

Appendix H

Comments and Responses to Comments Received on the Draft Initial Study/Environmental Assessment and Mitigated Negative Declaration



Central Valley Regional Water Quality Control Board

27 February 2017

Karen Enstrom
Department of Water Resources
3500 Industrial Boulevard
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COMMENTS TO REQUEST FOR REVIEW FOR THE MITIGATED NEGATIVE DECLARATION, FREMONT WEIR ADULT FISH PASSAGE MODIFICATION PROJECT, SCH# 2017022012, YOLO COUNTY

Pursuant to the State Clearinghouse's 3 February 2017 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Mitigated Negative Declaration* for the Fremont Weir Adult Fish Passage Modification Project, located in Yolo County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

I. Regulatory Setting **Comment 1-1**

Basin Plan

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases,

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the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues.

For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:

http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/.

Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Policy is available on page IV-15.01 at:

http://www.waterboards.ca.gov/centralvalleywater_issues/basin_plans/sacsjr.pdf

In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

II. Permitting Requirements

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan

(SWPPP).

For more information on the Construction General Permit, visit the State Water Resources Control Board website at:
http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml.

Phase I and II Municipal Separate Storm Sewer System (MS4) Permits¹

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/.

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:
http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml

Industrial Storm Water General Permit

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 2014-0057-DWQ.

For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml.

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACOE). If a Section 404 permit is required by the USACOE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water

¹ Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements.

If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACOE at (916) 557-5250.

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACOE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications.

Waste Discharge Requirements – Discharges to Waters of the State

If USACOE determines that only non-jurisdictional waters of the State (i.e., "non-federal" waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation.

For more information on the Water Quality Certification and WDR processes, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/help/business_help/permit2.shtml.

Dewatering Permit

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Risk General Order) 2003-0003 or the Central Valley Water Board's Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Risk Waiver) R5-2013-0145. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Risk General Order and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf

For more information regarding the Low Risk Waiver and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2013-0145_res.pdf

Regulatory Compliance for Commercially Irrigated Agriculture

If the property will be used for commercial irrigated agricultural, the discharger will be required to obtain regulatory coverage under the Irrigated Lands Regulatory Program. There are two options to comply:

1. **Obtain Coverage Under a Coalition Group.** Join the local Coalition Group that supports land owners with the implementation of the Irrigated Lands Regulatory Program. The Coalition Group conducts water quality monitoring and reporting to the Central Valley Water Board on behalf of its growers. The Coalition Groups charge an annual membership fee, which varies by Coalition Group. To find the Coalition Group in your area, visit the Central Valley Water Board's website at: http://www.waterboards.ca.gov/centralvalley/water_issues/irrigated_lands/app_approval/index.shtml; or contact water board staff at (916) 464-4611 or via email at IrrLands@waterboards.ca.gov.
2. **Obtain Coverage Under the General Waste Discharge Requirements for Individual Growers, General Order R5-2013-0100.** Dischargers not participating in a third-party group (Coalition) are regulated individually. Depending on the specific site conditions, growers may be required to monitor runoff from their property, install monitoring wells, and submit a notice of intent, farm plan, and other action plans regarding their actions to comply with their General Order. Yearly costs would include State administrative fees (for example, annual fees for farm sizes from 10-100 acres are currently \$1,084 + \$6.70/Acre); the cost to prepare annual monitoring reports; and water quality monitoring costs. To enroll as an Individual Discharger under the Irrigated Lands Regulatory Program, call the Central Valley Water Board phone line at (916) 464-4611 or e-mail board staff at IrrLands@waterboards.ca.gov.

Low or Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Dewatering and Other Low Threat Discharges to Surface Waters* (Low Threat General Order) or the General Order for *Limited Threat Discharges of Treated/Untreated Groundwater from Cleanup Sites, Wastewater from Superchlorination Projects, and Other Limited Threat Wastewaters to Surface Water* (Limited Threat General Order). A complete application must be submitted to the Central Valley Water Board to obtain coverage under these General NPDES permits.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0074.pdf

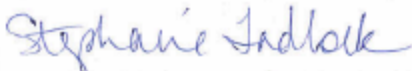
For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0073.pdf

NPDES Permit

If the proposed project discharges waste that could affect the quality of the waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit.

For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/help/business_help/permit3.shtml

If you have questions regarding these comments, please contact me at (916) 464-4644 or Stephanie.Tadlock@waterboards.ca.gov.



Stephanie Tadlock
Environmental Scientist

cc: State Clearinghouse unit, Governor's Office of Planning and Research, Sacramento

**Response to Comments from the Central Valley Regional Water Quality Control Board
Correspondence Dated February 27, 2017**

Response 1-1

The comment is noted and the Initial Study/Environmental Assessment (IS/EA) has considered the regulatory setting and permitting requirements as described in the comment letter. Specifically, the following regulations were included in the regulatory setting of Section 3.10, "Hydrology and Water Quality" (IS/EA page number indicated in parentheses):

- Basin Plan, which includes Antidegradation Considerations (page 175)
- Construction Storm Water General Permit (page 173 under *Clean Water Act Section 402*)
- Clean Water Act Section 404 Permit (Page 172)
- Clean Water Act Section 401 Permit (Page 173)
- Waste Discharge Requirements - Discharges to Waters of the State (page 173 under *Clean Water Act Section 402*)
- Dewatering Permit (page 173 under *Clean Water Act Section 402*)
- NPDES Permit, which would include the Low or Limited Threat General NPDES Permit (page 173 under *Clean Water Act Section 402*)

The Clean Water Act Section 404 and 401 Permits are also included in the regulatory setting of section 3.5, "Biological Resources" (pages 107 and 108, respectively). The Clean Water Act Section 402 is also included in the regulatory setting of section 3.7, "Geology and Soils" (page 151). The Clean Water Act Section 404 and 401 Permits, and the Construction Storm Water General Permit, are also included in Table 5-1, "Permits and Approvals that May Be Required for the Fremont Weir Adult Fish Passage Modification Project" (page 231).

