


Comment Letter DPC

STATE OF CALIFORNIA—THE RESOURCES AGENCY	ARNOLD SCHWARZENEGGER, Governor
DELTA PROTECTION COMMISSION 14215 RIVER ROAD P.O. BOX 530 WALNUT GROVE, CA 95690 Phone (916) 776-2290 FAX (916) 776-2293 E-Mail: dpc@citlink.net Home Page: www.delta.ca.gov	DPC 
February 6, 2006	FEB 09 2006 00173
Department of Water Resources South Delta Branch Draft EIS/EIR Comments 1416 Ninth Street, Second Floor Sacramento, California 95814	
U. S. Bureau of Reclamation Mid-Pacific Region Draft EIS/EIR Comments 2800 Cottage Way Sacramento, California 95825	
Dear Project Managers:	
SUBJECT: <u>South Delta Improvements Program, Draft EIS/EIR</u>	
Staff of the Delta Protection Commission (Commission) has reviewed the subject document and a determination has been made that the project is located in portions of both the Primary and Secondary Zones of the Legal Delta.	
The following comments are provided for your consideration based on the assumption that the project proposal under review at this time is for the physical/structural component of the South Delta Improvement Program. It is further assumed, from the documentation provided, that the operational component, which includes raising the permitted diversion limit into the State Water Project Clifton Court Forebay from 6,680 cfs to 8,500 cfs, will be addressed in a separate process, including the opportunity to comment.	
Pursuant to the Delta Protection Act (Act), approvals for projects in the Primary Zone shall take into consideration consistency with the provisions of the Land Use and Resource Management Plan for the Primary Zone of the Delta (Management Plan). Additionally approvals for projects in the Secondary Zone should address any potential impacts to the Primary Zone resulting from a project in the Secondary Zone.	
The Act was passed into law in 1992 in recognition of the increasing threats to the resources of the Primary Zone from urban and suburban encroachment having the potential to impact agriculture, wildlife habitat, and recreation uses. The Management Plan was completed and adopted by the	

Department of Water Resources
U.S. Bureau of Reclamation
February 6, 2006
Page Two

FEB 09 2006 00173

Commission, pursuant to the Act, and it sets out findings, policies, and recommendations resulting from background studies in the areas of environment, utilities and infrastructure, land use, agriculture, water, recreation and access, levees, and marine patrol/boater education/safety programs. The Commission serves as an appeal body in the event the actions of a regulatory entity on a project within the Primary Zone are challenged as being inconsistent with the Act or the Management Plan.

Your attention is called to the following Management Plan Policies (P) and Recommendations (R) for environmental review consideration. Also provided are comments that reflect discussions and observations of DPC staff involving recreational boating and marina operator organizations.

Environment

Feasible steps to protect and enhance aquatic habitat should be implemented as may be determined by resource agencies consistent with balancing other beneficial uses of Delta resources (R-4).

DPC-1

Public-owned land should incorporate, to the maximum extent feasible, suitable and appropriate wildlife protection, restoration and enhancement as part of a Deltawide plan for habitat management (R-5).

Documentation should be provided as to potential impacts to the control of invasive aquatic weeds, including required time windows consistent with other appropriate regulatory entities.

Utilities and Infrastructure

The operation of draw and swing bridges (or other similar structures) shall balance needs of land and water traffic. Commercial vessels and emergency road traffic shall have right-of-way over other traffic (P-7).

DPC-2

Materials dredged from Delta channels should, if feasible, be stored at upland sites for reuse for levee maintenance and repair, and other feasible uses in the Delta. Mitigation for potential impacts to wildlife caused by storage of dredged materials should be provided (R-4).

Potential increases to impacts to levee stability and maintenance due to dredging and other maintenance related to gate operations should be identified and addressed.

Land Use

Subsidence control shall be a key factor in evaluating land use proposals (P-6).

DPC-3

Department of Water Resources
U.S. Bureau of Reclamation
February 6, 2006
Page Three

FEB 09 2006 00173

Documentation should be provided as to how the operation of the gates will take into consideration the priority for emergency response programs.

DPC-3

The analysis leading to the selection of specific gate locations should take into consideration the potential for population growth in pertinent areas of the Delta.

Agriculture

Governmental entities shall support long-term viability of commercial agriculture in the Delta because of its economic and environmental importance to the State and local communities (P-4).

DPC-4

Governmental entities shall encourage management of agricultural lands which maximize wildlife habitat seasonally and year-round, through techniques such as sequential flooding in fall and winter (P-8).

Water

Government entities shall ensure that design, construction, and management of any flooding program to provide seasonal wildlife habitat on agricultural lands shall incorporate "best management practices" to minimize mosquito breeding opportunities and shall be coordinated with the local vector control districts (P-2).

DPC-5

Water agencies at the local, state, and federal levels shall work together to ensure that adequate Delta water quality standards are set and met and that beneficial uses of state waters are protected consistent with Water Code Section 12310(f) (P-3).

Delta waterways should continue to serve as a primary transportation system moving water to the State's natural and developed water systems (R-1).

Delta water rights should be respected and protected (R-2).

Programs to enhance the natural values of the State's aquatic habitats and water quality to benefit the Delta and should be supported (R-3).

Water for flooding to provide seasonal and year-round wildlife habitat should be provided as part of state and federal programs to provide water for wildlife habitat (R-5).

State and federal water projects are beneficiaries of Delta waterways and levees, therefore, the projects should fund that portion of levee erosion caused by water transport and should continue programs that fund protection of Delta levees (R-7).

Department of Water Resources
U.S. Bureau of Reclamation
February 6, 2006
Page Four

FEB 09 2006 00173

The potential of methods to maintain the gate areas (dredging, etc.) to degrade water quality through sediment suspension should be analyzed and addressed.

DPC-5

Potential impacts of the project to increase salinity intrusion should be identified and analyzed.

Recreation and Access

Government entities shall improve public safety on Delta waterways through enforcement of local, state and federal laws (P-4).

DPC-6

Government entities should include appropriate recreation and/or public access components to the extent consistent with project purposes and with available funding. Consideration should be given to private or user group improvements on public-owned lands to provide facilities (R-6).

Government entities should develop design guidelines for new or enlarged facilities utilized by recreational users to protect adjacent agricultural land uses (R-7).

Government entities should develop funding sources to provide adequate enforcement of existing laws to protect health, safety and welfare of Delta recreational users (R-8).

Gate dimensions should take into consideration the size and configuration of vessels (including houseboats) historically, or potentially, frequenting the sites.

Provisions for recreational user amenities, such as public restrooms should be addressed as relates to additional delays in travel and navigation as a result of gate operations.

The jurisdiction of the State Lands Commission, as it relates to navigation and public trust, as well as fee interest should be taken into consideration in the determination of gate configuration and placement as it relates to navigability constraints.

Marine Patrol, Boater Education and Safety Programs

Government entities that have or plan to have marine patrols shall possess adequate marine patrol equipment to ensure communication with other county marine patrols, with state patrols on Delta waters, and with the Coast Guard (P-1).

DPC-7

Government entities that have marine patrols shall notify the Coast Guard when and where patrols are on the water (P-2).

Department of Water Resources
U.S. Bureau of Reclamation
February 6, 2006
Page Five

FEB 09 2006 00173

Government entities that have marine patrol units shall participate in at least one Coast Guard or Delta Protection Commission sponsored meeting per year to coordinate with other Delta law enforcement programs, to develop strategies for effective control, to discuss new laws and programs, and to generally increase effectiveness and communication between the various marine patrol programs (P-3).

DPC-7

Government entities that have or plan to have marine patrol programs shall provide adequate levels of marine patrol to ensure public health and safety on the waters of the Delta, taking into account funding available and the number of vessels moored in the Delta, launched into the Delta, and which travel into the Delta (P-8).

