

## **Appendix H**

### Comment Letters

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UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
West Coast Region  
650 Capitol Mall, Suite 5-100  
Sacramento, CA 95814-4700

JAN 30 2015

Mr. Tim Rust  
U.S. Bureau of Reclamation  
2800 Cottage Way, MP-410  
Sacramento, California 95825

Re: Comments on the Central Valley Project Municipal and Industrial Water Shortage Policy  
Draft Environmental Impact Statement

Dear Mr. Rust:

Thank you for the opportunity to comment on the Central Valley Project (CVP) Municipal and Industrial (M&I) Water Shortage Policy (WSP) Draft Environmental Impact Statement (EIS). The Draft EIS addresses updating the existing 2001 Draft CVP M&I WSP that would be used by Reclamation to: (1) define water shortage terms and conditions for applicable CVP M&I water service contractors, as appropriate; (2) establish CVP water supply levels that, together with the M&I water service contractors' drought water conservation measures and other water supplies, would assist the M&I water service contractors in their efforts to protect public health and safety during severe or continuing droughts; and (3) provide information to M&I water service contractors for water supply planning and the development of drought contingency plans. The alternatives evaluated in this EIS utilize different methodologies for allocating available CVP water supplies to CVP water service contractors during shortage conditions. This EIS evaluates potential impacts of the M&I WSP over a 20-year period, 2010 through 2030.

Of particular interest to NOAA's National Marine Fisheries Service (NMFS) was Chapter 10 Aquatic Resources, which presented the existing aquatic resources within the area of analysis and discusses potential effects on aquatic resources from the proposed alternatives. NMFS offers the following general comments pertaining to the draft EIS:

1. The CalSim II model was the assessment method used to analyze potential effects of the alternatives on biologic aquatic resources. CalSim II provided average monthly river flows, monthly reservoir storages and elevations, exports, and Delta parameters [Delta outflow, location of X2, and south of Delta exports through the CVP and State Water Project (SWP) Delta facilities] for the alternatives. While analysis of these parameters and their potential affects to listed fish species are important and necessary, the Draft EIS lacked an analysis of proposed alternatives effects on water temperature and how changes in water temperature could potentially affect listed fish species. Specifically, changes to storage and operations at Shasta Reservoir have the potential to result in elevated water



temperatures that could have lethal and sub-lethal effects on egg incubation and juvenile rearing of listed salmon in the upper Sacramento River. In addition, storage and operations changes at Folsom Reservoir have the potential to result in effects to California Central Valley steelhead due to the inability to consistently provide suitable temperatures for the various life stages in the American River. Reclamation has the Reclamation Temperature Model and the upper Sacramento River Water Quality Model to analyze the temperature variability in Trinity, Lewiston, Whiskeytown, Shasta, Keswick, and Folsom reservoirs and the Trinity River, Clear Creek, and the upper Sacramento River. NMFS suggests Reclamation incorporate these models and conduct an analysis of how the proposed changes in flows for each alternative affects temperature, and how potential changes in water temperature could affect listed fish species.

2. NMFS also suggests including information on the measures that Reclamation are going to take to meet water temperature requirements in the 2009 CVP and SWP Long-term Water Operations Biological Opinion (NMFS BiOp) Reasonable and Prudent Alternative (RPA) Actions. This includes providing information on the discretionary and non-discretionary water contracts that provide Reclamation the flexibility to meet the protective requirements of Endangered Species Act listed fish species. For all of the alternatives analyzed in Chapter 10, Reclamation acknowledges that CVP deliveries would change in the Sacramento, American, and Delta Divisions through 2030 compared to existing conditions based on population, growth, and changes in land use. Reclamation also states that the changes in river flow and reservoir storage, especially in dry and critical water years, would not have an appreciable or observational effect on aquatic resources as compared to existing conditions and that minimum flow and storage requirements to protect aquatic resources would be met. However, even under existing conditions, especially in the dry and critical water years of 2013 and 2014, Reclamation has not been able to meet the water temperature requirements in the NMFS BiOp RPA.
3. The Draft EIS should explain why New Melones Reservoir operations, Stanislaus River, and San Joaquin River flows were not included and analyzed as part of this Draft EIS.

In addition, NMFS provides the following specific comments on the Draft EIS:

1. Page 10-31, Table 10-2 – For November, the difference between existing conditions, 5,668 cfs, and the No Action Alternative, 5,442 cfs, is -226 cfs, not -246 cfs. For May, the difference between existing conditions and the No Action Alternative is positive 41 cfs, not negative 41 cfs.
2. Pages 10-31 and 10-32, Tables 10-2 and 10-3 – NMFS suggests redoing the characterization of existing conditions. The September long-term average monthly flow in the Sacramento River below Keswick Dam in dry and critical water year types under existing conditions is not reflective of current operations. To establish existing conditions, the CalSim II model used 82 years of historical hydrology from water years 1922 through 2003 to provide average monthly river flow. This period does not take into account changes to operations due to the NMFS BiOp.