The following regulations were not included in the IS/EA because they are not relevant to the proposed project:

- Phase I and ii Municipal Separate Storm Sewer System (MS4) Permits
- Industrial Storm Water General Permit
- Regulatory Compliance for Commercially Irrigated Agriculture

From: Russ.Stephanie@Wildlife
To: Enstrom.Karen@DWR
Cc: [Wildlife R2 CEQA](#)
Subject: Freemont Weir Adult Fish Passage Modification Project CDFW comments
Date: Friday, March 03, 2017 9:26:14 AM

Ms. Enstrom,

Below are CDFW's comments on the Mitigated Negative Declaration for the Freemont Weir Adult Fish Passage Modification Project (SCH# 2017022012).

During the review of the draft IA/IS, CDFW noted that work would be conducted between the hours of 7 am and 7 pm. CDFW recommended a mitigation measure be incorporated for work conducted after dusk (see below). Although the MND does include a measure for work during non-daylight hours for bats, the MND should be revised to include a mitigation measure for addressing construction activities during the non-daylight hours to address workers ability to see other species that might move into the project site such as GGS.

Comment 2-1

From the draft IA/IS Section 2.2.2, CDFW comments:

The majority of proposed construction activities are anticipated to take place between May 1 and November 1, outside of the flood season. That said, the construction start date depends on water elevations and permit acquisitions. Construction would take place from 7 a.m. to 7 p.m.^[SB1], Monday through Friday. Adjacent landowners and Yolo County would be notified prior to the start of construction activities.

Thank you for incorporating most of CDFW's recommendations regarding bats; however, CDFW recommends that Mitigation Measure WILD-12 be revised to adjust the dates of tree removal from September 1 through October 31 to August 31 through October 15 as these dates are conservative (see comment below from draft IA/IS).

Comment 2-2

Mitigation Measure WILD-12: Conduct pre-construction surveys for western red bat and pallid bat.^[SB2]

A qualified biologist shall conduct pre-construction surveys for western red bat, pallid bat, and roosts within 48 hours prior to the start of construction activities. If there is a lapse in construction activities of two weeks or greater, the area shall be resurveyed within 24 hours prior to recommencement of work.

Evicting bats at the time hibernation begins can be detrimental to the bats. CDFW recommends Mitigation Measure WILD-12 be revised (revisions in italics and underlined) to:

Comment 2-3

All removal of trees with bat roosts shall be conducted between August 31 through October 15 or before if evening temperatures fall below 45 degrees Fahrenheit and/or more than ½" of rainfall within 24 hours occur. This corresponds to a time period when bats would not be caring for non-volant young and have not yet entered torpor. If a non-maternity roost is found in a tree that must be removed or trimmed between August 31 through October 15, a qualified biologist shall monitor tree removal/trimming. Tree removal/trimming shall occur over two consecutive days. On the first day in the afternoon, limbs and branches shall be removed using chainsaws only. Limbs with cavities, crevices, or deep bark fissures shall be

avoided, and only branches or limbs without those features shall be removed. On the second day, the entire tree shall be removed. Prior to tree removal/trimming, each tree shall be shaken gently and several minutes shall pass before felling trees or limbs to allow bats time to arouse and leave the tree. The biologist shall search downed vegetation for dead or injured bat species and report any dead or injured special-status bat species to CDFW. Tree removal may occur up to October 30 provided evening temperatures have not dropped below 45 degrees Fahrenheit and/or no more than ¼-inch of rainfall within 24 hours has occurred.

CDFW recommended in the draft IA/IS that the MND include a mitigation measure (see below), that California Endangered Species Act Permits be obtained prior to construction activities. CDFW recommends that a mitigation measure be included in the MND that addresses obtaining the appropriate permits (CESA, 1600) prior to any construction activities.

Comment 2-4

Mitigation Measure FISH-3: Conduct fish rescues in conjunction with dewatering efforts.

After sheet piles are installed and in conjunction with dewatering, a fish rescue shall be conducted by NMFS- and CDFW-approved fish biologists. As the work site is being dewatered, all fish shall be captured and immediately released to a suitable downstream habitat near the project site. NMFS and CDFW shall be contacted in the event sensitive fish species are encountered during the dewatering effort. (S83) Dewatering pumps shall be screened according to NMFS fish-screening criteria for anadromous salmonids (National Marine Fisheries Service 1997).

Mitigation Measure REC-1 discusses construction activities not taking place during the first two days and first two weekends of hunting season for specific hunting. During review of the draft IA/IS, Mitigation Measure REC-1 included spring turkey general opener (see yellow highlight below).

The construction contractor shall coordinate with the CDFW FWWA manager at least one week prior to construction, and weekly during construction periods, to ensure that construction closure areas, signage, and non-construction periods are arranged to avoid most hunting or other access conflicts in the FWWA. Construction shall not occur during the first two days and weekends (184) of the following hunting seasons: dove season (September 1 and 2), fall upland game opener (second Saturday of November), regular deer season opening weekend (forth Saturday of September), spring turkey general opener (last Saturday of March) and opening weekend of waterfowl season (fourth Saturday of October). If opening dates are weekdays that adjoin weekends, construction may be curtailed through the weekend. The construction contractor shall coordinate with the CDFW FWWA manager regarding the need to curtail construction through weekend periods in those cases. The construction contractor shall construct and maintain a temporary no-hunting barrier fence extending 150 yards away from the construction area and provide “no-hunting” signage around the fence, indicating the periods of construction and associated hunting restrictions. The construction contractor shall coordinate with the CDFW FWWA manager regarding periods of construction so the manager can provide website notifications.

