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August 5, 2024

Chris Wilkinson
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Comments on the Long-Term Operations of the State Water Project in the Sacramento-San Joaquin Delta, Suisun Marsh, and Suisun Bay (Project) Draft Environmental Impact Report (DEIR)
SCH# 2023060467

Dear Mr. Wilkinson:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a DEIR from the Department of Water Resources for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.[1] CDFW previously submitted comments in response to the Notice of Preparation of the DEIR on July 14, 2023, as a part of an earlier phase of Project development.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

CDFW notes that on November 1, 2023, DWR submitted an Incidental Take Permit (ITP) application seeking authorization to take Delta Smelt, Longfin Smelt, and Winter-run and Spring-run Chinook Salmon as a result of long-term operations (LTO) of the State Water Project (SWP). On August 2, 2024, DWR submitted a supplemental request to add White Sturgeon as a Covered Species. CDFW is currently processing the application and this supplemental request. Some aspects of the Project Description and proposed minimization and mitigation measures in the application differ from what was presented as the Proposed Project in the DEIR, for example: (1) the DEIR does not include Chinook Salmon mitigation while the LTO ITP application carries forward the existing 2020 SWP ITP (No. 2081-2019-

[1] CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

066-00) obligation to provide funding for Chinook Salmon habitat restoration actions (Condition of Approval 9.21 – Mitigation for Impacts Associated with Project Operations); (2) implementation of the SWP-facilitated Voluntary Agreements are modeled differently between the two documents, specifically in that the LTO ITP application assumes flows generated by land fallowing would be deployed in March, while the DEIR varies its application across March, April, and May, based on water year type.

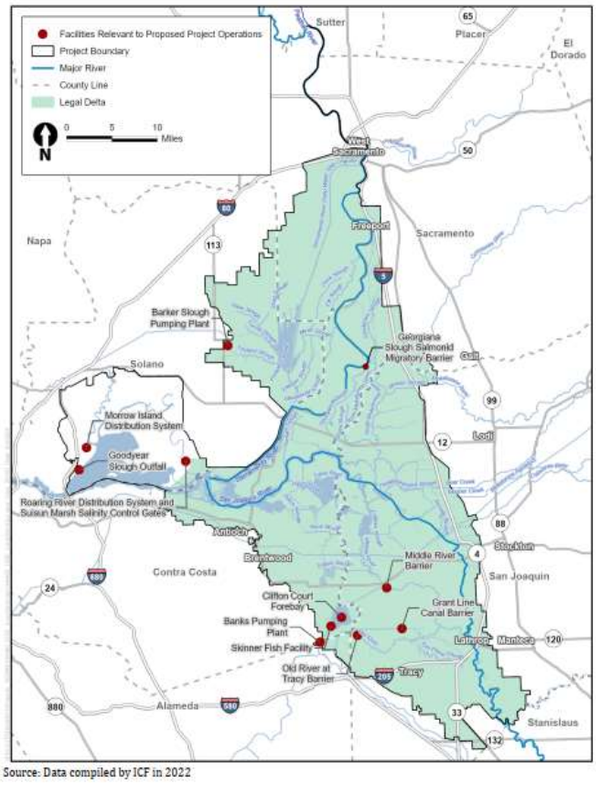
CDFW looks forward to continuing its coordination with DWR as a Responsible Agency and pursuant to its CESA obligations.

PROJECT DESCRIPTION SUMMARY

Proponent: Department of Water Resources (DWR)

Objective: As stated in the DEIR, the California State Water Project (SWP) is a multi-purpose water storage and delivery system that extends more than 700 miles. The SWP is operated to provide for the primary purposes of water supply delivery and flood control, and it provides additional benefits including power generation, recreation, and environmental stewardship. DWR is seeking approval of long-term operations of the SWP facilities in the Delta, Suisun Marsh, and Suisun Bay to continue to provide water supply for agricultural, municipal, and industrial uses, along with the additional benefits to recreation and the environment in compliance with all applicable laws and regulations, including contractual obligations.