September is a critical time for Sacramento River winter-run Chinook salmon and Central Valley spring-run Chinook salmon egg, alevin, and fry development in the upper Sacramento River. Since the implementation of the NMFS BiOp in 2009, there have been recommendations by NMFS, the U.S. Fish and Wildlife Service, and California Department of Fish and Wildlife through the Sacramento River Temperature Task Group to keep flows in September elevated (compared to previous years) in order to maintain temperatures below 56°F at the temperature compliance point, and to minimize dewatering of redds and stranding of juveniles. The table, below, compares the actual September average monthly flows and those modeled under existing conditions in the Draft EIS. Note that for the dry and critical water year types, actual September average monthly flows were higher than the existing condition in the Draft EIS. The differences in flow could have potentially significant and adverse effects to listed salmonids.

Year	Water Year Type	September Average Monthly Flow (cfs, actual)	September Average Monthly Flow (cfs, existing condition in DEIS)
2009	Dry	6,995	5,471 in Table 10-2
2010	Below Normal	7,410	
2011	Wet	9,738	
2012	Below Normal	8,268	
2013	Dry	6,932	5,471 in Table 10-2
2014	Critical	5,558	4,698 in Table 10-3


3. Pages 10-35 and 10-36 – Reiterating the comment earlier, NMFS suggests including modeling results of the change in flows and how that affects water temperature. Even though there are required minimum flows in the lower American River, changes of up to 12% decreases in dry years and 39% decreases in critical years have the potential to further elevate water temperatures and negatively affect listed steelhead in the lower American River. In the majority of the years since the issuance of the NMFS BiOp, Reclamation has not been able to meet RPA Action II.2, which is to maintain a daily average water temperature of 65°F or lower at Watt Avenue Bridge from May 15 through October 31, to provide suitable conditions for juvenile steelhead rearing.
4. Page 10-38, Old and Middle River Flows – Suggest including a table for changes of Old and Middle River (OMR) Flows for the No Action Alternative compared to existing conditions for dry and critical water years. All the other parameters analyzed for the No Action Alternative compared to existing conditions for dry and critical water years include a table (*e.g.* Delta outflow, X2, *etc.*) except for OMR Flows. In addition, “The greatest decreases in flows would occur...” is a bit confusing. Do decreases in flow mean more negative OMR or less negative OMR? A table would help alleviate the confusion and add transparency.

5. Pages 10-40 to 10-52 – Suggest including more tables for the parameters analyzed for Alternatives 2 through 5 compared to the No Action Alternative or at least have the tables with data available in an Appendix. Appendix B, Attachment B has graphical outputs of the water model, however tables with data would be much more useful. 8
6. Page 10-41, Table 10-14 – The No Action Alternative flows for all months are not consistent with the No Action Alternative flows in Table 10-3; they should be the same. As a result, this may affect the Alternative 2 difference flows. Also, the title of the table should be labeled “Critical” years, not “Dry” years. 9
7. Page 10-47, third sentence – The sentence is inaccurate. Replace “August and September” with “July and August” so it reads “In July and August of critical water years...” 10
8. Page 10-50, first sentence – The sentence is inaccurate. Delete “both” and “and critical water years,” so instead it reads “In dry water years flow are about the same for all months except for August when flow would be about 10 percent less.” 11

Finally, NMFS requests to be a cooperating agency throughout the National Environmental Policy Act process for Reclamation’s development of the CVP M&I WSP. The Council on Environmental Quality’s (CEQ) regulations implementing NEPA define a cooperating agency as “any Federal agency other than a lead agency which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major Federal action significantly affecting the quality of the human environment”. NMFS qualifies for this designation under this definition as the project in question may affect NOAA trust resources. NMFS has jurisdiction under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the Magnuson Stevens Fishery Conservation and Management Act (16 U.S.C. 1801-1882), and the Fish and Wildlife Coordination Act (16 U.S.C. 661). 12

Please contact Brycen Swart at (916) 930-3712, or via email at [Brycen.Swart@noaa.gov](mailto:Brycen.Swart@noaa.gov), in the California Central Valley Area Office, if you have any questions regarding this letter.