Any potential of impacts to the economic viability of existing marinas or boat launching facilities should be analyzed and addressed.

DPC-8

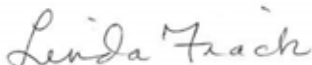
The communication systems of volunteer emergency response groups should be taken into consideration.

DPC-9

Thank you for the opportunity to comment. It should again be noted that these comments apply only to the structure phase and not the operational phase based on staff's understanding that there will be the opportunity to comment on the operations through a separate process.

A copy of the Management Plan and the Act are available at the Commission's web site www.delta.ca.gov for your reference in considering the comments provided herein. Please contact me at (916) 776-2292 or lindadpc@citlink.net if you have any questions regarding the Commission or the comments provided herein.

Sincerely,



Linda Fiack
Executive Director

Responses to Comments

DPC-1

The SDIP includes several measures to avoid, minimize and compensate for the effects on the environment. The SDIP is consistent with the management plan policies and recommendations of the Delta Protection Commission (DPC). Throughout the development of the EIS/EIR, DWR and Reclamation have solicited input from many resource agencies, local agencies, and the public. This input has been used to design the SDIP to ensure maximum environmental benefits while achieving SDIP objectives.

It is not expected that the project would result in changes in the distribution or abundance of aquatic weeds. **However, operation of the permanent gates, compared to the temporary barriers, may result in the changes in timing of spraying for invasive weeds. BOs issued to the DBW include allowance for spraying compatible with the expected operation of the gates.**

During construction, equipment used to construct the gates and dredge could catch aquatic weeds. An environmental commitment has been added to Chapter 2 of the SDIP Draft EIS/EIR that requires the contractor to clean vegetation from equipment on a periodic basis to reduce the potential for spreading nonnative aquatic vegetation.

DPC-2

The SDIP permanent gate boat locks would be operated to allow boats passage in a reasonable amount of time. Although commercial vessels generally do not use the channels where the gates would be constructed, if commercial vehicles need to use the boat locks, they will be given priority over recreational boats.

Emergency response vessels would be given highest priority. The time it takes for an emergency vessel to cross the permanent gate compared to the time it takes for it to cross the temporary barriers, is similar. It is not expected that the permanent gates would affect emergency response times while the gates are being operated. However, when the permanent gates are open, the response times for emergency vessels would be shortened because the vessels would not have to use a boat lock or a trailer.

As described in the SDIP Draft EIS/EIR, the spoil material will either be applied to farmland or used for levee reinforcement, as long as it is nontoxic and suitable for such uses (see the Environmental Commitments section described in Chapter 2 of the SDIP Draft EIS/EIR). Dredging and construction of the gates will not result in any changes to levee stability. Dredging would be confined to the center channel so as not to disrupt the levee or vegetation along the banks. Operation of the SDIP is not expected to decrease levee stability or interfere with levee maintenance. Riprap would be placed adjacent to the gate sites to ensure that the levee is not eroded at the gates. Changes in velocities in south Delta

channels are not expected to result in scouring or seepage that would contribute to a reduction in levee stability. Maintenance of the gates would not interfere with the maintenance of levees.

The SDIP is consistent with the management plan policies and recommendations of the DPC. Throughout the development of the EIS/EIR, DWR and Reclamation have solicited input from many resource agencies, local agencies, and the public. This input has been used to design the SDIP. The EIS/EIR addresses issues related to dredging, gate operation, and effects on levee maintenance and stability.

DPC-3

If spoil materials are applied to farmland in the south Delta, the materials will be used to raise the ground level of farmland where subsidence has occurred.

In developing the SDIP Draft EIS/EIR, DWR and Reclamation consulted with Coast Guard staff regarding emergency response during the construction period. Chapter 2 of the SDIP Draft EIS/EIR describes the Emergency Access Plan. During operation of the gates, it is not expected that response times would be substantially different than under existing conditions.

The location of each gate is based on the performance of the gates relative to the project objectives. Besides the head of Old River fish control gate, the SDIP permanent gates are located in areas where minimal development is expected to occur. None of the gates, however, is expected to significantly affect development in the Delta or use of Delta channels by boaters. **The head of Old River gate would include a boat lock that would ensure boaters could get between the south Delta and the San Joaquin River.** The SDIP is consistent with the management plan policies and recommendations of the DPC. Throughout the development of the EIS/EIR, DWR and Reclamation have solicited input from many resource agencies, local agencies, and the public. This input has been used to design the SDIP to ensure minimal impacts on emergency response times, subsidence, and development.

DPC-4

The SDIP is designed to improve water supply conditions for agricultural diversions in the south Delta. As such, it is consistent with the management plan policies and recommendations of the DPC.

DPC-5

The impacts of maintenance activities are described in the SDIP Draft EIS/EIR. No impacts beyond what would occur during initial dredging would occur during

maintenance dredging and other activities. Section 5.3 shows that there would be very little effect from SDIP Stage 2 alternatives on salinity intrusion into the Delta because the SDIP would operate in compliance with D-1641 EC and outflow objectives, which generally control salinity intrusion. The SDIP is consistent with the management plan policies and recommendations of the DPC. Throughout the development of the EIS/EIR, DWR and Reclamation have solicited input from many resource agencies, local agencies, and the public. To the extent feasible, this input has been used to design the SDIP.

DPC-6

The boat locks are designed to pass multiple large boats. Past boat surveys have not indicated uses for very large boats that would not fit in the proposed boat locks, which measure 60 feet long by 20 feet wide. DWR's personnel performed a study that determined the proposed locks would pass all Delta rental houseboats except for one very large houseboat 65 feet long. (McQuirk pers. comm.)

The SDIP now includes restrooms and trashcans to accommodate boaters at the boatlocks. The State Lands Commission (SLC) submitted comments on the SDIP Draft EIS/EIR, and an MOU between SLC and DWR will be executed. **Public access to areas in the south Delta is not expected to change, except that there will be no public access to the gates, control structures, storage areas, and other structures appurtenant to the gates.**

The SDIP is consistent with the management plan policies and recommendations of the DPC. Throughout the development of the EIS/EIR, DWR and Reclamation have solicited input from many resource agencies, local agencies, and the public. This input has been used to design the SDIP, including facilities and components that will maintain or enhance recreation in the Delta.

DPC-7

No marine patrol program is included in the SDIP. The SDIP is consistent with the management plan policies and recommendations of the DPC. Throughout the development of the EIS/EIR, DWR and Reclamation have solicited input from many resource agencies, local agencies, and the public. This input has been used to design the SDIP to ensure the public safety is maintained and that current marine patrol operations are not affected.

DPC-8

Boating opportunities in the affected waterways will be maintained. Thus, little change in business activity among existing marinas and boat launching facilities is expected. However, as described in Chapter 2 of the SDIP Draft EIS/EIR, if the permanent gates adversely affect any specific marinas in the area, DWR and

Reclamation will work with the marina owner(s) to reduce and compensate for those adverse effects.

DPC-9

The communication systems that will be installed to operate the gates are not expected to conflict with other communications systems with the south Delta area. If it is determined that closer coordination of gate operations with volunteer emergency responders is needed, DWR and Reclamation will meet with the interested parties to develop the required procedures.

