

DEPARTMENT OF WATER RESOURCES

1416 NINTH STREET, P.O. BOX 942836
SACRAMENTO, CA 94236-0001
(916) 653-5791



September 29, 2015

Mr. Ben Nelson
Natural Resources Specialist
Bureau of Reclamation, Bay Delta Office
801 I Street, Suite 140
Sacramento, California 95814-2536

Re: Cooperating Agency Review of the Public Draft Environmental Impact Statement (DEIS) on the Coordinated Long-term Operation of the Central Valley Project and State Water Project, Comments by Department of Water Resources

Dear Mr. Nelson:

We are providing the following general comments on the subject Draft Environmental Impact Statement (DEIS). Additional detailed comments were provided previously on the Administrative Draft EIS (ADEIS) in July 2015.

- As we mentioned in our ADEIS comments, we want to restate and again emphasize the need to include an Alternative 6 in the EIS. Since at least May 3, 2013, when Deputy Director Paul Helliker met with Sue Frye and others from Reclamation to discuss the development of the EIS, DWR has emphasized the need to include greater range of alternatives in order to fully analyze the impacts of proposed operational scenarios on the listed species in question, along with the water supply and economic costs associated with each scenario. Since that time, DWR has provided Reclamation with proposed modifications to several of the actions in both the 2008 USFWS BiOp and the 2009 NMFS BiOp which we had anticipated being included in the EIS. For example, DWR provided Reclamation with a proposal to modify Action 4 of the 2008 USFWS BiOp, which is the Fall X2 measure, in late 2014 and provided proposed text for Fall X2 for the EIS Project Description in January 2015 (see attachment). DWR also discussed modifications to Old and Middle River export restrictions in set out in Action IV.2.3 of the 2009 NMFS BiOp with Reclamation staff at various meetings. DWR also provided suggested changes to Action IV.4.2 in the 2009 NMFS BiOp as recently as November 2014. While it is our understanding that an Alternative 6 was not included due to lack of time to complete modeling and analysis, DWR has offered modeling support to Reclamation for this effort as far back as May, 2013. DWR believes a wider range of alternatives is necessary to develop a more fully informed document, and Reclamation has several of the proposals that DWR has submitted which would form the basis for an additional alternative. We therefore request that Alternative 6 be included in the Final or a Supplemental EIS.

- The DEIS does not include an accurate discussion of the regulatory environment. Appendix 3A pages 3-5 through 3-7 describe the Agreement between the United States of America and the State of California for coordinated operation of the Central Valley Project and the State Water Project (COA). This description is general in its nature and does not appear to accurately reflect relevant portions of the COA.

For example, the document lists as a change since 1986 the new Delta standards. However, the new Delta standards do not constitute a changed condition with respect to the implementation of the COA. Article 11 provides that if new Delta standards are established and the United States determines that operation of the CVP is in conformity with the new standards is not inconsistent with Congressional directives, then exhibit A to the COA should be amended to conform with new Delta standards. Thus, COA anticipated and provided for the new Delta standards.

The DEIS also makes reference to 195,000 acre feet of SWP capacity used for exporting CVP water supply ("replacement pumping"). The document seems to incorrectly characterize this provision. The COA provides that the State will transport up to 195,000 acre feet of CVP water "at times that diversions do not reduce State Water Project yield." (COA Article 10 (b)). This replacement pumping was included in the COA as a compromise between SWP and CVP because at the time the CVP argued that it did not need to comply with State Water Resources Control Board (SWRCB) standards, like the striped bass regulations in D-1485. This compromise allowed CVP to comply with the standard without impacts. Since that time, CVP now acknowledges that it does need to comply with SWRCB standards. Additionally, since the COA was signed, the striped bass regulations are no longer in effect and there are new regulations related to other fish and wildlife in D-1641. The document should correctly characterize the background and COA provisions. Reclamation should correct the above inaccuracies in the Final or a Supplemental EIS.

If you have further questions please contact me at Paul.Marshall@water.ca.gov, (916) 653-1099, or Mark Holderman of my staff at Mark.Holderman@water.ca.gov, (916) 653-7247.

Sincerely,



Paul A. Marshall, Chief
Bay-Delta Office