Location: The Project area for purposes of CEQA encompasses SWP water diversion, storage, and conveyance facilities and SWP service areas throughout the State (Figure 1). This includes the Sacramento River from the Feather River confluence to the Delta, waters of the Delta, Suisun Marsh, and Suisun Bay, and the facilities in the Delta, Suisun Marsh, and Suisun Bay including the Harvey O. Banks Pumping Plant, John E. Skinner Delta Fish Protective Facility, Clifton Court Forebay, Barker Slough Pumping Plant, Suisun Marsh Salinity Control Gates, Roaring River Distribution System, Morrow Island Distribution System, the Goodyear Slough Outfall Gates, South Delta Temporary Barriers, and San Luis Reservoir.



Source: Data compiled by ICF in 2022

Figure 1: Locations of facilities relevant to Project operations in the Delta, Suisun Marsh, and Suisun Bay. Figure taken from the Project Description of the DEIR p. 2-3.

Timeframe: The Project describes ongoing and long-term operations of the SWP through 2034.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist DWR in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the potential for the Project to have significant impacts on biological resources, CDFW concludes that an Environmental Impact Report is appropriate for the Project.

Based on review of the DEIR, CDFW would like to emphasize the importance of several key components for consideration in the EIR's disclosure and analysis of impacts, and identification and description of mitigation measures. Such considerations will also be important for the development of DWR's LTO ITP:

Less than Significant Without Mitigation Determination

With respect to impacts to aquatic biological resources generally, the DEIR states at page 6-248, "*[N]o mitigation is necessary because the Proposed Project would not have significant impacts on aquatic biological resources*." However, the aquatic biological resource impacts analyses show incremental negative impacts to Bay-Delta native species and the Bay-Delta ecosystem under DWR's Proposed Project. Specifically, in comparison to existing conditions, the DEIR identifies increased modeled impacts to winter-run and spring-run Chinook Salmon using the Salvage-Density Method (Appendix 6B) that shows increased entrainment into the south Delta export facilities in April and/or May of all water year types and increased entrainment from February through May of wet water years.[2] The Salvage-Density Method also shows increased entrainment of juvenile White Sturgeon into the south Delta export facilities in April or May of all water years except critical years, when historical loss was zero. Additionally, analyses in the DEIR anticipate more negative OMR flows in the spring for the Proposed Project, resulting in increased entrainment impacts for Delta Smelt and Longfin Smelt.

CDFW is unclear how DWR determined no mitigation was needed in the DEIR to offset these additional impacts especially in consideration of current population declines of Delta native species and cumulative impacts associated with joint operations of the CVP and SWP. Given that DWR's significance conclusions in part rely on the deployment of SWP-facilitated Voluntary Agreement flows (i.e., spring Delta outflows from land fallowing and south Delta export restrictions), CDFW recommends that the EIR consider the potential for any impacts based on changes in the timing of flow deployment consistent with modeling provided to support the LTO ITP application. To facilitate the EIR's role as an informational document, CDFW recommends further explanation on how actions including habitat restoration, SWP-facilitated Voluntary Agreement flows, and Delta Smelt supplementation serve to offset impacts such as increased entrainment in the SWP's Delta facilities.

Spring Delta Outflow

CalSim 3 and associated biological modeling for the Proposed Project provided in the DEIR includes a spring Delta outflow component that incorporates SWP contributions toward the Voluntary Agreements in lieu of existing spring outflow provided by the 2020 SWP ITP Condition of Approval 8.17 (Export Curtailment for Spring Outflow) and Condition of Approval 8.19 (Additional 100 TAF for Delta Outflow; designed for deployment in either spring, summer, or fall months). SWP contributions to the Voluntary Agreements are proposed through a combination of SWP export reductions in the south Delta and land fallowing programs on the Feather and Sacramento rivers. The Proposed Project described in the LTO ITP application also includes an alternative approach, characterized as Early Voluntary Agreement Implementation, to implement spring Delta outflow through continued implementation of the existing 2020 SWP ITP Condition of Approval 8.17 (without Condition of Approval 8.19); however, no CalSim 3 or biological modeling were provided in the DEIR to analyze this alternative approach to the Proposed Project. To

[2] Increased entrainment for other native salmonids is also documented in the DEIR to have similar patterns across water year types.

provide consistency between the EIR with the analysis DWR provided for the LTO ITP application, CDFW requests that the EIR incorporate modeling results for the alternative approach to spring Delta outflow that includes long-term implementation of Condition of Approval 8.17.