Comment Letter DSOD


State of California	The Resources Agency
Memorandum	DSOD
Date: DEC 13 2005	DEC 29 2005 037
To: Paul Marshall South Delta Branch Bay-Delta Office	
From: David A. Gutierrez, Chief Division of Safety of Dams Department of Water Resources	
Subject: South Delta Improvement Program, Draft Environmental Statement/ Environmental Impact Report	
<p>The Division of Safety of Dams has reviewed the Draft Environmental Statement/ Environmental Impact Report, submitted by letter dated November 10, 2005.</p> <p>Based on the information provided, we find that the control structures to replace temporary rock barriers that have been constructed and removed annually in the past are not subject to State jurisdiction for dam safety. Therefore, an application for the proposed program is not required by the Division.</p> <p>If you have any questions, you may contact Office Engineer Chuck Wong at (916) 227-4601 or Regional Engineer Michael Waggoner at (916) 227-4604.</p> <p>cc: Ms. Nadell Gayou Resources Agency Project Coordinator Environmental Review Section, DPLA 901 P Street Sacramento, California 95814</p>	
DSOD-1	
<hr/> <p>SURNAME DWR 155 (Rev 11/01)</p> <p><i>KB Wong</i> 11/30/05 <i>[Signature]</i> 12/2/05 <i>[Signature]</i> 12/12/05</p>	

Responses to Comments

DSOD-1

DWR and Reclamation understand that the proposed permanent operable gates are not subject to the Division of Safety of Dams jurisdiction, and will not submit an application.

Comment Letter KMC

<p>STATE OFFICE P.O. BOX 942849 SACRAMENTO, CA 94249-0032 (916) 319-2032 FAX (916) 319-2132</p> <p>E-MAIL assemblymember.mccarthy@assembly.ca.gov</p>	<p>Assembly California Legislature</p>  <p>KEVIN MCCARTHY ASSEMBLY REPUBLICAN LEADER THIRTY-SECOND DISTRICT</p>	<p>DISTRICT OFFICE 4900 CALIFORNIA AVE., SUITE 140A BARKERSFIELD, CA 93309 (661) 395-2995 FAX (661) 395-3883</p> <p>WEBSITE http://www.assembly.ca.gov/mccarthy</p>
---	--	---

KMC

February 14, 2006

Mr. Lester Snow
Director
Department of Water Resources
P.O. Box 942836
Sacramento, CA 94236-0001

RE: South Delta Improvements Program

Dear Director Snow:

I write to support the Department of Water Resources' (DWR) South Delta Improvements Program (SDIP).

The DWR is to be commended for issuing the EIR/S and for the many public workshops and public hearings it held to educate the public about the project. As with all public works projects, the input of the public is central to a good decision. I urge you to appropriately consider the comments you received during the public comment period and then certify the EIR/S.

The SDIP has been studied, re-studied, formulated and re-formulated for more than 20 years. Its inclusion in the CALFED Record of Decision was intended to stop the years of indecision and instead to provide a clear path toward ecosystem restoration and increased water supplies based largely on the SDIP.

The recent attention to the decline of pelagic species in the Delta should be used to inform decisions about the SDIP, but should not preclude the decision to certify the EIS/R and move forward to construct the permanent operable gates called for in Stage 1 of the EIS/R. It is unlikely that DWR or the Department of Fish and Game will have "perfect knowledge" about the causes of the decline in pelagic species. The lack of "perfect knowledge" will always exist and should not stop DWR from implementing the SDIP; a project that can allow for a 3-5 percent increase in supplies and still provide new system flexibility to meet environmental challenges.

Control # 2006-0052 (J. Johns) Call-Up Date 03/03/2006

Printed on Recycled Paper

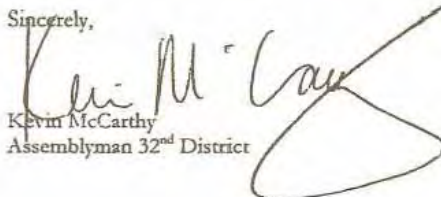
**KMC-1
cont'd**

At a time when California is confronting its inadequate levee systems, flood control and emergency management, and long-term infrastructure investments in the Delta, the SDIP is an ideal option for California to pursue now. It will not require the building of a major new project and funding for the program has already been secured through passage of voter approved bonds in 2000 (Proposition 13).

I support the SDIP and urge you to move forward with the project with all appropriate speed.

Thank you.

Sincerely,


Kevin McCarthy
Assemblyman 32nd District

cc Hon. Governor Arnold Schwarzenegger
Mr. Ryan Broderick, Director, California Department of Fish and Game
Mr. Mike Chrisman, Secretary, California Resources Agency
Mr. Joe Grindstaff, Director, California Bay-Delta Authority
Mr. Kirk Rodgers, Regional Director, Mid-Pacific Region, U.S. Bureau of Reclamation
Mr. Dan Skopec, Deputy Cabinet Secretary, Office of the Governor
Mr. Terry Tamminen, Special Advisor to the Governor on Environmental Policy, Office of the Governor

Response to Comment

KMC-1

The commenter's description of the project's benefits and support for the project are noted.

Comment Letter MM

Fax sent by : 9163232384 SENATOR MACHADO 82-88-86 11:56 Pg: 1/2


CAPITOL OFFICE
STATE CAPITOL, ROOM 5066
SACRAMENTO, CA 95814-4900
TEL (916) 651-5005
FAX (916) 323-2304

DISTRICT OFFICES
51 E. CHANNEL ST., ROOM 440
STOCKTON, CA 95202
TEL (209) 948-7930
FAX (209) 948-7993

1020 N STREET, ROOM 506
SACRAMENTO, CA 95814
TEL (916) 651-1511
FAX (916) 323-2596

1010 NUT TREE RD., #188
VACAVILLE, CA 95687
TEL (707) 454-3808
FAX (707) 454-3811

WWW.SEN.CA.GOV/MACHADO



California State Senate

MICHAEL J. MACHADO
SENATOR, FIFTH DISTRICT

COMMITTEES
REVENUE AND TAXATION
CHAIR

BANKING, FINANCE AND
INSURANCE

BUDGET AND FISCAL REVIEW

LOCAL GOVERNMENT

NATURAL RESOURCES AND
WATER

TRANSPORTATION AND
HOUSING

SUBCOMMITTEE ON
DELTA RESOURCES
CHAIR

BUDGET SUBCOMMITTEE #5
ON PUBLIC SAFETY, LABOR
AND VETERAN AFFAIRS

MM

February 7, 2006

FEB 08 2006 00159

Mr. Kirk Rodgers, Regional Director
United States Bureau of Reclamation, Mid-Pacific Region
2800 Cottage Way
Sacramento, CA 95825

Mr. Lester Snow, Director
California Department of Water Resources
1416 - 9th Street
Sacramento, CA 95814

Dear Mr. Rodgers & Mr. Snow:

