Delta-Mendota Canal/ California Aqueduct Intertie

Central Valley Project, California

Final Environmental Impact Statement

Volume III: Responses to Comments

U.S. Department of the Interior
Bureau of Reclamation

Western Area Power Administration (DOE/EIS-0398)

November 2009

Mission Statements

The mission of the Department of the Interior is to protect and provide access to our Nation's natural and cultural heritage and honor our trust responsibilities to Indian Tribes and our commitments to island communities.

The mission of the Bureau of Reclamation is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public.

Volume III—
Responses to Comments on the DEIS

Contents

1.1 Introduction

This volume includes all of the public and agency comments received on the Draft EIS and responses to those comments. Two public hearings, August 4 and 5, 2009, were held during the Draft EIS review period. Although no comments were made, transcripts of these hearings are provided.

Written comment letters were received from:

- U.S. Environmental Protection Agency
- California Department of Water Resources
- Contra Costa Water District
- California Water Impact Network and the California Sportfishing Protection Alliance
- Planning and Conservation League
- State Water Contractors
- Transmission Agency of Northern California
- Bobbie Landers
- Milt Moye
- Reyes Monreal
- Central Delta Water Agency
- South Delta Water Agency
- San Luis & Delta-Mendota Water Authority
- California Farm Bureau Federation

1.2 U.S. Environmental Protection Agency

AUG-28-2009 FRI 04:27 PM U.S.E.P.A. FAX NO. 4159478026 P. 01

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105
OFFICE: (415)947-8704 FAX (415)047-8026

COMMUNITIES AND ECOSYSTEMS DIVISION

FAX TRANSMISSION COVER SHEET

FROM

Number of Pages: 4

NAME: Laura Fujii DATE: August 28, 2009

TELEPHONE NO: 415-972-3852 FAX NO: (415) 947-8026

DEPARTMENT/OFFICER: Environmental Review Office, CED-2

TO

NAME: Mr. Louis Moore

TELEPHONE NO: 916-978-5106 FAX NO: 916-978-5114

SUBJECT: US EPA comments on DEIS Delta-Mendota Canal/California Aqueduct Intertie

REMARKS: The signed letter is in the mail to you.

AUG-28-2009 FRI 04:27 PM U.S.E.P.A. FAX NO. 4159478026 P. 02

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

Mr. Louis Moore
Bureau of Reclamation
Mid-Pacific Region
2800 Cottage Way, MP-140
Sacramento, CA. 95825

AUG 2 8 2009

Subject: Draft Environmental Impact Statement for Delta-Mendota Canal and California Aqueduct Intertie (CEQ# 20090242)

Dear Mr. Moore:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act.

We have rated the DEIS as Environmental Concerns – Insufficient Information (EC-2) (see enclosed "*Summary of Rating Definitions*") due to our concerns regarding CVP contract quantities, the need for more information on the long-term sustainability of water export operations in the Bay Delta, and the limited improvement in water supply reliability and fish protection provided by the proposed Intertie project.

EPA supports increasing the operational flexibility of the Central Valley Project (CVP) and State Water Project (SWP) in order to improve water supply reliability consistent with ecosystem protection, increase fish protections by reducing pumping during critical periods, and aid in adaptation to climate change. We acknowledge the potential for the Intertie project to contribute to the operational flexibility and water supply reliability of the CVP/SWP; however, the Intertie project and its DEIS do not address fundamental issues regarding CVP/SWP water supply reliability. For instance, we continue to be concerned with CVP contract quantities that may have unrealistic water delivery targets. In many years -- and for some water districts, in most years -- the CVP is unable to deliver the entire amount of water called for in the current contracts. In other words, the CVP is "overcommitted," which has the potential to adversely affect Bureau of Reclamation's (Reclamation) ability to constructively assist in addressing California's water and environmental needs.

EPA-1

EPA-2

We believe CVP contract quantities should reflect recent historical realities and factor in any anticipated future limitations on CVP supplies, such as climate change or operationally induced reductions in diversions. We recommend the final EIS (FEIS) describe Reclamation's efforts to better align contract obligations with existing developed water supplies and reasonably foreseeable water availability.

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We note that this project is one component of a broader, long-term effort to resolve issues relating to the Bay Delta and the ability to meet the dual objectives of reliable water supplies and ecosystem protection, all of which must be addressed within the context of potential climate change impacts. EPA remains concerned with the long-term sustainability of water export operations in the Bay Delta, as expressed in our May 14, 2009 scoping comments on the Bay Delta Conservation Plan. We recommend that reduced inflow and export scenarios, as a likely future for the Bay Delta basin, be more fully explored in the FEIS.

EPA-3

We recognize that the Bay Delta Conservation Plan and other more comprehensive forums will address the broader, long-term Bay Delta water management and ecosystem protection issues. We look forward to working with Reclamation as we all engage in these forums.

We appreciate the opportunity to review this DEIS. When the FEIS is released for public review, please send one hard copy and one CD ROM to the address above (mail code: CED-2). If you have any questions, please contact me at (415) 972-3521, or contact Laura Fujii, the lead reviewer for this project. Laura can be reached at (415) 972-3852 or fujii.laura@epa.gov.

Sincerely,

Kathleen M. Goforth, Manager
Environmental Review Office
Communities and Ecosystems Division

Enclosure: Summary of Rating Definitions

cc: Steve Tuggle, Western Area Power Authority
Francis Mizuno, San Luis & Delta Mendota Water Authority

2

SUMMARY OF EPA RATING DEFINITIONS*

This rating system was developed as a means to summarize the U.S. Environmental Protection Agency's (EPA) level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the Environmental Impact Statement (EIS).

ENVIRONMENTAL IMPACT OF THE ACTION

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

ADEQUACY OF THE IMPACT STATEMENT

"Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, Policy and Procedures for the Review of Federal Actions Impacting the Environment.

1.2.1 EPA-1

Reclamation acknowledges the comments by EPA in support of increasing the flexibility of the CVP and SWP operations in order to improve water supply reliability consistent with ecosystem protection, increase fish protections by reducing pumping during critical periods, and aid in adaptation to climate change. The Intertie's purpose is exactly to improve Delta-Mendota Canal conveyance conditions that currently restrict the Jones Pumping Plant to less than its average monthly pumping capacity of 4,600 cfs, and to improve operational flexibility for operations and maintenance and emergency activities. Intertie operations are subject to all regulatory protections for environmental resources and therefore consistent with EPA's goals for environmental protections, while the increased flexibility is expected to incrementally improve water supply reliability for all CVP project purposes south of the Delta. Section 3.1, Water Supply, adequately describes the CVP operations, and focuses on the DMC operations and deliveries. Tables 3.1-12 to 3.1-14 shows the monthly CVP Jones pumping, San Luis Reservoir storage, and deliveries to contractors along the DMC and from San Luis Reservoir. The Intertie Project would not preclude Reclamation from participating in other efforts to address California's water and environmental needs.

We also note EPA's comment on what it believes CVP contract quantities should reflect. Reclamation determines its contracting positions within the parameters of its legal and contractual obligations. Water supply contracts include a provision for constraints on the availability of water. However, the purpose of the proposed action does not include any water supply contracting actions, so modifying the quantity of water subject to CVP contract is outside the scope of the EIS.

1.2.2 EPA-2

This EIS addresses the Intertie Project (see Response to EPA-1). The environmental effects of the quantity terms of contracts for CVP water service are addressed in the Central Valley Project Programmatic Environmental Impact Statement (Reclamation 1999) and through the specific environmental reviews for renewal contracts.

1.2.3 EPA-3

EPA's comment expressing its concern about the long-term sustainability of water export operations is noted. However, CVP and SWP planning to address the long-term sustainability of water export operations is not a part of the proposed action and therefore the evaluation of reduced inflow and export scenarios are outside the scope of this Intertie EIS. The Intertie evaluation provides the incremental effects from this one future CVP action on ongoing CVP operations under the

current CVP/SWP Operations Plan. The Intertie would comply with the CVP/SWP Operations BOs, which include requirements related to flows within the Delta considered necessary by FWS and NMFS to protect sensitive fish species.

1.3 California Department of Water Resources

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF WATER RESOURCES
1416 NINTH STREET, P.O. BOX 942836
SACRAMENTO, CA 94236-0001
(916) 653-5791

August 31, 2009

Mr. Louis Moore
Bureau of Reclamation
2800 Cottage Way, MP-140
Sacramento, CA 95825
(fax – 916-978-5114)
(email - wmoore@usbr.gov)

Subject: Review Comments – Delta-Mendota Canal/California Aqueduct Intertie, Draft Environmental Impact Statement

Attached are review comments from the California Department of Water Resources on the Delta-Mendota Canal/California Aqueduct Intertie, Draft Environmental Impact Statement.

Questions regarding our comments may be directed to me at (916) 653-1099 or kkelly@water.ca.gov or Jacob McQuirk, at 653-9883 or jacobm@water.ca.gov.

Katherine F. Kelly, Chief
Bay-Delta Office

Attachment

Department of Water Resources Comments
Draft Delta-Mendota Canal/California Aqueduct Intertie Environmental Impact Statement

1. General

a. The Delta-Mendota Canal/California Aqueduct Intertie Project is described as the Intertie as originally proposed in the 2005 Environmental Assessment/Initial Study. The site of the Proposed Action is in an unincorporated area of the San Joaquin Valley in Alameda County, California. The site is in a rural area and is under federal and State ownership. The Proposed Action consists of constructing and operating a pumping plant and pipeline connection between the Delta-Mendota Canal (DMC) and the California Aqueduct (CA) where the canals are approximately 500 feet apart.

The Intertie would allow the DMC and the CA to share conveyance capacity and could be used to convey water in between the two canals. The Intertie would be owned by the federal government and operated by the Delta-Mendota Authority (Authority). An agreement among the Bureau of Reclamation (USBR), the California Department of Water Resources (DWR), and the Authority would identify the responsibility and procedures for operating the Intertie. A permanent easement would be obtained by USBR where the Intertie alignment crosses State Property.

DWR-1

b. As a responsible agency under CEQA, DWR will need an updated CEQA document for its determination. Reclamation and the Authority are requested to coordinate with DWR in the preparation of the updated CEQA document.

DWR-2

2. Page 1-4, under Delta-Mendota Canal Capacity Constraints – delete first "Jones" in the following sentence: "The Intertie project would allow Reclamation to increase the maximum ~~Jones~~ pumping at Jones Pumping Plant during the fall and winter months from about 4,200 cfs to about 4,600 cfs."

DWR-3

3. Page 1-8, Agency Coordination - An agreement will be needed between DWR and Reclamation to permit Reclamation to construct on the State's right of way. This agreement would address a number of issues including but not limited to right of access, reimbursement of costs incurred by DWR, review of plans and specs, operation and maintenance of the turnout; ownership of the facilities, California Aqueduct protection, charges for the use of DWR facilities, and liability.

DWR-3 cont'd. The schedule for the introduction of water into the CA Aqueduct through the intertie will be subject to DWR approval.

4. **Page 2-2 and 2-3, Section 2.4, Paragraph 1 -** The Project Description, Section 2.4 beginning on page 2-2, describes Alternative 2, the Proposed Action. The following page, 2-3 first full paragraph states that, "Reclamation would obtain a permanent easement for the portion of the Intertie alignment that is constructed on state property". Figure 2-3 shows Alternative 2 as well as an inset figure of each of the alternatives. However, Figure 2-3 and the subsequent figures do not show State-owned property. Since the Intertie will cross State-owned land, DWR respectfully requests that the Delta-Mendota Canal/California Aqueduct Intertie Project Description include in the text and figures State-owned in relationship to the Proposed Action and the alternatives. DWR-4

5. **Page 2-5** - The design and construction of the turnout on the State's right of way is subject to DWR approval. DWR-5

6. **Page 2-5, under California Aqueduct Turnout Structure** – Replace the following sentence: DWR-6
   i. ~~Once the cofferdam is removed, the canal lining would be repaired~~.

   With :

   ii. With the gates installed and the canal lining repaired, the cofferdam is removed.

7. **Page 2-7** – The introduction of water into the California Aqueduct is subject to DWR approval. DWR-7

8. **Page 2-11, Section 2.7, Table 2-1, Comparison of Relative Effects under Each Alternative** - In Section 2.7, Summary Comparison of Alternatives on page 2-11 shows how each resource area meets the objectives and relates to the affected environment. Both Chinook salmon and delta smelt have an 'adverse effect' designation despite the text in Chapter 4 noting that there are no adverse effects to these species and no mitigation measures are required. Wildlife species are designated as 'adverse effect' and the text in Chapter 4 describes mitigation measures. Please clarify the information given on this table. DWR-8

Please note that the California Natural Diversity Database, Appendix E, printout expired on August 1, 2009 and may need to be updated. DWR-9

Please note that the species list from the United Stated Fish and Wildlife Service (USFWS), Appendix F, expired on May 11, 2009. DWR-10

Bay-Delta Office
August 2009

Page 2

DWR, as the land-owner in the project area, recognizes the Proposed Action will permanently impact State owned land. DWR also recognizes that there are threatened and endangered species in the area of the Proposed Action. Authorization and approvals from regulatory agencies such as the USFWS will be required prior to commencing work. In compliance with the California Environmental Quality Act (CEQA), DWR will disclose any environmental impacts and recommend mitigation measures in a separate document. DWR will work closely with the USBR and the Authority to identify responsibilities and procedures for maintaining and operating the Intertie.

DWR-11

9. **Page 3.1-4, Maximum E/I Ratio, Third sentence** - Delta exports also include the Contra Costa Canal and the North Bay Aqueduct.

DWR-12

10. **Page 3.1-6** - DWR also diverts water from the Delta at the North Bay Aqueduct, Barker Slough Pumping Plant.

DWR-13

11. **Page 3.1-9 Lake Oroville, the second to last line –** This line should be revised to state "... and deliveries of up to 900 taf to two SWP settlement contractors." The deliveries are made under the provisions of water rights settlement agreements but the water is not all water rights water. In nearly all years, at least a portion of the water delivered to the districts is project water.

DWR-14

12. **Page 3.1-17, State Water Project Delta Facilities, last paragraph** - Banks pumping is further limited through mid-June due to restrictions in the USFWS and NMFS biological opinions on the operation of the CVP and SWP. Some of these restrictions will affect the ability of the SWP and CVP to increase pumping to divert available winter flows. Pumping restrictions contained in these biological opinions are not included in the computer simulations. We expect these restrictions will reduce the potential export increases attributable to the Intertie and, therefore, the DEIS addresses the upper bound of potential impacts.

DWR-15

13. **Page 3.1-27** - The definition/explanation of Article 21 water is incomplete. (A good explanation is in the 2005 SWP Delivery Reliability Report at:

http://baydeltaoffice.water.ca.gov/swpreliability/SWPRel05_final.pdf

Article 21 water is available to the SWP contractors when there is excess water in the Delta and does not interfere with delivery and allocated Table A water and SWP operations. Contractors must be able to use the water directly or store it in local storage facilities. Operation of the intertie cannot adversely impact the allocation or delivery of SWP Table A water or Article 21 water to the SWP contractors.

DWR-16

The definition/explanation of Article 56 water is incomplete. Article 56, referred to as carryover water, is Table A water allocated to a contractor in one year but is taken in the following calendar year provided storage is available in SWP conservation facilities.

DWR-17

14. **Page 3.1-29, Impact WS-3 -** The EIS considers a slight reduction in SWP Article 21 deliveries resulting from the Virtual Intertie project to be a minor change with no adverse effect. DWR disagrees. DWR would consider this to be an adverse impact.

1.3.1 DWR-1

Reclamation is responsible for preparation of the NEPA document. However, Reclamation will coordinate with DWR regarding DWR's CEQA compliance requirements.

1.3.2 DWR-2

First reference to "Jones" in the identified sentence on page 1-4 has been deleted.

1.3.3 DWR-3

Reclamation will ensure that an agreement is finalized prior to beginning work or operations that would affect the California Aqueduct, the SWP, or state lands. Reclamation acknowledges that DWR approval will be required for conveyance of water through the California aqueduct. Additionally, the following statement was added to Chapter 2: Prior to any operations, Reclamation will seek approval from DWR for the introduction of water into the California Aqueduct.

1.3.4 DWR-4

The text on page 2-3 and Figures 2-2, 2-3, 2-4, and ES-2 have been modified to include state-owned property associated with the proposed action and alternatives.

1.3.5 DWR-5

Reclamation acknowledges that DWR approval will be required prior to construction of the turnout on the State's right-of-way. The following statement was also added to Chapter 2: Prior to any operations, Reclamation will seek approval from DWR for the introduction of water into the California Aqueduct.

1.3.6 DWR-6

The identified sentence on page 2-5 has been replaced with the suggested alternative language.

1.3.7 DWR-7

See response to DWR-5.

1.3.8 DWR-8

Table 2-1 has been modified to reflect no adverse effects of the alternatives on Chinook Salmon and Delta Smelt. The proposed action could have adverse effects on California Tiger Salamander and California Red-legged frog. Potential effects on these species would be reduced through implementation of the recommended mitigation measures.

1.3.9 DWR-9

An updated CNDDB search and map is included in the EIS.

1.3.10 DWR-10

An updated USFWS species list is included in the EIS.

Reclamation has completed consultation with the USFWS under Section 7 of the ESA to determine effects and appropriate measures to mitigate the effects to species that could be affected by the Intertie. Reclamation would be responsible for compliance with these measures. Reclamation looks forward to working with DWR and SLDMWA to determine operations and maintenance responsibilities.

1.3.11 DWR-11

The Contra Costa Canal, a CVP facility, and the North Bay Aqueduct (NBA), a SWP facility, divert water from the Delta. However, these diversions are not considered exports in the E/I ratio calculation, as defined in Table 3, footnote 20 of D-1641. The CCWD diversions are described on Page 3.1-6. The NBA diversion has been added on page 3.1-6 (see response to DWR-12).

1.3.12 DWR-12

The sentence describing DWR Delta facilities was changed by adding that DWR also “diverts water at the Barker Slough Pumping Plant for export through the North Bay Aqueduct.”

1.3.13 DWR-13

The referenced sentence on page 3.1-9 was modified to state, “and deliveries of up to 900 taf to SWP Settlement contractors”.

1.3.14 DWR-14

The quantitative analysis of impacts of Intertie operations to water supply, fish, and other resources were based on modeling of the CVP/SWP Operations Plan, without the CVP/SWP Operations BO restrictions. We agree with your comment that this provides an assessment of the upper bound of possible impacts from operations of the Intertie.

FWS and NMFS have concluded that the CVP/SWP Operations BO restrictions would prevent jeopardy to the species of concern. The EIS qualitatively analyzes the effects when CVP/SWP Operations BO restrictions are triggered, which could limit exports at Jones Pumping Plant. Operation of the Intertie would not affect the application of CVP/SWP Operations BO restrictions on Jones Pumping Plant and resulting export limitations. Reduced exports would generally reduce or eliminate the use of the Intertie, and therefore would be expected to reduce incremental impacts associated with Intertie operations.

1.3.15 DWR-15

A more complete description of Article 21 water was added as suggested. “Article 21 water is available to SWP contractors when SWP San Luis Reservoir is full and there is excess water in the Delta. Pumping Article 21 water must not interfere with delivery of allocated Table A water and Contractors must use the water directly or store it in local storage facilities.” Reclamation agrees that operation of the Intertie would not adversely impact the allocation or delivery of SWP Table A water to the SWP contractors. Reclamation operations will be in accordance with our water rights and the Coordinated Operations Agreement.

1.3.16 DWR -16

The description of Article 56 water was modified as suggested. “Article 56 water, referred to as carryover water, is Table A water allocated to a contractor in one year but is taken in the following calendar year, provided storage is available in SWP storage facilities.” Article 56 water, therefore, was pumped from the Delta to San Luis Reservoir in the previous (relatively wet year) and remained in SWP San Luis Reservoir until delivered in the subsequent calendar year.

1.3.17 DWR-17

Impacts under NEPA are evaluated based on the context in which the impact is occurring and its relative intensity. The slight reduction of SWP deliveries estimated using the CALSIM model is not a significant adverse impact because the net decrease in the average annual SWP export simulated for the Virtual Intertie Alternative (reduced Article 21 water of 13 TAF/yr and increased Table A

water of 3 TAF/yr) is only 0.3 percent of the average annual SWP export of 3,407 TAF simulated for the No Action Alternative. This small modeling difference could not be identified within the day-to-day Delta operations.

1.4 Contra Costa Water District

CONTRA COSTA
WATER DISTRICT

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August 31, 2009

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Walter J. Bishop
General Manager

Louis Moore
U.S. Department of the Interior, Bureau of Reclamation
2800 Cottage Way, MP-700
Sacramento, California 95825

Subject: DMC/CA Intertie Draft EIS

Dear Mr. Moore:

Contra Costa Water District (CCWD) appreciates this opportunity to provide comments on the July 2009 Delta-Mendota Canal (DMC)/California Aqueduct (CA) Intertie Draft Environmental Impact Statement (EIS) prepared by the U.S. Department of the Interior, Bureau of Reclamation (Reclamation).

The proposed project will provide operational flexibility to the export operations of the CVP and SWP by improving CVP export conveyance capacity, thereby improving water supply reliability. CCWD supports the goals of this project and congratulates Reclamation on completing a full environmental review of the project. This EIS adequately assesses potential impacts to Delta water users and other CVP contractors, including CCWD, under the modified operations.

CCWD-1

The project description of the Los Vaqueros Reservoir Expansion Project in the Cumulative Impacts analysis (Chapter 6) of the EIS should be updated, in keeping with the February 2009 Los Vaqueros Reservoir Expansion Project Draft EIR/EIS released by CCWD and Reclamation. CCWD will provide an electronic copy of the suggested updates, in addition to the attached hard copy. The corrections do not alter the analysis or conclusions of the EIS.

If you would like to discuss these comments further, or if CCWD can be of assistance to your project, please do not hesitate to call me at (925) 688-8083.