Additionally, the CalSim 3 and associated biological modeling for SWP's contributions toward the Voluntary Agreements do not align with the modeling provided to CDFW to support the LTO ITP application. The DEIR, Appendix 4, Attachment 1 states that land fallowing will provide 50 TAF of inflow in above normal, below normal, and dry water year types between March and May with volumes distributed across months dependent on water year type. In response to CDFW's request, DWR modeled land fallowing as providing an increase in 50 TAF of inflow in March of above normal, below normal, and dry water years. Table 11-1 of the DEIR states that the alternative provided to CDFW would not optimize water supply or improve operational flexibility and therefore was not analyzed further in the DEIR. To provide consistency between the EIR and modeling provided to CDFW to support the LTO ITP application, CDFW requests that the EIR incorporate modeling results for March deployment of the 50 TAF inflow block provided from Feather River or Sacramento River land fallowing.

Impacts of Proposed Project

As stated above, the DEIR concludes that impacts of the Proposed Project operations are less than significant without mitigation to all aquatic CESA-listed species. However, important biological modeling and analyses typically utilized to assess the impacts of the Proposed Project on these species were not included in the DEIR. Notably, CDFW has requested, and DWR provided, the following analyses to support its processing of the LTO ITP application, and recommends that DWR provide them as part of the EIR, as well:

> (1) The DEIR does not include Salvage-Density Method results for SWP and CVP facilities separately. This analysis is needed to analyze Proposed Project impacts to salmonids and White Sturgeon. Additionally, combined historical natural-origin and hatchery-origin loss of winter-run and spring-run Chinook Salmon should be provided as inputs to the Salvage-Density Method to fully account for Proposed Project impacts on CESA-listed winter-run and spring-run Chinook Salmon, which include natural and hatchery populations.
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> (2) The DEIR does not include a juvenile Chinook Salmon Delta junction analysis (i.e., STARS, ECO-PTM). This analysis is necessary to better understand how the Proposed Project, with associated SWP-facilitated Voluntary Agreement implementation, may impact juvenile Chinook Salmon route selection through the Delta. In addition, CDFW requests that the EIR include median daily travel time of juvenile Chinook Salmon through the Delta as modeled by STARS to better understand how the Proposed Project may impact juvenile Chinook Salmon exposure time in the Delta.
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> (3) The DEIR does not include model documentation or results from the Interactive Object-Oriented Salmon Simulation (IOS), Oncorhynchus Bayesian Analysis (OBAN), or the Winter-Run Life Cycle Model (WRLCM). These results are necessary to inform the magnitude of potential population-level impacts on CESA-listed winter-run Chinook Salmon from Proposed Project operations.

The DEIR does not consider the Proposed Project's ability to exacerbate cyanobacterial harmful algal bloom (cHAB) formations in the Bay-Delta as a result of SWP exports from the Barker Slough Pumping Plant and south Delta (e.g., reduced outflow). CDFW requests the EIR include a cHAB analysis that evaluates the following five factors that provide favorable conditions for cHABs: 1) increased water temperatures, (2) decreased channel velocities and associated turbulence and water mixing, (3) increased hydraulic residence time, (4) increased water column irradiance due to greater water clarity, and (5) changes in nutrient availability.

Through-Delta juvenile Chinook Salmon survival modeling (i.e., Delta Passage Model, STARS) provided in the DEIR assumes the Georgiana Slough Salmonid Migratory Barrier

will be in operation under both the Baseline Conditions and Proposed Project from mid-November through April. Modeling assumptions for the Georgiana Slough Salmonid Migratory Barrier included a 50% efficiency scenario and a 67% efficiency scenario for reducing juvenile Chinook Salmon entry into the Georgiana Slough. The Project Description only commits DWR to installing and operating the Georgiana Slough Salmonid Migratory Barrier through 2030; therefore, there is a gap in the impacts analyzed in the DEIR for long-term operations of the SWP beyond 2030 when barrier efficiency would be reduced to 0%. CDFW requests DWR commit in the EIR to long-term operations of the Georgiana Slough Salmonid Migratory Barrier consistent with the timeframe of the EIR.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB). The CNNDB field survey form can be filled out and submitted online at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals.

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the DEIR to assist DWR in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Paige Uttley, Environmental Program Manager, at 916-698-1140 or Paige.Uttley@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Brooke Jacobs
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Brooke Jacobs, Chief
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