaquin River flows during certain periods of the year. As reflected in Table 3.1 of the DEIS, the Coalition suggested that these flow criteria be modified as follows:

Flows in San Joaquin River at Vernalis (7-day running average shall not be less than 7 percent of the target requirement) shall be based on the New Melones

Index (as described in [NMFS BiOp] RPA Action IV.2.1) as follows for January 1 through June 15:

- a) If the Index is 999 TAF or less - no minimum flow requirement[;]
- b) If the Index is 1000-1399 TAF - minimum flow is the greater of the SWRCB D-1641 requirement or 1500 cfs[;]
- c) If the Index is 1400-1999 TAF - minimum flow is the greater of the SWRCB D-1641 requirement or 3000 cfs[;]
- d) If the Index is 2000-2499 TAF - minimum flow is 4500 cfs[;]
- e) If the Index is above 2499 TAF - minimum flow is 6000 cfs.

DEIS at 3-25, 3-26. The DEIS states, however, that “this criteria is not implementable following the completion of the Vernalis Adaptive Management Program [VAMP].” *Id.* at 3-25. The Bureau’s explanation with respect to this issue is confusing. Is the Bureau asserting that it will not have sufficient water to satisfy the Coalition’s proposed flow criteria without implementation of VAMP? If so, this would appear to mean that, while the Bureau believes there is enough water to satisfy the current I:E ratio requirements, the Bureau believes there is not enough water (without VAMP) to satisfy the proposed inflow requirements, with no limitations on exports. This would suggest that the export limitation component of the I:E ratio is the driving factor allowing the Bureau to satisfy that requirement. Thus, according to the Bureau, inflow requirements alone, as proposed by the Coalition, cannot be satisfied without VAMP.

The Bureau’s reasoning with respect to this issue is unclear. Please provide additional details regarding why the Bureau believes that the proposed modifications are not implementable. In the alternative, please analyze the Coalition’s proposed alternative without adjusting the inflow requirement.

B. Wastewater Treatment Plants.

As set forth in Table 3.1, the Coalition suggested that water quality improvement programs at two water treatment plants—the Sacramento Regional Wastewater Treatment Plant and the Fairfield-Suisun Sewer District treatment plant—be expedited to allow for earlier realization of the expected benefits. DEIS at 3-28, 3-29. According to the Bureau, however, “both of these actions would be complete by 2030, the study period considered in [the DEIS].” DEIS at 3-43. That is, “[b]ecause the Environmental Consequences analysis in this EIS is conducted as a ‘snapshot’ in time at 2030, inclusion of a provision to require compliance with the discharge requirements prior to 2020 [c]ould not be evaluated.” *Id.* The Bureau’s reasoning with respect

to this issue is problematic. The fact that the proposed actions would be completed prior to 2020 should not preclude the Bureau's consideration of them.¹ The proposal could ultimately improve conditions in the Delta prior to 2030. That is, the proposal could result in different—likely better—baseline conditions in 2030. Thus, the Bureau could consider the benefits that would result from the proposal, and be present in the Delta, in 2030. This would be consistent with the Bureau's "snapshot" approach.

The flaws in the Bureau's reasoning are also apparent in other sections of the DEIS. For example, in Chapter 6, with respect to Alternative 4, the DEIS states: "Water quality under Alternative 4 would be identical to conditions under the Second Basis of Comparison." DEIS at 6-105. But, this is only the case because the Bureau has rejected the Coalition's water treatment plant proposal. Nothing in the Bureau's "snapshot" approach precludes the Bureau from taking into account the benefits of the Coalition's proposal. The Bureau could simply analyze the extent to which water quality conditions would improve under Alternative 4 (qualitatively, if necessary), and then continue its analysis from there.