Sincerely,

Leah Orloff
Water Resources Manager

LO/LHS:wec

Attachment

cc: Tom Birmingham, Westlands Water District
Dan Nelson, San Luis-Delta Mendota Water Authority

ATTACHMENT. Updated language for DMC/CA Intertie Draft EIS, Chapter 6. Cumulative Impacts, pp. 6-7 to 6-8

Los Vaqueros Reservoir Expansion

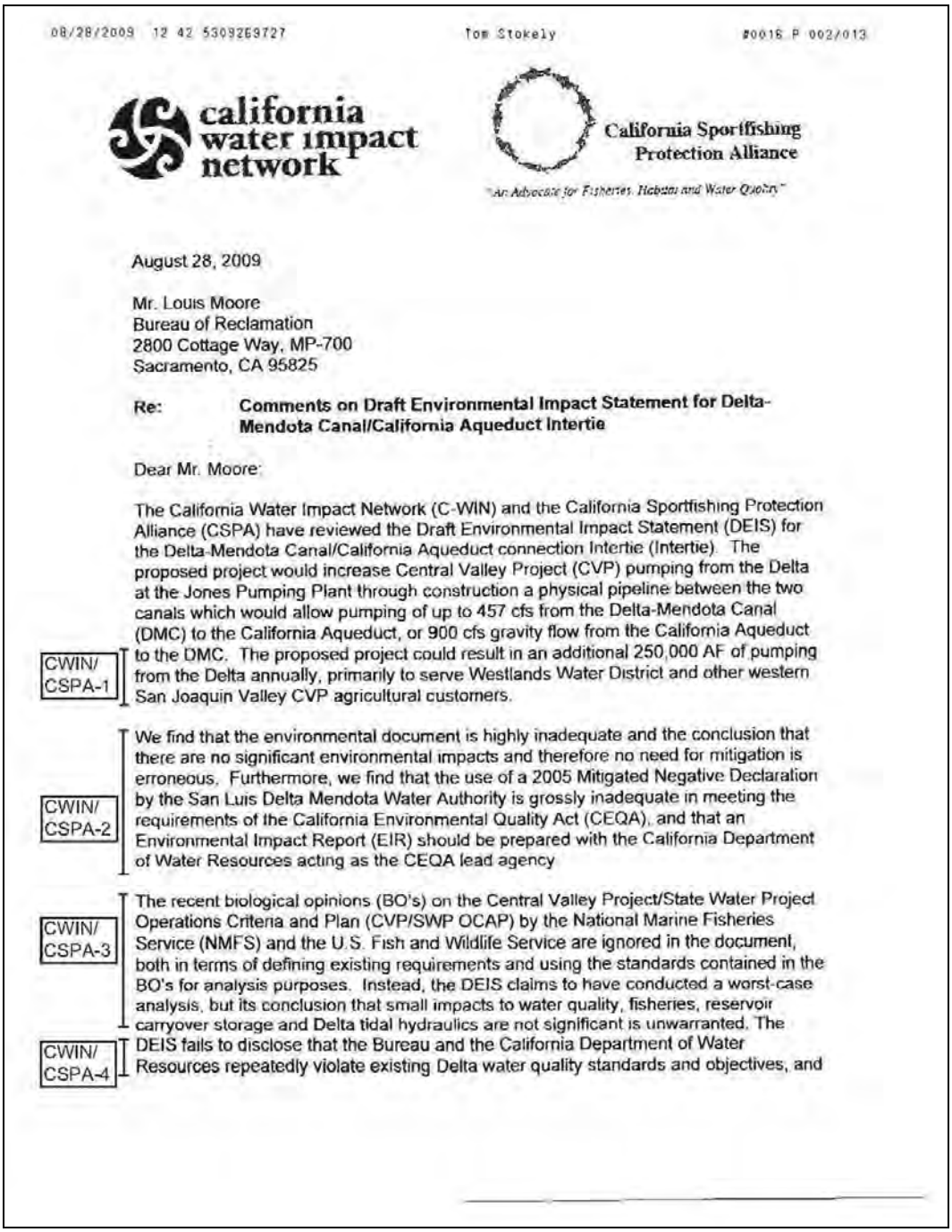
Reclamation, DWR, and CCWD are conducting a feasibility study examining alternatives to improve water quality, and water supply reliability for Bay Area water users while enhancing the Delta environment through providing water for environmental uses, by expanding the existing Los Vaqueros Reservoir from 100,000 acre-feet up to 275,000 acre-feet. An expanded reservoir may require a new or expanded Delta intake. Under certain alternatives, a new Delta intake could be built in Old River near CCWD's existing intake. Water from an expanded reservoir could be delivered to Bay Area water users through existing interties or a new connection to the South Bay Aqueduct.

A Draft EIS/EIR was prepared by Reclamation and CCWD and released in February 2009. The analysis shows that there would be no significant effect on water levels for current Delta water users, or on river velocities. Depending on the project alternative selected, the Los Vaqueros Reservoir Expansion Project could contribute to cumulative effects on water supplies and associated resources. The project could cause changes in the timing of diversions from the Delta, generally shifting more diversions into wetter years and resulting in fewer diversions in dryer years. These changes in diversion timing would be coordinated to benefit the Delta ecosystem while minimizing any effect on other water supply projects. Changes in Delta outflow associated with the reservoir expansion project would generally include increased outflow in dryer years, and relative decreases in outflow in wetter years. Changes in upstream reservoir operation associated with this reservoir expansion project would be minimal. Some alternatives of the reservoir expansion project could provide additional water supply reliability to San Francisco Bay Area water agencies.

1.4.1 CCWD-1

The changes provided by CCWD regarding the Los Vaqueros Reservoir Expansion Project have been incorporated into the EIS.

1.5 California Water Impact Network and the California Sportfishing Protection Alliance



08/28/2009 12 42 5309269727 Tom Stokely #0016 P 002/013

california water impact network

California Sportfishing Protection Alliance

"An Advocate for Fisheries, Habitat and Water Quality"

August 28, 2009

Mr. Louis Moore
Bureau of Reclamation
2800 Cottage Way, MP-700
Sacramento, CA 95825

Re: Comments on Draft Environmental Impact Statement for Delta-Mendota Canal/California Aqueduct Intertie

Dear Mr. Moore:

The California Water Impact Network (C-WIN) and the California Sportfishing Protection Alliance (CSPA) have reviewed the Draft Environmental Impact Statement (DEIS) for the Delta-Mendota Canal/California Aqueduct connection Intertie (Intertie). The proposed project would increase Central Valley Project (CVP) pumping from the Delta at the Jones Pumping Plant through construction a physical pipeline between the two canals which would allow pumping of up to 457 cfs from the Delta-Mendota Canal (DMC) to the California Aqueduct, or 900 cfs gravity flow from the California Aqueduct to the DMC. The proposed project could result in an additional 250,000 AF of pumping from the Delta annually, primarily to serve Westlands Water District and other western San Joaquin Valley CVP agricultural customers.

CWIN/ CSPA-1

We find that the environmental document is highly inadequate and the conclusion that there are no significant environmental impacts and therefore no need for mitigation is erroneous. Furthermore, we find that the use of a 2005 Mitigated Negative Declaration by the San Luis Delta Mendota Water Authority is grossly inadequate in meeting the requirements of the California Environmental Quality Act (CEQA), and that an Environmental Impact Report (EIR) should be prepared with the California Department of Water Resources acting as the CEQA lead agency

CWIN/ CSPA-2

The recent biological opinions (BO's) on the Central Valley Project/State Water Project Operations Criteria and Plan (CVP/SWP OCAP) by the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service are ignored in the document, both in terms of defining existing requirements and using the standards contained in the BO's for analysis purposes. Instead, the DEIS claims to have conducted a worst-case analysis, but its conclusion that small impacts to water quality, fisheries, reservoir carryover storage and Delta tidal hydraulics are not significant is unwarranted. The

CWIN/ CSPA-3

DEIS fails to disclose that the Bureau and the California Department of Water Resources repeatedly violate existing Delta water quality standards and objectives, and

CWIN/ CSPA-4

CWIN/ CSPA-4 cont'd: that the proposed project would increase both the frequency and intensity of those violations. Such violations are already the subject of Cease and Desist Order proceedings before the State Water Board at this time, and must be analyzed in this document. The DEIS fails to recognize that the Delta is an ecosystem that has already collapsed (i.e. Pelagic Organism Decline and the Salmon collapse) and that continued, incremental increases in pumping is a significant impact on these ecological and fishery resources, as well as Delta agriculture.

CWIN/ CSPA-5: Construction of the Intertie concurrent with ongoing Delta water quality violations by the CVP does not comply with Public Law 108-361 (CALFED Authorization), which requires all CVP Delta water quality standards and objectives be met prior to construction of the Intertie.

CWIN/ CSPA-6: Additionally, the DEIS ignores impacts to water quality/temperature objectives protective of salmon in the Sacramento and Trinity Rivers. The analysis completely fails to mention or analyze the 600,000 AF minimum carryover storage requirement for Trinity Reservoir contained in the 2000 Biological Opinion by the National Marine Fisheries Service for the Trinity River Record of Decision. Neither does the DEIS examine consistency with State and Federal Fish Doubling goals.

CWIN/ CSPA-7

CWIN/ CSPA-8

CWIN/ CSPA-9: DEIS alternatives analysis does not examine an alternative to limit groundwater pumping which continues to create and exacerbate capacity limitations for the DMC and possibly the California Aqueduct as well.

CWIN/ CSPA-10: The cumulative impacts section fails to consider cumulatively significant impacts such as increased groundwater pumping and subsequent subsidence along the DMC, facilitated by American Recovery and Reinvestment Act of 2009 (ARRA) funding, the combined water permit places of use for the CVP and SWP, as well as renewal of the CVP's San Luis unit long-term water contracts and associated drainage issues.

Our specific comments are included in the attached pages. We urge you to withdraw the DEIS and prepare a revised Draft EIS/Environmental Impact Report that complies with both the National Environmental Policy Act and the California Environmental Quality Act. However, until the CVP meets its share of Delta water quality standards and objectives, the Intertie Project is prohibited by federal law from proceeding and it should be abandoned.

08/28/2009 12 42 5309269727 Tom Stokely #0016 P 004/013

Mr. Louis Moore, Bureau of Reclamation; C-WIN/CSPA comments on DEIS for Delta-Mendota Canal/California Aqueduct Intertie Project
August 28, 2009
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3

SPECIFIC C-WIN/CSPA COMMENTS ON INTERTIE DEIS

CWIN/ CSPA-11

Salmon and Smelt Biological Opinions are not considered- The DEIS completely ignores the Reasonable and Prudent Alternatives (RPA) identified in the recent Biological Opinions for Central Valley salmon and Delta smelt. It mentions the Biological Opinions, but does not analyze the different alternatives in terms of how well they meet the RPA's. The DEIS instead treats the Biological Assessment for the Central Valley Project/State Water Project Operations Criteria and Plan (OCAP) as if it is one and the same with these biological opinions, when in fact, they are not. The National Marine Fisheries Service and the U.S. Fish and Wildlife Service both determined that the OCAP Biological Assessment would cause jeopardy to listed species, and therefore require several Reasonable and Prudent Alternatives. Specifically, the salmon biological opinion cites (page 629-630) adverse effects from CVP pumping as follows:

"The adverse effects of the proposed action identified in the NMFS Biological Opinion includes:

1) Diversion from the North Delta into the Delta interior of early emigrating winter-run juveniles, yearling spring-run, and CV steelhead, through the operation of the DCC gates in late fall and early winter.

2) Enhanced vulnerability of juvenile salmonids to entrainment and indirect mortality, through alteration of the hydrodynamics of the interior and south Delta waterways, due to the influence of export pumping actions in winter and spring.

3) Enhanced vulnerability of CV steelhead from the San Joaquin River basin to exports and export-related changes in hydrodynamics.

4) Direct mortality from entrainment of juvenile salmonids and green sturgeon at the CVP and SWP export facilities."

Clearly, increased pumping above existing levels facilitated by the proposed project and alternatives would further aggravate impacts to salmonids in the Delta, yet the DEIS fails to acknowledge that incremental increases in impacts to listed and other species would result from the increased pumping at the Jones Pumping Plant.

Some of the salmon Biological Opinion's Reasonable and Prudent Alternatives are specific for the Intertie Project (starting on page 629) including the following:

"Action IV.2.1 San Joaquin River Inflow to Export Ratio- Objectives: To reduce the vulnerability of emigrating CV steelhead within the lower San Joaquin River to entrainment into the channels of the South Delta and at the pumps due to the diversion of water by the export facilities in the South Delta, by increasing the inflow to export

ratio. To enhance the likelihood of salmonids successfully exiting the Delta at Chipps Island by creating more suitable hydraulic conditions in the main stem of the San Joaquin River for emigrating fish, including greater net downstream flows."

"Action IV.2.3 Old and Middle River Flow Management- Action: From January 1 through June 15, reduce exports, as necessary, to limit negative flows to -2,500 to 5,000 cfs in Old and Middle Rivers, depending on the presence of salmonids. The reverse flow will be managed within this range to reduce flows toward the pumps during periods of increased salmonid presence."

"Action IV.3 Reduce Likelihood of Entrainment or Salvage at the Export Facilities- Objective: Reduce losses of winter-run, spring-run, CV steelhead, and Southern DPS of green sturgeon by reducing exports when large numbers of juvenile Chinook salmon are migrating into the upper Delta region, at risk of entrainment into the central and south Delta and then to the export pumps in the following weeks."

"Action Suite IV.4 Modifications of the Operations and Infrastructure of the CVP and SWP Fish Collection Facilities- Objective: Achieve 75 percent performance goal for whole facility salvage at both state and Federal facilities."

"Action IV.6 South Delta Improvement Program—Phase I (Permanent Operable Gates)
Action: DWR shall not implement the South Delta Improvement Program, which is a proposal to replace temporary barriers with permanent operable gates."

CWIN/ CSPA-12

CWIN/ CSPA-13

The DEIS simply acknowledges an incremental increase in impacts to water quality, fisheries, reservoir storage, temperature control, but fails to acknowledge that the proposed project will result in a significant impact by incrementally increasing Delta exports at the Jones Pumping Plant. Furthermore, despite Action IV.6 contained in the salmon Biological Opinion, the DEIS analyzes the various alternatives assuming that the Permanent Operable Gates for the South Delta Improvement Project will be in place, even though the salmon Biological Opinion prohibits them! Given ongoing water quality violations and the Bureau and Department of Water Resources' blatant disregard for D-1641, the Existing Conditions and No Action alternatives already have significant impacts on fisheries, water quality, Delta agriculture, reservoir storage and Folsom/Sacramento/Trinity temperature control. Additional increases in Delta pumping through the Jones Pumping Plant will exacerbate ongoing water quality violations. Therefore, significant impacts will occur from the Proposed Project.

CWIN/ CSPA-14

CWIN/ CSPA-15

The DEIS erroneously makes a finding of no adverse impacts to water quality, fisheries, Delta tidal hydraulics and upstream cold water reservoir storage, and therefore erroneously recommends no mitigation, when in fact, all of the alternatives considered have the potential to and are likely to increase Delta pumping by up to 250,000 AF/year. It makes no mention of the specific reasonable and prudent alternatives in the salmon

CWIN/ CSPA-16 and Delta smelt Biological Opinions which affect this project and should be included in the analyses. Existing conditions should include, for analytic purposes, ongoing violations of water quality standards and flow objectives contained in D-1641 (see below)! Rather than continuing with denial that the SWP/CVP delta operations do not

CWIN/ CSPA-17 impacts fisheries, the impacts must be identified as significant and the reasonable and prudent alternatives must be listed specifically as mitigation measures.

CWIN/ CSPA-18 Reverse flows caused by State and Federal water exports in the South Delta causes increased loss of juvenile outmigrating salmon from the Sacramento River as well as take of Delta smelt and longfin smelt. The DEIS simply writes off this hydrodynamic phenomenon as a small, insignificant impact to listed species, even though cumulatively it is extremely significant, as evidenced by the salmon collapse and the Pelagic Organism Decline. It is a death by a thousand cuts.

CWIN/ CSPA-19 Decreased cold water reservoir storage in the Bureau's Shasta, Trinity and Folsom reservoirs is impacted, albeit slightly, and written off as an insignificant impact However, the issue of cold water carryover storage is addressed extensively in the salmon Biological Opinion. This biological opinion makes clear that operations proposed in the OCAP Biological Assessment will aggravate depleted upstream cold water pools through increased upstream reservoir releases in order to increase pumping at the Jones Pumping Plant.

CWIN/ CSPA-20 Temperature control in the Sacramento River is not adequately addressed or analyzed. The alternatives analysis should examine the frequency of violations of Sacramento River Basin Plan temperature requirements to protect salmon. The Water Quality Control Plan for the Sacramento River contains a 56 degree (Fahrenheit) requirement between Keswick Dam and Hamilton City[1], which is implemented through the State Water Resources Control Board's (SWRCB) Water Right Order 90-05.[2]

Similarly, the National Marine Fisheries Service's 2000 Biological Opinion for the Trinity River Record of Decision contains a 600,000 AF minimum cold water pool for Trinity Reservoir to protect salmon and steelhead.[3] That minimum cold water pool was designed to meet downstream Trinity River temperature objectives approved by the State Water Resources Control Board and U.S. Environmental Protection Agency.[4]

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[1] See Table III-4 in the Water Quality Control Plan (Basin Plan) for the Central Valley Regional Water Quality Control Board, Central Valley Region, Fourth Edition, accessed at: http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr.pdf

[2] See SWRCB WR Order 90-05, page 54, condition 1; accessed at http://www.swrcb.ca.gov/waterrights/board_decisions/adopted_orders/orders/1990/wro90-05.pdf

[3] See page 49 term and condition 7b, accessed at http://www.fws.gov/arcata/fisheries/reports/technical/TREIS_BO_NMFS.pdf

[4] See Table III-1, footnote 5 on page 3-8.00 in the Water Quality Control Plan for the North Coast Region, North Coast Regional Water Quality Control Board, January 2007; accessed at: http://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/083105-bp/070605_Basin_Plan.pdf

CWIN/ CSPA-21

Water Right Order 90-05 implements a portion of those Basin Plan temperature requirements for the Trinity River. However, the DEIS fails even to mention minimum pool and temperature requirements, let alone analyze how often these requirements would be violated by implementation of the Proposed Project or other alternatives. The analysis contained in the "Trinity River Mainstem Fisheries Restoration EIS/EIR"[5] provides an excellent framework to evaluate temperature impacts in both the Trinity and Sacramento rivers.

The Trinity Adaptive Management Working Group (TAMWG), a Federal Advisory Committee established under the Trinity River Record of Decision, has identified adequate Trinity cold water carryover storage as a crucial fisheries issue. They believe that the Bureau of Reclamation is ignoring this issue, as evidenced by projections of low reservoir storage and a possible temperature emergency in 2009. A March 30, 2009 letter[6] to the Trinity Management Council (TMC) stated as follows:

> *"No matter what release schedule is approved, TAMWG recommends that the TMC write the Bureau of Reclamation requesting that it adjust operations so as to maintain a minimum carryover pool in Trinity Lake to avoid any violation, in the event the Trinity Basin experiences consecutive dry and/or critically-dry water years, of the Trinity River water temperature requirements specified in State Water Resources Control Board Water Right Order WR 90-05, recognizing that the State Board both issued and controls the Bureau's permits to divert water from the Trinity Basin."*

CWIN/ CSPA-22

It is clear that the TAMWG would find even a small decrease in Trinity carryover storage a significant impact. Therefore the finding that there is no significant impact to upstream reservoir cold water storage and Trinity River temperature compliance is inaccurate, misleading, and just plain wrong.

CWIN/ CSPA-23

Fish Doubling Goals in State and Federal Law are not considered. The requirement to double Central Valley fish populations was not considered in either the DEIS (See California Fish and Game Code Section 6900-6924 and Public Law 102-575, Section 3406(b)(1), the Central Valley Project Improvement Act of 1992). Even the 1% increase in fish mortality identified in the 2005 Mitigated Negative Declaration represents a large number of dead fish, including listed species, and is inconsistent with the state and federal fish doubling goal.

The proposed action violates Public Law 108-361, the Water Supply, Reliability and Environmental Improvement Act. Section 103(d)(2)(D)(i) requires (prior to

[5] See http://www.fws.gov/arcata/fisheries/reports/technical/treis/final_document_new.html
[6] See letter from Trinity Adaptive Management Working Group to Trinity Management Council March 30, 2009, accessed at http://www.fws.gov/arcata/fisheries/reports/tamwg/2009/March18/Letter%20to%20TMC%20March%2030,%202009%20from%20TAMWG%20Chairman.JPG

increasing deliveries through an intertie) that the Secretary of Interior must develop a plan and "*...implementation of a program to meet all existing water quality standards and objectives for which the Central Valley Project has responsibility.*"

CWIN/ CSPA-24

However, despite preparation of the plan, it is not being implemented and the Bureau and the Department of Water Resources are responsible for ongoing violations of water quality and flow standards for the Delta including the following:

- March 2009: Delta outflow requirements violated.
- June 2009, San Joaquin River flow requirements violated.
- Since mid-December 2008, South Delta salinity standards have been violated.
- Water transfers are occurring using "Joint Point of Diversion" (JPOD) despite D-1641 prohibiting its use when salinity standards in the south Delta, above, are violated. For instance, the running 30-day average for electrical conductivity- the measure of salinity, at Old River near Tracy is currently 1.02 umhos/cm. The water quality standard for this period is 0.7 umhos/cm to protect Delta agriculture. South Delta salinity standards have been continually violated the last seven months, imperiling Delta fish populations and Delta farming operations

These are routine events in the wake of the adoption of D-1641 in 2000. A State Water Resources Control Board 2006 Cease and Desist Order requiring the projects to comply with D-1641 salinity requirements in south Delta river channels has not been complied with nor enforced by the State.

CWIN/ CSPA-25

Therefore, since existing Delta standards and objectives are not being met, the Intertie project is illegal and must not be allowed to proceed. If the proposed project will increase the amount and level of existing water quality violations, it is clearly a significant impact under NEPA and CEQA.

Alternatives Analysis is Inadequate

CWIN/ CSPA-26

Restriction of groundwater pumping along the DMC is not considered as an alternative or part of an alternative to minimize or halt ongoing subsidence and subsequent capacity reduction in the DMC, which is a recognized problem in meeting the Purpose and Need of the Proposed Project.

The recent approval of $32.9 million in funding through the American Recovery and Reinvestment Act of 2009 (ARRA) for construction and/or renovation of over 100 wells, mostly along the Delta Mendota Canal and the California Aqueduct in an area of continued groundwater overdraft assures that subsidence and continued reduction in the capacity of both aqueducts will continue. A recent report by the U.S. Geological Survey developed a Central Valley Hydrologic Model (CVHM) "*that accounts for integrated, vanable water supply and demand, and simulates surface-water and*

groundwater-flow across the entire Central Valley system."[7] The report identifies a significant amount of land subsidence from overdraft along the Delta Mendota Canal and California Aqueduct. A revised DEIS/DEIR should include an alternative which includes regulation of groundwater pumping in order to halt continued subsidence and resultant reduction in capacity of the DMC. The CVHM should be used to analyze the performance of each alternative in terms of reduction in subsidence as it relates to the purpose and need to utilize the DMC at its full capacity.

CWIN/ CSPA-27

Impacts from increased delivery of water to drainage-impaired lands are not evaluated. The proposed project would increase deliveries to drainage-impaired lands in the San Luis Unit above current levels. A revised DEIS/DEIR should be issued which examines the drainage impacts of increased delivery of water to lands which create seleniferous, salty drainage. Alternative analysis compared to Existing Conditions and No Action includes the following:

CWIN/ CSPA-28

- How much additional drainage will be created?
- How many more acres per year will turn to bare soil evaporation?
- How much more contamination of the various surface waters and aquifers will occur and how much additional seepage will there be in the San Joaquin River, including volume, but also loading of selenium, boron and salt?
- How does the proposed project affect the Grasslands Bypass Project?
- How does the proposed project relate to resolution of San Luis Drainage problems?
- Is the Proposed Project consistent with the California Constitution's prohibition on Wasteful and Unreasonable Use of Water (Article X, Section 2)?
- What are the indirect and direct costs to society from creation of increased contaminated drainage water?

Cumulative Impact Analysis is Inadequate

The proposed Intertie Project would cumulatively impact Delta water quality and fisheries because the federal and State water projects are already in violation of D-1641 water quality and flow standards, as stated above, thus making a mockery of plans to operate the Intertie in compliance with measures protective of water quality and fisheries. The Pelagic Organism Decline and an unprecedented two consecutive years with no commercial fishing for Sacramento River Chinook salmon indicate a system in total collapse. Given this level of ecological destruction, it is unconscionable that Reclamation would find that taking additional tens, if not hundreds of thousands of acre-feet of water from the Delta is not a significant impact, given the fisheries' collapse.