The MND does not include spring turkey general opener in the Mitigation Measure REC-1. Please revise Mitigation Measure REC-1 of the MND to state:

Comment 2-5

The construction contractor shall coordinate with the CDFW FWWA manager at least one week prior to construction, and weekly during construction periods, to ensure that construction closure

areas, signage, and non-construction periods are arranged to avoid most hunting or other access conflicts in the FWWA. Construction shall not occur during the first two days and first two weekends of the following hunting seasons (dates represent opening day): spring turkey general opener (March 31), archery deer season (August 19), dove season (September 1), regular deer season (September 23), quail season (October 14), and fall upland game season (November 11). The construction contractor shall construct and maintain a temporary no-hunting barrier fence extending 150 yards away from the construction area and provide "no-hunting" signage around the fence, indicating the periods of construction and associated hunting restrictions. The construction contractor shall coordinate with the CDFW FWWA manager regarding periods of construction so the manager can provide CDFW website notifications.

Stephanie Buss

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Depending on time of year, there may be no daylight during certain times. What measures will be incorporated to be able to visually see any species such as GGS from encroaching into the work area?

For all 3 measures: A habitat assessment for potentially suitable bat habitat within six months of Project activities is recommended. If the habitat assessment reveals suitable bat habitat then tree trimming and/or tree removal should be only conducted during seasonal periods of bat activity (from August 31 through October 15, a period prior to hibernation when young are self-sufficiently volant, and from March 1 to April 15, to avoid hibernating bats and prior to formation of maternity colonies) under supervision of a qualified biologist. Trees should be trimmed and/or removed in a two-phased removal system conducted over two consecutive days. The first day (in the afternoon), limbs and branches should be removed by a tree cutter using chainsaws only. Limbs with cavities, crevices or deep bark fissures should be avoided, and only branches or limbs without those features should be removed. On the second day, the entire tree should be removed. Project proponents should consult with a qualified bat biologist to determine suitable buffers around roost and/or hibernaculum sites. Buffers may vary depending on species and Project activity being performed.

Any potential take of state listed species would need authorization through a CESA permit. CDFW recommends that a measure be included stating prior to construction activities, a CESA permit will be obtained.

It is preferred that all weekends during the hunting seasons be avoided to minimize disturbance to hunters and other users.

**Response to Comments from the California Department of Fish and Wildlife Correspondence
Dated March 3, 2017**

Response 2-1

Although the exclusion fencing included in Mitigation Measure WILD-7 would prevent giant garter snakes from encroaching into the construction work area, a measure was added to Mitigation Measure WILD-2 (page 113) to provide additional protection for all wildlife species in the event that construction activities extend beyond daylight hours:

Mitigation Measure WILD-2: Implement general wildlife protection measures during construction.

The construction contractor shall implement general wildlife protection measures during construction that shall include, but may not be limited to, the following:

- Limit construction activities to daylight hours, to the extent feasible.
- If work extends beyond daylight hours, use portable construction lighting to illuminate the area of construction activity.
- Confine clearing to the minimal area necessary to facilitate construction activities.
- Clearly delineate the project area limits by using fencing, flagging, or other means prior to the start of construction activities.
- Avoid wildlife entrapment by completely covering, or providing escape ramps for, all excavated steep-walled holes or trenches more than 1 foot deep at the end of each work day.
- Inspect the work area and any equipment or material left on-site overnight for special-status wildlife species prior to the start of construction activities each day.
- Observe posted speed limit signs on local roads and observe a 15-mile-per-hour speed limit along ingress/egress routes.
- Dispose of food-related garbage in wildlife-proof containers and remove the garbage from the construction area regularly during the construction period.
- Retain a qualified biological monitor to be present or on-call during construction activities with the potential to affect sensitive biological resources. The biological monitor shall be on-site during initial ground-disturbing activities. The biological monitor shall ensure that any construction or exclusion fencing is maintained. The biological monitor shall have the authority to stop work if a special-status wildlife species is encountered within the project area during construction, and the appropriate regulatory agency(ies) shall be notified. Construction activities shall cease until it is determined that the species will not be harmed or that it has left the construction area on its own.

Response 2-2

Commenter recommends revising the dates included in Mitigation Measure WILD-12 from ‘September 1 through October 31’ to ‘August 31 through October 15’. However, Comment 2-3 recommends further revision of the dates during which trees may be removed. Please refer to Response 2-3 to see how these multiple proposed revisions were addressed.

Response 2-3

Commenter recommends revising the dates included in Mitigation Measure WILD-12 to ‘August 31 through October 15’, with the caveat that the work window may be shortened *if evening temperatures fall below 45 degrees Fahrenheit and/or more than ½” of rainfall within 24 hours occur*. However, the commenter also requests that the following be added to the measure: *Tree removal may occur up to October 30 provided evening temperatures have not dropped below 45 degrees Fahrenheit and/or no more than ½-inch of rainfall within 24 hours has occurred*. Follow-up discussions between CDFW and DWR regarding the start date for tree removal resulted in further revisions from ‘August 31’ to ‘August 15’. Additional revisions resulted in a change of mitigation measure numbering such that WILD-12 became WILD-15. For the purpose of consistency and clarity, the suggested revisions were incorporated on page 123, as follows:

Mitigation Measure WILD-15: Implement protective measures during removal of trees ~~with~~that provide suitable bat roosting habitat.

All removal of trees ~~with~~that provide suitable bat roosting habitat (such as trees with deep bark crevices, snags, or holes) shall be conducted between August 15 and October 30, or earlier than October 30 if evening temperatures fall below 45 degrees Fahrenheit and/or more than ½” of rainfall occurs within 24 hours. If the pre-construction surveys, as mentioned in WILD-13, identify a tree with bats that could potentially be a nursery roost, that tree shall be removed between August 15 and October 30. These dates correspond to a time period when bats would not be caring for non-volant young and have not yet entered torpor. If a non-maternity roost is found in a tree that must be removed or trimmed between September 1 and October 30, a qualified biologist shall monitor removal/trimming of trees that provide suitable bat roosting habitat. Tree removal/trimming shall occur over two consecutive days. On the first day in the afternoon, limbs and branches shall be removed using chainsaws only. Limbs with cavities, crevices, or deep bark fissures shall be avoided, and only branches or limbs without those features shall be removed. On the second day, the entire tree shall be removed. Prior to tree removal/trimming, each tree shall be shaken gently and several minutes shall pass before felling trees or limbs to allow bats time to arouse and leave the tree. The biologist shall search downed vegetation for dead or injured bat species and report any dead or injured special-status bat species to CDFW.

