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COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE UPPER SAN JOAQUIN RIVER BASIN STORAGE INVESTIGATION ENVIRONMENTAL IMPACT STATEMENT

State Water Resources Control Board (State Water Board) staff appreciates the opportunity to review and provide comments on the draft Environmental Impact Statement (EIS) for the Upper San Joaquin River Basin Storage Investigation. Comments on the draft EIS are due on October 27, 2014. The State Water Board requested an extension of this comment period due to the relatively short comment period and the State Water Board's extensive drought related workload, but did not receive a response. Accordingly, the State Water Board's review of the draft EIS was limited.

Introduction

According to the Executive Summary, the Draft EIS documents the analysis of the potential environmental effects of alternatives to increase storage of water from the upper San Joaquin River watershed to improve water supply reliability and operational flexibility in Central Valley Project San Joaquin Valley areas and other regions of California, and enhance water temperature and flow conditions in the San Joaquin River downstream from Friant Dam for salmon and other native fish. In addition to the No-Action Alternative, the Draft EIS considers five action alternatives, which include constructing a dam in the upstream portion of Millerton Lake at river mile 274, and which vary based on operations and intake feature configurations. The U.S. Department of the Interior, Bureau of Reclamation (Reclamation), is the lead on the project in cooperation with the California Department of Water Resources (DWR). Reclamation prepared the draft EIS to disclose the potential direct, indirect, and cumulative impacts of implementing a proposed action and a range of reasonable alternatives, and to identify feasible mitigation measures to reduce, minimize, or avoid significant adverse impacts. The draft EIS states that it has been prepared in compliance with both the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). With respect to CEQA, the EIS specifically states:

> "This Draft EIS has also been prepared in consideration of CEQA and State CEQA Guidelines to support the CEQA Lead Agency and Responsible and Trustee agencies that would be involved in approving a proposed alternative. However, at the time of

release of this Draft EIS, DWR was unable to provide CEQA review. When a project (such as the Investigation) requires compliance with CEQA and NEPA, and the NEPA document is ready before the CEQA document – as is the case here – the CEQA Lead Agency (DWR) should use the EIS rather than preparing an EIR when the following two conditions occur:
1. An EIS will be prepared before an EIR would otherwise be completed for the project
2. The EIS complies with the CEQA Guidelines (see CEQA Guidelines section 15221)."

Since the EIS may be used to satisfy CEQA compliance and the State Water Board is a responsible agency under CEQA, State Water Board staff conducted an initial review of the draft EIS. Upon further review, the State Water Board may have additional comments. State Water Board staff's comments are summarized below.

General Comments

- The impact assessments in the resource chapters should clarify how quantitative changes were evaluated between the baseline and the alternatives. Specifically, what quantitative thresholds were used in determining whether impacts were significant?
- The EIS should provide justification for determinations that no feasible mitigation measures are available to address impacts, specifically impacts to fish and wildlife. The EIS should clarify how the project meets the goals of enhancing water temperature and flow conditions in the San Joaquin River downstream from Friant Dam for salmon and other native fish. It is not clear how the project as proposed meets the stated goal of enhancing water temperatures and flows downstream of Friant. It appears that the project causes further degradation to winter and spring temperature and flow conditions in the San Joaquin River downstream from Friant Dam for salmon and other native fish. Reclamation and DWR should consider additional project alternatives or mitigation measures to avoid or minimize temperature impacts during the winter and spring seasons or explain why such measures are not feasible.

Fisheries Comments

- For FSH-10, the EIS should provide justification for the assumption that an increase in minimum population size during dry years will support population resilience more than small decreases in maximum population size.
- For FSH-10, the EDT model should be used to evaluate potential effects to each life stage of spring-run Chinook salmon using changes to important habitat attributes as a basis for the evaluation. The habitat attributes, evaluation criteria, and significance thresholds should be adequately described and justified. This same process should be applied to other impact evaluations in chapter 5.
- For FSH-11, the analysis should utilize thresholds (see USEPA 2003[1]) to calculate the amount of time that "optimal" or "sub-optimal" conditions are met under baseline and alternative conditions. Please provide summary tables indicating the frequency of threshold compliance by month under each alternative and no action alternative. The

[1] U.S. Environmental Protection Agency (USEPA). 2003. USEPA Region 10 Guidance for Pacific Northwest State and Tribal Temperature Water Quality Standards. USEPA 910-B-03-002. 49 pp. April.

thresholds and locations which are used should be tailored to evaluate key indicator species and each of their life stages that the project may impact. The 7DADM metric should be used as recommended by USEPA 2003.