CWIN/ CSPA-29

CWIN/ CSPA-30

The cumulative impact analysis does not even mention that approximately 1.4 million AF of water in the San Luis Unit contracts is up for renewal within the next few months. This is a significant issue and could directly impact the need for increased or decreased

CWIN/ CSPA-31

[7] Faunt, C.C., ed., 2009, Groundwater Availability of the Central Valley Aquifer, California: U.S. Geological Survey Professional Paper 1766, 225 p. See http://pubs.usgs.gov/pp/1766/

CWIN/ CSPA-31 cont'd.

Delta exports through significant retirement of drainage-impaired lands in the San Luis service area of the CVP.

CWIN/ CSPA-32

The cumulative impacts section completely fails to mention the San Luis Drainage settlement/San Luis Drainage Feature Re-evaluation Record of Decision. The San Luis Drainage Settlement would transfer a million AF of water under a 9d permanent water contract, as well as potentially some federal facilities to the San Luis contractors. The proposed San Luis Drainage Feature Re-evaluation Record of Decision would cost an estimated $2.7 billion dollars, and yet Reclamation's feasibility study conducted in 2008 found that this technology was far from feasible at this time.

CWIN/ CSPA-33

The cumulative impacts section also completely fails to mention DWR's 2008 Drought Water Bank and the combining of the CVP and SWP Places of Use by the State Water Resources Control Board. There are significant cumulative impacts to Delta water quality, fisheries and tidal hydrology from the additional Delta exports during a series of dry years, as evidenced by the ongoing water quality and flow violations mentioned above. The increase in proposed water transfers using CVP water is also not mentioned.

The existing 2005 Mitigated Negative Declaration by the San Luis Delta Mendota Water Authority (SLDMWA) is inadequate to approve this project:

The CEQA documentation for this project is a 2005 Mitigated Negative Declaration approved by the San Luis Delta Mendota Water Authority. The 2005 Negative Declaration (MND) is faulty and an EIR should be prepared for the following reasons:

CWIN/ CSPA-34

Incorrect CEQA Lead Agency- The California Department of Water Resources (DWR) should be the CEQA lead agency for this project. In an August, 2009 letter to the National Marine Fisheries Service, DWR Director Lester Snow stated "*...it is impossible to effectively address many of the federal operations in the Delta without involving participation and cooperation of the Department [of water resources] on behalf of the SWP.*"

- The project is a direct intertie between the CVP and SWP, including significant reconstruction of a portion of the lining of DWR's California Aqueduct. The California Department of Water Resources operates the SWP. The purpose of the project is to create a direct connection between the federal Central Valley Project (CVP) and the State Water Project (SWP).
- SLDMWA has 32 member agencies, only one of which is a SWP contractor, the other 31 are federal contractors
- The Court of Appeal in the Monterey Amendments litigation clearly stated that DWR is the "state agency charged with the statewide responsibility to build, maintain and operate" the SWP. The court further stated that it is "incongruous

to assert that any of the regional contractors," could be the CEQA lead agency for such a project.

CWIN/ CSPA-35

The federal courts rejected a FONSI and an EIS was prepared- The fact that the Bureau of Reclamation lost in federal court on an Environmental Assessment/Finding of No Significant Impact for the same project and has now prepared an EIS is indicative that the project has significant impacts under CEQA, a Mitigated Negative Declaration is inadequate, and an EIR is required.

CWIN/ CSPA-36

A Mitigated Negative Declaration is inappropriate because circumstances have changed dramatically since 2005.

- The Delta's Pelagic Organism Decline (POD)
- The collapse of the Sacramento River Chinook fishery
- A new biological opinion on Delta Smelt by the U.S. Fish and Wildlife Service
- A new biological opinion on Central Valley salmon and steelhead by the National Marine Fisheries Service
- Below average precipitation and runoff for the past 3 years
- Significant funding for additional groundwater depletion and subsidence through ARRA funding of over 100 wells along the DMC.
- Suspension of water quality standards through the Governor's Drought Declaration
- Consolidation of the CVP and SWP permitted places of use by the SWRCB
- Approval of a State/Federal Water Drought Water Bank
- A proposed 10-year time extension to continue waiving Basin Plan selenium, salt and boron water quality standards for the Grasslands Bypass Project

CWIN/ CSPA-37

The 2005 Mitigated Negative Declaration and the 2009 Draft EIS fail to analyze adequate alternatives.

- An alternative to reduce Delta exports and reduce demand through recycling, conservation and groundwater management/cleanup was never considered in either document.
- An alternative to examine how to reduce demand for DMC capacity through permanent retirement of drainage-problem lands in the San Luis Division of the CVP was not analyzed.
- The capacity of the Delta-Mendota Canal is compromised in part by subsidence due to groundwater overpumping, Neither the 2005 nor the 2009 documents propose an alternative to regulate groundwater in the area to prevent future loss of capacity through subsidence along the DMC and California Aqueduct. Neither document utilizes the new groundwater report and modeling capability for Central Valley aquifers produced by USGS, "*Groundwater Availability of the Central Valley Aquifer, California*" (See http://pubs.usgs.gov/pp/1766/ <http://pubs.usgs.gov/pp/1766/>).

CWIN/ CSPA-38

The 2005 MND fails to identify significant impacts from the proposed project, as well as the Existing Conditions and No Action alternatives (as does the 2009 DEIS). Given the ongoing water quality and flow violations, the assumption that there are not significant impacts from the proposed project is erroneous. The proposed project would allow up to an additional 250,000 AF be pumped out of the Delta annually. Delta pumping since 2001 has increased significantly above historic levels. Numerous listed species are adversely affected by the combined CVP and SWP operations. The POD and salmon collapse are indicative of the fact that Delta exports and water deliveries are unsustainable. The 2005 Draft Initial Study identifies the project as "a *substantial change in CVP pumping capability*." (Draft EA/IS p. 78). See CEQA Guidelines Section 15065 (a)(1)

CWIN/ CSPA-39

The 2005 Mitigated Negative Declaration (and the 2009 DEIS) completely fail to acknowledge significant cumulative impacts from the proposed project. Given the ongoing water quality violations, the POD, salmon collapse, the drought mentioned above, there is no acknowledgement that any additional pumping from the Delta will further aggravate a system already in a state of collapse. See CEQA Guideline Sections 15064(h)(1) and 15065(a)(3).

Despite the recent Fish and Game Code Section 2080 Consistency Determination by the California Department of Fish and Game for SWP operations, there has yet to be a comprehensive CEQA review of the cumulative impacts of the CVP/SWP Operations Criteria and Plan (OCAP), including, but not limited to a CEQA review of Delta smelt, longfin smelt, spring Chinook and winter run Chinook take with identification of "full mitigation" required by the California Endangered Species Act. An EIR is required in this instance.

CWIN/ CSPA-40

Fish Doubling Goals in State and Federal Law are not considered. The requirement to double Central Valley fish populations was not considered in either the 2005 Mitigated Negative Declaration or the 2009 DEIS (See California Fish and Game Code Section 6900-6924 and Public Law 102-575, Section 3406(b)(1), the Central Valley Project Improvement Act of 1992). Even the 1 percent increase in fish mortality identified in the 2005 Mitigated Negative Declaration represents a large number of dead fish, including listed species, and is inconsistent with the state and federal fish doubling goal. An EIR is required in this instance.

1.5.1 CWIN/CSPA-1

As described in Section 3.1 and Appendix B, the proposed action would result in an annual maximum increase in CVP Jones pumping of 136 thousand acre-feet (TAF) (Table 3.1-10), and the maximum annual use of the Intertie was 128 TAF (Table 3.1-15d), with an annual average increase in CVP Jones pumping of 35 TAF. These results are based on the commonly used CALSIM model for the facilities, operations and water supply demands assumed in the 2008 CVP/SWP Operations Plan modeling efforts, and the description of the proposed action Intertie use as described in Chapter 2. Language has been added to this description to note that use of the Intertie occurs primarily in the months of September through March. Intertie use could also occur in July and August in years when Upper DMC contractors divert less than 400 cfs. Table 3.1-10 gives the monthly capacity changes with the Intertie, and shows that the maximum capacity change, if the DMC were full every month would be about 136 TAF. Water made available through the Intertie is available for all authorized CVP project purposes.

1.5.2 CWIN/CSPA-2

The California Water Impact Network and California Sportfishing Protection Alliance opinion regarding the adequacy of the EIS is noted. As a Federal agency, Reclamation is responsible for preparing an EIS in compliance with NEPA. The selection and preparation of the CEQA document is the responsibility of state agencies and districts.

1.5.3 CWIN/CSPA-3

The Intertie EIS evaluates the incremental effects of the Intertie as compared to without-Intertie CVP operations (described as “No Action”) to disclose how construction and operation would affect various resources. The analysis for fish impacts was conducted using both the density method (used in the Intertie EA/IS) and the reverse flow method (used in the CVP/SWP Operations BOs). The results of these 2 methods yielded similar results. Like all actions that require ESA consultation, the Intertie operations would include the required compliance with the BOs (CVP/SWP Operations BOs included Intertie operations). First, the impacts without the specific current BO restrictions are provided. Second, the commitment that the Intertie would operate to the BO conditions is described. The BOs require that reverse Old and Middle River (OMR) flows not exceed specified flows when certain fish presence criteria are met. This can require that pumping at the Jones and Banks Pumping Plants be limited at such times. Reductions in pumping at the Jones Pumping Plant can result in pumping at the Intertie being reduced or eliminated. Therefore, when the BO OMR flow requirements are

triggered, the Intertie pumping could be reduced or eliminated, which would minimize or avoid the incremental impacts from the Intertie (Intertie EIS 4.1-32). When these BO restrictions are not triggered, the Intertie operations and impacts would be as described in the EIS. Section 4.1 of the EIS describes the estimated effects on fish.

Existing Delta operational requirements have been described in the environmental setting and regulatory setting sections. They are part of the baseline in which the Intertie is operating. These regulations are reflected in the CALSIM modeling assumptions of the Intertie. These assumptions are consistent with the CVP/SWP Operations Plan assumptions. As such, the Intertie analysis is consistent with the CVP/SWP Operations Plan analysis, restrictions, and operations.

Regarding impacts related to reservoir storage, tidal hydraulics, and water quality, the potential changes attributable to the Intertie are found to be very small in the CALSIM modeling. Rather than assume that these changes would therefore not occur, the relevant resource analysis sections of the EIS describe these potential changes as minor and difficult to detect.

1.5.4 CWIN/CSPA-4

The CVP, with the Intertie, will be operated in compliance with existing regulations such as D-1641. Appendix B describes all of the assumptions included in the modeling and Sections 3.1(page 3.12, Water Supply Regulatory Framework) and 3.3 (page 3.3-4, Regulatory Framework) describe the existing regulations for water supply and water quality, respectively. Operation of the Intertie would not increase intensity or frequency of exceedences of D-1641 water quality objectives.

1.5.5 CWIN/CSPA-5

The CVP/SWP Operations BOs, which include available information on the POD, are incorporated by reference into the Intertie EIS and are considered in the assessment of fish impacts in Section 4.1. The fish species life histories describe some of the factors believed to contribute to these fish population fluctuations. FWS and NMFS have issued BOs with RPAs, which FWS and NMFS have concluded protect their regulated species from jeopardy. Because the allowable diversions from the Delta would be regulated by the CVP/SWP Operations BOs, it is expected that Intertie operations could be reduced or eliminated when the reverse OMR flow requirements are triggered. Additionally, the Intertie would not result in adverse effects on agricultural operations in the Delta because it will not result in detectable changes to water quality or the ability to divert water for agricultural uses from the Delta.

1.5.6 CWIN/CSPA-6

As described in Section 3.3, PL 108-361, Section 103(d)(2)(D) requires that Reclamation develop and initiate implementation of a program to meet all existing water quality standards and objectives for which CVP has responsibility prior to increasing deliveries through (not constructing) an intertie between the California Aqueduct and Delta-Mendota Canal. This is further clarified in Section 103(d)(2)(D)(vi), that the purpose of the authority is to provide greater flexibility in meeting the existing water quality standards and objectives for which the CVP has responsibility (not specifically Delta standards) so as to reduce the demand on water from New Melones Reservoir used for that purpose. Reclamation has complied with PL 108-361, Section 103(d)(2)(D) with the February 2006 report, Program to Meet Standards, Response to CALFED Bay-Delta Authorization Act (Public Law 108-361) CALFED Bay-Delta Program, California. The report summarizes the scope, activities, and management approach Reclamation is pursuing for the program. The document is available at http://www.usbr.gov/mp/ptms/index.html.

1.5.7 CWIN/CSPA-7

The DEIS summarizes the CVP and SWP facilities and operational constraints in the Delta and upstream tributaries (reservoirs) are described beginning on page 3.1-6, Central Valley Project and State Water Project Facilities and Operations. This summary is intended to reference the more extensive prior description and evaluation of these facilities and operational effects in the CVP/SWP Operations BA and BOs.

The Trinity Division subsection indicates that implementation of the Intertie proposed action would not change the monthly pattern or annual total of Trinity exports based on CALSIM modeling results. Table 3.1-1 shows that there were no changes in Clear Creek (Trinity Exports) with the Intertie compared to the No Action conditions. Because the Trinity monthly flows are specified in the Trinity Restoration Record of Decision, no monthly changes in Trinity storage were simulated. The CALSIM simulated Trinity carryover storage does include the 600 TAF minimum. Figure 12 in Appendix B (CALSIM modeling) shows that the simulated Trinity storage and river flows are consistent with the NMFS BO for the Trinity River ROD. Release temperatures below Lewiston will therefore be identical to No Action conditions without the Intertie.

Table 3.1-2 shows that the CALSIM-simulated Keswick monthly flows did not change with the Intertie from the No action conditions monthly flows. These monthly flows are in units of cfs, so the few differences between the modeling results for the two cases are very small. Because the monthly Keswick flows did not change, the carryover Shasta storage and river temperatures below Keswick would not change with the Intertie. Table 3.1-3 shows that Oroville-Thermalito release flows did not change from the No Action conditions, so Feather River

temperatures would not change with the Intertie. Table 3.1-4 shows that Nimbus flows did not change from the No Action conditions, so American River temperatures would not change with the Intertie.

1.5.8 CWIN/CSPA-8

CVPIA implementation is part of the No Action and of the Intertie Alternatives. One of the major components of the CVPIA is the AFRP program to "double the historical abundance" of natural spawning Chinook and other anadromous Central Valley species. The CALSIM simulations for CVP/SWP Operations Plan (with the Intertie) include each of the minimum flow and carryover requirements and export reductions that are mandated by the current AFRP actions. Section 4.1, Fish, fully evaluates the potential effects of the Intertie proposed action and alternatives on protected species. The analysis concludes that the incremental effect on these species from implementation of the Intertie as compared to No Action would be very small (salvage and migration impacts) under the current regulatory requirements. As described, the recent actions required by USFWS and NMFS under the CVP/SWP Operations BOs will reduce the opportunity for Intertie operation in the months with reverse OMR flow limits, and would thereby reduce the identified impacts to fish during those time frames.

1.5.9 CWIN/CSPA-9

Reducing or limiting groundwater pumping was not considered as an alternative to the proposed action because it would not restore capacity to the DMC and would not provide operational flexibility during operations, aqueduct/canal maintenance or during an emergency. Additionally, most groundwater pumping occurs downstream from the DMC constraint.

1.5.10 CWIN/CSPA-10

NEPA requires evaluation of the cumulative effects of projects that could have compounding effects on resources affected by the Intertie proposed action. Renewal of San Luis Unit contracts for up to the maximum contract total is a basic assumption of CVP/SWP Operations Plan, so the cumulative effects of San Luis Unit contract renewal per se has been considered. The Cumulative Effects section has been modified to address the incremental effects of the Intertie on other groundwater pumping programs and on the production of drainage through potential increases in contract deliveries. The potential increase in average annual deliveries to San Luis Unit contractors is less than 0.05 acre feet per acre and is considered negligible for drainage production. Drainage was addressed in the San Luis Drainage Feature Re-Evaluation. That effort evaluated drainage that would occur from a 100% water contract allocation.

1.5.11 CWIN/CSPA-11

See response to Comment CWIN/CSPA-3.

Additionally, the Intertie EIS includes commitments to operate the Intertie in compliance with the RPAs included in the CVP/SWP Operations BOs, which FWS and NMFS have concluded would avoid jeopardy. This compliance could result in use of the Intertie being reduced or eliminated when the BO requirements are triggered, thus avoiding or minimizing impacts on fish related to the Intertie operations during sensitive times. Section 4.1, Fish, has been modified to identify which BO actions would contribute to minimizing the effects of the Intertie proposed action and alternatives.

1.5.12 CWIN/CSPA-12

The EIS impact analysis relies on the CALSIM model to evaluate the incremental effects of the Intertie on the system-wide CVP and SWP reservoirs and Delta operations. The potential effects attributable to the Intertie on reservoir storage, temperature control, and water quality north of the Delta were found to be very small in the CALSIM modeling. The relevant resource analysis sections of the EIS describe these potential changes as minor and difficult to detect. The only potential impacts to fish attributable to the slight incremental increase in pumping at the Jones Pumping Plant are found in the Delta and are described in the EIS. These small incremental impacts of the Intertie combined with other actions and projects may result in cumulative impacts, which are described in Chapter 6.

1.5.13 CWIN/CSPA-13

An impact under NEPA is the difference between No Action and the Proposed Action, which is characterized accordingly in the Intertie EIS. Operation of the Intertie is subject to existing regulation, including water quality objectives, and therefore will not exacerbate or cause adverse effects to water quality. Also see response to CWIN/CSPA-16 below. The Intertie modeling effort used the CVP/SWP Operations Plan modeling for assumed Future No Action operations. Since the south Delta permanent gates were included in CVP/SWP Operations Plan, they were also included in the Intertie modeling. Increased diversions attributable to the Intertie would primarily occur from September through March, with some additional pumping in July and August of some years. Permanent gates would be operated only in April through November, the same period in which temporary barriers are permitted to be installed. Additionally, fall operations of the permanent gates result in the same hydrodynamic effects as the temporary barriers that are currently installed each year, as described in the CVP/SWP Operations BOs. Therefore the inclusion of the permanent gates in the modeling assumptions does not invalidate the Intertie analysis.

1.5.14 CWIN/CSPA-14

See response to CWIN/CSPA-4.

1.5.15 CWIN/CSPA-15

See response to CWIN/CSPA-1. The maximum increase in annual CVP Jones pumping capacity would be 136 TAF, and the maximum annual use of the Intertie was 128 TAF (Table 3.1-15d), with an annual average increase in CVP Jones pumping of 35 TAF. Based on CALSIM modeling and impact assessment methods as described in each impact Section, and taking into account the CVP/SWP Operations BO restrictions that are applicable to the Intertie, the incremental impacts on water quality, fish, Delta hydraulics, and upstream cold water reserve due to operation of the Intertie are non-detectable to small and do not require mitigation.

1.5.16 CWIN/CSPA-16

See response to CWIN/CSPA-4. To the extent that there are occasional exceedences of the D-1641 objectives, these relatively small variations in monthly Delta flows, exports, outflow (X2), and salinity (EC) would be present for both the Future No Action and the Intertie. There are no incremental or cumulative impacts from the Intertie on the magnitude or extent of possible exceedences of the Delta objectives.

1.5.17 CWIN/CSPA-17

See response to CWIN/CSPA-3 and 11. Additionally, the FEIS has been modified to specifically identify the operational RPAs that would be implemented for compliance with CVP/SWP Operations Plan that would directly affect operations of the Intertie.

1.5.18 CWIN/CSPA-18

See response to CWIN/CSPA-8. The incremental impacts attributable to the Intertie are small and would be further reduced or avoided with implementation of the CVP/SWP Operations BOs, which is required because the CVP/SWP Operations ESA consultation includes the Intertie which is required because the Intertie was included in the CVP/SWP Operations ESA consultation. Cumulative impacts for each resource area are described in Chapter 6. Cumulative fish impacts are identified as significant for striped bass and splittail, but the proposed action's contributions to the cumulative impacts are minimal. Additionally, the cumulative effects of other ongoing projects by the State and federal government

would help to offset impacts to fish and in some cases contribute to their recovery.

1.5.19 CWIN/CSPA-19

The Intertie is one component of the CVP/SWP Operations Plan. The incremental effects of the Intertie would not affect cold water releases below any CVP or SWP reservoir, as is described in the EIS. The Intertie would not increase reservoir releases in relatively low runoff years when carryover storage is a temperature management concern. The NMFS BO RPA includes a new year-round storage and temperature management program for Shasta Reservoir and the Upper Sacramento River. As described in the EIS, the Intertie operations, as part of the CVP operations, would comply with this new requirement. Temperature management will not be changed in any way with the Intertie.

1.5.20 CWIN/CSPA-20

See response to CWIN/CSPA-7. There is already a temperature management team that coordinates operations and temperature targets for the Sacramento River, and which would continue to coordinate those operations in the future. The CALSIM modeling for CVP/SWP Operations Plan and for the EIS includes temperature flow management at Keswick and carryover storage for temperature control requirements for Trinity and Shasta Reservoirs. The NMFS BO RPA includes a new year-round storage and temperature management program for Shasta Reservoir and the Upper Sacramento River. The Intertie would not change these reservoir operations for Trinity, Shasta, Oroville, or Folsom.

1.5.21 CWIN/CSPA-21

See response to CWIN/CSPA-7.

1.5.22 CWIN/CSPA-22

See response to CWIN/CSPA-7.

1.5.23 CWIN/CSPA-23

See response to CWIN/CSPA-8. Also, to the extent that this comment is directed towards the 2005 Mitigated Negative Declaration, the selection and preparation of the CEQA document is the responsibility of state agencies and districts. Reclamation is responsible for preparation of this EIS in compliance with NEPA.

1.5.24 CWIN/CSPA-24

See response to CWIN/CSPA-6. Reclamation acknowledges that periodic exceedence of the south Delta salinity objectives occur. Vernalis EC has been managed properly with some additional New Melones Reservoir releases to meet the D-1641 objectives.

The State Board has held several hearings and workshops to investigate and reconsider the south Delta EC objectives without the planned implementation of the South Delta Improvement Program facilities (i.e., tidal gates). Reclamation has limited ability to reduce salinity at these south Delta stations. In particular, reduction of export pumping will not reduce the EC at these locations.

1.5.25 CWIN/CSPA-25

See responses to CWIN/CSPA-4 and CWIN/CSPA-6.

1.5.26 CWIN/CSPA-26

See response to CWIN/CSPA-9.

1.5.27 CWIN/CSPA-27

See response to CWIN/CSPA-9.

1.5.28 CWIN/CSPA-28

See response to CWIN/CSPA-6 and CWIN/CSPA-10. Regarding drainage, the comment is beyond the scope of the Intertie Project. The drainage program (San Luis Drainage Feature Re-Evaluation) evaluated drainage resulting from 100% water contract allocations. Intertie does not change water contract amounts. San Luis Drainage Feature Re-Evaluation final EIS, Record of Decision, and Feasibility Report are complete and publically available.

1.5.29 CWIN/CSPA-29

See response to CWIN/CSPA-4.