Response 2-4

DWR and Reclamation are legally required to obtain the appropriate permits and authorizations prior to the start of any construction activities; therefore, the addition of the requested mitigation measure is not warranted, and the measure would not serve as an effective mitigation measure. In addition, the permits and approvals that are anticipated to be required, including California Endangered Species Act Consultation (Section 2081) and Lake and Streambed Alteration Agreement (Section 1602 of the California Fish and Game Code), are disclosed in Table 5-1, “Permits and Approvals that May Be Required for the Fremont Weir Adult Fish Passage Modification Project”, on page 231 of the IS/EA.

Response 2-5

Proposed project construction is expected to occur from May through October. The first two days and weekends of the spring turkey general opener occur during the months of March and April. The spring turkey general opener was not included in the mitigation measure because it is not relevant to the proposed project.



March 4, 2017

Karen Enstrom
Yolo Bypass Habitat Restoration Program
Division of Environmental Services
3500 Industrial Blvd.
West Sacramento, CA 95691

Ben Nelson
U.S. Bureau of Reclamation
Bay-Delta Office
801 I Street, Suite 140
Sacramento, CA 95814

Subject: Fremont Weir Adult Fish Passage Modification Project IS/EA

Dear Ms. Enstrom and Mr. Nelson:

On behalf of the Yolo Basin Foundation Board of Directors we are writing to provide several comments on the proposed Fremont Weir Adult Fish Passage Modification Project IS/EA. The project area includes Fremont Weir, a portion of the Fremont Weir Wildlife Area, two downstream agricultural road crossings in the Tule Canal, and an area within the northern Elkhorn Basin.

Comment 3-1

We commend DWR and the BOR on the innovative design proposed for this project to provide access out of the Yolo Bypass for adult salmonids and sturgeon. We appreciate the thorough analysis and your agencies' willingness to meet and discuss preliminary plans and analysis with stakeholders including Yolo Basin Foundation over the last several years.

We are confident that the proposed project will meet the goals of improving adult fish passage while protecting these multiple land uses. The Yolo Basin Foundation advocates for the

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protection and improvement of the successful mosaic of multiple land uses in the Yolo Bypass including flood protection, agriculture, managed wetlands on both public and private land and public access for recreation and education. The project, as proposed, addresses these multiple uses.

Impacts to agriculture and managed wetlands can occur when the Fremont Weir (Weir) continues to over top after early March. When flows over the Weir stop in early spring soils begin drying out at a rate that allows for field preparation activities for rice planting to begin at an appropriate time. Moist Soil Best Management Practices (used for maintenance of managed wetlands on the Yolo Bypass Wildlife Area) are based on soils beginning to dry out in March. Modifications to the Weir that lead to longer inundation in the spring could impact agriculture and managed wetlands. Additionally, inundation of the Yolo Bypass Wildlife Area occurs when the Weir overtops at flows of 3,000 cfs due to flooding of the Toe Drain south of Interstate 80. Spring flooding of the Toe Drain prevents drainage of rice fields and managed wetlands, slowing down field prep and management activities. Comment 3-2

Implementation of Scenarios 2 and 3 as described in Section 2.2.3 Operation and Maintenance and supported by data in Appendix F address these concerns. Yolo Basin Foundation supports these measures.

2.2.3 Operation and Maintenance

2.2.3.1 Fremont Weir Fish Passage Structure Operation and Maintenance

As stated on Page 41:

- Scenario 2: The fish passage structure remains open for three days after Fremont Weir stops overtopping.
- Scenario 3: The fish passage structure remains open for one day after Fremont Weir stops overtopping and reopens when the river stage falls below 27 feet and closes when the river stage reaches 24 feet, for no longer than five days.

Modeling results for Scenarios 2 and 3 indicated no significant changes in Yolo Bypass

drainage and inundation patterns (refer to Figure 3.10-1 through Figure 3.10-3 in section 3.10, "Hydrology and Water Quality"). Because of the inundation increase and fish passage uncertainty inherent in Scenario 1, the proposed project would only implement Scenario 2 or Scenario 3.

Appendix F:

The Technical Memorandum, Fremont Weir Adult Fish Passage Modification Project Flow Analysis Draft Report, November 2016 states Scenarios 2 and 3 Modeling results indicate no significant changes in Yolo Bypass drainage and inundation patterns.

The impacts to existing land uses due to increased inundation is also addressed in the document as follows:

2.2.1 Proposed Modifications to Existing Facilities in the Project Area

2.2.1.1 Fremont Weir Fish Ladder Modification

As stated on Page 21:

In addition, the maximum target flow through the fish passage structure would be limited to approximately 1,100 cubic feet per second (cfs) when the Sacramento River reaches an elevation of 31.8 feet, the point at which Fremont Weir begins to overtop. This flow target would minimize impacts on existing land uses in the Yolo Bypass and avoid impacts on water diverters along the Sacramento River.

Please make the following edit. The word highlighted in yellow below should be changed to Basin. Comment 3-3

3.12.1.1 Regional Recreation

Page 186

The Yolo **Bypass** Foundation estimates that more than 4,000 students, teachers, and parents visit the area annually to participate in the Discover the Flyway program implemented in partnership with CDFW (Yolo Basin Foundation 2016)

Thank you for the opportunity to comment on this important and timely project. If you have any questions, please contact Robin Kulakow at robin@yolobasin.org.

Yolo Basin Foundation
March 4, 2017

Sincerely,



Pete Bontadelli
Chairman



Robin Kulakow
Policy Director

Cc:

Kristopher Tjernell, CA Resources Agency

Jim Provenza, Yolo County Board of Supervisors

Cecilia Aguiar-Curry, Assemblymember, District 4

Response to Comments from the Yolo Basin Foundation Correspondence Dated March 4, 2017

Response 3-1

The commenter's description of Proposed Project benefits and support for the Project are noted and appreciated.

