



September 21, 2012

Sue Fry
Bureau of Reclamation
Mid-Pacific Region
Area Manager, Bay-Delta Office
801 I Street, Ste 140
Sacramento, CA 95814

Re: Comments on Proposed Project Description for NEPA Remand

Dear Sue:

As part of the Remand Stakeholder Engagement Process, the Bureau of Reclamation has requested our input on the proposed Project Description for the Remand, dated September 10, 2012 (“9/10/12 Project Description”) (posted at <http://www.usbr.gov/mp/BayDeltaOffice/Documents/remand.html>). The 9/10/12 Project Description appears to be based upon and to propose operations very similar to those proposed in the Bureau’s 2004 Operating Criteria and Plan and the Bureau’s 2008 Biological Assessment for the continued long-term operation of the Central Valley Project and State Water Project. Both of those previously proposed Projects resulted in CVP/SWP operations that jeopardized the continued existence of numerous threatened and endangered fish species, and adversely modified the critical habitat of a number of threatened and endangered species. It is, therefore, perplexing that the Bureau is using those unlawful operations as the starting point for its current project description.

In previous conversations with you, we understood that the Bureau was intending to commit to a Project Description on remand that incorporated the existing Reasonable and Prudent Alternatives from the 2008 delta smelt biological opinion and 2009 salmonid biological opinion on CVP/SWP operations. That approach is consistent with the orders of the federal district court, which found that the Bureau violated NEPA by “failing to perform any NEPA analysis prior to provisionally adopting and implementing the 2008 [delta smelt] BiOp and its reasonable and prudent alternative”, *Consolidated Delta Smelt Cases*, Order Granting and Denying Cross-Motions for Summary Judgment on NEPA Issues, Dec. 2, 2009, and through the Bureau’s “provisional adoption and . . . implementation of the 2009 NMFS BiOp and its RPA without preparing any NEPA documentation.” *Consolidated Salmonid Cases*, Order Granting in Part Motion for Summary Judgment on NEPA Issues, March 18, 2010. Pursuant to these decisions, the Project Description for the remand should be the Bureau’s decision to adopt and implement the 2008/2009 BiOps and RPAs.

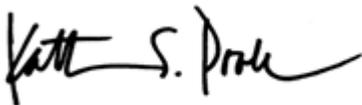
Instead, the Bureau does not appear to have incorporated any of the RPAs in its 9/10/12 Project Description, proposing instead to:

- return to gates-in operation of Red Bluff Diversion Dam, *see* page 2;
- operate Shasta Reservoir without any end-of-water-year carryover storage requirement, *see* page 39;
- maintain minimum flows of 5,000 cfs at Wilkins Slough despite the lack of navigation at this location on the Sacramento River for over 40 years, *see* page 36;
- omit any Old and Middle River flow restrictions; and
- allow fall X2 to migrate substantially upstream of 85 kilometers in all water year types.¹

This sampling is not comprehensive of all aspects of the RPAs omitted by the 9/10/12 Project Description, but is indicative of its deeply-flawed approach. In addition, the Bureau does not appear to have incorporated existing water quality requirements, such as the spring pulse flow objective of the 2006 Bay-Delta Water Quality Control Plan that controls in the wake of VAMP expiring.²

While we are pleased to engage with the Bureau on this remand process, the 9/10/12 Project Description does not represent a lawful starting point for analysis. We suggest that the Bureau propose a revised Project Description that incorporates the existing RPAs, as required by the court's orders.

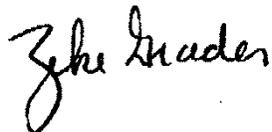
Sincerely,



Katherine S. Poole
NRDC



Gary Bobker
The Bay Institute



Zeke Grader
PCFFA

¹ *See* CALSIM II Model Comparisons Studies 7.1 vs 7.1.1 and 8.0 vs 8.0.1, 8/26/11 (<http://www.usbr.gov/mp/BayDeltaOffice/Documents/remand.html>).

² We note that the Bureau has already been put on notice by the Delta Watermaster that it violated this objective in 2012. *See* Letter from Craig M. Wilson, Delta Watermaster, to Pablo R. Arroyave (July 18, 2012).