1.5.30 CWIN/CSPA-30

The cumulative impact assessment takes into account all actions that could affect the same resources as the Intertie. Although many past actions may have resulted

in significant changes to salmon and other fish populations, several important regulations are now in place to reverse these population trends. As described in the cumulative analysis (Chapter 6), the CVP/SWP Operations BOs, restoration actions throughout the Delta and tributaries (e.g., AFRP), BDCP conveyance changes and habitat restoration, and other efforts to restore the Delta ecosystem are expected to be implemented. Although continued diversion from the Delta is expected, the total cumulative future impact, and the Intertie's contribution, is not significant. Additionally, implementation of the CVP/SWP Operations BOs would at times limit the pumping at the Jones and Banks pumping plants, and at such times could minimize or eliminate Intertie pumping, and the impacts associated with Intertie operations.

1.5.31 CWIN/CSPA-31

See response to CWIN/CSPA-10.

1.5.32 CWIN/CSPA-32

See response to CWIN/CSPA-10. The San Luis Drainage settlement proposal has not yet reached a stage to be evaluated as part of cumulative effects analysis and would require independent review under NEPA.

1.5.33 CWIN/CSPA-33

See response to CWIN/CSPA-10.

1.5.34 CWIN/CSPA-34

See response to CWIN/CSPA-2.

1.5.35 CWIN/CSPA-35

See response to CWIN/CSPA-2.

1.5.36 CWIN/CSPA-36

See response to CWIN/CSPA-2.

1.5.37 CWIN/CSPA-37

To the extent that this comment concerns CEQA, see response to CWIN/CSPA-2. With respect to alternatives that consider reducing Delta exports and demands,

reducing demand for DMC capacity through retirement of drainage problem lands in the San Luis Division, and regulating groundwater pumping along the DMC to reduce subsidence, see responses to CWIN/CSPA-9 and -10.

1.5.38 CWIN/CSPA-38

To the extent that this comment concerns CEQA, see response to CWIN/CSPA-2. With respect to water quality and flow exceedences, see responses to CWIN/CSPA-4, -6, and 16. With respect to adverse effects on listed species, see response to CWIN/CSPA-3, 11, and 17. With respect to the increase in pumping from the Delta, see response to CWIN/CSPA-1 and -15. With respect to fisheries conditions, see response to CWIN/CSPA-5.

1.5.39 CWIN/CSPA-39

To the extent that this comment concerns CEQA, see response to CWIN/CSPA-2. With respect to treatment of cumulative impacts under NEPA, see responses to CWIN/CSPA-30.

1.5.40 CWIN/CSPA -40

See response to CWIN/CSPA-2 and CWIN/CSPA-8.

1.6 Planning and Conservation League

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August 31, 2009

Mr. Louis Moore
Bureau of Reclamation
2800 Cottage Way, MP-700
Sacramento, CA 95825
Sent via email to ekegel@usbr.gov

Re: Comments on Draft Environmental Impact Statement for Delta-Mendota Canal/California Aqueduct Intertie

Dear Mr. Moore:

The Planning and Conservation League has received and reviewed the prepared Draft Environmental Impact Statement (DEIS) for the Delta-Mendota Canal/California Aqueduct Intertie Project (Intertie) and submits the following comments.

PCL-1

The document purports that the completion of the Intertie would allow the Jones Pumping Plant to pump at its designed and permitted maximum of 4600 cfs throughout the year without impacting listed fish species in the Delta. PCL finds that the prepared DEIS misrepresents the recent biological opinions (Opinions) on the Central Valley Project/State Water Project Operations Criteria and Plan (CVP/SWP OCAP) and therefore incorrectly concludes "no adverse impact" to the species covered by these Opinions. The following paragraphs detail the discrepancies between the Opinions and the reference to those documents in this DEIS.

PCL-2

1. The Intertie project description in the Opinions[1] varies from the description used by DEIS to describe the "proposed action." The DEIS description omits two phrases.

   The first is: "…subject to all applicable export pumping restrictions for water quality and fisheries protection."

   The second is: "The intertie will not be used to increase total CVP exports until certain criteria are in place."[2]

In every other way, the DEIS covered project description and the proposed action description are the same. Simply, with these omissions, the proposed action for the DEIS is a different project than that covered by the Opinions. The discrepancies place into the question the adequate evaluation of impact of the proposed action, especially whether it will result in an increase in total CVP exports. The DEIS does not address these deviations or delineate the "certain criteria" required by the Opinions before increased CVP pumping is legal.

This oversight continues in the Section 4.1, assessing the effects on fish species. The DEIS attests "no

[1] (page 127-128 of Appendix 1 of National Marine Fisheries Biological Opinion)
[2] page 127, App. 1, NMFS BO

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PCL-3

adverse impact to fish species." Therefore, the Opinions outline mitigation measures for covered projects in their list of Reasonable and Prudent Alternatives (RPAs). However, the DEIS references no mitigation measures outline by the opinions or that these RPAs are necessary to avoid of jeopardy of listed species. Though the DEIS's fish section mentions that the Opinions include the Intertie in their project description and "its operation is therefore part of the Project operations that are subject to any terms and conditions included in these BOs." Contrary to the finding of the Opinions, this DEIS determines there will be no impact on fish species and therefore lists not mitigation measures.

PCL-4

In fact, there are RPAs that specifically apply to proposed Intertie operation. However, DEIS does not demonstrate how the Intertie's proposed alternatives would comply with these RPAs:

> Reasonable and Prudent Alternative #6 – Water pumping at the State and Federal export facilities in the South Delta causes reverse flows, leading to loss of juvenile salmon migrating out from the Sacramento river system in the interior Delta and more juvenile salmon being exposed to the State and Federal pumps, where they are entrained at the pumps. Overall mortality to winter-run salmon is 35-90 percent of juveniles that entire the Delta and 5-20 percent of the entire population. The effects on spring-run salmon are similar. This RPA prescribes Old and Middle River flow levels limit the strength of the reverse flows, thereby keeping more salmon away from exposure to the pumps."
>
> Reasonable and Prudent Alternative #7 - Survival Rates at the State and Federal pumping plants are one juvenile salmon in six exposed survive for state facilities, and one in three for Federal facilities. The RPA prescribes additional technological measures at the facilities themselves to enhance screening and increase survival of fish.

Cumulative Impacts

As we argued in *Planning and Conservation League v. United States Bureau of Reclamation, C 05-3527 (N.D. Cal) (PCL vs. BOR),* the cumulative impact assessment omits major factors that might change impact of the proposed project.

PCL-5

First, this fall the Bureau is scheduled to renegotiate the Long-Term San Luis Unit Water Supply Contracts. Contracting parties have publicly stated their expectation that this negotiation will result in higher contract amounts. In addition, the National Marine Fisheries Salmon Biological Opinion refers to unfinished negotiations on substantial water export contracts in the San Luis Unit. *(Delivery Specifications of Technical Appendix)* The result of that process will impact these significantly. (page 16 of App 1).

DEIS is a Repeat Offender

As prepared, the DEIS repeats the same inadequacies as raised by PCL in *Planning and Conservation League v. United States Bureau of Reclamation, C 05-3527 (N.D. Cal) (PCL vs. BOR)* and which supported the TRO/Preliminary injunction. Briefly, those are:

PCL-6

- The DEIS relies heavily on the CALSIM II model without adequately disclosing relevant limitations in the modeling.

PCL-7 - The DEIS's analysis slights previously acknowledged contributions of the project to increased pumping in key months (April-June), without providing for adequate mitigation.

PCL-8 - The DEIS fails to account for increased strain the project would put on (b)(2) and EWA accounts during November to March.

PCL-9 - The cumulative impacts assessment is still woefully inadequate

PCL-10 Planning and Conservation League requests that the Bureau review the briefs, orders, and complete record from the *Planning and Conservation League v. United States Bureau of Reclamation, C 05-3527 (N.D. Cal)* as part of its present environmental review, and include those items in the record with the DEIS.

CEQA Review

PCL-11 We find that the use of a 2005 Mitigated Negative Declaration by the San Luis Delta Mendota Water Authority is grossly inadequate in meeting the requirements of the California Environmental Quality Act (CEQA), and that an Environmental Impact Report (EIR) should be prepared with the California Department of Water Resources acting as the CEQA lead agency.

Modeling for Include Climate Change

The DEIS relies heavily on CALSIM II, drawing on 1922-2003 hydrologic data. Interestingly, the DEIS concedes that due to climate change, it is "speculative" to assume that 1922-2003 hydrological conditions will cover future conditions. [3]

Yet despite that concession, the DEIS goes ahead to use those model years as the basis for the environmental review. The DEIR asserts [4]that because the 1922-2003 data covers a wide variety of different hydrologic conditions, "it is assumed" that "most" potential runoff conditions are captured in the CALSIM II model's simulations.

PCL-12 But climate change undermines the DEIR's assumption that the model has adequately accounted for likely future hydrological conditions. DWR and others that have studied the effects of climate change on California water have recognized that global warming is likely to cause major reductions in winter runoff from the Sierras, with large decreases in the water available to the state and federal projects. For example:

- A May 2009 report DWR prepared for the California Climate Change Center, "Using Future Climate Projections to Support Water Resources Decision-Making in California," assessed possible climate change impacts to State Water Project and Central Valley Project operations, using 12 future climate projections. The report predicted significant reductions in annual Delta exports and reservoir carryover storage, with heavier reliance on groundwater pumping. It noted that the assumption that "future hydrologic variability will be similar to historic variability "no longer holds true under climate change." [5]

- In an October 2008 report, Managing an Uncertain Future, DWR projected that Sierra snow pack would experience a 25 to 40 percent reduction by 2050. [6] The report noted a wide range of water quality

[3] (DEIS, 3.1-2)

[4] (DEIS, 3.1-2)

[5] (Id., p. 24.)

[6] (Id, p. 4.)

consequences from climate change. Noting that hydrologic variability would probably increase in the new century, DWR candidly recognized that "California has invested in, and now depends upon, a system that relied on historical hydrology as a guide for future water supply and flood protection. However, due to climate change, the hydrology of the past is no longer a reliable guide to the future." [7]

PCL-12 cont'd.

- In July 2006, DWR published a report entitled Progress on Incorporating Climate Change into Management of California's Water Resources ("Progress Report"). The Progress Report acknowledges that climate change is already occurring, is affecting California's hydrology, and will heavily impact water storage projects.

- In a 2005 California Water Plan appendix, Accounting for Climate Change, DWR's Maurice Roos wrote "the prospects of significant changes warrant examination of how the State's water infrastructure and natural systems can accommodate or adapt to climate changes…." While acknowledging some uncertainty, the report closed by stating that "[i]t is time to try to quantify the effects of projected climate change on California's water resources. [8]

Thank you for circulating this document for public comment. We submit by reference all the previous comments on the Delta-Mendota Canal/California Aqueduct Intertie Finding of No Significant Impact.

Sincerely,

Charlotte Hodde
Water Program Manager

[7] (Id., p. 4 (emphasis added).)

[8] (Id., p. 14.)

1.6.1 PCL-1

The proposed operations of the Intertie include operations primarily in September through March, with some use in July and August of some years. Similar to existing conditions, Jones Pumping would be limited in April, May, and June, and the Intertie would not be used. While the basis for PCL's claim that the DEIS "misrepresents" the CVP/SWP Operations BOs is not clearly articulated, there is no misrepresentation of the CVP/SWP Operations BOs. The Intertie EIS evaluates the incremental effects of the Intertie to disclose how construction and operation would affect various resources. In order to make that assessment, the analysis for fish impacts was conducted using both the density method (used in the Intertie EA/IS) and the reverse flow method (used in the CVP/SWP Operations BOs). The results of these two methods yielded similar results.

The BOs included requirements, triggered by fish presence criteria, that specified maximum reverse Old and Middle River flows (OMR flows) not be exceeded. FWS and NMFS concluded that those requirements would avoid jeopardy to the species addressed in the BOs. As stated in the in Chapters 1, 2, and 5 of the EIS, the operation of the Jones and Banks Pumping Plants will be consistent with the requirements of the BOs. Operation of the Intertie will not alter or reduce restrictions on pumping at the Jones and Banks Pumping Plants (i.e., the operation of the Intertie is driven by the operation of the Jones Pumping Plant consistent with such restrictions as those contained in the BO, rather than the operation of Jones Pumping Plant being driven by the operation of the Intertie).

Existing Delta operational requirements have been described in the environmental setting and regulatory setting sections. They are assumed to be part of the baseline in which the Intertie is operating. These regulations are reflected in the CALSIM modeling assumptions of the Intertie. These assumptions are consistent with the CVP/SWP Operations Plan assumptions. As such, the Intertie analysis is consistent with the CVP/SWP Operations Plan analysis, existing (D-1641) restrictions, and operations.

The CVP/SWP Operations Plan assumptions did not include the BO requirements. When the BO requirements are not triggered, the effects of Intertie operations are described quantitatively in the EIS. However, as described in the EIS, when the BO's OMR flow requirements are triggered, reductions in pumping at the Jones and Banks Pumping Plants required to avoid exceeding specified maximum reverse Old and Middle River (OMR) flows can in turn reduce or eliminate the need for pumping at the Intertie. The reduced or eliminated Intertie pumping at such time reduces or avoids the incremental effects of the Intertie. Section 4.1 of the EIS describes the estimated effects on fish.

1.6.2 PCL-2

The first omission was not intentional and the text in Chapter 2 describing the proposed action has been revised with this statement. Although not explicitly stated in Chapter 2, the effects analysis does assume that existing export pumping restrictions and water quality and fisheries protections would be in place. As such, the addition of this statement to the FEIS does not change the conclusions in the DEIS.

The reference to 'certain criteria' in Appendix 1 of the NMFS CVP/SWP Operations BO is not defined. It refers to constraints on Intertie related to PTMS and the DWR easement, which have been lifted.

1.6.3 PCL-3

The specific portions of the NMFS and USFWS RPAs that could reduce the pumping at the Jones Pumping Plant (and therefore potentially reduce pumping at the Intertie) have been described in the EIS (pages 4.1-20 through 4.1-22 and 6-4 through 6-5). The Intertie was one of many projects addressed by the CVP/SWP Operations BOs, and therefore is not the only contributing factor to the findings and restrictions in the BOs. The Intertie EIS describes the incremental changes to fish as a result of the Intertie. This incremental change is much less than the total effect described in the CVP/SWP Operations BOs, and therefore a different conclusion is warranted when describing the effects of the Intertie alone.

1.6.4 PCL-4

As described in the EIS, the Jones and Banks Pumping Plants would be operated to comply with the CVP/SWP Operations BOs and the Intertie operations would reflect that compliance. Specifically, CVP and SWP pumping are limited by physical capacity only a small part of the time. More often the pumping is limited by D-1641 objectives. The Intertie would allow more of the CVP water to be pumped at the Jones Pumping plant to fill CVP San Luis Reservoir earlier in the year. When NMFS RPA #6 restrictions on OMR are in place, pumping at the Jones Pumping Plant could be limited, which could reduce or eliminate pumping at the Intertie at such times. NMFS has concluded that RPA #7 will improve the salvage/loss ratio at the Skinner and Tracy Fish facilities and reduce the impact of pumping on all fish currently entrained at the CVP Jones pumping plant. This action will reduce pumping at the Jones and Banks Pumping Plants, which could reduce or eliminate Intertie pumping at such times. The Intertie impacts, when RPAs are not triggered, are properly evaluated.

1.6.5 PCL-5

A discussion of long-term contract negotiations for the San Luis Unit of the CVP has been added to the list of cumulative projects considered for the Intertie cumulative effects analysis. The quantities proposed under the most recent draft San Luis Unit contracts are unchanged from existing contract quantities for San Luis Unit contractors and are consistent with delivery assumptions included in CVP/SWP Operations Plan. Furthermore, the addition of this action does not change the cumulative conclusions because regardless of changes in contract amounts (either increases or decreases), the Intertie and Jones Pumping Plant would still be subject to the requirements of existing export restrictions related to water quality and fisheries, including the CVP/SWP Operations BOs. Regardless of contract renewal changes, the Intertie impacts that may result from allowing slightly increased CVP pumping in years with sufficient water supplies, were accurately evaluated in the EIS and in the cumulative assessment in Chapter 6.

The specific projects omitted from the EA as argued in *PCL vs. BOR* were included in the cumulative effects analysis in the EIS, as well as some additional projects.

All contractors in the San Luis Unit either remain under existing contracts or have been converted to Interim Renewal Contracts consistent with the CVP-wide contracting approach set forth in the CVPIA PEIS (Reclamation 1999) and with the approach utilized for long-term renewals for all other south-of-Delta water service contracts. The quantity terms for San Luis Unit long term renewal contracts have been negotiated, are consistent with the CVP-wide form of contract and have not been changed from existing contract quantity provisions. As such, the contract quantity terms and delivery projections were evaluated in the CVP/SWP Operations Plan and covered by the analysis of the CVP/SWP Operations BOs.

1.6.6 PCL-6

Sections 3.1-1 and 3.1-2 of the Water Supply chapter describe the use of CALSIM and its limitations related to the Intertie operations. This section was specifically included to address the previous claim that this information was not acknowledged in the EA. However, CALSIM remains the primary tool for evaluating impacts related to all CVP operations and therefore is appropriately utilized for the Intertie.

1.6.7 PCL-7

As described in Section 3.1, under the No Action conditions, pumping was limited in March because CVP San Luis Reservoir was often filled, was reduced in April and May because of VAMP pumping limits, and was reduced in May and

June because of simulated CVPIA(b)(2) pumping reductions. This section also states that under the Proposed Action (Alternative 2), the percentage of monthly pumping at 4,600 cfs would be increased to about 30% in July, 50% in August, 50% in September, 30% in October, 60% in November, 70% in December, 60% in January and 30% in February. The March pumping would be reduced considerably in most years because CVP San Luis would be filled. Similar to the No Action, pumping is limited in the spring months of April-May by VAMP and in April-May and June by CVPIA(b)(2) pumping restrictions. There are no simulated increases in pumping during April, May, or June. See Table 3.1-15.

1.6.8 PCL-8

The (b)(2) actions in the winter period (October-January) are primarily upstream releases. These would not be changed by the Intertie. The major use of (b)(2) water in the Delta is to meet the CVP share of the D-1641 objectives. The general use of (b)(2) water for CVP Jones export reductions are in the April-June period. These export reductions were simulated with CALSIM to remain the same. EWA water has seldom been used for CVP Jones export reductions. The Intertie would not change the existing management of the CVPIA (b)(2) water nor would it put more demand on the EWA water.

Because of limited funding for the past two years, the EWA has been operated as generally described in the CVP/SWP Operations BA. EWA has not taken a “fish action" since 2007. The reduced winter and spring pumping for fish protection has been largely shifted to the reverse Old and Middle River reductions specified in the USFWS and NMFS BOs for CVP/SWP Operations. No Intertie pumping will occur in this period when these reverse OMR restrictions are adaptively implemented for fish protection.

1.6.9 PCL-9

See response in PCL-5.

1.6.10 PCL-10

The record includes all public information related to the decision regarding implementation of the Intertie. As such, these important materials are already included in the EIS record and were considered in the preparation of the EIS.

1.6.11 PCL-11

See response to CWIN/CSPA-2. This document is an EIS in compliance with NEPA.

1.6.12 PCL-12

The purpose of the Intertie is to improve the water supply reliability of the CVP by improving flexibility for operations, maintenance, and emergency activities. A lack of operational flexibility compromises the ability of the CVP and SWP to respond to emergencies, conduct necessary system maintenance, and provide capacity to respond to environmental opportunities in the Sacramento–San Joaquin River Delta (Delta).

The commenter points out that the DWR-Reclamation CALSIM modeling as the standard integrated assessment tool for CVP and SWP water supply projects or actions, and its accompanying 1922-2003 hydrologic data, was used for environmental review, and cites a number of studies which point out that global climate change will likely result in differing hydrological conditions that may be statistically different from the 1922-2003 dataset.

The fact that future hydrologic conditions may be significantly different in California as a result of climate change is an accurate statement which is consistent with the scientific literature. Section 3.8 of this EIS cites related literature, in particular the DWR document titled *Progress on Incorporating Climate Change into Management of California's Water Resources* and U.S. Department of the Interior document titled *Sensitivity of Future Central Valley Project and State Water Project Operations to Potential Climate Change and associated Sea Level Rise*.

In effect, the EIS, the commenter, and the scientific literature are all in agreement that climate change may lead to uncertainties in estimating water quantity and water quality in California. One of the guiding principles in the *2009 California Climate Adaptation Strategy Discussion Draft* is "to ensure a coordinated effort in adapting to the unavoidable impacts of climate change" To do so, we must "understand the need for adaptation policies that are effective and flexible enough for circumstances that may not yet be fully predictable."

The purpose of the Intertie is to provide Reclamation with the necessary flexibility required to meet existing water distribution needs. As an added benefit, the Intertie is consistent with statewide adaptation principles insomuch as it helps to create a water distribution system that can better adapt to differing weather patterns that may result as a consequence of climate change. A more robust water distribution system that includes the Intertie will inherently be more flexible than our existing infrastructure.

1.7 State Water Contractors

August 31, 2009

Sent via email: wmoore@usbr.gov

Mr. Louis Moore
U.S. Bureau of Reclamation
2800 Cottage Way, MP-700
Sacramento, CA 95825

RE: Delta-Mendota Canal/California Aqueduct Intertie Draft EIS

Dear Mr. Moore:

The State Water Contractors (SWC) submits these comments regarding the U.S. Bureau of Reclamation (Reclamation) Draft Environmental Impact Statement (Draft EIS) for the Delta-Mendota Canal/California Aqueduct Intertie (Intertie). As described in the Draft EIS, Reclamation proposes to construct and operate the Intertie – a pipeline connecting the Delta-Mendota Canal (DMC) and the California Aqueduct. The purpose of the Intertie is to improve the DMC conveyance conditions that restrict the CVP Jones Pumping Plant to less than its authorized pumping capacity of 4,600 cfs and to improve operational flexibility for operations and maintenance and emergency activities.

The SWC is an organization representing 27 of the 29 public water entities[1] that hold contracts with the California Department of Water Resources (DWR) for the delivery of water from the State Water Project (SWP). Collectively, the members of the SWC provide all, or a part, of the water supply delivered to approximately 25 million Californians, roughly two-thirds of the State's population, and to over 750,000 acres of irrigated agriculture. The members of the SWC provide this water to retailers, who, in turn, serve it to consumers throughout the San Francisco Bay Area, the San Joaquin Valley, the Central Coast, and Southern California.

The SWP water supply delivered through the Sacramento-San Joaquin Delta constitutes a significant portion of the water supplies available to SWC members. As a result, the SWC is very interested in matters affecting the ability of the SWP to deliver water supply through the Delta.

As outlined in the Draft EIS, the Intertie would achieve multiple benefits, including meeting current water supply demands, allowing for the maintenance and repair of the Central Valley Project (CVP) Delta export and conveyance facilities, and providing operational flexibility to respond to emergencies related to both the CVP and the SWP. The operational flexibility to respond to emergencies is of particular importance to the SWC. In the event of a failure in the upper reaches of the California Aqueduct, the Intertie could be used to provide much needed emergency water supplies to the contractors reliant on those reaches.

