

ENVIRONMENTAL WATER CAUCUS COMMENTS ON DRAFT ENVIRONMENTAL IMPACT STATEMENT ON OPERATIONS AND CRITERIA PLAN FOR CENTRAL VALLEY PROJECT AND STATE WATER PROJECT, SEPTEMBER 29, 2015



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NORTH
COAST
RIVERS
ALLIANCE



CA Save Our Streams Council



Ben Nelson
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Sent via U.S. Mail and via email to bcnelson@usbr.gov

**RE: Comments on Draft Environmental Impact Statement for Coordinated
Long-Term Operation of the Central Valley Project and State Water Project**

Dear Mr. Nelson:

On behalf of Friends of the River (FOR), Restore the Delta, the Center for Biological Diversity, Sierra Club California, the California Water Impact Network, the California Sportfishing Protection Alliance, and the Environmental Water Caucus (EWC) (a coalition of over 30 nonprofit environmental and community organizations and California Indian Tribes), we provide these comments on the Bureau of Reclamation's Draft Environmental Impact Statement for Coordinated Long-Term Operation of the Central Valley Project and State Water Project ("DEIS"). Unfortunately, the DEIS fails to comply with the requirements of the National Environmental Policy Act ("NEPA"), because it fails to include a reasonable range of alternatives, fails to accurately inform the public and decision makers of potential significant environmental impacts and necessary mitigation measures, and fails to adequately analyze cumulative impacts. Because Reclamation has failed to use sound scientific information and instead used flawed and biased methods to assess potential environmental impacts, the DEIS fails to accurately assess likely impacts on fish and wildlife populations and fails to identify and propose reasonable mitigation measures for potentially significant impacts.

In addition, the DEIS largely ignores that over the past several years, the combination of the drought and CVP/SWP operations (including waivers of D-1641 water quality standards and other environmental protections) has driven Delta Smelt, winter run Chinook salmon, and other species to the brink of extinction. The DEIS never mentions that minimum Delta water quality standards under D-1641 were waived, and that RPA actions required under the biological opinions were not implemented during the drought, and the DEIS wholly fails to analyze the impact of the reasonably foreseeable waiver of water quality standards in future droughts. Yet the DEIS only acknowledges under the No Action Alternative that abundance levels for delta

smelt and other fisheries “are difficult to predict” and that “Currently low levels of relative abundance do not bode well for the Delta Smelt or other fish species in the Delta.” DEIS at 9-139.¹ Under the Second Basis of Comparison, the DEIS concludes that,

As described above for the No Action Alternative, abundance levels for Delta Smelt, Longfin Smelt, Striped Bass, Threadfin Shad, and American Shad are currently very low, and abundance and habitat conditions for fish in the Delta in future years are difficult to predict. It is not likely that operations of the CVP and SWP under the Second Basis of Comparison would result in improvement of habitat conditions in the Delta or increases in populations for these fish by 2030, and the recent trajectory of loss would likely continue.

DEIS at 9-150. Despite these acknowledgements that current operations may very well lead to extinction of the species, the DEIS proposes no mitigation measures and does not even conclude that the alternatives result in significant impacts to Delta Smelt. Similarly, for longfin smelt, the DEIS ignores that current operations have resulted in the U.S. Fish and Wildlife Service concluding that listing longfin smelt under the Endangered Species Act is warranted, and continuation of existing spring outflow conditions is likely to result in adverse effects on the species. As a result, the DEIS fails to accurately assess environmental impacts of CVP/SWP operations on Delta Smelt and longfin smelt.

With respect to salmonids, the DEIS acknowledges that climate change will make it more difficult to achieve water temperature requirements with current upstream reservoir operations, impacting salmon and steelhead. *See, e.g.*, DEIS at 9-126 to 9-127. Yet the DEIS fails to conclude that these excessive temperatures constitute significant environmental impacts and fails to consider any mitigation measures.² During the current drought, the failure to meet minimum upstream water temperatures resulted in greater than 95% mortality of the 2014 brood year winter run Chinook salmon cohort, and may result in similar mortality for the 2015 brood year. Increased frequency, duration and intensity of upstream temperature exceedances as a result of climate change in combination with CVP/SWP operations are likely to cause significant

¹ In part, this conclusion is based on inaccurate assessment of entrainment impacts of the Alternatives on Delta Smelt, as discussed below.