This issue arises in other contexts as well, including with respect to invasive species. The DEIS states that a Total Maximum Daily Load (TMDL) addressing impairment due to invasive species is expected to be complete by 2019. DEIS at 6-73. Yet the water quality benefits of the TMDL, which should be included within the No Action Alternative and the Second Basis of Comparison, are not part of the baseline. See Daniel R. Mandelker, NEPA Law and Litig. § 10:33.20 (2014) (EIS must contain "an adequate compilation of relevant data and information, including baseline data) (citing, among others, *Northern Plains Resource Council, Inc. v. Surface Transp. Bd.*, 668 F.3d 1067 (9th Cir. 2011) (baseline data inadequate)).

Moreover, in general, the Bureau's "snapshot" approach is concerning. DEIS at 3-43; see also *id.* at 4-1 (describing that the DEIS does "not address interim changes that would occur between now and 2030"); *id.* at 1-11 ("this EIS analyzes future conditions projected for 2030"); *id.* at 3-4 ("[c]hanges that will occur over the next 15 years without implementation of the alternatives are not analyzed in this EIS."). While agencies have discretion to establish the temporal scope of NEPA analyses, this discretion is not unlimited. See *Selkirk Conservation Alliance v. Forsgren*, 336 F.3d 944, 962 (9th Cir. 2003) (NEPA does not impose a requirement that federal agencies analyze impacts of actions for any particular length of time). An agency cannot select a temporal scope that allows them to "shirk their responsibilities under NEPA." *Id.* Here, as a practical matter, the EIS ignores significant impacts that could occur in the Delta in the near-term, and only analyzes impacts in the long-term. It is not clear that this approach

¹ To the extent that the Bureau is asserting that the proposal could not be evaluated because it could not be quantitatively modeled, the Bureau should have at least analyzed the proposal qualitatively. This is consistent with qualitative analyses already performed by the Bureau with respect to the alternatives. See, e.g., DEIS at 7-122.

satisfies the Bureau's obligations to take a "hard look" at the environmental consequences of the proposed action. *Id.* at 959.

Thus, the Coalition requests that the Bureau incorporate the Coalition's wastewater treatment plant proposal into Alternative 4. The Coalition further requests that the Bureau ensure that its "snapshot" approach is applied in a manner that is consistent with NEPA, including with respect to invasive species.

III. Disparate Treatment of Scientific Uncertainty

The Bureau appears to have concluded that the benefits associated with the non-operational components of Alternatives 3 and 4 (i.e., ocean harvest restrictions, predator control measures, and trap and haul requirements) are uncertain. *See, e.g.,* DEIS at 9-402 ("Overall, given the small differences between Alternative 3 and the No Action Alternative conditions and the *uncertainty regarding the non-operational components*, distinguishing a clear difference is not possible) (emphasis added); *see also* 9-281, 9-287, 9-296, 9-300 (same). The Coalition has several concerns regarding these conclusions.

As an initial matter, and as more fully set forth below in Section V with respect to ocean harvest, the analyses in the DEIS do not support the Bureau's conclusions that benefits associated with non-operational components are uncertain. For example, with respect to trap and haul, the DEIS states:

"To assess the potential benefits and risks of a transportation [trap and haul] program for salmonids in the San Joaquin River, an analysis of [coded-wire-tag] recovery rates for Chinook Salmon reared at the Feather River Hatchery and the Mokelumne River Hatchery was performed. Based on this analysis, *Alternative 3 is expected to directly benefit juvenile fall-run Chinook Salmon and steelhead smolts originating from the San Joaquin River basin by comparison to the No Action Alternative.* The program would also benefit spring-run Chinook Salmon if these fish become established as part of the San Joaquin River Restoration Program, or as part of the New Melones fish passage project."

DEIS at 316 (emphasis added). Yet, on multiple occasions, the Bureau characterizes these benefits as "uncertain." *Id.* at 9-281, 9-287, 9-296, 9-300, 9-402; *see also* Section V., *infra*. In doing so, the Bureau has failed to comply with bedrock principles of administrative law, which require agencies to provide a rational connection between the facts found and the choices made. *Motor Vehicles Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto Ins. Co.*, 463 U.S. 29, 43 (1983).