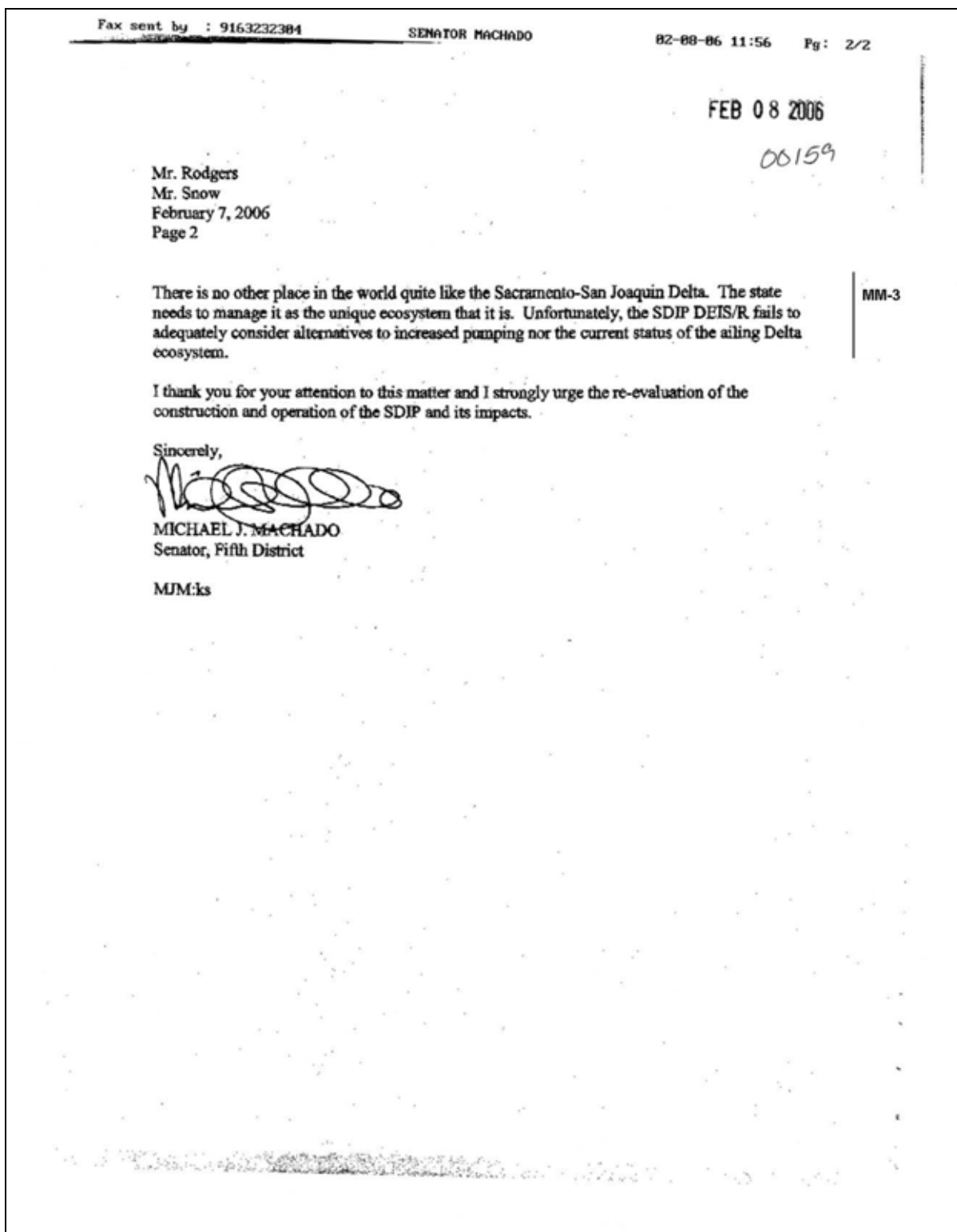
I am writing in response to the Draft Environmental Impact Statement/Environmental Impact Report (DEIS/R) for the South Delta Improvements Program. The DEIS/R fails to adequately address the impacts of the project on the Sacramento-San Joaquin Delta (Delta) and further jeopardizes the entire Delta ecosystem.

Given the current state of the Delta and its environment, a strong effort needs to be made to reduce water diversions. Clearly, the DEIS/R does not consider this option. Recently the California Court of Appeals invalidated the environmental documents supporting the CALFED Record of Decision because of its failure to evaluate an alternative that would reduce Delta water diversions. Also, evidence, including the update of the California Water Plan, suggests that California's future water needs can be met without increased pumping. Experience shows that decreasing reliability on Delta water increases water supply reliability. A new alternative decreasing Delta water diversions needs to be developed.

The rapid and alarming decline of pelagic fish species in the Delta is not only a cause for concern but also indicates larger systemic problems. Investigations into the reasons for the collapse of these fish species are underway. However, the urgency with which SDIP is moving forward is worrisome, particularly because this project is specifically designed to increase pumping. It needs to be reiterated that there are issues associated with current pumping rates that have yet to be resolved. The SDIP does not address the existing problems; if anything, it potentially exacerbates them.

MM-1

MM-2



Responses to Comments

MM-1

Please see Master Response D, *Developing and Screening Alternatives Considered in the South Delta Improvements Program Draft EIS/EIR*.


MM-2

Please see Master Response B, *Relationship between the South Delta Improvements Program and the Pelagic Organism Decline*.

MM-3

Please see Master Response D, *Developing and Screening Alternatives Considered in the South Delta Improvements Program Draft EIS/EIR*.

Comment Letter SLC

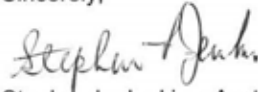
STATE OF CALIFORNIA		DEC 20 2005	00009	SLC
CALIFORNIA STATE LANDS COMMISSION 100 Howe Avenue, Suite 100-South Sacramento, CA 95825-8202		ARNOLD SCHWARZENEGGER, Governor		
		PAUL D. THAYER, Executive Officer (916) 574-1800 FAX (916) 574-1810 Relay Service From TDD Phone 1-800-735-2929 from Voice Phone 1-800-735-2922		
		Contact Phone: (916) 574-1890 Contact FAX: (916) 574-1885		
December 13, 2005				
File Ref: SCH#2002092065				
Ms. Nadell Gayou The Resources Agency 901 P Street Sacramento, CA 95814				
Mr. Paul Marshall Department of Water Resources 1416 9 th Street Sacramento, CA 95814				
Dear Ms. Gayou and Mr. Marshall:				
Subject: Draft Environmental Impact Report for the South Delta Improvements Program				
Staff of the California State Lands Commission (CSLC) has received the above referenced Draft EIR. Under the California Environmental Quality Act (CEQA), California Department of Water Resources is the Lead Agency and the CSLC is a Responsible and/or Trustee Agency for any and all projects which could directly or indirectly affect sovereign lands, their accompanying Public Trust resources or uses, and the public easement in navigable waters.				
The State acquired sovereign ownership of all tidelands and submerged lands and beds of navigable waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all the people of the State for statewide Public Trust purposes which include waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. The landward boundaries of the State's sovereign interests in areas that are subject to tidal action are generally based upon the ordinary high water marks of these waterways as they last naturally existed. In non-tidal navigable waterways, the State holds a fee ownership in the bed of the waterway between the two ordinary low water marks as they last naturally existed. The entire non-tidal navigable waterway between the ordinary high water marks is subject to the Public Trust. The State's sovereign interests are under the jurisdiction of the State Lands Commission.				
				SLC-1

DEC 20 2005 00009

Old and Middle Rivers are under the Commission's jurisdiction. The Commission and the Department of Water Resources have entered into a Memorandum of Understanding (attached) concerning DWR's use of State sovereign lands for facilities of the Central Valley Water Project and the State Water Resources Development System. Please review the MOU and, if it does qualify, please submit the information to the Commission which is set forth in the MOU. If you have questions, please contact Diane Jones, Public Land Manager, at 916-574-1843.

SLC-2

Sincerely,



Stephen L. Jenkins, Asst. Chief
Division of Environmental Planning
and Management

enclosures

cc: Diane Jones

State of California
The Resources Agency

Memorandum

DEC 20 2005 00009

To : William F. Northrop
Executive Officer
State Lands Commission
1807 13th Street
Sacramento, CA 95814

Date : OCT 22 1979

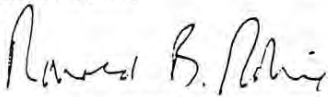
File No.:

Subject: Memorandum of
Understanding for DWR
Use of State Lands

Attention: Bob Faber

From : Department of Water Resources

Attached is a signed copy of our Memorandum of Understanding as transmitted by your memorandum of October 5, 1979. John Cape of our legal staff will work with you on developing appropriate forms and procedures for implementing the memorandum.