Response 3-2

The commenter's concurrence with Proposed Project operations and the associated impact analysis, as well as the commenter's description of Proposed Project benefits and support for the Project, are noted and appreciated.

Response 3-3

Text was corrected on page 194, as follows: The Yolo ~~Bypass~~ Basin Foundation...



March 6, 2017

Karen Enstrom
California Department of Water Resources
3500 Industrial Blvd.
West Sacramento, CA 95691

Ben Nelson
Bureau of Reclamation, Bay-Delta Office
801 I Street, Suite 140
Sacramento, CA 95814

RE: Fremont Weir Adult Fish Passage Modification Project

Dear Ms. Enstrom and Mr. Nelson,

On behalf of the Sacramento Valley Salmon Recovery Program, we support the fish passage improvements outlined in the Fremont Weir Adult Fish Passage Modification Project Initial Study/Environmental Assessment dated February 2017. These fish passage improvements have been identified as priorities by the Sacramento Valley Salmon Recovery Program, a collaborative effort of water management entities, conservation organizations and state and federal fisheries and water management agencies committed to a comprehensive approach to enhancing fish passage and habitat for salmonid species in the Sacramento Valley.

Comment 4-1

Improvements to the fish ladder, the channel from the fish ladder to the Sacramento River, the scour channel and the road crossings will provide much-needed fish passage improvements in the Yolo Bypass that will benefit fish, including the listed winter-run and spring-run Chinook salmon. This work will also compliment additional work that has occurred in the Yolo Bypass and interconnected waterways to benefit salmon. These projects include the Knights Landing Outfall Gates Project and the Wallace Weir Fish Rescue Facility.

We support the fish passage improvements described in the Initial Study/Environmental Assessment and encourage that all of the work be implemented to improve fish passage in the Yolo Bypass.

Sincerely yours,

Steve Rotherth
American Rivers

Jacob Katz
California Trout

Todd Manley
Northern California
Water Association

Jay Ziegler
The Nature Conservancy

**Response to Comments from the Sacramento Valley Salmon Recovery Program Correspondence
Dated March 6, 2017**

Response 4-1

The commenter's description of Proposed Project benefits and support for the Project are noted and appreciated.



Office of the County Administrator
COUNTY OF YOLO

Patrick S. Blacklock
County Administrator

**RECEIVED BY DWR VIA EMAIL
ON 03/07/2017 at 1:27 p.m.**

NATURAL RESOURCES DIVISION

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Woodland, CA 95695
530-666-8150 • FAX 530-668-4029
www.yolocounty.org

March 6, 2017

Karen Enstrom
California Department of Water Resources
3500 Industrial Boulevard
West Sacramento, CA 95691

Re: Comments on the Fremont Weir Adult Fish Passage Modification Project Initial Study/Environmental Assessment

Dear Ms. Enstrom:

Yolo County appreciates the opportunity to provide comments on the Fremont Weir Adult Fish Passage Modification Project Initial Study/Environmental Assessment. As you may be aware, the County has identified four agricultural road crossing improvements in the Tule Canal north of Interstate 80 in the April 2014 Yolo Bypass Drainage and Water Infrastructure Improvement Study. This study identified twelve drainage and infrastructure projects in the Yolo Bypass that would benefit farmers and wetland managers. The County is pleased that Agricultural Road Crossing #2 identified in the study is being improved as part of the proposed project and we understand, based on the discussion included in the Initial Study, that the California Department of Water Resources and U.S. Bureau of Reclamation will be improving Agricultural Road Crossings #1 and #4 as separate projects. We strongly encourage both agencies to quickly implement these two remaining Tule Canal agricultural road crossing improvements. Comment 5-1

The County appreciates the detailed description of the project components included in the Initial Study/Environmental Assessment, the thorough impact analysis, and the comprehensive list of mitigation measures. We have, however, identified several areas in the Initial Study that require some clarification. The County's specific comments on the document are provided sequentially by page number below:

1. The California State Lands Commission is identified on the list of agencies whose approval may be required for the proposed project on page ii but this agency is not identified on a similar list on page 19. The Initial Study should clarify whether a permit will be required from the California State Lands Commission for the proposed project, and if so, what activity the agency will be permitting. Comment 5-2
2. The text on page 66 states that the potential maximum daily and annual reactive organic gases, Nitrogen oxides, and criteria pollutant emissions calculated for the proposed project's Comment 5-3

construction activities are summarized in Table 3.4-5. However, according to the Initial Study, the emission estimates included in Table 3.4-5 were calculated assuming implementation of best management practices (BMPs) and minimization measures for exhaust emissions and dust. For full disclosure purposes, the Initial Study should also identify the emissions anticipated with project implementation prior to the implementation of BMPs and mitigation measures. To understand the scale of these impacts, the unmitigated emission levels should be compared to the Yolo-Solano Air Quality Management District and Federal General Conformity Project-Level Thresholds of Significance included in Table 3.4-4.