Even assuming that the benefits associated with the non-operational components of Alternatives 3 and 4 are in fact uncertain, the Bureau has failed to take into account or

otherwise address uncertainty in a consistent manner in the DEIS. In particular, many of the Bureau's conclusions with respect to measures quantitatively analyzed, including Old and Middle River (OMR) measures, are expressed without any acknowledgement of the associated uncertainty.

For example, in Appendix 9G, the DEIS explains that the delta smelt entrainment analysis is based on regression equations that take into account combined OMR flows and the location of X2.² The analysis is premised on the assertion that X2 is an indicator of suitable abiotic habitat for delta smelt. Yet, in other chapters, the DEIS acknowledges that this conclusion has been questioned. DEIS at 9-64, 9-66. Agencies are required to discuss areas of controversy and opposing points of view, 40 C.F.R. §§ 1502.9(b), 1502.12, in order to provide the public with a "full and fair discussion" of significant environmental impacts. *Id.* at § 1502.1. Here, a more even-handed approach would be to revise Appendix 9G to acknowledge the inherent uncertainty that arises when using a formula that relies on a hypothesis that is scientifically questionable.

In sum, the Bureau's conclusions ignore the inherent uncertainty found in all scientific modeling. The fact that certain measures are capable of quantitative analyses does not make the conclusions derived therefrom less uncertain, particularly where, as here, there are significant, unproved assumptions that are incorporated into the modeling. Yet, the Bureau emphasizes the uncertainty associated with non-operational proposals, but does not do the same with respect to operational measures. The Bureau's analyses in the DEIS should be revised to correct the disparate treatment of scientific uncertainty.

IV. Groundwater Assumptions.

The DEIS contains several inaccurate assumptions relating to groundwater. For example, Chapter 5, relating to Surface Water Resources and Water Supplies, states: "The No Action Alternative and the Second Basis of Comparison assume that groundwater would continue to be used even if groundwater overdraft conditions continue or become worse." DEIS at 5-68. The DEIS acknowledges that the Sustainable Groundwater Management Act (SGMA) was enacted in 2014, but concludes that: "[T]o achieve sustainable conditions in many areas, measures could require several years to design and construct water supply facilities to replace groundwater, such as seawater desalination. Therefore, it does not appear to be reasonable and foreseeable that sustainable groundwater management would be achieved by 2030; and it is assumed that groundwater pumping will continue to be used to meet water demands not fulfilled with surface water supplies or other alternative water supplies in 2030." DEIS at 5-69.

² X2 refers to the point in the Delta where the isohaline is two parts per thousand.

Notably, the DEIS expressly acknowledges the significant adverse effects that are caused by groundwater overdraft. *See, e.g.*, DEIS at 7-15, 7-18, 7-21, 7-31, 7-45 (describing concerns regarding subsidence, increased water supply well drilling, and significant drops in groundwater levels between 2010 and 2014 due to drought (up to 40 feet in Kern County)). Thus, contrary to the Bureau's conclusions, it is unreasonable to assume that affected agencies and stakeholders will continue to rely on groundwater, given all of the deleterious impacts associated with groundwater exploitation. *See id.* at 7-116.

Moreover, the groundwater assumptions in the DEIS with respect to agriculture are particularly concerning. Chapter 12, relating to Agricultural Resources, states: "The analysis does not restrict groundwater withdrawals based upon groundwater overdraft or groundwater quality conditions....Therefore, it was assumed that Central Valley agriculture water users would not reduce groundwater use by 2030, and that groundwater use would increase in response to reduced CVP and SWP water supplies." DEIS at 12-24. Based on these assumptions, the Bureau concludes that there will be no changes in conditions for agricultural resources under Alternatives 1 through 5 because, according to the Bureau, decreases in CVP and SWP water supplies will be made up with groundwater. DEIS at 12-57.