[1]Alameda County Zone 7 Water Agency, Alameda County Water District, Antelope Valley-East Kern Water Agency, Casitas MWD on behalf of the Ventura County Flood Control District, Castaic Lake Water Agency, Central Coast Water Authority on behalf of the Santa Barbara FC&WCD, City of Yuba City, Coachella Valley Water District, County of Kings, Crestline-Lake Arrowhead Water Agency, Desert Water Agency, Dudley Ridge Water District, Empire West-Side Irrigation District, Kern County Water Agency, Littlerock Creek Irrigation District, The Metropolitan Water District of Southern California, Mojave Water Agency, Napa County FC&WCD, Oak Flat Water District, Palmdale Water District, San Bernardino Valley MWD, San Gabriel Valley MWD, San Gorgonio Pass Water Agency, San Luis Obispo County FC&WCD, Santa Clara Valley Water District, Solano County Water Agency, and Tulare Lake Basin Water Storage District.

SWC

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Central Coast Water Authority

General Manager
Terry Erlewine

Although the Intertie could benefit the SWP through operational flexibility in emergency situations, the SWC is concerned with the potential negative effects on the SWP's ability to deliver water through the Delta from operation of the Intertie. The areas of concern for the SWC include water supply and Delta water management, Delta tidal hydraulics, Delta water quality, and fish. Analysis provided in the Draft EIS concludes that there would be no significant adverse effect on these areas of concern.

SWC-1 Although there are some substantial changes in exports at Banks Pumping Plant, generally the result of the operation of the Intertie is to shift the timing of Banks Pumping Plant exports from winter and spring months to summer months, resulting in an annual reduction of 3 TAF on average. Although the SWC do not support any reduction in the total annual SWP export at Banks Pumping Plant, these reductions could be minimized or eliminated through flexibility in real-time operations.

SWC-2 Changes in Delta water levels and velocities may affect the SWP's ability to deliver water from the Delta, particularly transfer water during the summer months. Changes in Delta water quality may also affect the SWP's ability to deliver water from the Delta, since either reductions in Delta exports or increases in

SWC-3 reservoir releases would be required to meet State Water Resource Control Board (SWRCB) D1641 requirements. In the event that export water quality at Banks Pumping Plant is deteriorated, SWC member would be subject to additional costs for water treatment and reduced crop production. As demonstrated in the Draft EIS, changes in water levels and velocities in the Delta, Delta water quality, and export water quality at Banks Pumping Plant due to operation of the Intertie appear to be small.

SWC-4 Finally, changes in the amount and timing of Delta exports due to operation of the Intertie may lead to issues with fish entrainment at the Delta export facilities and Endangered Species Act (ESA)/California Endangered Species Act (CESA) take limits as outlined in the CVP and SWP Operations Criteria and Plan (OCAP) Biological Opinions (BO's). If entrainment levels of listed species are increased or take limits are met more quickly due to operation of the Intertie, the ability of the SWP to deliver water from the Delta may be affected. Analysis provided in the Draft EIS indicates that increased entrainment at the Delta export facilities due to the operation of the Intertie would not have substantial negative effects on the abundance of listed fish species.

SWC-5 The 2009 CVP and SWP OCAP BO's were not available and, therefore, not analyzed in this Draft EIS. Operations under these new regulations may change the operations of the Intertie and the subsequent effects on water supply and Delta water management, Delta tidal hydraulics, Delta water quality, and fish.

SWC-6 The SWC believes operation of the Intertie could provide benefits to the operation of the SWP through improve operational flexibility for emergency activities. The SWC also believes that negative effects on the SWP's ability to deliver water from the Delta will be avoided through use of the increased operational flexibility.

We appreciate your consideration of our comments. If you have any questions, please feel free to contact me at (916) 447-7357.

Sincerely,

Terry L. Erlewine
General Manager

1.7.1 SWC-1

See response to DWR-15. Impacts under NEPA are evaluated based on the context in which the impact is occurring and its relative intensity. The slight reduction of SWP deliveries estimated using the CALSIM model is not a significant adverse impact because the net decrease in the average annual SWP export simulated for the Intertie (reduced Article 21 water of 13 TAF/yr and increased Table A water of 3 TAF/yr) is only 0.3 percent of the average annual SWP export of 3,407 TAF simulated for the No Action Alternative. This small modeling difference could not be identified within the day-to-day Delta operations of the project. We agree with your observation that reductions in the total annual SWP export at Banks Pumping Plant could be minimized or eliminated through the use of increased operational flexibility with the Intertie.

1.7.2 SWC-2

Section 3.2 Delta Tidal Hydraulics demonstrates that the changes in tidal elevations and tidal flows in the south Delta channels from the Intertie would be small and would not interfere with the ability of SWP or CVP to export water, following all D-1641 rules and objectives.

1.7.3 SWC-3

Reclamation concurs with the conclusion that changes in Delta water levels, velocities, and water quality due to the operation of the Intertie would be small. Analysis supporting this conclusion is included in EIS Sections 3.1, Water Supply and Delta Water Management; 3.2, Delta Tidal Hydraulics and 3.3, Delta Water Quality.

1.7.4 SWC-4

Reclamation concurs with the conclusion that the change in entrainment at the Delta export facilities due to the operation of the Intertie would be small. Operation in accordance with the CVP/SWP Operations BOs would further reduce effects to listed fish species. Analysis supporting this conclusion is included in EIS Section 4.1, Fish.

1.7.5 SWC-5

Although these BOs for the CVP/SWP Operations Plan were recently issued, the Intertie EIS includes discussion of the possible effects of these ESA requirements on impacts from the Intertie. The Intertie EIS evaluates the incremental effects of

the Intertie to disclose how construction and operation would affect various resources. The Intertie operations must comply with the restrictions included in the recent BOs (CVP/SWP Operations BOs included the Intertie operations). The BOs require that CVP and SWP exports be reduced when certain fish presence and water quality criteria are triggered, based on the FWS and NMFS conclusion that those ESA requirements will protect the species of concern from jeopardy. When these BO restrictions are not triggered, the effect of operating the Intertie is described in the EIS. EIS Section 4.1, Fish, describes the estimated effects on fish. When the BO restrictions are triggered, the Intertie could not be used to increase pumping at the Jones Pumping plant to more than would be allowed by the BO restrictions, so that those restrictions could reduce or eliminate the incremental impact from the Intertie.

1.7.6 SWC-6

Reclamation concurs with the conclusion that improved operational flexibility of the Intertie would provide benefits to the SWP. Export operations would continue in accordance with water rights and the Coordinated Operations Agreement with DWR. Analysis supporting this conclusion is included in EIS Section 3.1.

1.8 Transmission Agency of Northern California

TRANSMISSION AGENCY OF NORTHERN CALIFORNIA
P.O. Box 15129, Sacramento, CA 95851-0129 (916) 852-1673

August 31, 2009

Mr. Louis Moore
Bureau of Reclamation
2800 Cottage Way
Sacramento CA 95825

Subject: **Transmission Agency of Northern California Comments on the Delta-Mendota Canal/California Aqueduct Intertie Project**

Dear Mr. Moore:

The Transmission Agency of Northern California (TANC) has reviewed the Draft EIS for the Delta-Mendota Canal/California Aqueduct Intertie Project (Project). We appreciate the inclusion and consideration of Alternative 3; the "TANC Intertie Site" in the Draft EIS, and offer the following EIS comments regarding the alternatives comparison and evaluation, proposed action, and site security and safety plan and related processes.

Alternatives Comparison and Evaluation

1. TANC continues to support Alternative 3 as the most prudent and therefore environmentally superior alternative. We believe that locating Project facilities away from the California-Oregon Transmission Project (COTP) right of way would greatly reduce the potential safety hazards associated with the currently proposed location. Despite the most comprehensive and well-intended safety planning and implementation, the safest alternative is to minimize or completely eliminate the possibility for energized COTP conductors to contact and seriously harm the equipment, facilities, and people involved in the construction and long-term operation of the Project. We have attached our scoping comments submitted August 31, 2006, and urge Reclamation to focus another review of those comments presented in the section of that submittal titled: "**Potentially Significant Environmental Consequences of Intertie Project Construction – Direct Effects; Potential Human Injuries and Fatalities.**" TANC-1

A Public Entity Whose Members Include:
Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Modesto Irrigation District,
Palo Alto, Plumas-Sierra Rural Electric Cooperative, Redding, Roseville,
Sacramento Municipal Utility District, Santa Clara, Turlock Irrigation District, Ukiah

In our August 31, 2006 public scoping comments (attached; page 12) we asked Reclamation to conduct a Cost/Benefit Analysis as part of its decision making process for the Project. If conducted, this analysis was not provided in the DEIS. TANC-2

Alternative 2 – Proposed Action

2. Section 2.4.2 of the DEIS provides step-by-step information on construction activities for the DMC Pumping Plant, the California Aqueduct Turnout Structure, the Switchyard, and the 69-kV transmission line. It also discusses general locations and considerations for the placement of spoil banks, including avoidance of such sensitive resources as wetlands or cultural resources. However, the same level of construction activity detail for excavation and installation of the pipelines crossing under the COTP right of way is not presented. One brief passage states that:

"Two discharge pipes would cross under the California Aqueduct O&M road and connect to the California Aqueduct turnout. Motor-operated slide gates would be mounted over each discharge pipe at this structure. Installation of the pipeline and associated structures would take approximately 46 days and would extend from July through August, using a maximum construction crew of 10 people." TANC-3

Understandably, pipeline construction activities planned for the area directly beneath the COTP right of way are important to TANC. Please provide that information to the same level of detail as provided for the other Project facilities, and address construction equipment, the maintenance of clearance distances to COTP conductors, crew size, duration of activities, excavation practices, spoil placement and transport, and other construction practices for the pipelines in the Project Description and Alternatives section of the Final EIS. We request that no spoil be placed within the COTP right of way, as it would reduce the clearance distance from conductor to ground, and introduce the potential for windblown fugitive dust that could cause flashovers. TANC-4

Please also address those activities and construction practices, including excavation equipment, the extent to which cranes will be used in installing the pipelines, and spoil transport and placement/disposal during the development and implementation of all safety plans for the Project. TANC-5

Appendix G – Site Safety and Security for the Delta-Mendota Canal/California Aqueduct Intertie Pumping Plant

3. Appendix G appears to include adequate requirements for the development and maintenance of a comprehensive written safety program covering all aspects of the onsite and applicable offsite operations and activities. In the event that

Reclamation reviews our public scoping comments and these DEIS comments, and nevertheless decides to approve construction of Alternative 2 (Proposed Action), we urge Reclamation to work closely with engineers from TANC and the Western Area Power Administration (Western) during the development and implementation of written safety plans for the Project. For example, it is important to TANC that the following precautions be observed: TANC-6

a. There should be no cut, fill or spoil bank placement operations that compromise the clearances required for the 500-kV lines in accordance with the present conditions and the applicable government codes.
b. There should be no cut or fill or cofferdam construction/dewatering activities that could affect the stability of the COTP transmission tower footings consistent with all applicable government codes.
c. Access to the COTP facilities by TANC and the COTP maintenance representatives must be maintained at all times. TANC and its contractors, including Western, must be able to access all towers at any time with heavy equipment, and Reclamation must maintain this access during construction. Routine ground patrol to each tower occurs once a year; routine aerial patrol of the transmission lines occur four times a year. TANC-7
d. TANC should be allowed to have a representative on site at times when major work is underway on the transmission line right-of-way. We request that TANC be provided advance notice of not less than 60 days for all construction schedules to accommodate the necessary communications and arrangements for such TANC on-site representation at TANC's discretion.
e. TANC and/or Western should be consulted during the installation of temporary clearance markers to indicate the closest safe distances from the conductors.
f. Permanent markers indicating the proximity of energized high-voltage power line conductors shall be furnished and installed by Reclamation on its facilities before the completion of construction.
g. Reclamation will review and comply, during and after construction, with all regulatory requirements and industry standards for proper grounding of metallic equipment, structures, fences, platforms, and other metal facilities in the high-voltage electric field.

4. To facilitate this level of coordination in safety and site security planning, TANC requests that Reclamation provide a draft version of all Project safety plans to TANC and Western for review and comment before the Reclamation Contracting Officer's Representative issues her/his approval(s). TANC-8

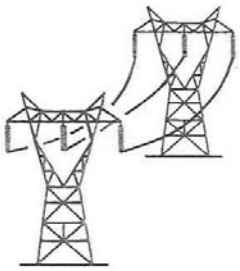
Mr. Louis Moore
Bureau of Reclamation
Page 4

5. By offering to review and comment on Reclamation's planning, TANC in no way intends to share in any legal liability to third persons or Reclamation arising from Reclamation's plans, and TANC's review and comments shall not be construed as TANC's acquiescence in Reclamation's entry into the easement area under the COTP. TANC-9

Please call Don Wagenet at (916) 852-1673 if you have any questions on these comments.

Sincerely,

James W. Beck
General Manager
Transmission Agency of Northern California



TRANSMISSION AGENCY OF NORTHERN CALIFORNIA
P.O. Box 15129, Sacramento, CA 95851-0129 (916) 852-1673

August 31, 2006

Ms. Sammie Cervantes
Bureau of Reclamation
2800 Cottage Way
MP—730
Sacramento, CA 95825

Subject: Scope of the Environmental Impact Statement for the Delta-Mendota Canal/California Aqueduct Intertie, Alameda County, California

Dear Ms. Cervantes:

The Transmission Agency of Northern California (TANC), a California joint powers agency, is submitting these comments in response to the Bureau of Reclamation's (Reclamation's) notice of intent to prepare an environmental impact statement (EIS) for the Delta-Mendota Canal/California Aqueduct Intertie (Intertie Project) proposed for construction in Alameda County, California as published in the Federal Register on July 12, 2006 (FR 71; 39355).

TANC is submitting these comments in its capacity as an owner and the Project Manager of the California-Oregon Transmission Project (COTP), an existing 500-kilovolt (kV) transmission line extending from near Malin, Oregon south to the Tracy Area located in central California. The location proposed by Reclamation for the Intertie Project in part underlies the 500-kV conductors of the COTP.

We understand that Reclamation has already spent considerable time and budget in designing and evaluating the currently proposed site for the Intertie Project. However, we urge Reclamation to take a "hard look" at alternative locations for the Project because of the potentially significant direct and indirect environmental consequences that could result from its construction and operation directly underneath the COTP.

These comments begin by characterizing the potentially significant direct and indirect environmental consequences that could result from construction and operation of the Intertie Project beneath the COTP, and then explain TANC's view that such consequences can not be reduced to a less than significant level through the implementation of conventional safety precautions during its construction, operation, and maintenance. We then identify two alternative Intertie Project locations that would avoid the environmental consequences of concern, and explain how, when objectively

A Public Entity whose Members include:
Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Modesto Irrigation District,
Palo Alto, Plumas-Sierra Rural Electric Cooperative, Redding, Roseville,

compared, neither of these alternatives would have greater impacts on the natural environment than the Preferred Alternative. We believe that the benefits of avoiding the potential direct human health and safety effects and indirect economic and human health and safety consequences that could result from power grid outages caused by Intertie Project construction, operation, and maintenance outweigh the potential costs of relocating the project to an alternative location safely outside the COTP right of way.

Work under the 500-kV energized lines must be performed with the greatest care and skill, and has the potential for inducing currents and static charges without any physical contact. The proposed construction activities could cause electric arcs that could electrocute workers and bystanders, damage equipment and cause fires, and ground out the circuit with the potential to collapse the high-voltage electric grid in the Western region. The death, injury to persons, and damage to property that might result could be considerable.

Potentially Significant Environmental Consequences of Intertie Project Construction– Direct Effects; Potential Human Injuries and Fatalities

The direct environmental effects of concern are the induced electrical currents and static electrical charges that are predictable physical effects of constructing, operating, and maintaining the Intertie Project beneath the COTP transmission conductors. The potential direct consequences of such currents and charges are human injury, or even death, and property damage.

The National Institute for Occupational Safety and Health (NIOSH) maintains a database of traumatic occupational injuries, and classifies potential electrical injuries as consisting of four main types: electrocution (fatal), electric shock, burns, and falls caused as a result of contact with electrical energy. The NIOSH has conducted several investigations of these injuries and fatalities through documentation of the facts supporting each death or human injury investigated. In cooperation with the NIOSH investigations, individual states also actively develop fact-based Fatality Assessment and Control Evaluations (FACE) information.[1] We believe that the facts supporting several human fatality and injuries substantiated through these NIOSH and FACE investigations are similar to fact situations that could arise during construction of the Intertie Project directly beneath the COTP. For example, the following NIOSH and FACE investigations, hereby incorporated by reference into this comment letter, include the following types of construction-related accidents:

[1] FACE is an occupational fatality investigation and surveillance program of the *National Institute for Occupational Safety and Health* (NIOSH). The purpose of FACE is to identify all occupational fatalities in the participating states, conduct in depth investigations on specific types of fatalities, and make recommendations regarding prevention. NIOSH collects this information nationally and publishes reports and Alerts, which are disseminated widely to the involved industries. NIOSH FACE publications are available from the NIOSH Distribution Center (1-800-35NIOSH).

- Two Well Drillers Electrocuted when Their Truck-Mounted Boom Contacts Overhead Power Lines in California (California FACE Investigation 96CA006)
- Construction Worker Electrocuted When Boom Forklift Contacted Power Lines (Iowa Case Report # 03IA055)
- Construction Worker Electrocuted When Crane Boom Contacts 13,800 Volt Power Line in Arizona (NIOSH FACE # 85-14)
- Electrocution Resulting from Crane Cable Contact with Power Line (NIOSH FACE # 82-03)
- Crew Foreman Dies Due to Electric Arc from Power Line (NIOSH FACE # 85-04)
- Two Workers Electrocuted by 23,000 Volt Power Line While Erecting a Steel Support Structure (NIOSH FACE # 85-07)
- Pipefitter Electrocuted When Closing Metal Gates at Construction Site in California (California FACE Investigation 92CA013)

The NIOSH website (http://www.cdc.gov/niosh/injury/traumaelface.html) includes several additional instances with fact situations similar to those possible during Intertie Project construction that resulted in human injury and death.

We urge Reclamation, consistent with 40 C.F.R. § 1502.22, to analyze reasonably foreseeable, potentially significant human health and safety impacts associated with construction activities beneath the 500kV COTP transmission line. The facts compiled and reported by the NIOSH and the state FACE programs provide substantial evidence supporting a fair argument that construction activities beneath the COTP could result in reasonably foreseeable, potentially catastrophic consequences. In many of the investigations conducted by the NIOSH and FACE programs, conventional safety precautions were in place, yet the injuries and fatalities nevertheless occurred. These case reviews indicate that despite the implementation of applicable safety precautions for working near energized power lines, a probability of a human injury or fatality remains. Because of this remaining probability, the implementation of safety precautions may reduce the likelihood, but does not eliminate the potential occurrence of these health and safety impacts. Avoidance of these potential impacts can only be achieved by relocating the Intertie Project outside of the COTP right of way.

Potentially Significant Environmental Consequences of Intertie Project Construction–Indirect Human Health and Injury Impacts of COTP Outages

Grounding out of the COTP circuit and a resulting power outage can result in indirect human health and injury impacts that have been well documented in previous outages. The Department of Health and Human Services Center for Disease Control and Prevention (CDC) reported that four deaths were attributed indirectly to power outages that resulted from Hurricanes Marilyn and Opal in 1995. One death resulted from

carbon monoxide poisoning associated with the use of a gas generator and three resulted from house fires started by candles (two) or a propane cooking device (one). The CDC also reports that e ach year in the United States, approximately 500 persons die from unintentional carbon monoxide (CO) poisoning (1), often during electric power outages caused by severe storms. Carbon monoxide (CO) poisoning was a major health consequence of a severe storm that struck the Puget Sound region of western Washington State the morning of January 20, 1993. Because of the use of alternative sources of energy for indoor cooking and home heating, the risk of exposure to CO increased for many persons. (Center for Disease Control: 53 (09); 189-192; March 12, 2004).

The Florida Power & Light website (http://www.lawyersandsettlements.com/case/florida_power_light) recognizes potential health-related hazards as follows:

The loss of electrical power has serious consequences, especially if outages are widespread and repeated.

1) Sick people on life support at home often become sicker or even loose their lives because of a prolonged power failure.

2) The typical family will loose several hundred dollars in food stored in the refrigerator or freezer if a failure exceeds 36 hours. Many people end up eating spoiled food, resulting in illness and possibly death.

3) Loss of water treatment due to the power failure can make normally safe water dangerous to drink due to contamination.

4) People with certain health conditions are at increased risk when the heat and humidity goes beyond the level their bodies can handle. This is especially true of the elderly and infirmed.

5) Loss of personal safety when alarm systems, lights, gates and other security systems fail due to lack of power. Loss of power to municipal agencies like the police and fire departments, which are not able to effectively respond to crimes and criminal activity.

6) Loss of power to the traffic light system can result in hundreds, if not thousands of auto accidents and injuries during periods of substantial power loss.

7) Loss of electrical power means a loss of communications in many instances, so people cannot report emergencies; people cannot contact family members and loved ones resulting in incredible stress in what is already a very stressful situation.

8) Millions of dollars in economic losses occur with even a single day's loss of power if enough people are affected. When businesses close, they loose critical revenues and employees go without work - unpaid in most cases. If the power failure lasts long enough, the business can fail, putting employees out of work. The repercussions of this on both the economic and human scale are incalculable.

9) Millions of dollars worth of electronic equipment are damaged and destroyed by repeated power outages, brownouts and the surges that accompany them.

We believe these estimates provide substantial evidence supporting a fair argument that reasonably foreseeable substantial human health and injury impacts could result from a grid system outage triggered by the grounding out of the COTP caused by Intertie Project construction, operation, and/or maintenance activities. Avoidance of the potential causes of these impacts can only be achieved through relocation of the Intertie Project to a location safely outside of the COTP right of way.

Potentially Significant Environmental Consequences of Intertie Project Construction– Indirect Economic Impacts of COTP Outages

Many of the activities that can be anticipated during construction, operation, and maintenance of the Intertie Project have the potential to ground out the COTP circuit. For example, review of the engineering plans and specifications provided by Reclamation in December 2005 indicate that large cranes will likely be needed to move pipe sections and other heavy machinery and equipment in place during construction. The proximity of these cranes, machinery, and equipment to the conductors poses a danger of arcing across the air gap and actual physical contact with the conductors, either of which could ground out the line and possibly result in injury and/or death to construction workers and bystanders. Moreover, if the COTP trips out of service, it could take hours to restore service, resulting in significant economic impacts.

Several federal and state-sponsored studies estimate the economic impacts of electric power system outages. Outage impacts can be widespread and substantial. For example, the following economic impact estimates have been made by federal agencies:

- The U.S. Department of Energy (DOE) published a total cost estimate of about $6 billion for the August 14, 2003 Blackout, which resulted in the loss of 61,800 MW of electric load that served more than 50 million people[2].

- The economic impact assessment of the 1977 New York City blackout was estimated (in 1977 dollars) at approximately $55 million of direct losses associated with food spoilage, lost wages, and effects to the securities and banking industries, and over $290 million in indirect losses.[3]

[2] Transforming the Grid to Revolutionize Electric Power in North America," Bill Parks, U.S. Department of Energy, Edison Electric Institute's Fall 2003 Transmission, Distribution and Metering Conference, October 13, 2003.

[3] 3 Impact Assessment of the 1977 New York City Blackout, SCI Project 5236-100, Final Report, Prepared for the U.S. Department of Energy, July 1978, pp. 2-4.

In a separate study completed shortly after August 14, the Ohio Manufacturers Association (OMA) estimated the direct costs of the blackout on Ohio manufacturers to be $1.08 billion[4].

The Combined Heat & Power website, (http://www.chpcentermw.org/03-00_chp.html) estimates that economic losses due to power outages in the U.S. have cost American businesses billions of dollars. The following table from that website estimates the economic impact of power outages on some industries on a dollar per hour basis.