3. Table 3.5-6 on page 129 identifies permanent impacts on 0.46 acres and temporary impacts on 10.73 acres of jurisdictional waters and wetlands with project implementation. The text on page 128 further states that construction would be regulated under Section 404 of the Clean Water Act and would require a permit, most likely an Individual Permit, from the U.S. Army Corps of Engineers. However, Mitigation Measure WET-1 on page 129 does not specify how the loss of these resources will be mitigated. This measure just states that avoidance, minimization, and mitigation measures shall be implemented pursuant to USACE guidance to ensure that the project would result in no-net-loss of waters of the U.S. The Initial Study should at a minimum describe expected performance measures, wetland creation and restoration ratios, potential restoration sites, and long-term management strategies to ensure the mitigation measure is feasible and does not result in additional adverse impacts associated with land conversion (e.g., conversion of agricultural land to wetlands habitat). Also, the acreage calculations included in Table 3.5-6 should be reviewed to ensure these numbers accurately reflect the project impacts. Comment 5-4
4. The discussion of geology and soils impacts commencing on page 144 does not address the potential increase in sediment loads that could be introduced from the Sacramento River into the Tule Canal through the modified adult fish passage structure. The impact analysis should describe whether the adult fish passage structure would increase sediment loads in the Yolo Bypass and if so, the effects of this sedimentation on the conveyance capacity of the Tule Canal and its long-term maintenance requirements. Comment 5-5
5. Mitigation Measure NOISE-1 on page 183 states that in order to achieve an hourly average noise level below 60 dBA, speed limits and limits on the number of vehicle pass-bys per hour shall be established and enforced for construction vehicle traffic on local roads adjacent to sensitive receptors. To ensure this noise mitigation measure can be effectively monitored, the specific access road speed limits and the specific number of pass-by vehicles allowed per hour should be identified in the Initial Study. Comment 5-6
6. The Initial Study states on page 184 that the proposed project is not located within the land use plan of the Sacramento International Airport. The Initial Study should acknowledge that according to the December 12, 2013 Sacramento International Airport Land Use Compatibility Plan (Map 6, Compatibility Policy Map: Overflight), the project area is located within the Traffic Pattern Area, which includes locations where aircraft regularly fly below 2,000 feet. Per Policy 4.1.1 of the Airport Land Use Compatibility Plan, an Avigation Easement Dedication is required for projects located within the Traffic Pattern Area. Comment 5-7
7. The discussion of cumulative impacts commencing on page 213 provides a thorough description of the projects and plans that have the potential to affect the same resources as the proposed Comment 5-8

Karen Enstrom
California Department of Water Resources

project. The discussion also states that the proposed project would result in potentially adverse effects on air quality, biological resources, cultural resources, geology, hazards and hazardous materials, water quality, noise, recreation, and tribal cultural resources. However, little to no analysis is provided regarding the impacts of other cumulative projects on these specific resources issues. For example, the discussion on page 220 states that if construction of one or more of the cumulative projects were to occur during the same time frame as the proposed project and in the vicinity of the proposed project, the level of significance of impacts on these resources could increase. However, no quantitative information is provided in the cumulative discussion regarding the scale of this increase. The discussion then dismisses these cumulative impacts by stating that most of the other projects would not be constructed concurrently with the proposed project and that if the American River Common Features Project were constructed concurrently, both projects would coordinate to mitigate cumulative effects to less-than-significant levels. No information is provided regarding how this coordination would occur or what additional mitigation measures would be implemented. The discussion of cumulative impacts should clarify which potentially-significant project impacts will increase when evaluated cumulatively and what additional mitigation measures will be implemented to offset these cumulative impacts, if necessary.

Yolo County truly appreciates the detailed level of engagement conducted by both the California Department of Water Resources and the U.S. Bureau of Reclamation with the County on this important project. If you have any questions regarding these comments, please do not hesitate to Elisa Sabatini at (530) 406-5773 or elisa.sabatini@yolocounty.org.

Sincerely,



Patrick Blacklock
County Administrator

Response to Comments from the Sacramento Valley Salmon Recovery Program Correspondence Dated March 6, 2017

Response 5-1

The commenter's support for the Project is noted and appreciated.

Response 5-2

The California State Lands Commission was included in error. It has been deleted from the IS/EA.

Response 5-3

Emissions calculations prior to and following implementation of BMPs and minimization measures were disclosed in the modeling results presented in Appendix D of the IS/EA. Prior to implementation of BMPs/mitigation measures, project construction would exceed YSAQMD thresholds of significance for PM10. This was disclosed on page 69 of the IS/EA: "But project-related increases of these criteria pollutants would be temporary, would not exceed the de minimis thresholds established for federal general conformity, and would not exceed the YSAQMD thresholds of significance following implementation of DWR's GGERP BMPs and Mitigation Measure AIR-1."

In response to Comment 5-3, emissions calculations prior to implementation of BMPs/mitigation measures were added to Table 3.4-5 of the IS/EA (page 68), and the paragraph that preceded Table 3.4-5 was deleted to reduce redundancy/confusion. In addition, the paragraph preceding Mitigation Measure AIR-1 was revised for clarity on page 69, as follows:

The project area is located within an air basin that is classified as nonattainment for PM10, PM2.5, and ozone. Project-related exhaust emissions from construction vehicles and equipment would contribute to increases of each of these criteria pollutants. Fugitive dust emissions from soil-disturbing activities and driving on unpaved roads would also contribute to increases of PM10. But project-related increases of these criteria pollutants would be temporary, would not exceed the de minimis thresholds established for federal general conformity, and would not exceed the YSAQMD thresholds of significance for PM2.5 or ozone, resulting in a less than significant impact. Construction related emissions of PM10 would exceed the YSAQMD thresholds of significance, resulting in a significant impact. However, following implementation of DWR's GGERP BMPs for minimization of exhaust emissions (refer to section 3.8, "Greenhouse Gas Emissions") and YSAQMDs feasible mitigation measures for controlling fugitive dust included in Mitigation Measure AIR-1, emissions of PM10 would be reduced to less than significant levels. Thus, the proposed project would not contribute substantially to an existing air-quality violation or result in a cumulatively considerable impact on air quality. Project related contributions of criteria pollutant emissions for which the region is in nonattainment would be less than significant.

Response 5-4

Mitigation Measure WET-1 would avoid, minimize, and mitigate for the loss of any federally protected wetlands by implementing USACE guidance to meet the performance standard of "no-net-loss of waters of the U.S." Incorporating a performance standard in a mitigation measure, such as the performance

standard in WET-1, is an appropriate means to ensure that project impacts will be mitigated to less-than-significant levels even if the mitigation measure might not be fully developed until after project approval. (See, e.g., Sacramento Old City Assn. v. City Council of Sacramento (1991) 229 Cal.App.3d 1011; Laurel Heights Improvement Assn. of City of San Francisco v. Regents of Univ. of California (1988) 47 Cal.3d 376; Schaeffer Land Trust v. San Jose City Council (6th Dist. 1989) 215 Cal.App.3d 612.) However, a 'such as' statement was added to page 137 of the IS/EA in response to this comment:

Mitigation Measure WET-1: Compensate for the loss of federally protected wetlands.