Ronald B. Robie
Director
8-485-6582

Attachment

OCT 25 12 30 PM '79
RECEIVED
STATE LAND COMMISSION

DEC 20 2005 00009

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
STATE LANDS COMMISSION
AND THE
DEPARTMENT OF WATER RESOURCES
FOR THE USE OF STATE LANDS
FOR FACILITIES OF
THE CENTRAL VALLEY PROJECT AND
THE STATE WATER RESOURCES DEVELOPMENT SYSTEM

The State Lands Commission (SLC) and the Department of Water Resources (DWR), in order to assure proper coordination in the process of DWR project formulation, authorization, construction and operation within the Central Valley Project (CVP) and the State Water Resources Development System (SWRDS), consider it desirable to agree upon a procedure to be followed when DWR facilities for said projects are proposed to be constructed on State lands. The parties therefore agree as follows:

I. General Understanding

Maximum coordination between SLC and DWR is necessary to achieve responsible management of the State's land and water resources.

II. Specific Objectives

SLC and DWR by this understanding will reduce potential conflicts between DWR activities in the CVP and SWRDS and other necessary uses of State lands in these areas.

DEC 20 2005 00009

III. Procedures

The following procedures will be followed by the parties to this memorandum with respect to DWR projects on State lands which are included in the scope of Water Code Sections 11130, 12931, and Public Resources Code Section 6327:

1. As provided by paragraph III, 4, below, DWR will involve SLC in the planning and project formulation process, along with representatives of other local, state, and federal agencies, within any administrative and legal constraint in order to accomplish a total public involvement in DWR programs which affect State lands.
2. For activities undertaken pursuant to this Agreement, DWR will act as the lead agency and be responsible for coordinating all input required under NEPA or CEQA.
3. Comments prepared by SLC and other local, state, and federal agencies will be considered by DWR in the development of final plans for projects which will use State lands.
4. Except for emergency projects, DWR will submit to SLC, at least 90 days prior to use of State lands or the start of construction of a facility on State lands, a "Notice of Proposed Use of State Lands". This notice will include,

DEC 20 2005 00009

(a) a general plan of the facility to be constructed; (b) if available, specific right of way maps and legal descriptions of State lands DWR proposes to use for the facility; (c) the proposed operational criteria for the project; and (d) the expected duration of the use of the State lands affected by the project. For emergency projects DWR will notify SLC of all emergency actions and, if feasible, such notice will be provided prior to such actions. Such notice will describe the nature of the emergency, the action to be taken, or the facility to be constructed, the State lands affected, and the expected duration of the emergency use. For the purposes of this Agreement "Emergency" is defined as an unforeseen condition or circumstance which calls for immediate action to protect life or property. It includes but is not limited to circumstances resulting from earthquake, flood, and drought.

5. SLC will review DWR's notices submitted pursuant to paragraph 4 above and within 30 days advise DWR of any known, existing, or proposed facilities which may be in conflict with DWR's planned use. SLC will also recommend to DWR any restrictions or limitations on

DEC 20 2005 00009

DWR's use of the State land which it deems necessary for the health and safety of the public and preservation of the public trust or preservation of natural resource values and protection of the environment.

IV. Cooperation and Periodic Review

SLC and DWR agree that they will cooperate and mutually assist each other in all appropriate ways necessary to promote maximum effectiveness of the foregoing procedures. Periodically, the parties will review the procedures and consider revisions as desirable to promote the objectives identified in the memorandum.

V. Retained Leasing Power

DWR agrees that SLC may retain the authority to lease any land that is the subject of this agreement on the condition that said leasing is made after due notice to DWR and is not incompatible with the use to be made by DWR. DWR and its agents, contractors and cooperating entities may use the land as agreed but may not allow other public or private entities to use the land or facilities, described in this agreement, for purposes other than those included under Section 11130 and 12931 of the Water Code, without the consent of SLC.

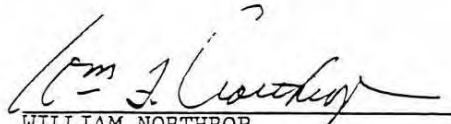
DEC 20 2005 00009

VI. Liability for Damages or Injury

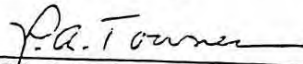
DWR hereby agrees to indemnify and hold SLC harmless from liability for property damage or personal injury arising from DWR's design, construction, and operation of activities on State lands pursuant to this memorandum and from the acts of DWR's employees, agents and contractors, excepting any damage or injury caused by the negligence or willful misconduct of SLC and its employees, agents, or contractors.

Dated: October 19, 1979

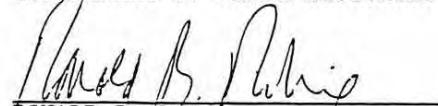
STATE OF CALIFORNIA
STATE LANDS COMMISSION


WILLIAM NORTHROP
Executive Officer

Approved as to legal form
and sufficiency:


J.A. Townes
Chief Counsel, Department
of Water Resources

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES


RONALD B. ROBIE
Director

Responses to Comments

SLC-1

DWR and Reclamation are aware that portions of the SDIP, including Stage 1 components, are located on, or would affect, properties under the jurisdiction of the SLC.

SLC-2

DWR will submit the notice as required by the Memorandum of Understanding (MOU).

Comment Letter SWRCB



Alan C. Lloyd, Ph.D.
Agency Secretary

State Water Resources Control Board

Division of Water Rights

1001 I Street, 14th Floor • Sacramento, California 95814 • 916.341.5300
P.O. Box 2000 • Sacramento, California 95812-2000
Fax: 916.341.5400 • www.waterrights.ca.gov



Arnold Schwarzenegger
Governor

February 7, 2006

SWRCB

Mr. Paul Marshall
SDIP EIR/EIS Comments
CA Department of Water Resources
Bay Delta Office
1416 Ninth Street
Sacramento, CA 95814

Feb 07, 2006 00134

Dear Mr. Marshall:

SOUTH DELTA IMPROVEMENTS PROGRAM DRAFT ENVIRONMENTAL IMPACT STATEMENT/ ENVIRONMENTAL IMPACT REPORT

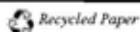
The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) provides the following comments on the South Delta Improvements Program (SDIP) Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) prepared by the Department of Water Resources (DWR) and the U.S. Bureau of Reclamation (USBR). The State Water Board/Division has water rights authority concerning the proposed project through issuance of water right permits/licenses to DWR for the State Water Project (SWP) and USBR for the Central Valley Project (CVP) and other water right holders that may transfer water under Stage 2 of the proposed project. In addition, the State Water Board/Division has water quality authority through implementation of the 1995 Water Quality Control Plan for the San Francisco Bay-Sacramento/San Joaquin Delta Water Quality Control Plan (1995 Plan) in Decision 1641 (D-1641) and 401 water quality certification authority pursuant to the Clean Water Act (CWA) and California Code of Regulations Title 23 section 3855(b).

Executive Summary

The first full paragraph on page ES-2 states that the baseline condition for the EIR/EIS for Stage 1 of the project is the "existing operational rules, including the permitted limit for SWP pumping at CCF." It is unclear which "permitted limit" the EIR/EIS is referring to. The U.S. Army Corps of Engineer (USACOE) permits allow diversions of 6,680 cubic feet per second (cfs) (except from mid-March to mid-December when higher diversions may be allowed), but the water right permits for the SWP allow diversions of 10,300 cfs. The EIS/EIR should clarify the pumping limits under the various permits/license for this project and should specify the conditions currently constraining operations, including the USACOE permits and satisfaction of conditions for use of Joint Points of Diversion (JPOD). This issue should also be clarified in the last paragraph on page ES-3 and the first paragraph on page ES-4.