Industry	Average Cost of Power Outage ($/hr)
Brokerage Operations	6,480,000
Credit Card Operations	2,580,000
Airline Reservations	90,000
Telephone Ticket Sales	72,000
Cellular Communications	41,000

The 1977 New York City blackout and the Blackout of 2003 were considerably more extensive than the blackout that could result from a grid failure triggered by a grounding of the COTP. However, the economic impacts of a COTP outage and subsequent grid failure could still be significant on a per-user basis, and would be expected to be similar to those previously estimated. Preliminary findings of a 2003 study of the Blackout of 2003, based on the responses of 129 executive-level managers of businesses and organizations in Ohio, New York, Pennsylvania, Michigan, Wisconsin, and Southern Canada affected by the blackout, indicated that:

- Almost a quarter of the businesses surveyed (24 percent) lost more than $50,000 per hour of downtime -- meaning at least $400,000 for an 8-hour day.
- Approximately 4 percent of businesses lost more than $1 million for each hour of downtime.
- Nearly half of the businesses surveyed (46 percent) said lost employee productivity was the largest contributor to losses suffered due to the blackout.

The Electric Power Research Institute (EPRI) 2007 website for electric grid planning states that a major blackout can cost the affected region more than a billion dollars, due to direct costs and social and economic impacts. Reducing the incidence of major cascading outages by even a fraction therefore translates into substantial savings.
In 2004 Kristina Hamachi LaCommare and Joseph H. Eto of the Ernest Orlando Lawrence Berkeley National Laboratory University of California Berkeley prepared a

[4] Ohio Manufacturers' Association, August 29, 2003

report titled "*Understanding the Cost of Power Interruptions to U.S. Electricity Consumers.*[5]" The report estimated the cost of a sustained outage to each California residential, commercial, and industrial customer would be approximately $2.99, $1,067, and $4,227, respectively.

We believe these estimates provide substantial evidence supporting a fair argument that reasonably foreseeable substantial economic impacts could result from a grid system outage triggered by the grounding out of the COTP caused by Intertie Project construction, operation, and/or maintenance activities. Avoidance of the potential causes of these impacts can only be achieved through relocation of the Intertie Project to a location safely outside of the COTP right of way.

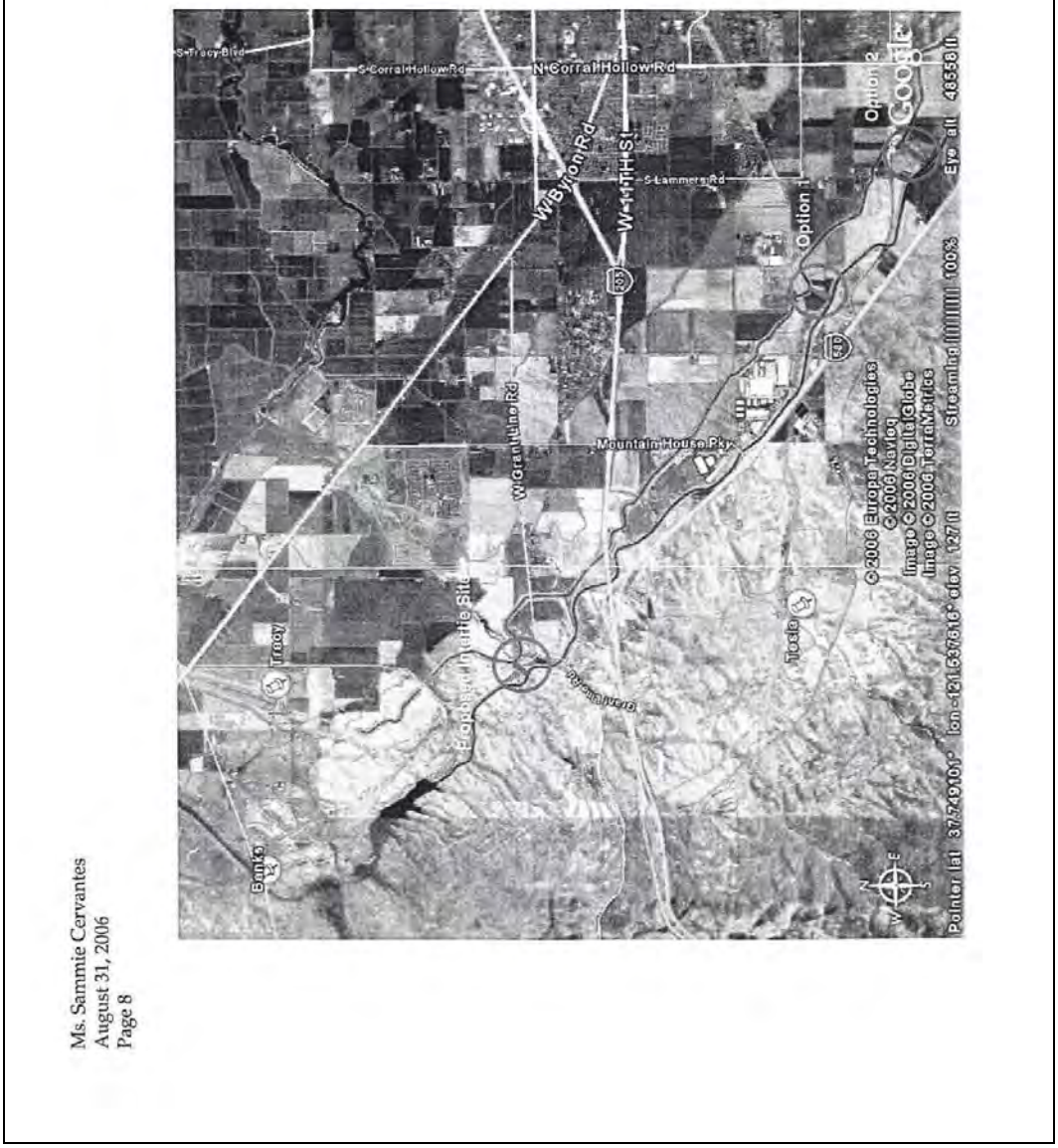
Proposed Alternative Locations for the Intertie Project

We request that Reclamation consider the two alternative locations for the Intertie Project shown on Figures 1 through 4. COTP Engineering staff has identified two locations outside of the COTP right of way where the proximity of the Delta-Mendota Canal and the California Aqueduct is comparable to their proximity Reclamation's proposed location..

Reclamation's Notice of Intent to prepare an EIS for the Intertie Project states that:

> "A primary purpose of the Intertie is to allow for operation and maintenance activities on the Tracy pumping plant and fish facility, the Delta-Mendota Canal, and the O'Neill pumping plant and intake canal…. The Intertie consists of constructing and operating a pumping plant and pipeline connection between the Delta Mendota Canal (DMC) and the California Aqueduct. The Intertie would be used in a number of ways to achieve multiple benefits, including meeting current water supply demands, allowing for the maintenance and repair of the Central Valley Project (CVP) Delta export and conveyance facilities, and providing operational flexibility to respond to emergencies related to both the CVP and State Water Project (SWP)."

[5] This work described in that paper was funded by the Office of Electric Transmission and Distribution, Energy Storage Program and by the Assistant Secretary for Energy Efficiency and Renewable Energy, Office of Planning, Budget, and Analysis of the U.S. Department of Energy under Contract No. DE-AC03-76F00098.



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Each of the two alternative locations proposed as Options 1 and 2, above, can fulfill these stated purposes and needs, and therefore merit full evaluation in the EIS, consistent with 40 C.F.R. §1502.14.

Cost-Benefit Analysis

We request that Reclamation conduct a cost-benefit analysis as part of its comparison of the proposed Intertie Project location and Options 1 and 2, consistent with 40 C.F.R. § 1502.23. We understand that Reclamation has already incurred considerable costs in designing the Intertie Project at its currently planned site, in preparing its previous Environmental Assessment for the proposed Intertie Project, and in securing permits and property interests for the proposed Intertie Project, and that additional costs would be incurred by modifying the project design, permits, and property interests for a new site. However, the potential benefits of avoiding such additional costs are tempered by the potential catastrophic costs that may result from proceeding with the Intertie Project at Reclamation's proposed location. We request that Reclamation undertake a full and transparent examination of these trade-offs.

We anticipate that such analysis will demonstrate that the benefits of avoiding these potentially catastrophic human injuries and fatalities and economic damages would greatly outweigh the costs of relocating the project away from the COTP right of way.

We appreciate your serious consideration of these comments and alternatives, and look forward to working with Reclamation and other interested parties in taking a long-term perspective towards locating the proposed Intertie Project on a site that fulfills its purpose and need while avoiding potentially catastrophic consequences to the public we serve.

Sincerely,

Bryan W. Griess
Assistant General Manager
Transmission Agency of Northern California

1.8.1 TANC-1

Reclamation has considered the scoping comments as part of the development of the Safety Plan that has been drafted and reviewed by TANC, and looks forward to further coordination related to construction of the Intertie, should it be approved.

1.8.2 TANC-2

A cost-benefit analysis is not a topic addressed in an EIS.

1.8.3 TANC-3

As part of the development of the requested construction details, Reclamation and Western will coordinate with TANC to ensure that the potential for impacts is minimized, and that the Safety Plan, which has been drafted and reviewed by TANC, incorporates the appropriate measures.

1.8.4 TANC-4

Reclamation and Western will coordinate with TANC during design and construction to ensure that the potential for impacts from spoil placement is minimized.

1.8.5 TANC-5

As part of the development of the requested construction details, Reclamation and Western will coordinate with TANC to ensure that activities and construction practices are addressed in the Safety Plan.

1.8.6 TANC-6

Reclamation will coordinate with TANC and Western to ensure that the Safety Plan, which has been drafted and reviewed by TANC, incorporates the appropriate measures.

1.8.7 TANC-7

Reclamation agrees to include the suggested precautions, as applicable to site specific conditions.

1.8.8 TANC-8

Reclamation and Western will provide draft and final versions of all construction contractor developed safety plans and job hazard analysis (JHA) for TANC review and comment prior to acceptance by Reclamation's COTR and the construction contractor commencing construction activities in, around, or under said 500-kV lines.

1.8.9 TANC-9

Reclamation appreciates TANC's comments and looks forward to coordinating with TANC to ensure that there are no issues related to safety or electricity distribution.

1.9 Bobbie Landers

RECLAMATION
Managing Water in the West

DELTA-MENDOTA CANAL / CALIFORNIA AQUEDUCT INTERTIE PROJECT
COMMENT CARD

PLEASE PRINT
Name: Bobbie Landers Title (if applicable): Secy
Telephone: 925-254-8260 Fax:
Organization/Business (if applicable): Kelso Road Assn
E-Mail: bobbielanders@yahoo.com Address: 25 La Cuesta
City: Orinda State: CA Zip: 94563

The Bureau of Reclamation is seeking comments on the Delta-Mendota Canal/California Aqueduct Intertie Project Draft Environmental Impact Statement (EIS). Your comments will be considered and responses will be included in the Final EIS. Please write legibly.

Please supply larger area maps which indicate ties to Old River, etc. BL-1

Will this mean additional pumping time? BL-2

Will the Southern farmers be receiving additional water? BL-3

How will this pumping effect the already heavy silting caused by the DWR "temporary" dams along Old River? BL-4

Hard copy or e-mail answers preferred.

Thanks —

(Use reverse side for further comments)

Please submit your comments to a project representative or fold this self mailer in half, seal, add postage, and mail. Form may also be faxed to Mr. Louis Moore at 916-978-5094. **Comments must be received by close of business on Monday, August 31, 2009.**

1.9.1 BL-1

Figure 2-1 depicts the project area affected by the Intertie in relation to the Delta, including Old River.

1.9.2 BL-2

The Intertie could potentially result in increased pumping at Jones Pumping Plant, particularly in September through March. The average annual increase in pumping was determined to be 35 TAF. But this would not substantially change the pumping time. The CVP Jones pumping plant is operating 24-hours each day. Only the amount of water pumped would change slightly in the months of September–March, with some increased pumping in July and August of some years.

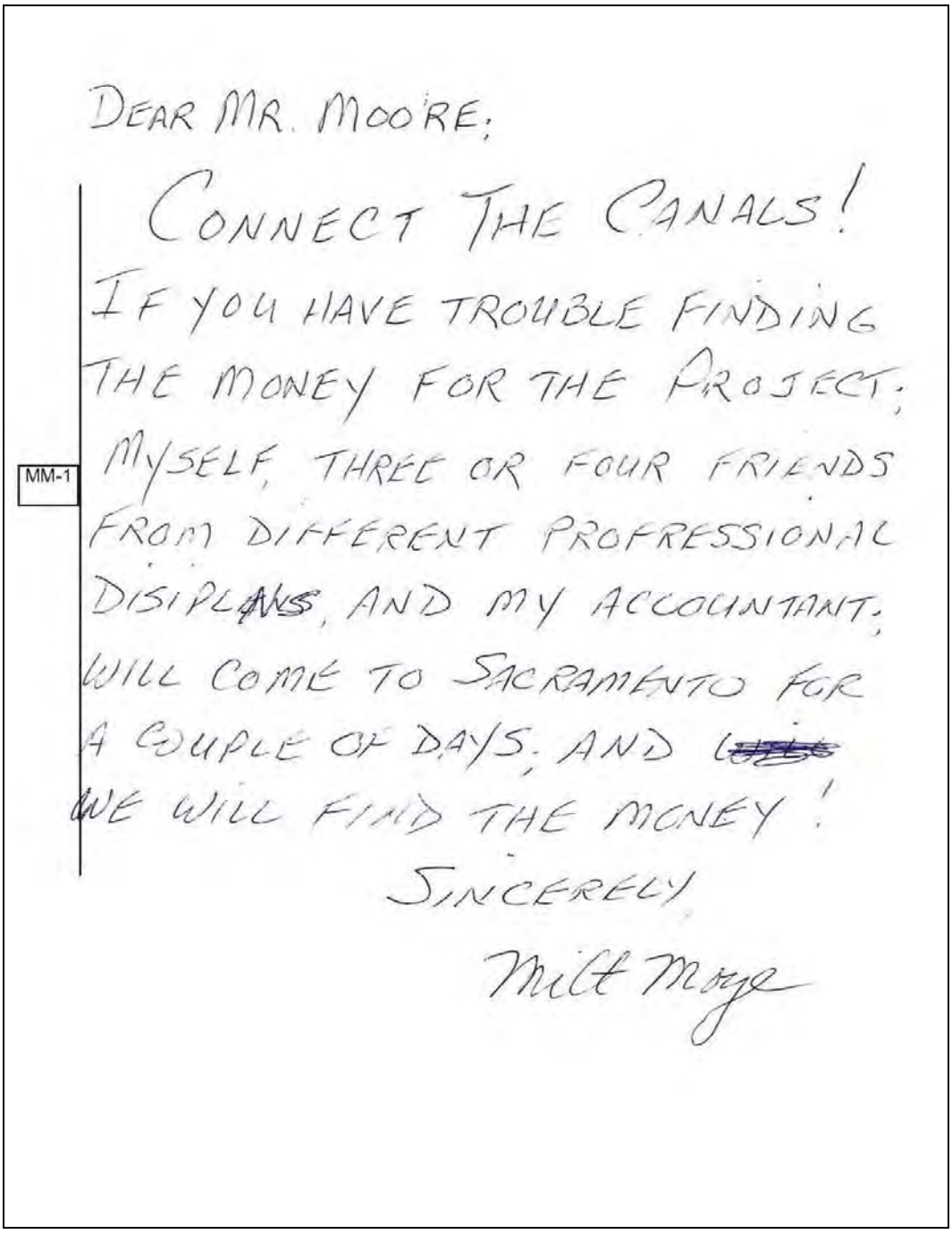
1.9.3 BL-3

The operation of the Intertie could result in about 35 TAF of additional water for delivery south of the Delta on average, and a portion of that water could be delivered to farmers located south of the Delta.

1.9.4 BL-4

The sedimentation along Old River that may occur while the temporary barrier near the DMC is in place during the summer and fall would not be different with the Intertie.

1.10 Milt Moye



DEAR MR. MOORE;

CONNECT THE CANALS!

IF YOU HAVE TROUBLE FINDING THE MONEY FOR THE PROJECT; MYSELF, THREE OR FOUR FRIENDS FROM DIFFERENT PROFRESSIONAL DISIPLANS, AND MY ACCOUNTANT; WILL COME TO SACRAMENTO FOR A COUPLE OF DAYS, AND ~~(illegible)~~ WE WILL FIND THE MONEY!

SINCERELY,

Milt Moye

MM-1

1.10.1 MM-1

Through NEPA and other regulatory processes, Reclamation is working towards implementation of the Intertie.

1.11 Reyes Monreal

From: Reyes Monreal [mailto:jaliscorey39@msn.com]
Sent: Wednesday, July 22, 2009 11:45 AM
To: Moore, Wilbert L
Subject: 2CriticalCanals!

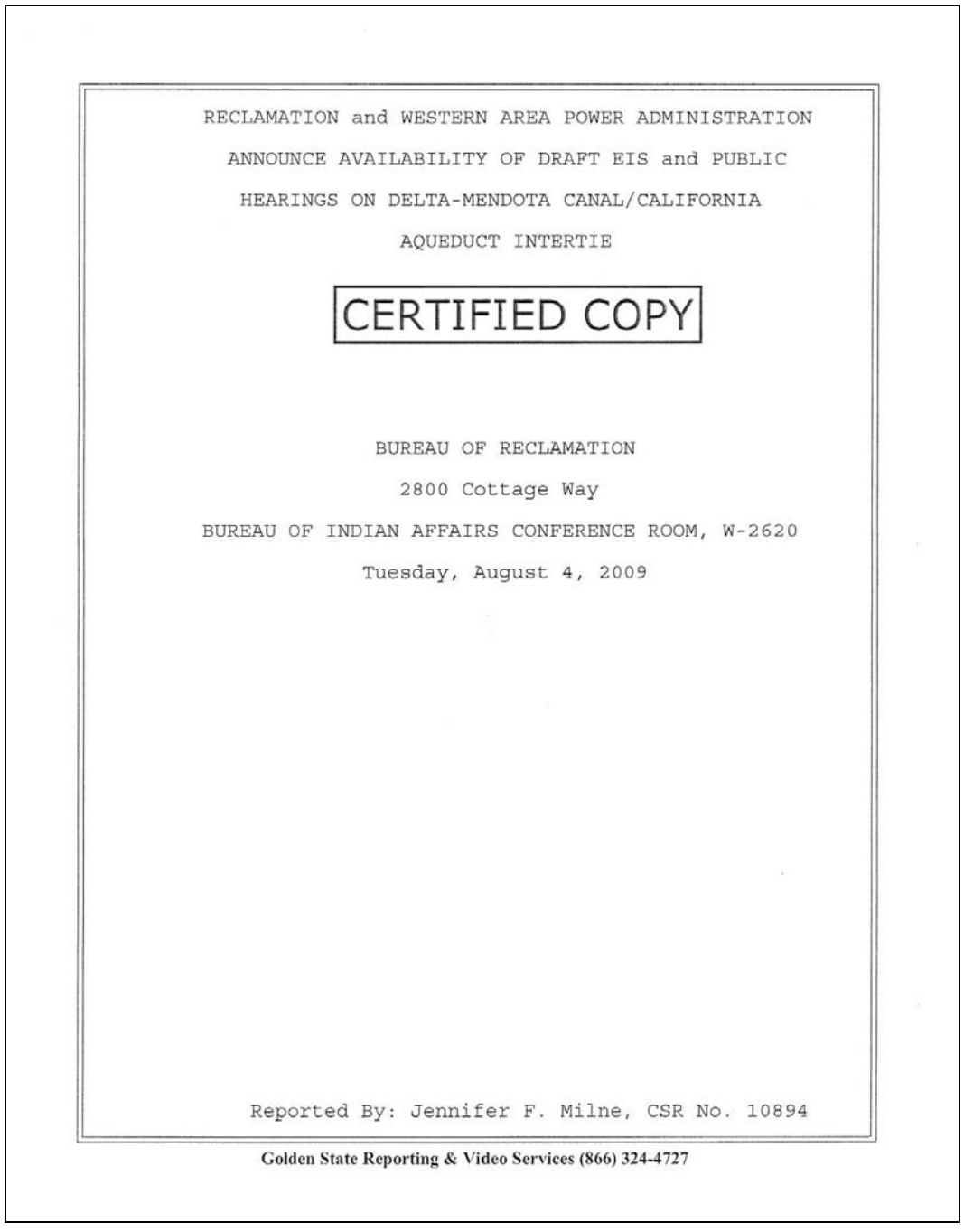
July 22, 2009. Dear Mr. Louis Moore, Federal Bureau Of Reclamation, 2800 Cottage Way MP-140, Sacramento, CA. 95825: My remarks are related to THE PROJECT regarding OFFICIALS connecting two massive canals that are about 500 feet apart just south of The Sacramento-San Joaquin River Delta , that is, the State of California California Aqueduct and The Federal Delta-Mendota CANAL to funnel water-agua- in the Billions of Gallons to Southern Californians and to millions of farmland acres which is endangered by various political forces such as the activists who are active in saving endangered species such as fish of certain types, ETC.--appears to be the Environmentalist Groups to me-- and which put in severe long-term jeopardy many communities in The San Joaquin Valley Region from Kern County to Sacramento County. With that introduction, Sir, may I proceed. The U.S. Federal protections for dying fish species in the Delta must be appropriately modified and modernized to allow the Billions of Gallons of Water to be sent to Communities and Farmlands that are dying right now too and consequently creating monstrous unemployment-jobless high rates and the destruction of aforementioned entities and creating loss of livelihoods and the loss of Revenue to sustain those said entities. You gotta fix the Problem so that it works better and brings better Constructive Consequences for those affected negatively and for those harmed and for those that are jobless, ETC. EXCEDREN, SIR!!! Cordially Yours, Reyes N. Monreal. Sanger, California 93657. 559-8757224. Internet email address is JaliscoREY39@msn.com. Ciao and Shalom. Adios for now Mr. Government Man Louis Moore. May God Bless You and Your Federal Agency and may you have a great Day, Summer, Fall, Winter and Spring too. RNM.

RM-1

1.11.1 RM-1

The Intertie is intended to improve water supply reliability. Through NEPA and other regulatory processes, Reclamation is working towards implementation of this project.

1.12 Public Hearing Transcripts



RECLAMATION and WESTERN AREA POWER ADMINISTRATION

ANNOUNCE AVAILABILITY OF DRAFT EIS and PUBLIC

HEARINGS ON DELTA-MENDOTA CANAL/CALIFORNIA

AQUEDUCT INTERTIE

CERTIFIED COPY

BUREAU OF RECLAMATION

2800 Cottage Way

BUREAU OF INDIAN AFFAIRS CONFERENCE ROOM, W-2620

Tuesday, August 4, 2009

Reported By: Jennifer F. Milne, CSR No. 10894

Golden State Reporting & Video Services (866) 324-4727

HEARING OFFICER:

RICHARD STEVENSON

PROJECT MANAGER:

ERIKA KEGEL

REPRESENTATIVE OF WESTERN AREA POWER ADMINISTRATION:

STEVE TUGGLE

---o0o---

Tuesday, August 4, 2009

1:22 p.m.

---o0o---

MR. STEVENSON: Welcome to this public hearing on the Delta-Mendota Canal/California Aqueduct Intertie Draft Environmental Impact Statement.