The Bureau's conclusions are simply not supported by the facts. Indeed, the analysis in Chapter 12 includes several examples of how agriculture has been significantly impacted by reduced CVP and SWP water supplies. These examples include:

- "In extreme dry periods, such as 2014 when there were no deliveries of CVP water to San Joaquin Valley water supply agencies with CVP water service contracts, permanent crops were removed because the plants would not survive the stress of no water or saline groundwater (Fresno Bee 2014)." DEIS at 12-10.
- Due to the increased frequency of water supply reductions, especially in drier years ..., the amount of fallowed and non-harvested lands has increased as a percentage of total lands within Westlands Water District. *Id.* at 12-12.
- Since 2000, farmers have increased the amount of fallowed and non-harvested acres to 10 to 34 percent of the total land in the [Westlands water] district. *Id.* at 12-15.

If the Bureau's assumptions were correct – that loss of CVP and SWP water supplies would be made up with groundwater – these conditions would not have occurred. The fact that agricultural production has decreased significantly over the past several years undermines the Bureau's conclusions.

Furthermore, the Bureau's assumptions with respect to groundwater use and agriculture are not necessary. Using the same Statewide Agricultural Production Model utilized in the DEIS, DEIS at 12-23, the Bureau could have modeled alternative ranges of groundwater pumping.

This approach was employed in 2009, under similar drought conditions. See Richard E. Howitt, Duncan MacEwan, and Josue Medellin-Azuara, *Economic Impacts of Reductions in Delta Exports on Central Valley Agriculture*, AGRICULTURAL AND RESOURCE ECONOMICS, Vol 12, No. 3 (Jan/Feb 2009). In assessing the economic impacts of reductions in CVP and SWP exports on Central Valley agriculture, Howitt et al. expressly acknowledged: “[T]he ability of farmers to pump additional groundwater depends on both its availability and the cost of pumping. Due to uncertainty in the ability of farmers to increase pumping in the short run, results are calculated for a range of groundwater pumping increases of 25, 50, 75, and 100%.” The results of their analyses therefore reflect this range of groundwater pumping. *Id.* at 2 (“Revenue losses for Central Valley farmers range from \$1.2 to \$1.6 billion for 2009, depending on farmer groundwater pumping response.”); *id.* (“Depending on the ability of farmers to increase groundwater pumping, gross revenue losses could range as high as \$1.6 billion.”).

Not only do Howitt et al. provide an alternative approach by which the Bureau could analyze agricultural impacts,³ but they demonstrate that the Bureau’s current assumptions with respect to groundwater are flawed. And it is improper for the Bureau to rely on incorrect assumptions. See *Natural Res. Def. Council v. U.S. Forest Serv.*, 421 F.3d 797, 812 (9th Cir. 2005) (rejecting U.S. Forest Service’s conclusions in an EIS because they were based on incorrect data and assumptions). Moreover, courts do not hesitate to reject methodologies that are clearly flawed. See, e.g., *Conservation Nw. v. Rey*, 674 F. Supp. 2d 1232, 1249 (W.D. Wash. 2009) (holding the “Agencies’ methodology [as respects forest plans] is flawed enough to be a violation of NEPA”). In short, Howitt et al.’s results directly contradict the Bureau’s conclusions that agricultural resources will not be impacted under Alternatives 1 through 5. Howitt et al. at 3-4 (“SWAP model results show that substantial reductions in available water from CVP and SWP deliveries ... will severely reduce Central Valley income, employment, revenues, and cropped acres.”).