SWRCB-1

California Environmental Protection Agency



Feb 07, 2006 00134

Mr. Paul Marshall

- 2 -

February 7, 2006

What does "nonjurisdictional riparian habitat" mean on page ES-5? Whose jurisdiction is the EIS/EIR referring to? Is it referring to the USACOE under CWA section 404? Does the statement mean that land is going to be purchased that is riparian to something other than a water of the US or a tributary thereto? If so, using the word "riparian" makes this confusing.

SWRCB-2

What is the "avoidance and credit system" that is referred to on p. ES-6?

Chapter 1

The description of the Environmental Water Account (EWA) on page 1-11 is so unclear that a reader who is not already familiar with the EWA would have difficulty understanding it. The discussion in Appendix B on page B-4 is more understandable.

SWRCB-3

The discussion of the purpose of the Vernalis Adaptive Management Plan (VAMP) on page 1-14 appears to be somewhat inconsistent with the VAMP study design. The EIS/EIR states that "The purpose of the VAMP is to identify the true fall-/late fall-run Chinook salmon smolt and Delta smelt populations and survival in the lower San Joaquin River and improve aquatic habitat conditions in the Delta for fall-/late fall-run Chinook salmon and Delta smelt." However, the stated purpose of the VAMP is to determine the relative effects of flows in the San Joaquin River and exports in the Delta with a fish barrier at the Head of Old River on the passage and survival of Chinook salmon smolts through the Delta. In addition, the VAMP is designed to provide environmental benefits on the lower San Joaquin River during the April/May pulse flow period. The VAMP study is not designed to assess Delta smelt populations or to specifically protect Delta smelt.

SWRCB-4

While Table 1-6 includes the 1994 Bay-Delta Accord and Order 95-6, it does not include the 1995 Water Quality Control Plan for the 1995 Plan. The 1994 Accord and the 1995 Plan are not synonymous and should be listed separately. In addition, Order 95-6 should be listed with the 1995 Plan and not the 1994 Bay-Delta Accord.

SWRCB-5

The description of D-1641 on page 1-27 is very poorly worded and is not entirely accurate. The following corrections should be made:

1. The EIS/EIR states, "D-1641 is the water rights decision implementing the 1995 Delta Water Quality Control Plan (WQCP) objectives, including the water quality standards on the San Joaquin River and Mokelumne River and Cache and Putah Creeks." D-1641 does not implement any water quality standards. Instead, D-1641 implements certain flow dependant water quality *objectives* included in the 1995 Plan. In addition, there are no water quality standards or objectives on the Mokelumne River, Cache Creek, or Putah Creek. DWR negotiated with parties on the Mokelumne River and Cache and Putah creeks to provide certain flows from those water sources to help meet the flow dependant

SWRCB-6

Feb 07, 2006 00134

Mr. Paul Marshall

- 3 -

February 7, 2006

- objectives in the Delta. D-1641 includes the required flows for the Mokelumne River, however, these flows are not water quality standards.
2. The EIS/EIR should make clear that the Sacramento Valley Water Management Agreement (SVWMA) is a negotiated agreement between Sacramento Valley water users and DWR and USBR to which the State Water Board is not a party.
 3. In the first sentence on page 1-28, instead of saying the State Water Board "incorporated" certain requirements in the 1995 Plan, the EIS/EIR should state that the State Water Board "took into consideration" the requirements of the other agencies.
 4. In the first bullet on page 1-28 "water year classifications," should be replaced by "export limits" in describing the requirements. In context, it is currently unclear, since the classification is just a part of the requirement.
 5. In the second bullet on page 1-28, standards should be changed to objectives.
 6. The last bullet on page 1-28 stating that Delta inflow does not include rainfall is not entirely correct. Delta inflow includes streamflows into the Delta, which result from precipitation. This bullet should be rewritten to be more clear.
 7. Another bullet should be added discussing the export limitations included in D-1641 that are based on San Joaquin River flows.
 8. Another bullet should be added on page 1-28 discussing the Delta Cross Channel Gate operating criteria.

SWRCB-6

Chapter 2

In the discussion of Joint Points of Diversion (JPOD) in Chapter 2, the EIS/EIR states that D-1641 subjects use of JPOD to a plan to protect fish, wildlife, and other legal users of water. The EIS/EIR should clarify that D-1641 approved JPOD in stages subject to various terms and conditions prior to use (see D-1641, pages 150-153 and 155-158), not only a plan to protect fish, wildlife, and other legal users of water. Under Stage 1, USBR can use Banks Pumping Plant¹ to serve the Cross Valley Canal contractors and Musco Olive, to support a recirculation study, and to recover export reductions taken to benefit fish. Under Stage 2 JPOD, USBR can use the Banks Pumping Plant for any purpose authorized under its permits, except that the total pumping at Banks cannot exceed the current limits of the USACOE permit. Under Stage 3, USBR can use the Banks Pumping Plant up to the physical capacity of the pumping plant. The EIS/EIR should discuss the conditions for all stages of JPOD since increased pumping to 8,500 cfs at the Banks Pumping Plant for the benefit of the USBR's contractors is contingent upon use of Stage 3 JPOD. To date, DWR and USBR have submitted the required plans for use of JPOD up to Stage 1, including a Water Level Response Plan and a Water Quality Response Plan. However, DWR and USBR still must submit an operations plan to protect fish and wildlife and other legal users of water for Stage 2 JPOD. In addition, DWR and USBR must also submit a Water Quality

SWRCB-7

¹ D-1641 also approved JPOD use by DWR of USBR's Tracy pumping plant subject to similar conditions. However, the SDIP primarily involves use by USBR of DWR's Banks Pumping Plant.

Feb 07, 2006 00134

Mr. Paul Marshall

- 4 -

February 7, 2006

Response Plan for Stage 3 JPOD and meet the further requirements for Stage 3 JPOD for an operations plan to protect aquatic resources and their habitat and other legal users of water if pumping rates will exceed the limits of the current USACOE permits. Further, Stage 3 JPOD requires DWR and USBR to protect water levels in the southern Delta adequate for diversion of water for agricultural uses. D-1641 specifies that this requirement may be satisfied through construction and operation of three permanent tidal barriers (currently referred to as gates) in the southern Delta as proposed in the SDIP.

Chapter 5

The following comments pertain to Table 5.1-1 regarding the CALSIM II model assumptions for the SDIP baselines and operational scenarios:

1. Why are the minimum flows below Lewiston Dam less in the 2001 baseline than the preferred alternative in the Trinity EIS?
2. For the Yuba River the EIS/EIR indicate that Decision 1644 flows are used. The EIS/EIR should indicate whether those are the interim flows or the long-term flows.
3. For the American River, the EIS/EIR utilizes Decision 893 flows, which are much lower than actual flows maintained by USBR and which are likely to be replaced in the future as a result of ongoing work by the Water Forum. As such the EIS/EIR should utilize the Water Forum flows in the 2020 level analysis.
4. Does the base case for exports assume relaxation of the export/inflow ratio pursuant to the requirements of D-1641? The EIS/EIR should specify.

SWRCB-8

If the modeling for the SDIP regarding JPOD pumping and water transfers (including EWA water transfers) does not do so already, it should assume that these diversion will only be allowed when DWR and USBR are in compliance with all of their permit and license conditions (including meeting the southern Delta electrical conductivity objectives and the San Joaquin River flow objectives) pursuant to the requirements of D-1641 (page 150 and 156) and the April 2005 Water Quality Response Plan (page 6), which subjects transfers to the requirements of the Water Quality Response Plan. While a revised Water Quality Response Plan will be required for Stage 3 JPOD diversions, the Division assumes that transfers will continue to be subject to the conditions of the Water Quality Response Plan.

SWRCB-9

Page 5.1-2 states that the SDIP operational alternatives will not modify the water quality and flow objectives for the Delta that the SWP and the CVP are responsible to meet. The EIS/EIR should specifically state as part of the project description that DWR and USBR will not increase diversions pursuant to the SDIP unless they are in compliance with the various terms and conditions of their water right permits (and USBR's license) for diversion and use of water, including water quality and flow requirements.

