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June 28, 2012

Ms. Janice Piñero
Endangered Species Act Specialist
Bureau of Reclamation
Bay-Delta Office
801 I Street Suite 140
Sacramento, CA 95814-2536

Subject: Scoping Comments Regarding Environmental Documentation for the Coordinated Long-Term Operations of the Central Valley Project and State Water Project

Dear Ms. Piñero:

Contra Costa Water District (CCWD) appreciates this opportunity to provide input in response to the March 28, 2012 Bureau of Reclamation (Reclamation) Notice of Intent (NOI) to prepare an Environmental Impact Statement for modifications to the remanded Biological Opinions (BiOps) for the coordinated long-term operation of the Central Valley Project (CVP) and State Water Project (SWP). CCWD is providing comments and suggestions for your consideration, and we look forward to working on them with you through the Reclamation Stakeholder Engagement Process.

CCWD's comments are focused on improved implementation of the Old and Middle River Flow objectives. Background information is provided below, including information on how the remanded BiOps have affected water supply and water quality in certain cases without providing associated fish protections. Suggestions for improvements are provided in the following section.

BACKGROUND

CCWD diversions are fully mitigated

Each of CCWD's four water intakes in the Delta is equipped with positive barrier fish screens, and is operated and maintained according to DFG, NMFS and USFWS guidance for fishery protection. CCWD reduces diversions for 75 to 90 days each year to protect Delta fisheries; during this time, CCWD does not divert any water to storage in Los Vaqueros Reservoir. Concurrent with this period, CCWD ceases all Delta diversions for 30 days each year, meeting water demands with stored water from Los Vaqueros Reservoir. These operational requirements are included as terms in water right permits for both CCWD and Reclamation, and in BiOps and Incidental Take

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Permits issued specifically for the Los Vaqueros Reservoir (1993 NMFS Biological Opinion for the Los Vaqueros Project, 1993 USFWS Biological Opinion 1-1-93-F-35, DFG Incidental Take Permit 2081-2009-013-03, DFG). The purpose of these actions is to minimize take of listed species under the Federal Endangered Species Act (ESA) and the California ESA, as well as other resident Delta species. These facilities and operations, along with development of habitat in mitigation of any remaining impacts, allowed DFG to conclude in 2009 that the effects of CCWD operations on Delta fish are fully mitigated, and to further conclude in 2012 that the expansion of Los Vaqueros Reservoir does not require further action to protect Delta fish. In 2010, NMFS and USFWS expressed similar levels of confidence in determining that CCWD operations, including the operation of the Los Vaqueros Reservoir Expansion Project, is not likely to adversely affect the Delta fish species regulated by these agencies.

Old and Middle River Flow Regulation

In the remanded BiOps that cover operations of the CVP and SWP, flows in Old and Middle River (OMR) are regulated to reduce the vulnerability of listed Delta fish to entrainment into the south Delta and at the Banks and Jones export facilities. As currently implemented, the OMR restrictions are determined using imperfect measurements that are affected by factors, such as the weather, that are outside of the control of the CVP and SWP. Furthermore, implementation of revised fish protection actions should protect the intended species without placing further undue restrictions on water operations that do not cause such entrainment. CCWD and others have developed strategies and methodologies that will avoid these unnecessary operational impacts and provide equivalent or better protection of species. The approach suggested in this letter should be used to develop one or more reasonable alternatives when developing the new BiOps and its accompanying Environmental Impact Statement.

Since CCWD has implemented fishery protection measures that already minimize take at its facilities and has fully mitigated for fishery effects in the Delta, it is not reasonable to have CCWD operations be further affected by the OMR flow regulations - regulations that are explicitly intended to limit entrainment at the Banks and Jones facilities. Nor is it reasonable to have OMR regulations expressed in a way that allows CCWD operations to affect Banks and Jones operations when CCWD operations are unrelated to fish entrainment at those facilities. Simply put, it is not reasonable that the Delta water exports of the CVP and SWP be limited by CCWD operations, because CCWD diversions do not affect fish entrainment at the SWP and CVP facilities in any manner. In short, the current implementation does not benefit fish by including CCWD in OMR flow regulation, but it can have unnecessary and unreasonable water supply impacts. Alternative implementation of the OMR fish protection measures can help improve these rules and eliminate unnecessary burdens on each of our water supply operations while maintaining the intended fish protection.