This is one of two hearings being held in connection within -- in accordance with the requirements of the National Environmental Policy Act.

My name is Richard Stevenson, and I'm the Deputy Regional Resources Manager for the Bureau of Reclamation Mid-Pacific region. I will be serving as the hearing officer. As you can see, we have a court reporter from Golden State Court Reporting who will be recording the proceedings. And at the table with me is, as Louis introduced, Ms. Erika Kegel, who is the project manager for the Bureau on this project; and Steve Tuggle, who's the project manager for Western Area Power Administration.

Today we're accepting verbal and written comments on the Draft Environmental Impact Statement. And to provide verbal comments, you should have completed a speaker's card. If you have not completed one of these but desire to make a comment, you should go

to the registration table back here. If you have completed a speaker's card but didn't turn it in, you should likewise go to the registration table and turn that in.

You may provide written comments today also and that would be on this form, and it's self-addressed on the back so that it can be mailed if you'd like or it can be left here today. If you're going to speak from written comments that you have either brought with you or that you are writing now, if you'd like to submit those comments to us, as well as your oral statement, please fill out the top portion of this comment card, which has the name and telephone number and contact information, and we will attach your comments to that. You should leave those with us before you leave today.

Written comments can be submitted either at this hearing or to the address, fax, or E-mail address that can be found on the comment card. Comments must be received by close of business on Monday, August 31, 2009. And close of business is defined as 5:00 p.m. Be assured that written and verbal comments will receive equal consideration.

I want to take a moment to explain what happens next with this process. All the comments will be reviewed and responses to the comments will be prepared.

Assuming that all major issues that are raised on those comments can be addressed, a final version of the Environmental Impact Statement will be prepared and this will include the responses to the comments that we receive in these proceedings. The final Environmental Impact Statement will then made available for a 45-day comment period after which Reclamation will make its decision on the project and a Record of Decision or ROD will then be prepared to document the decision that Reclamation makes.

Today, we will proceed in the following manner: I will call speakers to the front in the order that you signed up. And if I call your name and you aren't present, you will be moved to the end of the speakers list.

And at this point, do we have any sign-up lists? If not, then we've got 60 minutes or so -- actually, we've got 90 minutes so there's a forum there for somebody.

If you have extensive comments, that should be submitted in writing, although we might have time to listen to them today. When it is your turn -- and we don't have a microphone here, I don't believe -- we'd ask that you kind of step forward and speak loudly, primarily so that the court reporter can be sure and

Golden State Reporting & Video Services (866) 324-4727 Page: 5

hear what you have to say. We'd also ask that because this is a formal hearing, that when you do come forward, you state your name and your affiliation. And we ask that you spell your first and last name so that the court reporter can get that down without misspellings or getting it wrong. Please speak clearly so that your comments can be captured accurately.

I will be the timekeeper, and I'll indicate any time limits if we get into that situation.

Okay. Again, if you wish to provide comments but have not submitted a speaker's card, please go to the registration table and fill one out.

With that, we're ready to begin. I guess we will see if some speakers appear. If they do, we'll hear from them.

MR. MOORE: No one is being coerced or encouraged.

(Brief pause.)

MR. STEVENSON: One more time, does anyone here have a comment to make at the present time?

What we're going to do, then, is we will sort of put the hearing in abeyance. We will stay until 3:00 o'clock, but we will kind of revert at this point to the open house part of this so that you can continue informal discussions with Erika and other people that

are here who have been working on the project and answer questions that you may have. We will reconvene the hearing at any time we have speakers that would like to speak or certainly just before 3:00 o'clock and formally close at that time.

(Pause.)

MR. STEVENSON: We will reopen this hearing.

It's 3:00 o'clock and no one has appeared to make any oral statements or comments. Therefore, we will just mention that there is another hearing tomorrow afternoon -- evening, I guess, in Stockton, and we will adjourn this hearing at this time.

MR. MOORE: Thank you.

(Hearing concluded at 3:00 p.m.)

CERTIFICATE OF CERTIFIED SHORTHAND REPORTER

I, JENNIFER F. MILNE, a Certified Shorthand Reporter, licensed by the State OF California, being empowered to administer oaths and affirmations pursuant to section 2093(b) of the Code of Civil Procedure, do hereby certify:

That the foregoing transcript constitutes a full, true, and correct report of the proceedings which then and there took place;

That I am a disinterested person to the said action;

In witness whereof, I have hereunto subscribed my signature on this 5th day of August, 2008.

JENNIFER MILNE
Certified Shorthand Reporter
California License #10894

Golden State Reporting & Video Services (866) 324-4727

BUREAU OF RECLAMATION

In Re:

CERTIFIED COPY

Hearing Number Two:
Delta-Mendota Canal/California
Aqueduct Intertie
Draft Environmental Impact Statement
_____/

Public Hearing

Arnold Rue Communication Center

5758 Lorraine Avenue

Stockton, California

Wednesday, August 5, 2009

Reported by Denise Thompson, CSR No. 9688

Golden State Reporting & Video Services (866) 324-4727

APPEARANCES

WILBERT MOORE, Bureau of Reclamation, Project Coordination Specialist, Mid-Pacific Region

PEDRO LUCERO, Bureau of Reclamation, Deputy Regional Public Affairs Officer, Mid-Pacific Region

STEVE TUGGLE, Bureau of Reclamation, Project Manager, Western Area Power Administration

ERIKA KEGEL, Bureau of Reclamation, Project Manager

WEDNESDAY, AUGUST 5, 2009, 6:33 P.M.

STOCKTON, CALIFORNIA

* * *

MR. LUCERO: Good afternoon. I would like to welcome everyone to this hearing on the Delta-Mendota Canal/California Aqueduct Interie Draft Environmental Impact Statement, what we call a Draft EIS. This is one of two hearings being held in accordance with requirements of the National Environmental Policy Act.

My name is Pete Lucero and I am the Regional Public Affairs Officer with the Mid-Pacific Region. I will be serving as the Hearing Officer tonight, and a court reporter from Golden State Court Reporting will be recording these proceedings.

At the table with me is Ms. Erika Kegel, Project Manager for the Bureau of Reclamation, and Mr. Steve Tuggle, Project Manager for the Western Area Power Administration.

Today we're accepting verbal and written comments on the Draft EIS. To provide verbal comments, you should have completed a Speaker's Card which looks like this (indicating). And if you have not completed a Speaker's card, please go to the registration table and complete one and turn it in as quickly as possible.

You may also provide written comments today. And

this is a written comment card, (indicating), also available at the registration table. And if you filled that out we will be more than happy to take your written comments as well.

If you are speaking today from your written comments and would like to submit them to us, fill out the top portion of the Comment Cards, attach your comments and provide them before you leave.

Written comments may be submitted at this hearing or to the address, fax or e-mail address indicated on the Comment Card.

Your comments must be received by close of business on Monday, August 31, 2009, at 5:00 p.m.

Please be assured that verbal and written comments will receive equal consideration.

I want to take a moment to explain what happens next with this process.

All of the comments will be reviewed and responses to comments will be prepared. Assuming all major issues can be addressed, a final EIS will be prepared which will include responses to the comments.

The Final EIS will be available for a 45-day comment period after which Reclamation will make a decision on the project. A Record of Decision will then be prepared to document that decision.

I would like to ask now if there are any people who will be making verbal comments tonight?

(No response from the audience.)

MR. LUCERO: That being said then, what we will do at this point is we will put the hearing in abeyance and we will reconvene at the end of the evening, or if anyone else comes in and would like to make a comment.

So at this time we are on hold. Thank you.

(Recess: 6:55 - 8:00 p.m.)

MR. LUCERO: It is now 8:00 p.m., and this hearing is adjourned.

(Concluded at 8:00 p.m.)

* * *

Golden State Reporting & Video Services (866) 324-4727 Page: 5

STATE OF CALIFORNIA

I, Denise Thompson, CSR No. 9688, a Certified Shorthand Reporter in and for the State of California, do hereby certify that the foregoing proceedings were taken down by me in shorthand at the time and place named therein and were thereafter transcribed under my supervision; that this transcript contains a full, true and correct record of the proceedings which took place at the time and place set forth in the caption hereto.

I further certify that I have no interest in the event of this action.

EXECUTED this 7th day of August, 2009.

D. Thompson

Denise Thompson

Golden State Reporting & Video Services
(866) 324-4727

1.13 Central Delta Water Agency

DIRECTORS
George Biagi, Jr.
Rudy Mussi
Edward Zuckerman

COUNSEL
Dante John Nomellini
Dante John Nomellini, Jr.

CENTRAL DELTA WATER AGENCY
235 East Weber Avenue • P.O. Box 1461 • Stockton, CA 95201
Phone 209/465-5883 • Fax 209/465-3956

August 31, 2009

Via Email: wmoore@usbr.gov

Mr. Louis Moore
Bureau of Reclamation
2800 Cottage Way, MP-700
Sacramento, CA 95825

Re: Comments on the Draft Environmental Impact Statement for the Delta-Mendota Canal/California Aqueduct Intertie.

The Central Delta Water Agency (CDWA) joins in the comments submitted on the above-entitled matter by the California Water Impact Network and the California Sportfishing Protection Alliance, dated August 28, 2009, and supplements those comments with the following additional comments and concerns.

1. **Further CEQA Review is Required.**

CDWA-1

It is not readily apparent from the DEIS whether further CEQA review beyond the 2005 Mitigated Negative Declaration adopted by the San Luis and Delta Mendota Water Authority ("Authority") is pending. Nor does the DEIS discuss the various state and local "responsible agencies" that are involved in the project. (See e.g., CEQA Guidelines, § 15381 ["For the purposes of CEQA, the term 'responsible agency' includes all public agencies other than the lead agency which have discretionary approval power over the project"].)

CEQA Guidelines section 15162 specifies the circumstances under which a "subsequent" EIR or negative declaration must be prepared. While the DEIS does not provide sufficient information regarding the status of CEQA compliance for the project nor the state and local agencies who have yet to approve one or more aspects of the project, it is clear, as acknowledged throughout the DEIS (and for the reasons set forth in the above-referenced C-WIN and CSPA comments), that at a minimum, there have been "[s]ubstantial changes . . . with respect to the circumstances under which the project is undertaken" and "[n]ew information of substantial importance" within the meaning of Guidelines section 15162 which mandate the preparation of a subsequent EIR.

Page 1 of 11

CDWA-1 cont'd

The DEIS itself must be revised to list all applicable state and local "responsible" agencies and explain the nature and status of their respective CEQA review of the project since such review is an integral and mandatory part of this joint state and federal project.

2. **Compliance With Applicable Laws.**

a. **PL 108-361 (HR 2828)–Program to Meet Water Quality Standards.**

Section 103, subdivision (d)(2)(D), of PL 108-361 provides:

"(i) IN GENERAL.--Prior to . . . increasing deliveries through an intertie, the Secretary shall, not later than 1 year after the date of enactment of this Act, in consultation with the Governor, develop and initiate implementation of a program to meet all existing water quality standards and objectives for which the Central Valley Project has responsibility.

"(ii) MEASURES.--In developing and implementing the program, the Secretary shall include, to the maximum extent feasible, the measures described in clauses (iii) through (vii) [i.e., (iii) Recirculation Program; (iv) Best Management Practices Plan; (v) Acquisition of water; (vi) Purpose; and (vii) Updating of New Melones Operating Plan.]"

CDWA-2

While the DEIS at page 3.3-4 states that "[i]n 2006, Reclamation prepared such a plan," the DEIS seemingly fails to provide any details of that plan. Moreover, since the plan is prerequisite to utilization of an intertie, the plan must be properly taken into consideration in all of the modeling and other analyses in the DEIS. Thus far, it does not appear that the details of the plan were even discussed much less incorporated into the analyses.

For example, at page 3.1-11, the DEIS states that "[o]peration of New Melones is governed by the interim operations plan . . . ." However, PL 108-361 specifically requires that the interim operations plan be updated and it is not at all clear whether the DEIS used the updated plan or the pre-existing plan. (See, PL 108-361, § 103, subd. (d)(2)(D)(vii) ["UPDATING OF NEW MELONES OPERATING PLAN.--The Secretary shall update the New Melones operating plan to take into account, among other things, the actions described in this title that are designed to reduce the reliance on New Melones Reservoir for meeting water quality and fishery flow objectives, and to ensure that actions to enhance fisheries in the Stanislaus River are based on the best available science"].)

CDWA-3

If the PL 108-361 plan was indeed "develop[ed] and initiate[d]" (§ 103, subd. (d)(2)(D)(i)) in 2006, then it missed the required one-year deadline. In addition, in light of the CVP's violation of the Delta water quality standards since 2006, it is clear than the current PL 108-361 plan, to the extent there is one, is inadequate and fails to achieve its statutory purpose.

Page 2 of 11

CDWA-4

Before further action is taken to assess the environmental impacts from an intertie, a plan must be developed which fully meets the requirements in PL 108-361, and that plan must be implemented in a manner that fully meets those requirements. Once such a plan is developed and implemented, then the environmental analysis must incorporate that plan in all of its analyses and alternatives. The DEIS's failure to incorporate a duly developed and implemented plan into its analyses is a fundamental and fatal flaw.

b. **PL 108-361 (HR 2828)–No Redirected Impacts and Compliance with Delta Protection, Area of Origin and Other Laws.**

Section 103, subdivision (d)(2)(A)(ii), of PL 108-361 provides:

"(ii) ACTIONS TO INCREASE PUMPING.--Actions to increase pumping shall be accomplished in a manner consistent with the Record of Decision requirement to avoid redirected impacts and adverse impacts to fishery protection and with any applicable Federal or State law that protects–

(I) water diversions and use (including avoidance of increased costs of diversion) by in-Delta water users (including in-Delta agricultural users that have historically relied on water diverted for use in the Delta);

(II) water quality for municipal, industrial, agricultural, and other uses; and

(III) water supplies for areas of origin.

CDWA-5

The DEIS must, and has thus far failed to, thoroughly demonstrate why the proposed increases in exports of Delta watershed water are consistent with those Record of Decision's requirements and applicable Federal or State laws. Some of those laws include the following.

i. **Delta Protection Act of 1959 and the Watershed Protection Act.**

The Delta Protection Act of 1959 provides in Water Code sections 12203 and 12204, respectively:

"It is hereby declared to be the policy of the State that no person, corporation or public or private agency or the State or the United States should divert water from the channels of the Sacramento-San Joaquin Delta to which the users within said Delta are entitled."

"In determining the availability of water for export from the Sacramento-San Joaquin Delta no water shall be exported which is necessary to meet the requirements of Sections 12202 and 12203 of this chapter."

The DEIS must analyze and explain why the proposed increases in exports of Delta watershed water is not water "to which the users [both human and environmental] within [the]

Page 3 of 11

Delta are entitled" and/or "necessary to meet the requirements of [Water Code] Sections 12202 and 12203 . . . ."

Similarly, Water Code section 11460 (i.e., part of the Watershed Protection Act, § 11460 et seq.) provides:

CDWA-5 cont'd

> "In the construction and operation by the department [i.e., SWP or CVP] of any project under the provisions of this part a watershed or area wherein water originates, or an area immediately adjacent thereto which can conveniently be supplied with water therefrom, shall not be deprived by the department directly or indirectly of the prior right to all of the water reasonably required to adequately supply the beneficial needs of the watershed, area, or any of the inhabitants or property owners therein." (Emphasis added.)

The DEIS must analyze and explain why the proposed increases in exports of Delta watershed water is not "reasonably required to adequately supply the beneficial needs [human or otherwise] of the watershed, area, or any of the inhabitants or property owners therein."

In light of the dire situation of fishery resources and overall poor water quality and lack of adequate dilution and assimilative capacity within the Delta, plus the Project's history of violations of Delta water quality standards, it would appear that all of the water proposed to be exported pursuant to the intertie would be (1) water "to which the users with [the] Delta are entitled" and/or "necessary to meet the requirements of [Water Code] Sections 12202 and 12203 . . . ." (Delta Protection Act of 1959); and/or (2) water that is "reasonably required to adequately supply the beneficial needs [human or otherwise] of the watershed, area, or any of the inhabitants or property owners therein" (Watershed Protection Act).

CDWA-6

Only water that is truly "surplus" to the needs of the Delta and the Delta watershed can be legally exported. Thus far, the DEIS has failed to demonstrate that any portion of the proposed increase in exports constitutes such surplus water and is not water that is needed by the Delta and the Delta watershed at either the time of export or at some point in the future in the form of carryover storage, etc. (the recent March 2009 violations of the Delta outflow requirements, among other violations, make it clear that the Projects are not adequately forecasting the future water needs of the Delta and Delta Watershed).

ii. **State and Federal Anti-degradation Laws.**

The Federal Environmental Protection Agency ("EPA") requires all states to adopt an "antidegradation policy" similar to the State Water Resources Control Board's ("SWRCB") Resolution 68-16. (40 C.F.R. 131.12.) Resolution 68-16 is further intended to, and does, implement Water Code section 13000 which requires the SWRCB to regulate all "activities and factors which may affect the quality of the waters of the state" such that they "attain the highest water quality which is reasonable."

The State Water Resources Control Board's ("SWRCB") "Resolution 68-16 [commonly referred to as the SWRCB's "Anti-Degradation Policy"] provides in pertinent part:

> "Whenever the existing quality of water is better than the quality established in policies as of the date on which such policies become effective, such existing high quality will be maintained until it has been demonstrated to the State that any change will be consistent with maximum benefit to the people of the State, will not unreasonably affect present and anticipated beneficial use of such water and will not result in water quality less than that prescribed in the policies."

CDWA-7

The DEIS must analyze and explain why the proposed increases in exports of Delta watershed water and anticipated degradation of water quality within the Delta and elsewhere is "consistent with maximum benefit to the people of the State, will not unreasonably affect present and anticipated beneficial use of such water and will not result in water quality less than that prescribed in the policies." Thus far, the DEIS has failed to do so.

CDWA-8

iii. **The San Luis Act of June 3, 1960, Public Law 86-488, 77 Stat. 156.**

PL 86-488 provides:

> "Construction of the San Luis unit shall not be commenced until the Secretary has . . . received satisfactory assurance from the State of California that it will make provision for a master drainage outlet and disposal channel for the San Joaquin Valley, as generally outlined in the California water plan, Bulletin Numbered 3, of the California Department of Water Resources, which will adequately serve, by connection therewith, the drainage system for the San Luis unit, or has made provision for constructing the San Luis interceptor drain to the delta designed to meet the drainage requirements of the San Luis unit as generally outlined in the report of the Department of the Interior, entitled 'San Luis Unit Central Valley project,' dated December 17, 1956." (Emphasis added.)

Such drain to remove salts from the valley has never been constructed yet over a million acre feet of water per annum from the San Luis Unit was committed to use. With every acre foot of water delivered to the San Joaquin Valley from the Delta Mendota Canal and San Luis Unit, there is delivered a significant quantity of salt which must be retained in the San Joaquin Valley or returned to the Delta via the San Joaquin River. The substantial degradation of the San Joaquin River from such drainage is well-understood and recognized (and discussed further below).

Without the required drain, existing exports, much less the proposed increase in exports from the intertie, are contrary to law. The DEIS must explain how the proposed project as well as existing conditions are in compliance with PL 86-488.

3. **Unduly Narrow Project Objectives and an Inadequate Range of Alternatives.**

The objectives of the project help shape the range of potential alternatives to be evaluated. Here, the DEIS too narrowly defines the objectives and, as a result, unduly limits the range of reasonable alternatives. The underlying basic objective is "to improve the water supply reliability of the [CVP]." (DEIS, p. ES-1.) That basic objective should guide the consideration of alternatives. While one way to meet that objective may be to increase the Projects' physical ability to export more Delta water, that is by no means the only way and the DEIS is presently inadequate for failing to thoroughly consider other ways to meet that objective (all of the DEIS' current alternatives seek to meet that objective by increasing the Projects' physical ability to export more Delta water).

Examples of other alternative approaches to meeting the Projects' basic objective, and which must be thoroughly considered in the DEIS, include the following:

CDWA-9

–An alternative of "regional self-sufficiency" where Peter (human and environmental water users within the Delta watershed) are not robbed to pay Paul (i.e., export contractors). Instead, every feasible effort is made to the maximum extent possible to develop new non-Delta watershed water and/or make better use of existing non-Delta watershed water to improve the water supply reliability of the CVP.[1] The intended result being, that the CVP export contractors can ultimately wean themselves off Delta watershed water, substantially or entirely, such that the Delta watershed water can be used to meet the needs within that watershed. The devotion of resources to such efforts should be at least as much as the *total* economic and environmental costs incurred in the planning, construction, mitigation, operation, etc. of the proposed intertie.

–In light of the inherent unreliability of the Delta watershed as a source of water for CVP (and SWP) export contractors, additional alternatives which contemplate, and are designed to produce, a *reduction* in exports from the Delta over historical levels should also be included. For example, the DEIS should include an alternative that reduces deliveries of Delta watershed water to areas south of the Tehachapi Mountains to "free up" water for CVP export contractors, and includes the above-described devotion of resources to developing self-sufficiency in such areas to offset such reductions.

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[1] Such efforts should include 1) water conservation; 2) water reclamation, including desalting brackish and if necessary sea water; 3) storm water capture and reclamation; 4) higher levels of treatment of sewage effluent to allow for safe use of effluent for irrigation of golf courses and landscaping, industrial use, and in suitable cases human consumption; 5) installation of dual water systems particularly in new developments; 6) installation of brine lines; and 7) improvements to water treatment facilities so that water from less desirable sources can be beneficially used.

Page 6 of 11

–A Demand Reduction alternative within the CVP export service areas which reduces that area's demand for all sources of water, Delta sources or otherwise. Retirement of drainage impaired lands should be among the methods to reduce such demand.

–With regard to protecting fishery resources within the Delta, actual, state of the art, fish screens on all Project export facilities should be evaluated to enable water that is truly surplus from the needs of the Delta, assuming there is any such water, to be exported with minimal impacts to fish.

–An alternative should be considered that includes substantially increased Delta outflows. Such an alternative could draw sensitive fishery species away from the existing export facilities, thereby increasing the "reliability" of such exports, and also enable the restoration of the Suisun Marsh which could provide tremendous benefits to numerous fishery species.

CDWA-9

The DEIS should also include, in the context of the analysis of some of the foregoing alternatives or otherwise, an extensive discussion of desalinization options in order to promote regional self-sufficiency and, hence, improved water reliability for CVP export contractors. Such a discussion would be in furtherance of Water Code section 12946 which provides:

> "It is hereby declared that the people of the state have a primary interest in the development of economical saline water conversion processes which could eliminate the necessity for additional facilities to transport water over long distances, or supplement the services to be provided by such facilities, and provide a direct and easily managed water supply to assist in meeting the future water requirements of the state."

Opportunities for environmentally friendly desalinization of ocean waters as well as brackish ground waters should be thoroughly examined.

4. **Inadequate Impact Analysis.**

CDWA-10

The CALSIM's "monthly timestep" limitation is not sufficient to evaluate the significance of the proposed environmental impacts from the increased export pumping and water deliveries from the intertie. As a result, the DEIS has clearly not provided a "worst case scenario" and the DEIS must be revised to assess true worst case scenarios which depict what can happen to water levels, water quality, fishery resources, etc. on any particular day during various water year types and conditions. After those scenarios are depicted then feasible mitigation measures and/or alternatives can be meaningfully considered to prevent potentially significant impacts from occurring.