SWRCB-10

The discussion of appropriative rights on page 5.1-5 should include a discussion of pre-1914 appropriative rights. Further, in addition to the discussion concerning the State Water Board's

SWRCB-11

Feb 07, 2006 00134

Mr. Paul Marshall

- 5 -

February 7, 2006

ability to reserve jurisdiction over water right permits and licenses, the EIS/EIR should state that the State Water Board has continuing authority to revise water right permits and licenses for certain purposes, even if the State Water Board has not reserved jurisdiction.

SWRCB-11

Under the discussion of the 1995 WQCP on page 5.1-7, it is not correct to refer to "...the State Water Board and Reclamation's final EIR for implementation [of the 1995 Plan]..." The State Water Board prepared the EIR for implementation of the 1995 Plan. USBR's environmental document had nothing to do with implementation of the 1995 Plan. It was solely for the purpose of supporting USBR's petition to change its place and purpose of use. Further, there were two separate environmental documents and not one joint document as the EIS/EIR appears to state-

SWRCB-12

The EIS/EIR should include a description of the types of transfers that may occur pursuant to Stage 2 of the proposed project, including the associated regulatory requirements that must be satisfied for the various transfers to occur. Due to the programmatic nature of the analyses concerning water transfers included in the EIS/EIR, any transfers conducted pursuant to Stage 2 of the proposed project requiring approval by the State Water Board may require additional analyses beyond those included in the EIS/EIR to determine that specific transfers meet the requirements of the California Water Code, including no injury to other legal users of water and no unreasonable effects on fish, wildlife, or other instream beneficial uses of water.

SWRCB-13

Chapter 5 should specifically discuss how the proposed project will comply with the requirements for using all three stages of JPOD included on pages 150 through 153 of D-1641, including compliance with the response plans to protect water levels, water quality, and fisheries and other legal users of water, and the further requirements for use of Stage 3 JPOD.

SWRCB-14

The EIS/EIR states that water levels may be reduced to less than 0 feet mean sea level under certain operational scenarios at various sites. While the EIS/EIR states that these impacts are expected to be less than significant due to the characteristics of the pumps, the EIS/EIR should include contingency mitigation if water level impacts are identified.

SWRCB-15

Chapter 6

Chapter 6 identifies significant impacts to Delta smelt from reduction in food availability and states that the impacts will be mitigated to be less than significant by minimizing entrainment losses of Delta Smelt associated with increased SWP pumping. It is unclear how minimizing entrainment of Delta smelt will fully mitigate food supply impacts. Though Delta smelt would presumably experience less direct mortality from entrainment due to the mitigation, they would continue to experience the effects of reduced food supplies, which may lead to mortality. While ensuring that X2 does not move upstream substantially may provide some level of mitigation for these food supply impacts, there may still be impacts from Stage 2 operations related to water moving too quickly through the system for proper phytoplankton and zooplankton production.

SWRCB-16

Feb 07, 2006 00134

Mr. Paul Marshall

- 6 -

February 7, 2006

The EIS/EIR should address this potential impact. Specifically, the State Water Board is concerned how any JPOD diversion would affect this issue.

The EIS/EIR does not appear to discuss the effects of permanent operable gate operation on juvenile and adult steelhead migration. The EIS/EIR should discuss this issue.

SWRCB-17

The EIS/EIR should discuss how the proposed project will affect USBR's ability to meet the daily average temperature target of 56 degrees Fahrenheit on the Sacramento and Trinity rivers. While the EIS/EIR does provide estimates of Chinook salmon and Steelhead temperature survival indices for the Sacramento River, it is not clear what the actual change in temperature would be under the proposed project and how those changes would affect USBR's ability to meet the temperature target.

SWRCB-18

Regarding entrainment impacts from Stage 2 of the project on fall-/late fall-run Chinook salmon from the San Joaquin River Basin, due to the uncertainty regarding appropriate mitigation for significant impacts, the State Water Board will require additional information concerning the efficacy of the proposed mitigation measure or additional mitigation for this impact prior to approval of the plan to protect aquatic resources for use of Stage 3 JPOD.

SWRCB-19

The EIS/EIR should specify how mitigation measures MM-1, MM-2, and MM-3 will minimize entrainment related losses of fish species caused by increased diversions. The State Water Board will require additional specific information regarding how entrainment related losses of fish species will be reduced prior to approval of the plan to protect aquatic resources for use of Stage 3 JPOD.

SWRCB-20

The mitigation measures for significant entrainment impacts rely on EWA assets that have not yet been acquired. The EIS/EIR should specify that if the EWA does not have sufficient assets to support any necessary mitigation, alternative mitigation will be provided or additional diversions will not be allowed. Approval of the plan to protect aquatic resources for use of Stage 3 JPOD will likely require such measures or equivalent mitigation.

Chapter 8

On page 8-12 and 8-13, the EIS/EIR states that CWA Section 401 certifications are typically processed by the Regional Water Quality Control Board (Regional Water Board) with local jurisdiction and that for the purposes of this project, USBR will obtain certification from the Central Valley Regional Water Board. However, for the SDIP, an application for a Section 401 Water Quality Certification needs to be submitted to the Executive Director of the State Water Board pursuant to California Code of Regulations Title 23 section 3855(b) because the project is associated with a water supply project. The application needs to demonstrate that this project has no impact on water quality, whether short-term (e.g. impacts from construction activities) or long-term (e.g. effects of new dredged channel geometry or long-term barrier/pumping

SWRCB-21

Feb 07, 2006 00134

Mr. Paul Marshall

- 7 -

February 7, 2006

operations). A certified SDIP EIS/EIR would need to be part of that application. To support a Section 401 Water Quality Certification, the SDIP EIS/EIR would need to address concerns raised in these comments and raised by the Regional Water Board in their comments on the SDIP EIS/EIR and any other substantive relevant comments raised by other parties.

The last paragraph on page 8-21 discusses the parameters included in the Water Quality Control Plans and Basin Plans for the project area. This list should also include dissolved oxygen, chlorides, and flow, which are water quality objectives included in the 1995 Plan.

The first paragraph on page 8-22 states that the project has the potential to affect water quality in the Central Valley region and the San Francisco Bay region, which are governed by the Central Valley Regional Water Board and the San Francisco Bay Regional Water Board, respectively.

The EIS/EIR should also discuss the water quality objectives for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary that are governed by the State Water Board and the Division through the 1995 Plan and its implementation in D-1641.

The first paragraph on page 8-27 under the 1995 Plan states that the State Water Board reviews the Water Quality Control Plan every three years. The EIS/EIR should instead state that the California Water Code at section 13240 requires periodic review of water quality control plans and that the federal CWA, at section 303 (c) requires a triennial review of state water quality standards as defined in the Act.

SWRCB-21

The first paragraph on page 8-27 under the 1995 Plan also states that the 1995 Plan ordered DWR and USBR to meet the salinity and flow objectives in the 1995 Plan. This is incorrect. Instead, following adoption of the 1995 Plan, the State Water Board adopted Order 95-6 (and subsequently Order 98-9 which continued the temporary terms and conditions included in Order 95-6) which approved petitions by DWR and USBR to temporarily change their water rights in order to implement objectives in the 1995 Plan while the Water Board prepared a long-term water right decision to implement the plan. D-1641 is the long-term water right Decision that implements parts of the 1995 Plan and places responsibility on DWR and USBR to meet specified water quality and flow objectives.