² In contrast, Reclamation’s revised draft environmental impact statement for the California WaterFix concludes that under the No Action Alternative, upstream reservoir operations will result in significant adverse environmental impacts to winter run Chinook salmon and green sturgeon spawning and egg incubation. *See, e.g.*, USBR, CA WaterFix RDEIS/SDEIR at ES-48.

environmental impacts. The DEIS also fails to demonstrate whether operations of Shasta Dam under the No Action Alternative are consistent with requirements of the 2009 NOAA biological opinion, which includes performance measures and other requirements to maintain adequate cold water pool for winter run Chinook salmon below the dam. As a result, the DEIS must be revised to analyze compliance with the biological opinion and to consider changes in reservoir operations to mitigate upstream temperature impacts, including reductions in upstream water diversions and deliveries to CVP contractors, including senior contractors.

Despite these short term and long term impacts, the DEIS asserts that with respect to several salmon and steelhead runs, the effects of CVP/SWP operations under Alternative 1 are similar to those under the No Action Alternative and Alternative 2. *See, e.g.*, DEIS at ES-30 to ES-31, 9-397 to 9-398.³ However, the federal courts have twice held that operations under Alternative 1 would jeopardize the continued existence and recovery of listed salmonids and steelhead, in violation of the Endangered Species Act. The DEIS therefore suggests that operations under the No Action Alternative and under Alternative 2 would also jeopardize these listed salmonid species (primarily because of upstream water temperature impacts). Yet the DEIS does not identify a significant environmental impact from these effects, and it proposes no clearly defined mitigation measures to address these impacts (except for programs for upstream fish passage at major dams, which are already required under the No Action Alternative).

The DEIS is fundamentally flawed, and Reclamation must revise the DEIS to analyze a broader range of alternatives using a credible methodology for assessing environmental impacts, including cumulative impacts.⁴

Adding insult to injury the DEIS assumes up to full contract delivery for CVP contractors. This is contrary to legal obligations required to protect fish and wildlife, and provisions of the San Luis Act, the 1986 Coordination Act and compliance with the feasibility report accompanying

³ This is at least In part because of Reclamation's flawed methodology for assessing impacts, particularly with respect to operations in the Delta..

⁴ In addition, Reclamation and DWR have not complied with CEQA, and compliance with CEQA is required before the Department of Water Resources could propose any changes to State Water Project operations. Numerous additional permits and approvals would be required before authorizing any changes to operations, including requirements under the federal Endangered Species Act, California Endangered Species Act, and other state and federal laws.

that act.⁵ Assumptions must not only comply with the law, but comport with reality. Assuming up to full contract deliveries at is not realistic. And does not take into account water supply impacts due to predicted weather, rain, snow and temperature changes.

Conclusion

As discussed above, the DEIS fails to accurately assess environmental impacts of CVP/SWP operations, fails to consider a reasonable range of alternatives, and includes alternatives that violate Reclamation's water rights and the purpose and need statement of the DEIS. Reclamation must substantially revise the DEIS to comply with NEPA.

Thank you for consideration of our views.

Sincerely,

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⁵ The 1960 San Luis Act authorized irrigating only 500,000 acres in total in Merced, Fresno and Kings Counties and required fish and wildlife mitigations and compliance with the Fish and Wildlife Coordination Act's continuing jurisdiction due to impacts to salmon and fishery resources that rely on the Delta Estuary. See PL 86-488 and the feasibility report: <http://cdm15911.contentdm.oclc.org/cdm/ref/collection/p15911coll10/id/2106> And Public Law 99-546 [H.R. 3113]; October 27, 1986.

*Comments on USBR Long Term Operations Draft Environmental Impact Statement
September 29, 2015*

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