Ms. Janice Piñero, Bureau of Reclamation

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PROPOSAL TO IMPROVE IMPLEMENTATION

CCWD diversions, which are already fully mitigated, can and should be explicitly removed from the regulation of OMR flows. This can be done in a way that protects fisheries and does not adversely impact the CVP and SWP exports. In fact, we believe that this can be done in a way that maintains or improves fish protection and reduces operational constraints on CVP and SWP exports.

CCWD believes that the unintended effects described above are a result of a “rough draft” implementation of a complicated new rule for OMR flows in an already complicated system. The current regulation seems to capture the major factors associated with fish protection, but the unintended consequences are substantial and can be addressed by following this proposal. With the upcoming development of a new plan for coordinated operations, an opportunity is presented to improve the implementation of OMR flow regulation, and to remove extraneous constraints on each of these water systems.

An index based on San Joaquin River flow, export pumping at Banks and Jones pumping plants, and status of the Head of Old River Barrier can improve implementation of the current OMR flow regulations. Use of an index provides the same level of protection, is comparable to field data and will eliminate unnecessary complexity in operations. An example of an alternative index is illustrated in the attachment to this letter. As may be seen, the simplified index simulates the currently regulated value, and therefore has equal power for the purpose of fish protection.

REQUEST TO INCLUDE ALTERNATIVES IN THE EIS

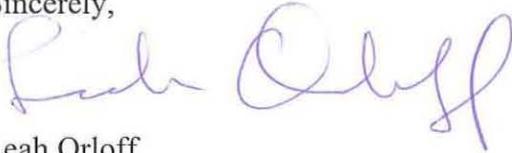
CCWD requests that the Environmental Impact Statement (EIS) for the Coordinated Long-Term Operations of the Central Valley Project and State Water Project include CCWD’s proposals for removing CCWD’s operations from the determination of compliance with OMR requirements. CCWD will suggest practical mechanisms for achieving the desired controls on flows that would equally help avoid unintended consequences on water supply. For example, a relationship between San Joaquin River flow, export pumping, and fish salvage can be shown to provide the same or better fish protection as is achieved currently, while improving operations. Alternatively, if implementation of new OMR restrictions relies upon the existing flow gauges, the restrictions should be formulated to explicitly remove the effect of CCWD’s operations. Each of these approaches can be shown to result in no adverse impacts to either fisheries or the export pumping, and their inclusion in the Biological Assessment and accompanying EIS will lead to improved implementation of fish protections in the Delta.

Ms. Janice Piñero, Bureau of Reclamation
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CCWD proposes working with Reclamation as a cooperating agency on this issue. The implementation of OMR measures affects CCWD water supply reliability, and could impact municipal and industrial water deliveries in eastern and central Contra Costa County. Thus CCWD has a substantial interest in resolving the implementation issues described in this letter in a way that improves the operational efficiency of the CVP and the protection of fisheries.

Thank you for this opportunity to provide input to the scoping process. If you have any questions, please call me at (925) 688-8083, or call Matt Moses at (925) 688-8106.