Construction and placement of project features shall be limited to the smallest area necessary to meet the project purpose. Final determination of jurisdictional status and associated project impacts on such jurisdictional wetlands and waters shall be decided by USACE. If as a result of a wetland delineation and jurisdictional determination, the USACE determines that the proposed Project would impact jurisdictional waters and wetlands, avoidance, minimization, and mitigation measures, such as the purchase of mitigation bank credits at an accredited bank, shall be implemented pursuant to USACE guidance to ensure that the project would result in no-net-loss of waters of the U.S.

Acree values included in Table 3.5-6 on page 136 were corrected prior to receiving this comment. Permanent impacts still total 0.46 acre, but total temporary impacts were corrected from 10.73 acres to 0.72 acre (due to a previous typo).

Response 5-5

Impact discussions are organized according to CEQA Guidelines Appendix G. The discussion of potential increases in sediment loads is therefore discussed in Section 3.10 Hydrology and Water Quality. Specifically, downstream sedimentation is briefly discussed on Page 177 under

- a) Violate any water quality standards or waste discharge requirements? — and —**
- f) Otherwise substantially degrade water quality?**

as related to fill material being placed at Mt. Meixner. Page 44 of Section 2.2.3 (Chapter 2.0, "Description of the Proposed Project and No-Action Alternative") discloses the estimated amount of sediment that may be removed annually during maintenance activities in the Stilling Basin, Upstream Channel, and Reach 1. Section 2.2.3.5 on the same page states the following:

Because the hydraulic capacity of Agricultural Road Crossing 2 would be increased to more closely match that of the Tule Canal by replacing the earthen road crossing with a series of 24-foot-wide culverts, maintenance is expected to be low. After Fremont Weir overtopping events and prior to the irrigation season for agriculture, the crossing would be inspected and any debris would be removed from the culvert openings. If the engineered streambed material near the site begins to erode, the material would be replaced.

Thus, sediment removal is not anticipated to be required. The effects of sediment removal at the Stilling Basin, the Upstream Channel, and Reach 1 are analyzed in the appropriate resource chapters. However, the impact discussion on Page 181 was revised for clarity, as follows:

The drainage and inundation pattern associated with proposed project implementation would be the same as existing conditions. Hydrodynamic studies were conducted to analyze the impact of the proposed increased flow from the Sacramento River to the Yolo Bypass through the fish passage structure (Appendix F). Results indicate that changes in the Yolo Bypass drainage and inundation pattern would be negligible and less than significant. Since changes in flow pattern and inundation pattern would be negligible, changes in the amount of sediment loading in the Yolo Bypass would also be negligible, resulting in a less than significant impact. Figures 3.10-1 through 3.10-3 show simulated results of the total amount of acres inundated under existing conditions, compared with three operational scenarios for the proposed project for water years in which Fremont Weir overtopping events vary. Based on these results, Scenario 2 and Scenario 3 would have no impact.

Response 5-6

Mitigation Measure NOISE-1 would minimize traffic-related noise in the vicinity of sensitive receptors by implementing best management practices, including speed limits and limits on the number of passbys per hour on local roads adjacent to sensitive receptors to achieve the performance standard of an “hourly average noise level below 60 dBa.” As explained above in the response to Comment 5-4, incorporating a performance standard in a mitigation measure, such as the performance standard in NOISE-1, is an appropriate means to ensure that project impacts will be mitigated to less-than-significant levels even if the mitigation measure might not be fully developed until after project approval.

Response 5-7

To acknowledge that the proposed project is located within the Traffic Pattern Area, page 193 of the IS/EA was revised as follows:

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

No Impact. The proposed project is not within the land-use plans of the ~~Sacramento International Airport~~, Watts-Woodland Airport, or the Yolo County Airport, nor is it within 2 miles of a public airport. The proposed project is located within the Traffic Pattern Area of the Sacramento International Airport Land Use Compatibility Plan, but there are no existing residences or businesses within the project area, and the proposed project would not result in land use changes. There would be no impact.

The commenter has referred to an aviation easement dedication requirement set forth in Policy 4.1.1 of the Airport Land Use Compatibility Plan. Please note that Policy 4.1.1 does not apply to the proposed project. The Airport Land Use Compatibility Plan, and in turn Policy 4.1.1, applies to projects that are subject to the Plan’s review provisions, and not to existing land uses. The Airport Land Use Compatibility Plan only includes recommendations—not requirements—for State and Federal agencies.

Response 5-8

The commenter questioned the level of analysis of cumulative impacts in certain resource areas. The IS/EA identifies and, to the extent feasible without speculating, evaluates the combined effects of “probable future projects” within the meaning of CEQA, or “reasonably foreseeable future actions” within the meaning of NEPA, and whether the proposed project’s contribution to such impacts would be cumulatively considerable. CEQA and NEPA do not require an environmental document to evaluate the impacts of the proposed project in combination with speculative future projects that are not advanced enough in the planning stage to provide for meaningful environmental review.