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CDWA-11 As noted above and in CWIN and CSPA's above-referenced comments, the modeling for the project is also deficient, among other reasons, since it (1) assumes the South Delta Improvement Program permanent barriers are in place, which is prohibited by the new salmon biological opinion; (2) assumes the Environmental Water Account is in place when there has thus far been no authorization that it be in place in the future; (3) fails to incorporate the plan called for in PL 108-361; and (4) fails to take into consideration the various laws discussed above that impose constraints on allowable exports from the Delta watershed.

CDWA-12 With regard to water level impacts in the Southern Delta, an additional 467 cfs clearly is significant. Even without the additional 467 cfs, Reclamation should be well aware that exports can render portions of channels dry. This not only substantially impairs agricultural diverters' ability to divert from the channels, but also substantially impairs navigation, not to mention fish passage.

In this regard, the DEIS's determination at page 1-11 that "[n]avigation would not be affected by the Proposed Action . . ." is false. The DEIS must be revised to thoroughly evaluate the potential impacts on navigation and potential mitigation measures and alternatives to address those impacts.

5. **Scope of Impact Analysis.**

CDWA-13 The DEIS' modeling contemplates an increase in exports of up to 250,000 af per year. (If you multiple the 467 cfs intertie capacity by 1.98 you get 924.66 af per day or 337,501 af per year.) To properly assess the potential environmental impacts from such substantial increases in exports, the DEIS must identify precisely where those increased exports are going to come from

CDWA-14 and where they are going to be delivered after they are exported. The DEIS must also identify when such exports and deliveries are going to occur. The NEPA task is to investigate, discuss and analyze how all aspects of the environment (both in-Delta and out-of-Delta) may be directly or indirectly affected by such exports, which, in the absence of the proposed project, would not be exported. The full range of potential direct and indirect impacts to the entirety of the affected environment, i.e., from the areas where the exports originate to the areas where the exports are ultimately delivered and everywhere in between, must be thoroughly examined. Thus far, the DEIS fails to both adequately identify the sources of water to be exported by the project as well as examine said full range of impacts resulting from the export and delivery of such water.

CDWA-15 To the extent the source of water to be exported by the project comes from reservoir releases, then the DEIS must at a minimum do the following, which it thus far has not done: (1) sufficiently set forth and describe the affected reservoirs' historic and current "release programs;" (2) provide an adequate analysis of how those release programs may be modified by the implementation of the project; and (3) provide an adequate investigation, discussion and analysis of how the environment, including downstream water quantity and quality and aquatic resources may be adversely impacted by any such modifications.

Page 8 of 11

a. **Drainage Impacts from Use of Exported Water.**

With regard to the evaluation of impacts in the areas where exported water will ultimately be delivered, one of the critical direct and/or indirect impacts which the DEIS must properly evaluate is the potential for such exported waters to be delivered to areas which directly drain surface and subsurface waters, and, hence, the various pollutants contained in such waters, into the San Joaquin River or delivered to upslope areas which generate hydraulic pressure which thereby increases the drainage of waters from the downslope lands into the San Joaquin River. The potential for such impacts is widely recognized and well-established.[2]

While the proposed project intends to facilitate exports of water to such areas, the DEIS fails to properly investigate, discuss, analyze, and ultimately mitigate to the extent feasible, the potential impacts from those exports on the water quality in the San Joaquin River.

CDWA-16

While the DEIS purports to investigate "salinity" at and downstream of Vernalis, Reclamation's NEPA responsibilities are by no means limited to addressing "salinity" impacts. It is well-recognized that drainage from exports to areas which directly or indirectly drain into the San Joaquin River can and do contain numerous other contaminants which Reclamation has a NEPA duty to properly investigate and evaluate (e.g., selenium, boron, molybdenum, other trace elements, etc.).

Reclamation's NEPA duty is also not limited to avoiding or lessening impacts to agricultural water users which the Vernalis and other Delta salinity standard are intended to protect.

Moreover, Reclamation's NEPA duty is by no means limited to evaluating impacts at or downstream of Vernalis. Instead, Reclamation is required to evaluate potentially substantial impacts in all of the areas directly or indirectly affected by the project. The area affected by drainage from exports to the CVP service areas extends considerably beyond, and upstream of,

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[2] See e.g., SWRCB's Decision 1641 at page 83 wherein the SWRCB states with regard to salinity: "[T]he SWRCB finds that the actions of the CVP are the principal cause of the salinity concentrations exceeding the objectives at Vernalis. The salinity problem at Vernalis is the result of saline discharges to the river, principally from irrigated agriculture, combined with low flows in the river due to upstream water development. The source of much of the saline discharge to the San Joaquin River is from lands on the west side of the San Joaquin Valley which are irrigated with water provided from the Delta by the CVP, primarily through the Delta-Mendota Canal and the San Luis Unit. The capacity of the lower San Joaquin River to assimilate the agricultural drainage has been significantly reduced through the diversion of high quality flows from the upper San Joaquin River by the CVP at Friant. The USBR, through its activities associated with operating the CVP in the San Joaquin River Basin, is responsible for significant deterioration of water quality in the southern Delta." (See http://www.waterrights.ca.gov/ hearings/decisions/WRD1641.pdf at "pdf" p. 95.)

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Vernalis.

With regard to the requisite detail of analysis, thus far, the DEIS lacks sufficient facts and analysis pertaining to (1) the amount of drainage water the project may introduce into to the San Joaquin River, in the form of surface or subsurface return flows; and (2) the extent such introduction of drainage water may result in potentially substantial impacts on the water quality in the San Joaquin River via the introduction of salt, boron, selenium and other contaminants. CDWA-16 Questions which the DEIS must address include the following: precisely where did the EIS preparers assume the water would be delivered? When did they assume the water would be delivered and how did they assume they water would be used? Did the EIS preparers take into consideration both surface and subsurface return flows? Did the EIS preparers take into consideration the hydraulic pressure influence on return flows? When, where and how were such return flows measured. Were the measurements taken along all significant stretches of the San Joaquin River or just a few select locations?

It should be noted that a meaningful investigation, disclosure and analysis of the project's potential drainage impacts on the water quality in the San Joaquin River would clearly be reasonably feasible. There is a well-established computer model, the "SJRIO Model," which is specifically designed to evaluate such impacts and which could and should be used.

i. **Impacts to New Melones' Area of Origin Contractors.**

CDWA-17 Since Reclamation contractors, such as Stockton East Water District, have a Water Code section 11460 prior right to New Melones water that cannot be directly or indirectly deprived by the Projects' operations, the DEIS must fully address the potential for the project to so result in such direct or indirect deprivation and describe potentially feasible mitigation measures to ensure that such an unlawful deprivation does not occur. Thus far, the DEIS has failed to do so.

CDWA-18 Reclamation also has an obligation to thoroughly take PL 108-361 into consideration in its NEPA analysis. In addition to what was discussed above, PL 108-361 further imposing the following requirement on Reclamation which the DEIS has thus far failed to adequately address:

> "[The Secretary of Interior] shall acquire water from willing sellers and undertake other actions designed to decrease releases from the New Melones Reservoir for meeting water quality standards and flow objectives for which the Central Valley Project has responsibility to assist in meeting allocations to Central Valley Project contractors from the New Melones Project." (PL 108-361, Section 103(f)(1)(F), emphasis added.)

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6. **Thresholds of Significance.**

CDWA-19 The DEIS should be revised to clarify, and its assessment of the significance of impacts should be amended to take into consideration, the fact that a particular environmental effect meets a particular water quality standard or other standard does not mean that the effect is not significant. As discussed above, the state and federal Anti-degradation laws provide thresholds that go well beyond those set forth in the SWRCB and RWQCB's Water Quality Control Plans, or in any other national, statewide or regional plan or policy. Thus far, the DEIS fails to properly recognize and take into consideration those laws.

7. **Conclusion.**

Thank you for considering these comments and concerns.

Very truly yours,

Dante John Nomellini, Jr.

DJR/djr

1.13.1 CDWA-1

See response to comment CWIN/CSPA-2 (page 33, Final EIS Vol. III).

Per NEPA requirements, the EIS includes a description of the other applicable regulations and the status of compliance with those regulations and consultations with required agencies in Chapter 1 (see Section 1.6.2 and Table 1-1).

1.13.2 CDWA-2

See response to comment CWIN/CSPA-6 (page 35, Final EIS Vol. III).

In addition to what is described in response to comment CWIN/CSPA-6, CALSIM II modeling for the Intertie included regulatory requirements, reservoir operating agreements, and objectives in the baseline conditions to the extent that they can be modeled. As described in the DEIS on page 3.1-11, New Melones Reservoir was simulated to reflect the Interim Operations Plan which remains the current operating plan (i.e., rules). Although the New Melones Reservoir Operations Plan is being reviewed and may be revised as directed in PL 108-361, no substantial modifications that would change the monthly modeling of the diversions, minimum releases, or Anadromous Fish Restoration Program (AFRP) enhancement flows have made by Reclamation.

1.13.3 CDWA-3

See response to comment CWIN/CSPA-4 (page 34, Final EIS Vol. III).

1.13.4 CDWA-4

See response to comment CWIN/CSPA-6 (page 35, Final EIS Vol. III).

1.13.5 CDWA-5

See response to comment CWIN/CSPA-4 (page 34, Final EIS Vol. III).

Intertie improves conveyance of CVP water in accordance with Reclamation's water rights. The Intertie will not reduce or interfere with in-Delta diversions. In-Delta uses as well as the fish and wildlife needs are included in the D-1641 objectives for outflows, X2 location, and maximum salinity at various Delta locations. All of the additional exports allowed by the Intertie are allowable within the current Delta operational rules (i.e., D-1641) and agreements (i.e., COA, Temporary Barriers).

1.13.6 CDWA-6

See response to comment CDWA-5, above.

1.13.7 CDWA-7

See response to comment CDWA-5, above.

1.13.8 CDWA-8

See responses to comments CWIN/CSPA-4, CWIN/CSPA-10, and CWIN/CSPA-28 (pages 34, 36, and 40; Final EIS Vol. III).

1.13.9 CDWA-9

See responses to comments CWIN/CSPA-9 and PCL-12 (pages 36 and 51, Final EIS Vol. III).

As described in Chapter 1 of the Final EIS, "the purpose of the Proposed Action is to improve the DMC conveyance conditions that restrict the Jones Pumping Plant to less than its original-design pumping capacity of 4,600 cubic feet per second (cfs) and to improve operational flexibility for operations and maintenance and emergency activities." (page 1-3, Final EIS).

A reasonable range of alternatives to meet the stated purpose of the Intertie was evaluated in the EIS. The commenter's suggested alternatives do not meet this stated purpose and therefore do not require further review in this EIS.

1.13.10 CDWA-10

See responses to comments CWIN/CSPA-3 and PCL-6 (pages 33 and 49, Final EIS Vol. III).

1.13.11 CDWA-11

See responses to comments CWIN/CSPA-6, CWIN/CSPA-13, PCL-8 (pages 35, 37, and 50; Final EIS Vol. III), and CDWA-5, above.

1.13.12 CDWA-12

The DSM2 tidal hydraulics and water quality model was run for the Intertie alternatives (See Appendix C of the EIS). As described in Chapter 3.2-5, the simulated maximum change of 400 cfs in CVP pumping will have very small

effects on the tidal water elevations in the south Delta. Figure 3.2-3 shows the DSM2-simulated 15-minute interval tidal elevations and tidal flows in Old River at Clifton Court Ferry for November 1975. This month was selected because the SWP pumping was at 6,680 cfs, and the No Action Jones Pumping Plant pumping was about 4,200 cfs. The Intertie Alternative increased the Jones Pumping Plant pumping to 4,600 cfs. This month therefore represents the largest direct effect of the Intertie pumping. The simulated tidal elevations were only slightly lower with the additional Intertie pumping. The difference cannot be identified from the graph, but the Intertie simulated tidal elevations were an average of 0.5 inches (0.045 feet) lower than the No Action tidal elevations. The simulated tidal flows were an average of 400 cfs more than the No Action tidal flows. The tidal flows are shifted by the constant CVP pumping and there is almost no downstream tidal flow towards the CCF intake. The tidal flows are always upstream, with the peak upstream flow of about 10,000 cfs during the major flood tide period each day. These DSM2-simulated tidal hydraulic effects are representative of changes that would be expected in other months with the additional 400 cfs of CVP pumping that the Intertie Alternatives would allow. Navigation will not be affected.

1.13.13 CDWA-13

See response to comment CWIN/CSPA-1 (page 33, Final EIS Vol. III).

1.13.14 CDWA-14

See responses to comments PCL-1 (page 47, Final EIS Vol. III), and CDWA-5, above.

In addition to what is described in responses to comments PCL-1 and CDWA-5, the EIS was updated to include a description of the periods of the year when Reclamation anticipates operating the Intertie. The direct, indirect, and cumulative effects of this operation are fully described throughout the EIS.

1.13.15 CDWA-15

See responses to comments CWIN/CSPA-7; CWIN/CSPA-12; and CWIN/CSPA-19 (pages 35, 37, and 39; Final EIS Vol. III).

1.13.16 CDWA-16

See responses to comments CWIN/CSPA-4, CWIN/CSPA-10, and CWIN/CSPA-28 (pages 34, 36, and 40; Final EIS Vol. III).

1.13.17 CDWA-17

See CDWA-2. The Intertie will have no effect on New Melones operations and will not change the water supply diversions for Stockton East or any other water district with rights or agreements for New Melones water.

1.13.18 CDWA-18

See responses to comments CDWA-3, above, and CWIN/CSPA-6 (page 35; Final EIS Vol. III).

Reclamation is in compliance with PL 108-361 and is currently investigating each of the required operational changes included in PL 108-361. Many of these are possible future actions and are outside the scope of the Intertie analysis. Such activities include those listed by the commenter.

1.13.19 CDWA-19

See response to comment DWR-17 (page 16, Final EIS Vol. III).

NEPA does not require establishment or use of thresholds of significance. The analysis in the EIS was based on a comparison of the No Action/existing conditions with the various alternatives for each resource evaluated. A regulatory setting section was included in the description of effects and was taken into consideration as part of the effects assessment.

1.14 South Delta Water Agency

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John Herrick

August 31, 2009

Via email: wmoore@usbr.gov
Mr. Louis Moore
Bureau of Reclamation
2800 Cottage Way
MP-140
Sacramento, CA 95825

Re: Comments to Draft EIS DMC/California Aqueduct Intertie

Dear Mr. Moore:

The South Delta Water Agency joins in and adopts the comments of the Central Delta Water Agency. We would also like to add a few additional comments.

SDWA-1 1. Before the EIS can be adopted, the USBR, in conjunction with DWR must conduct an updated investigation to determine how much water is available for export under various hydrological conditions. This analysis should first include how much water is needed to comply with existing fishery needs, then how much water is available for area of origin, Delta, and other superior needs. Thereafter, the amount of surplus water for export can be calculated. Absent this calculation, the Intertie could result in growth inducing impacts with regard to both urban and agricultural lands.

SDWA-2 2. HR 2828 required the Bureau to conduct a number of investigations and implement a number of programs before embarking on the Intertie project, or otherwise increasing exports. Those requirements included developing and implementing a plan to meet all of the Bureau's water quality obligations on the San Joaquin River. No such plan has been developed.

SDWA-3 HR 2828 also requires that the Bureau decrease its reliance on New Melones for such obligations, investigate recirculation, and investigate purchases and transfers. To date, little or no such work has been done. The Intertie project should not go forward before such federally ordered work is completed.

Please feel free to contact me if you have any questions.

Very truly yours,

JOHN HERRICK

1.14.1 SDWA-1

See response to comment CDWA-5, above, and CWIN/CSPA-4 (page 34, Final EIS Vol. III).

The assessment of potential growth-inducing impacts was described in Chapter 7 of the EIS.

1.14.2 SDWA-2

See responses to comments CWIN/CSPA-6 and CWIN/CSPA-24 (pages 35 and 40; Final EIS Vol. III).

1.14.3 SDWA-3

See response to comment CWIN/CSPA-6 (page 35; Final EIS Vol. III).

As described in Section 3.3 and Section 6.3.3, several ongoing studies relative to water quality objectives are being pursued independently of the Intertie project.

1.15 California Water Impact Network and the California Sportfishing Protection Alliance Endorsement

california water impact network

California Sportfishing Protection Alliance

"An Advocate for Fisheries, Habitat and Water Quality"

August 28, 2009

Mr. Louis Moore
Bureau of Reclamation
2800 Cottage Way, MP-700
Sacramento, CA 95825

Re: Incorporation and Endorsement of Comments on Draft Environmental Impact Statement for Delta-Mendota Canal/California Aqueduct Intertie by Central Delta Water Agency

Dear Mr. Moore:

The California Water Impact Network and the California Sportfishing Protection Alliance hereby endorse and incorporate by reference the August 31, 2009 comments of the Central Delta Water Agency on the Draft Environmental Impact Statement for the Delta-Mendota Canal/California Aqueduct Intertie.

Respectfully submitted,

Carolee Krieger

Bill Jennings

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cc: Ken Salazar Interior Secretary
David Hayes, Deputy Interior Secretary
Lester Snow, Director Department of Water Resource
Dan Nelson, San Luis Delta-Mendota Water Authority
Jonas Minton, Planning and Conservation League
Richard Perlmutter, Shute, Mihaly and Weinberger

1.15.1 CWIN/CSPA

Please see responses to the CDWA comment letter above.

1.16 San Luis & Delta-Mendota Water Authority

August 31, 2009

Mr. Louis Moore
Bureau of Reclamation, Mid Pacific Region
2800 Cottage Way, MP-140
Sacramento, CA 95825

Re: *Comments on Draft Environmental Impact Statement for Delta-Mendota Canal/California Aqueduct Intertie*

Dear Mr. Moore:

Thank you for providing the San Luis & Delta-Mendota Water Authority ("Authority") with an opportunity to review and comment on the draft Environmental Impact Statement ("DEIS") prepared by the Bureau of Reclamation ("Reclamation") for the "Delta-Mendota Canal/California Aqueduct Intertie" (the "Project"). As you know, the Authority is the local project proponent and would construct the Intertie facilities.

The Authority remains a strong supporter of the Project. The Project will provide additional flexibility in the use of Jones Pumping Plant capacity to meet water demands south of the Delta, respond to emergency conditions, respond to changes in environmental conditions in the Delta, and maintain the Central Valley Project and State Water Project facilities.

The environmental review of the Project has been extensive in scope and extended in time. The Project was the subject of an Environmental Assessment and Initial Study ("EA/IS") completed in early 2005 after public comment. As a result of litigation, however, Reclamation decided to prepare the DEIS. While preparation of the DEIS has resulted in unfortunate delay and additional expense, an even more thorough evaluation has now been made of the Project and alternatives to the Project, and of any potential environmental impacts. The DEIS appropriately concludes that the Project will cause no adverse effects on fish species in the Delta. The DEIS identifies appropriate mitigation for potential adverse effects during construction of the Project facilities, and for adverse effects of noise from operation of temporary pumps. With the preparation of

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Bureau of Reclamation
August 31, 2009
Page 2

the DEIS, there should be no further question that the potential environmental impacts of the Project have been fully and comprehensively considered.

Thank you for your consideration of these comments.

Very truly yours,

FRANCES C. MIZUNO, PE

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

922702.1

1.16.1 SLDMWA

Thank you for your support of the project. Through NEPA and other regulatory processes, Reclamation is working towards implementation of the Intertie.

1.17 California Farm Bureau Federation

CALIFORNIA FARM BUREAU FEDERATION
NATURAL RESOURCES AND ENVIRONMENTAL DIVISION
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VIA U.S. MAIL & E-MAIL
wmoore@usbr.gov

August 31, 2009

Mr. Louis Moore
Bureau of Reclamation
2800 Cottage Way, MP-700
Sacramento, CA 95825

RE: Comments on the Delta-Mendota Canal/California Aqueduct Intertie, Alameda County, CA

Dear Mr. Moore:

The California Farm Bureau Federation ("Farm Bureau") is a non-governmental, non-profit, voluntary membership California corporation whose purpose is to protect and promote agricultural interests throughout the state of California and to find solutions to the problems of the farm, the farm home and the rural community. Farm Bureau is California's largest farm organization, comprised of 53 county Farm Bureaus currently representing approximately 91,000 members in 56 counties. Farm Bureau strives to protect and improve the ability of farmers and ranchers engaged in production agriculture to provide a reliable supply of food and fiber through responsible stewardship of California's resources.

Farm Bureau appreciates the opportunity to submit comments on the Bureau of Reclamation's and the San Luis Delta-Mendota Water Authority's Draft EIS/EIR for the proposed Delta-Mendota Canal / California Aqueduct Intertie.

The California Farm Bureau thanks the Bureau of Reclamation and the San Luis Delta-Mendota Water Authority for their hard work on and preparation of the draft EIS for the above captioned project.

As the preparing agencies are well aware, urban and agricultural areas reliant on deliveries from the federal Central Valley Project and the state-owned State Water Project, representing a trillion-dollar economy, more than two-thirds of the state's population, and some 2.5 million acres of some of the world's most productive farmland, are presently in the throes of a perfect storm brought on, in part, by low or non-existent water deliveries in the third year of an on-going drought. Beyond the drought, however, the current water crisis in California is also the consequence of a number of new regulatory constraints on operations of the projects, under two new biological opinions

issued by the United States Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS). These operational constraints and the severe water supply impacts associated with them highlight the tremendous utility and urgency of the proposed project in this case.

By providing the projects additional operational flexibility to safely take water when it is available (primarily, as we understand it, during high flow periods in the fall and winter), a two-way intertie between the Delta-Mendota Canal and the California would allow improved water supply reliability for urban and agricultural contractors south of the Sacramento-San Joaquin Delta and, at the same time, provide added operational flexibility and required protections for threatened and endangered species, including the delta smelt and the various runs of chinook salmon and steelhead.

The proposed DMC/CA Intertie is important and sorely needed at this juncture for other reasons as well: For one thing, such an intertie would provide an important stone in the arch of near-term measures that are almost immediately need to bridge the extended period of time that may be required for implementation of a suite of long-term actions to more comprehensively address on-going water supply reliability and species protection issues in the Sacramento-San Joaquin River Bay-Delta, including a variety of proposed actions in the Bay-Delta Conservation Plan.

The proposed DMC/CA Intertie project is also important and unique in that it is one of just a very few good, infrastructure projects that have already undergone the extensive battery of environmental and engineering studies and permitting processes to date, that are prerequisites to the implementation of such a project. It is limited in scope, cost efficient, and readily implemented—yet far-reaching in terms of the relative benefits it would provide. As noted in the environmental document itself, the project was included in and, so, is now covered under the existing biological opinions recently issued by USFWS and NMFS for the delta smelt and salmon and steelhead, respectively. Moreover, it is our understanding that the project has been the recipient of federal funding in the past and an object of Congress' interest under the CALFED Reauthorization Act of some years ago.

Our purpose in writing is to express our strong support for this project. We strongly urge the project proponents to aggressively pursue efforts to close any existing shortfall in funding for the project, obtain any additional approvals, and proceed with all haste to actual construction of the proposed intertie.

Thank you for the opportunity to comment.

Sincerely,

Justin Fredrickson
Environmental Policy Analyst

1.17.1 CFBF

Thank you for your support of the project. Through NEPA and other regulatory processes, Reclamation is working towards implementation of the Intertie.