Sincerely,



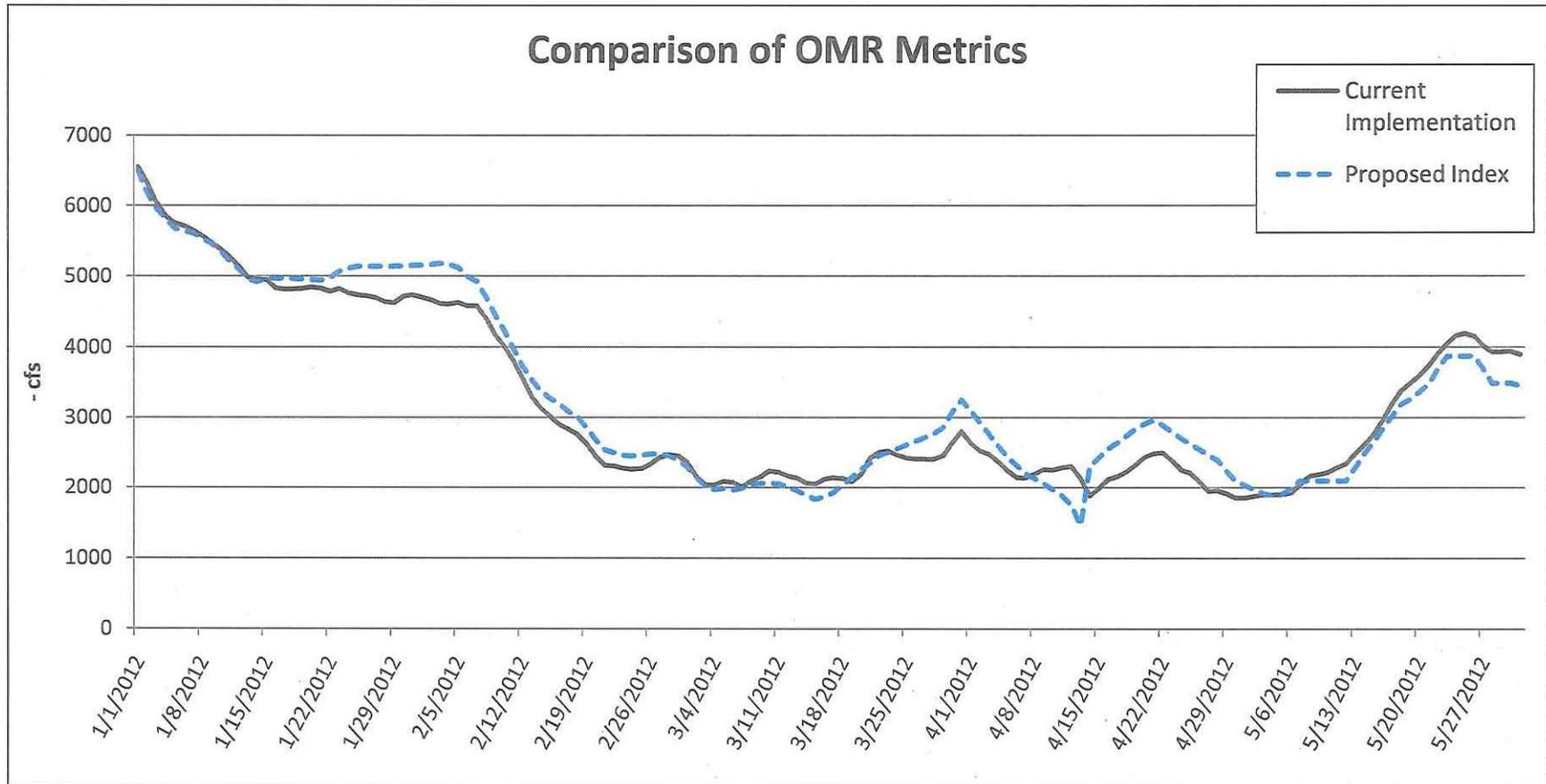
Leah Orloff
Water Resources Manager

LO/MM:wec

Attachment

cc: Ron Milligan, Bureau of Reclamation

Attachment: CCWD Scoping Comments Regarding Environmental Documentation for the Coordinated Long-Term Operations of the Central Valley Project and State Water Project, June 28, 2012



The values of Old and Middle River (OMR) flow from January – May 2012 are presented as measured in the current implementation. For comparison, an OMR index based on San Joaquin flow, export pumping, and the Head of Old River Barrier is also presented. The two values track together well, indicating that either could be used as a mechanism to protect Delta fish. Adoption of such an index would simplify operational coordination for CCWD, CVP and SWP, and could be implemented in a way that would eliminate the unintended consequences of the current measure, in addition to maintaining fish protection.