- For FSH-11, the EIS should include a discussion of potentially feasible mitigation measures like higher carryover storage requirements at Friant Dam and/or a temperature control device/selective intake on Friant Dam.
- For FSH-14, the EIS should provide additional information on the impacts of floodplain availability to native fish. The analysis should include the frequency that floodplain flows would occur under each alternative, and incorporate existing information about floodplain acreages that correspond to different flows (see cbec 2010[2]). State Water Board staff recommends that floodplain effects be evaluated by month as to better understand when and where changes would occur that could affect native fish. State Water Board staff also recommends extending the floodplain analysis past the Merced River confluence to Vernalis.
- For FSH-15, the EIS should provide additional justification for the statement, "San Joaquin River water temperature is strongly affected by air temperatures. Additionally, the SJR5Q water temperature model results indicate that the action alternatives would not affect water temperatures in the San Joaquin River immediately downstream from the confluence with the Merced River under both existing and future conditions (see Figure 5-16, Figure 5-17 and the Modeling Appendix for additional figures). Therefore, it is reasonable to conclude that water temperatures in the San Joaquin River downstream from the Merced River would not be affected by the action alternatives."
  In regards to the above statement: 1) in addition to air temperature, water temperature is also strongly affected by flow; 2) Figures 5-16 and 5-17 refer to temperature conditions at Reach 2A and not near the Merced confluence; and 3) even if temperatures downstream of the Merced are not affected, changes to flow could alter the amount of time that migratory fish are exposed to sub-optimal temperatures. State Water Board staff suggests evaluating the duration of exposure to sub-optimal temperatures that migratory fish would likely experience under each of the project alternatives. Reducing flows and velocities may create indirect temperature impacts to migratory fish in the San Joaquin River and this can only be evaluated by considering duration of exposure.
- For FSH-16, the draft EIS states the following: "in the San Joaquin River at Vernalis, project-related flow reductions are generally greatest in late winter and spring. However, for all months at both locations, flow reductions greater than 5 percent to 10 percent only occur in years when river flows are well above average, with essentially no change at times when flows are at or below the median monthly flow." Flow reductions that occur in years when the river flows are well above average may be important to native fish and should not be discounted. Please provide additional information on the changes to the

[2] cbec. 2010. San Joaquin Floodplain inundation mapping. Memorandum. cbec, inc, Sacramento, California. 24pp. Report provided in Appendix 4 of Comments pertaining to the "Scientific Basis for Developing Alternate San Joaquin River Delta Inflow Objectives" described in the State Water Resources Control Board's October 29, 2010, Draft Technical Report on the Scientific Basis for Alternative San Joaquin River Flow and Southern Delta Salinity Objectives. Prepared on behalf of the San Joaquin River Group Authority. December 6, 2010.

frequency of flows by month for each alternative and additional justification for the less than significant impact determination.

- For FSH-18, please provide additional justification for the statement, "therefore, effects on water temperature and DO would be minimal and adverse effects on fish habitat would be minor." Provide additional detail describing the anticipated changes to water temperature and DO levels in the Delta resulting from the project alternative and why they are not significant. There are many other instances where changes are described as minimal or minor but are not quantified. State Water Board staff recommends quantifying the description of changes when possible. Further, other impact evaluations in Chapter 5 indicate that the project alternatives do not change water temperatures in the Lower San Joaquin River, but the statement above indicates that there are potential temperature changes that can occur as far downstream as the Delta. Please explain.
- The EIS should clarify whether the project will change the instream temperature profile upstream of Friant Dam, particularly during critically dry years, as it relates to fish protection.

Botanical and Wetlands

- Surveys should be completed outside of the primary study area to determine the presence of, and impacts to any special-status plant species from the development of project features and new transmission line corridors.
- For the mitigation measure to impact BOT-1, areas designated for establishment of relocated species need to be analyzed for suitability.
- For the mitigation measure to impact BOT-4, please provide justification that implementation of a weed management plan for three seasons after construction is adequate.

Water Right Issues

- In Chapter 28 the EIS states, "by letter dated August 7, 2014, the State Water Board staff informed Reclamation that Reclamation would have to seek revision of the Fully Appropriated Streams Declaration (State Water Board Order 89-25, Exhibit A) pursuant to Title 23 of the CCR, Section 871, along with the submittal of a proposed application for a new water right (see: CWC Section 1202, et seq. and Title 23 of the CCR, Section 650 et seq.) for operation of the proposed project. The proposed application could not be accepted or processed until the State Water Board adopts the order changing the Declaration." After public notice of the proposed water right application, the State Water Board may receive protests which may result in additional requirements for the project. Reclamation is requesting an additional storage capacity of 1,260 thousand acre-feet at the new reservoir. The full face value of the water right application should be evaluated in the EIS.
- The EIS should describe the new water rights and permits needed for the proposed project and any associated environmental effects, including the intended collection

season for the reservoir, points of diversion, points of rediversion, and any other provisions needed for a viable project.

- To facilitate the State Water Board's consideration of water right related issues associated with this project, State Water Board staff requests that the EIS provide additional information regarding potential injury to other legal users of water, including potential injury to diverters downstream of Friant. While discussion of water right related issues is not necessarily required by CEQA or NEPA, this information will be needed to inform any future water right applications or related water right actions for this project. Such analyses are closely related to the environmental effects of the project and are thus conveniently discussed in the environmental document for the project.
- The EIS should provide an analysis of the availability of unappropriated water (including diversion season and release requirements), to substantiate that water is available to appropriate, in excess of the quantities required to remain instream. The analysis should be on a minimum monthly time step, and should include all hydrologic year types.
- The EIS should identify where water will be transferred and evaluate any potential impacts associated with the transfers (point of diversion/rediversion, biological opinions etc.).

Please contact Patricia Fernandez at (916) 319-9141 or patricia.fernandez@waterboards.ca.gov, if you have any questions or would like to discuss this matter further.

Sincerely,

ORIGINAL SIGNED BY

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