With respect to the American River Common Features Project (ARCFP), USACE confirmed via email on March 15, 2017, that although the ARCFP was authorized in WRDA 2016, appropriations have not been received for design and construction. Once appropriations are received, project design would take at least two years to complete, so there is no possibility of the hypothetical concurrent construction schedule that was discussed in Chapter 4.0, “Cumulative Impacts”, of the FWAFP Project’s IS/EA. The IS/EA was revised accordingly on page 229, as follows:

As described in section 3.16, “Mandatory Findings of Significance,” construction of the proposed project would result in potentially adverse effects on air quality, biological resources, cultural resources, geology, hazards and hazardous materials, water quality, noise, recreation, and tribal cultural resources, but would not result in significant impacts. Each of the potential impacts would be reduced to less-than-significant levels with implementation of avoidance and minimization measures and by incorporating mitigation measures (refer to Appendix C, “Mitigation Monitoring and Reporting Program”). If construction of one or more of the actions described above were to occur during the same time frame as the proposed project and in the vicinity of the proposed project, the level of significance of impacts on these resources could increase. That said, many of the actions described above are in the planning and feasibility study stage and would not be constructed concurrently. ~~It is possible that the ARCFP could be constructed during the same time frame, but the ARCFP covers a large geographic area and could be constructed in phases to avoid Sacramento Bypass construction concurrent with proposed project construction. If constructed concurrently, both projects would coordinate to mitigate temporary cumulative effects to less than significant levels, and in the long term would provide a net benefit to fish. In addition, although the ARCFP was authorized, appropriations have not been received for design or construction, so none of the actions included in the ARCFP would be constructed concurrently with the proposed project.~~ Therefore, the incremental effect of proposed project construction would not be cumulatively considerable.



DELTA STEWARDSHIP COUNCIL

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March 8, 2017

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Randy Fiorini

Members
Frank C. Damrell, Jr.
Patrick Johnston
Susan Tatayon
Skip Thomson
Ken Weinberg
Michael Gatto

Executive Officer
Jessica R. Pearson

Karen Enstrom, Chief of Yolo Bypass Habitat Restoration Branch
Division of Environmental Services
California Department of Water Resources
3500 Industrial Blvd.
West Sacramento, CA 95691

RE: Notice of Intent to Adopt a Mitigated Negative Declaration and Availability of a Draft Initial Study/ Environmental Assessment for the Fremont Weir Adult Fish Passage Modification Project in Yolo County

Dear Ms. Enstrom:

Thank you for the opportunity to review and comment on the Department of Water Resources' (DWR) and the United States Department of Interior, Bureau of Reclamation's (Reclamation) [Comment 6-1](#) Draft Initial Study and proposed Mitigated Negative Declaration (IS/MND) / Environmental Assessment (EA) for the Fremont Weir Adult Fish Passage Modification Project located in Yolo County. The document states that the IS/MND/EA proposes to:

- Modify the existing Fremont Weir fish ladder to provide improved upstream passage for salmonids and sturgeon when the Sacramento River overtops Fremont Weir and immediately after the Sacramento River recedes below Fremont Weir.
- Improve fish passage conditions in the channel that extends from the existing fish ladder upstream to the Sacramento River.
- Improve fish passage conditions in the scour channel that extends from the existing fish ladder downstream to an existing deep pond.
- Remove one earthen agricultural road crossing and replace one earthen agricultural road crossing with a structure that allows for improved fish passage through the Tule Canal and continued roadway access.

This project appears to support the National Marine Fisheries Service's 2009 *Biological Opinion and Conference Opinion on the Long-Term Operations of the Central Valley Project and State Water Project* (NMFS BiOps) Reasonable and Prudent Alternative Action 1.7 for the reduction in migratory delays and loss of salmon, steelhead, and sturgeon at Fremont Weir and other structures in the Yolo Bypass. It also is one of the component projects under the California EcoRestore initiative to restore 30,000 acres of habitat restoration.

"Coequal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place."

- CA Water Code §85054

Karen Enstrom, Chief of Yolo Bypass Habitat Restoration Branch
Division of Environmental Services
California Department of Water Resources
March 8, 2017
Page 2

In the 2009 Delta Reform Act, the Delta Stewardship Council was charged to develop and implement the Delta Plan; a comprehensive, legally enforceable, long-term management plan for the Delta. The Delta Plan is comprised of 14 policies and 73 recommendations on how the Delta should be managed. In chapter 4 of the Delta Plan, policy ER P3 *Protect Opportunities to Restore Habitat* states, "within the priority habitat restoration areas depicted in Appendix 5 of the Delta Plan (<http://deltacouncil.ca.gov/sites/default/files/2015/09/Appendix%205.pdf>), significant adverse impacts to the opportunity to restore habitat as described in section 5006, must be avoided or mitigated". The Yolo Bypass is one of these priority restoration areas. It appears this policy is supported by the following described outcomes from the project's IS/MND/EA: Comment 6-2

- Net gain of aquatic garter snake habitat of 0.04 acres.
- An increase in aquatic habitat for the western pond turtle and improved habitat connectivity.
- Compensation of habitat impacts by the purchase of mitigation credits from an approved mitigation bank in coordination with NMFS and USACE.

In addition, the Delta plan recommendation ER R2 provides input that DWR prioritize and implement habitat restoration projects in the priority restoration areas to improve fish passage. This proposed project helps fulfil this recommendation.

The Council is supportive of projects that help achieve the coequal goals of a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. As another state agency committed to improving California's water supply reliability and the health of the Delta ecosystem, the Delta Stewardship Council recognizes DWR's and Reclamation's efforts to improve upstream passage of aquatic species and linkage to the Sacramento River. This effort is one piece in a mosaic of actions that will support the State's coequal goals. The Council is happy to continue to coordinate with and provide assistance to DWR and Reclamation to successfully implement the Fremont Weir Adult Fish Passage Modification Project in the Yolo Bypass. Comment 6-3

If you have any questions or would like to discuss the comments presented here, please feel free to contact me or my staff, Anthony Navasero at Anthony.Navasero@deltacouncil.ca.gov or (916) 445-5471.

Sincerely,



Cassandra Enos-Nobriga
Deputy Executive Officer
Delta Stewardship Council

Response to Comments from the Delta Stewardship Council Correspondence Dated March 8, 2017

Response 6-1

Comment noted.

Response 6-2

The commenter's description of Proposed Project benefits and support for the Project are noted and appreciated.

Response 6-3

The commenter's support for the Project is noted and appreciated.