Nor do the Bureau’s conclusions make sense as a practical matter. It is well established that CVP and SWP exports will be significantly reduced under the No Action Alternative, as compared to the Second Basis of Comparison, due to implementation of the RPAs included in 2008 U.S. Fish and Wildlife BiOp and the 2009 NMFS BiOp. See DEIS at ES-20 (“Long-term average annual exports would be 1,051 [thousand acre feet] (22 percent) more under Alternative 1 [Second Basis of Comparison] as compared to the No Action Alternative”); see also

³ Other publications also suggest that alternative groundwater modeling approaches are available to assess the impacts of CVP and SWP export reductions on agriculture. See Nicholas Brozovic, David Zilberman, and David Sunding, *On The Spatial Nature of the Groundwater Pumping Externality*, RESOURCE AND ENERGY ECONOMICS 32(2010): 154-164; Steven Buck, Maximillian Auffhammer, and David Sunding, *Land Markets and the Value of Water Supply: Hedonic Analysis using Panel Data*, AMERICAN JOURNAL OF AGRICULTURAL ECONOMICS 96(2014): 953-969.

State Water Project Final Delivery Reliability Report (2011) at 38-39 (showing a decrease in SWP exports from 2005 to 2011 of 10.4% due to implementation of the RPAs); State Water Project Final Delivery Reliability Report (2013) at 30-32 (showing a decrease in SWP exports from 2005 to 2013 of 9.4% due to implementation of the RPAs). It is simply not reasonable to assume that farmers will be able to pump over a thousand acre feet of groundwater to recoup this loss. As explained by Howitt et al., there is significant doubt associated with groundwater availability and cost, and the Bureau has altogether ignored this uncertainty.⁴

In sum, the Bureau's assumptions with respect to groundwater are fundamentally flawed. Not only are local agencies subject to the requirements of the SGMA, which requires Groundwater Sustainability Plans by 2020, but it is simply unreasonable to assume that agencies will exploit groundwater resources in the manner suggested. The Bureau's analysis should be revised to better reflect the range of groundwater pumping that could occur under Alternatives 1 through 5, and the impacts that this range would have on agricultural resources.

V. Ocean Harvest Conclusions are Unsupported by the Facts.

In the context of a NEPA challenge, an agency's decision is arbitrary and capricious if the agency (1) relied on factors Congress did not intend it to consider, (2) entirely failed to consider an important aspect of the problem, or (3) *offered an explanation that runs counter to the evidence before the agency*. *Ctr. for Biological Diversity v. Salazar*, 695 F.3d 893, 902 (9th Cir. 2012) (emphasis added); *Friends of Endangered Species, Inc. v. Jantzen*, 760 F.2d 976, 986 (9th Cir. 1985) (agency must engage in "a reasoned analysis of the evidence before it").

Alternatives 3 and 4 include an action to modify ocean harvest for the purpose of minimizing mortality of natural original Central Valley Chinook Salmon. DEIS at 3-37, 3-40. The DEIS explains that, although approximately 75-90 percent of harvested salmon are hatchery fish, the

⁴ Notably, the recently released Partially Recirculated Draft Environmental Impact Report/Supplemental Draft EIS for the Bay Delta Conservation Plan/California WaterFix (RDEIR/SDEIS) includes statements inconsistent with those found in the DEIS. For example, with respect to agricultural resources, the RDEIR/SDEIS states: "The responses of water agencies to extended droughts provide good insights into the effects of *further reductions in exports of Delta water supplies*. The 1987–1992 drought had severe impacts on water agencies. Many purchased water from alternative sources to offset reduced Delta supplies, often at very high costs that some clients were unable to afford. Farmers responded to the resultant higher costs by increasing their own groundwater pumping and reducing their purchases from water agencies, *but also fallowed large acreages of both annual and permanent crop land*." RDEIR/SDEIS at 4.2-9 (emphasis added). Thus, while increased groundwater pumping may occur as a result of reduced Delta exports, it is unreasonable to assume that agricultural resources will not be impacted.

fishery is often required to protect ESA-listed stocks, which include runs of Central Valley Chinook salmon. *Id.* at 9-277. The Bureau notes that “the impact of ocean harvest varies considerably by stock, but all stocks are impacted by harvest” *Id.* The Bureau further explains: “We have the tools, the knowledge and the ability to manage Chinook ocean harvest in whatever way is needed. As such, Alternative 3 is, from a technical and scientific level, entirely feasible.” *Id.*