Sincerely,



for

Maria C. Rea  
Assistant Regional Administrator

cc: Copy to File - ARN #151422SWR2011SA00585





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

MAR 13 2015

Tim Rust  
Bureau of Reclamation  
2800 Cottage Way  
Sacramento, CA 95823

Subject: Draft Environmental Impact Statement for the Central Valley Project Municipal and Industrial Water Shortage Policy, Various Counties, California (CEQ# 20140333)

Dear Mr. Rust:

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

The Draft EIS evaluates the potential environmental impacts of Reclamation's proposal to implement an update to its 2001 Municipal and Industrial Water Shortage Policy, which defines water shortage terms and conditions and establishes allocations for Central Valley Project M&I water service contractors in severe or continuing droughts. The severity of the current drought and its negative effects on California's ecosystems, economies, and people highlight the need for an M&I Water Shortage Policy that provides clear guidelines for allocation of CVP water. Given the highly variable conditions of each water year and the many needs of the CVP contractors, EPA commends Reclamation for writing a document that clearly articulates the uncertainties inherent in water shortage planning and that discusses environmental impacts in the context of existing conditions, climate change, the regulatory environment, and the many large water infrastructure projects currently in the planning stages in California.

Based on our review, we have rated the Draft EIS and all alternatives as "Lack of Objections" (LO; see enclosed Summary of EPA Rating Definitions). We recommend that the Final EIS include clarifications and an update to help inform the decision making process. Please see the enclosed Detailed Comments.

When the Final EIS is released for public review, please send one hard copy and one CD to the address above (Mail Code: ENF 4-2). If you have any questions, please contact me at 415-972-3521 or contact Stephanie Skophammer, the lead reviewer for this project, at 415-972-3098 or at [skophammer.stephanie@epa.gov](mailto:skophammer.stephanie@epa.gov).

Sincerely,

A handwritten signature in black ink, which appears to read "Kathleen Martyn Goforth", is written over a horizontal line.

Kathleen Martyn Goforth, Manager  
Environmental Review Section

Enclosures:  
Summary of EPA Rating Definitions  
Detailed Comments

WAS 10 2012



## 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

**Provide Additional Details Regarding the Project Description**

The Draft EIS evaluates four Action Alternatives that represent a range of water shortage sharing conditions for CVP contractors. The Draft EIS indicates that Reclamation will identify a preferred alternative in the Final EIS. Chapter 1 states that possible decision outcomes include pursuing the No Action alternative or approving Alternative 2, 3, 4 or 5 (p. 1-12); however, Chapter 2 indicates that Reclamation is considering the potential “to mix and match elements of the alternatives, if needed, to create an alternative that would reduce environmental impacts and increase environmental benefits” (p. 2-2).

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***Recommendation:** EPA encourages Reclamation to clearly define and describe the selected alternative and its component features in the Final EIS. If the selected alternative is a composite of elements of the alternatives identified in the Draft EIS, evaluate the selected alternative as a discrete alternative in the FEIS (rather than simply referencing the impacts of the individual elements) in order to determine whether the “mixing and matching” of elements would result in impacts that differ in any way from a simple compilation of the impacts of the individual elements.*

Section 1.8 of the Draft EIS indicates that, in addition to supporting decision making among Water Shortage Policy alternatives, “other uses of this document” include taking additional actions to implement the selected policy, including CVP water delivery reductions; applicable CVP long-term contract renewals; and real-time decisions to change upstream flows, Delta outflows, and pumping, consistent with existing CVP operating rules. This section is puzzling because there is no further discussion of these elements in Chapter 2 Description of Alternatives. Long term contract renewals usually require their own NEPA documentation and it is not clear which contract renewals are included in this EIS and how impacts from any such decision were carried through in the NEPA analysis.

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***Recommendation:** Clarify section 1.8 of the EIS and discuss any additional aspects of the project alternatives in Chapter 2.*

In general, the resource descriptions for Alternative 4 (Updated M&I Water Shortage Policy) state that there would be no difference between Alternative 4 and the No Action Alternative (see Table 3-1); however, the description of Alternative 4, beginning on page 2-12, indicates that some proposed changes to the Water Shortage Policy may have potential impacts. For example, one of the proposed actions is to change the water reductions to be based on historical use rather than Contract Totals (p. 2-15). Since no examples are given, it is unclear what impacts, if any, this would have on water supply.

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***Recommendation:** In the Final EIS, evaluate the potential for the proposed methodology change that is proposed in Alternative 4 to have an impact on water supply.*

**Update the Climate Change Discussion**

On December 18, 2014, the Council on Environmental Quality released revised draft guidance for public comment that describes how Federal departments and agencies should consider the effects of greenhouse gas emissions and climate change in their NEPA reviews. The revised draft guidance supersedes the draft greenhouse gas and climate change guidance released by CEQ in February 2010, which is referenced in the DEIS under Regulatory Framework for the Climate Change chapter. This new draft guidance explains that agencies should consider both the potential effects of a proposed action on

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climate change, as indicated by its estimated greenhouse gas emissions, and the implications of climate change for the environmental effects of a proposed action.

***Recommendations:** Update the Regulatory Setting section of the Climate Change chapter to reflect the new CEQ draft guidance released on December 14, 2014.*