Chapter 10

On page 10-16 and 10-17, the EIS/EIR states that the Central Valley Regional Water Board adopted an amendment to the Basin Plan and that the State Water Board has not taken final action on this issue. The discussion should be updated to state that the State Water Board adopted Resolution 2005-0087 on November 16, 2005 approving an amendment to the Water Quality Control Plan for the Central Valley Region to incorporate a Total Maximum Daily Load (TMDL) for the control of salt and boron discharges into the lower San Joaquin River.

SWRCB-22

Feb 07, 2006 00134

Mr. Paul Marshall

- 8 -

February 7, 2006

Thank you for the opportunity to comment on the SDIP EIS/EIR.

If you have any questions concerning these comments, please contact Diane Riddle of my staff at (916) 341-5297.

Sincerely,

ORIGINAL SIGNED BY DIANE RIDDLE FOR

Gita Kapahi
Chief Bay-Delta/Special Projects Unit

cc: Les Grober
Central Valley Regional Water Board
11020 Sun Center Drive #200
Rancho Cordova, CA 95670-6114

Mark Gowdy
Central Valley Regional Water Board
11020 Sun Center Drive #200
Rancho Cordova, CA 95670-6114

Responses to Comments

SWRCB-1

The text in the Executive Summary has been revised per your comment, to clarify the existing diversion limits for CCF.

SWRCB-2

Nonjurisdictional riparian habitat refers to habitat that is not considered jurisdictional tidal or freshwater wetlands or shallow water habitat (under Corps rules); it is adjacent to the south Delta channels and above high water level.

The avoidance and credit system is the alternative mitigation for fish entrainment impacts that would be implemented by DWR if an expanded EWA is not authorized and funded. Please see Master Response E, *Reliance on Expanded Environmental Water Account Actions for Fish Entrainment Reduction*.

SWRCB-3

The description of the EWA in Chapter 1 of the SDIP Draft EIS/EIR is only an introduction to EWA actions and operational procedures. A more thorough description of EWA is provided in Section 5.1 and in Appendix B of the SDIP Draft EIS/EIR. The reference has been added to the text in Chapter 1.

SWRCB-4

The description of the purpose and function of the VAMP has been revised in Chapter 1 of the SDIP Draft EIS/EIR; VAMP is not designed to benefit delta smelt.

SWRCB-5

Table 1-6 of the SDIP Draft EIS/EIR has been revised per your comment.

SWRCB-6

The summary of D-1641 in Chapter 1 of the SDIP Draft EIS/EIR is only an introduction to these complex rules for SWP and CVP Delta operations. More

discussion of D-1641 is provided in Section 5.1. The suggested corrections to the description in Chapter 1 have been made.

SWRCB-7

The summary of Joint Points Of Diversion (JPOD) requirements in Chapter 2 of the SDIP Draft EIS/EIR is only an introduction. DWR and Reclamation understand and follow the approval process for each Stage of JPOD. Additional details about the JPOD are not considered necessary for purposes of the SDIP Draft EIS/EIR analysis.

SWRCB-8

Table 5.1-1 of the SDIP Draft EIS/EIR is a summary of the CALSIM model assumptions. As described in the section, these assumptions for minimum flows are more fully documented in the CALSIM 2001 Benchmark studies. The Trinity flows are described in 5.1-10. The Yuba flows are not actually simulated in CALSIM; these are fixed monthly inflows from another model, and are therefore not changed by the SDIP alternatives. The American River water forum flows are not included in the 2020 simulations because they were not applicable when the modeling was completed. The relaxation of E/I in February of drier years is included in the CALSIM model.

SWRCB-9

Actual operation of JPOD and water transfers will meet all applicable water quality and fisheries conditions, as specified in D-1641. The various EC objectives are assumed to be satisfied in the CALSIM and DSM2 modeling evaluation of the baseline and alternatives. All D-1641 objectives and conditions are assumed to be satisfied during future water transfers.

SWRCB-10

DWR and Reclamation will fully comply with all water quality and flow requirements in D-1641. An environmental commitment has been added to Chapter 2 of the SDIP Draft EIS/EIR per your comment.

SWRCB-11

The discussion of water rights in Section 5.1 of the SDIP Draft EIS/EIR is only a summary. DWR and Reclamation recognize the continuing authority of the State Water Board to revise water rights permits and licenses.

SWRCB-12

This mistake in referring to the EIR for the 1995 Water Quality Control Plan (WQCP) has been corrected.

SWRCB-13

The possible need for additional approval from State Water Board for future water transfers is recognized and mentioned on page 5.1-53.

SWRCB-14

The details of JPOD requirements are not considered necessary for the SDIP Draft EIS/EIR evaluation of water supply and management. DWR and Reclamation will fully comply with all State Water Board approval requirements.

SWRCB-15

The possible effects of the SDIP on local water diversions are accurately described. Stage 1 of SDIP will include channel dredging, pump intake extensions, and operable gates to improve water levels. No significant effects on water supply were identified, and none are expected. No contingency mitigation is necessary.

SWRCB-16

Entrainment loss of zooplankton (food) is unknown and not separable from the impacts on smelt or other fish. The assumption was made that smelt and their prey (zooplankton) coexist in the water column. Hence, reducing entrainment of smelt should have a concomitant beneficial impact on zooplankton as well. The majority of delta smelt rearing is assumed to occur in the vicinity of X2. Therefore, maintaining existing patterns of X2, as required in D-1641, is assumed to protect the majority of delta smelt food resources. JPOD is a very small portion of total pumping and has no more effect than other pumping.

SWRCB-17

Effects of proposed operations on steelhead are discussed under Impact Fish-56. There is no specific information available on impacts of gate operations for steelhead. Because of this, impacts were assumed to be similar to those on Chinook salmon. The new tidal gates will be open much more of the time and are assumed to be an improvement over temporary barrier conditions.

SWRCB-18

The CALSIM modeling suggests that very small changes in Sacramento River flows will result from any SDIP alternative. Therefore, changes in temperature management below Keswick will not be changed substantially. The spawning and incubation life stages of winter-run Chinook salmon are most sensitive to temperature above 56°F. Potential temperature impacts in the Sacramento River were analyzed relative to the survival indices for Chinook salmon and steelhead (Table 6.1-7 of the SDIP Draft EIS/EIR) and the life history patterns (Table 6.1-2). Results of the analysis of temperature impacts in the Sacramento River are summarized in Table K.2A-3. The expected change in temperature in the Sacramento and Trinity Rivers as a result of the proposed SDIP operations is very small.

SWRCB-19

The role of the State Water Board in approving future JPOD operations using increased pumping limits is recognized. Assessment of Stage 2 impacts and mitigation needs will be addressed further during the Stage 2 deliberations. The proposed mitigation for entrainment impacts is an expanded EWA (or avoidance and credit system). Please see the discussion in Master Response E, *Reliance on Expanded Environmental Water Account Actions for Fish Entrainment Reduction*.

SWRCB-20

Fish MM-1, MM-2 and MM-3 are similar and designed to mitigate significant impacts on fall-/late fall-run Chinook salmon (MM-1), winter-run and spring-run Chinook salmon (MM-2) and delta smelt (MM-3) related to entrainment caused by increased SWP pumping. All three rely on the strategy of limiting SWP pumping in excess of 6,680 cfs during periods when fish protection actions to reduce exports are being taken by EWA managers. DWR mitigation of pumping in excess of 6,680 cfs will not exceed that provided by the EWA. Details of these mitigation measures will be explored during Stage 2 deliberations. Please see the discussion in Master Response E, *Reliance on Expanded Environmental Water Account Actions for Fish Entrainment Reduction*.

SWRCB-21

The CWA Section 401 Water Quality Certification application will be submitted to the Executive Director of the State Water Board.

SWRCB-22

Revisions to Chapter 10 of the SDIP Draft EIS/EIR were completed per your comment.