Noting the intense harvest pressure on the various Chinook runs, the Bureau goes on to detail the benefits that would occur from reduced ocean harvest. DEIS at 9-278 (“reduced ocean harvest [for spring-run] would contribute substantially to age at-maturity diversity (certainly demographically, if not genetically) and thereby enhance population viability”); *id.* at 9-279 (“in the absence of this harvest, winter-run Chinook Salmon would have a larger fraction of their population maturing at age-4 or possibly older [which would] enhance demographic population viability, but also benefit the population by more effectively spawning in coarse substrates, and producing more, larger, and more thermally tolerant eggs); *id.* at 279-280 (noting “harvest of natural origin fall-run Chinook Salmon appears to occur at a much higher rate than population productivity can sustain” and concluding “[c]hanges in harvest strategies which could more effectively target hatchery origin fall Chinook while better protecting natural origin fish would yield substantial benefits”). The Bureau concludes: “Managing ocean salmon harvest as described in Alternative 3 would contribute to the abundance, productivity and diversity viability criteria for natural origin spring-run, winter-run, and fall-run Chinook Salmon.” *Id.* at 9-280.

Inexplicably, however, the benefits of the ocean harvest action are simply not reflected in the Bureau’s conclusions. After stating that ocean harvest restrictions “could” benefit winter-run, spring-run, and fall-run, the Bureau concludes that, due to “uncertainty regarding the non-operational components [including ocean harvest restrictions], distinguishing a clear difference between alternatives is not possible.” *Id.* at 9-280, 9-287, 9-296. This conclusion is unsupported by the Bureau’s earlier analysis, in which it noted that the proposed harvest restrictions were technically feasible and would benefit the populations. The Bureau’s conclusions should be revised to better reflect its analyses, which indicate that the ocean harvest restrictions will benefit listed Chinook salmon. To do otherwise would be contrary to the administrative mandate that agencies provide a rational connection between the facts found and the choices made. *See Motor Vehicles Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto Ins. Co.*, 463 U.S. at 43.

It should also be noted that, with respect to Alternative 4, which includes the same ocean harvest action as Alternative 3, there is no alternatives analysis whatsoever. In one conclusory sentence, the DEIS states: “Conditions related to salmonid survival could be improved under Alternative 4 as compared to the No Action Alternative due to implementation of: trap and haul program, changes in bag limits, and changes in PMFC/NMFS harvest limits.” *Id.* at 342. This is

certainly not a reasoned scientific analysis sufficient to satisfy NEPA. *See Friends of Endangered Species, Inc. v. Jantzen*, 760 F.2d at 986.

VI. Full Incorporation of New Scientific Information.

In the Coalition's previous letter dated July 13, 2015, the Coalition included an exhibit setting forth a list of publications that the Bureau should consider in its analyses. The Coalition appreciates that the Bureau has revised certain sections of the DEIS to reflect this list of publications. *E.g.*, DEIS at 9-64, 9-73, 9-141.

However, the Coalition is concerned that only certain sections have been updated, while other relevant sections are still based on incomplete information. For example, Section 9.4.1.3.5, the analysis on page 9-194, and Appendix 9G, which all relate to delta smelt, should be updated to reflect new, relevant scientific information.

NEPA requires information contained within an EIS to be of "high quality." 40 C.F.R. § 1500.1(b). "Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA." *Id.* Agencies must "insure the professional integrity, including scientific integrity, of the discussions and analyses in [an EIS]." 40 C.F.R. § 1502.24.

Thus, the Coalition requests that the Bureau revise the EIS to ensure that all relevant analyses are updated to reflect the new, relevant scientific information previously identified by the Coalition.

V. Conclusion.

In sum, the Coalition urges the Bureau to address the foregoing items prior to issuance of the final EIS. We would be happy to discuss these issues further at your convenience.

Sincerely,



William D. Phillimore
Board Member

cc: Patricia Aaron, U.S. Bureau of Reclamation