
State Water Resources Control Board

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VIA ELECTRONIC MAIL
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FROM: *ORIGINAL SIGNED BY*
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DATE: April 15, 2020

SUBJECT: COMMENTS ON NOTICE OF PREPARATION OF ENVIRONMENTAL
IMPACT REPORT FOR THE DELTA CONVEYANCE PROJECT



This memorandum responds to the California Department of Water Resources' (DWR) January 15, 2020 Notice of Preparation (NOP) for an Environmental Impact Report (EIR) for the Delta Conveyance Project, which may include the preparation of an environmental impact statement (EIS). The State Water Resources Control Board (State Water Board) and Central Valley Regional Water Quality Control Board (collectively Water Boards) appreciate the opportunity to comment and contribute information regarding the potential environmental impacts, mitigation measures, and alternatives to be addressed in the EIR/EIS for the Delta Conveyance Project (Project).

General Comments

The mission of the Water Boards is to preserve, enhance, and restore the quality of California's water resources and drinking water for the protection of the environment, public health, and all beneficial uses, and to ensure proper water resource allocation and efficient use, for the benefit of present and future generations. The State Water Board administers water rights in California, including those of the State Water Project (SWP) and Central Valley Project (CVP). The State and Regional Water Boards also have primary authority over the protection of the State's water quality and drinking water. To protect water quality, the State and Regional Water Boards develop water quality control plans that identify beneficial uses of water, water quality objectives to protect those beneficial uses, and a program of implementation to achieve the objectives, as well as monitoring, special studies, and reporting requirements. These

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water quality control plans include the State Water Board's Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Plan) and the Central Valley and San Francisco Bay Regional Water Boards' water quality control plans for the Central Valley and San Francisco Bay.

The Water Boards will have discretionary approvals over water right and water quality aspects of the Project and are responsible agencies for the Project pursuant to the California Environmental Quality Act (CEQA). As responsible agencies under CEQA, the Water Boards must review and consider the environmental effects of the Project identified in the EIR that are within their purview and reach their own conclusions on whether and how to approve the Project. (Cal. Code Regs., tit. 14, § 15096, subd. (a).) Specifically, activities that may require approval by the Water Boards include changes to the SWP's and potentially the CVP's points of diversion of water and to other provisions of their water rights, water quality certifications pursuant to Clean Water Act section 401,¹ National Pollutant Discharge Elimination System Permits (NPDES),² and potentially other water quality approvals such as a Construction Storm Water General Permit,³ an Industrial Storm Water General Permit,⁴ Waste Discharge Requirements,⁵ and a Dewatering Permit.⁶

Project Description

The EIR should include a clear project description in order to allow for a full project level evaluation of the potential environmental impacts of the proposed project. The EIR should specifically include proposed operating rules for the Project, including diversion limitations; criteria for operating the new facility in conjunction with other SWP, and as applicable CVP facilities, including Delta export facilities and reservoirs; bypass flow

¹ If the Project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACE). If an USACE permit is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the State Water Board.

² If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a NPDES permit. If the proposed project discharges waste that could affect the quality of surface waters of the State, other than into a community sewer system, the proposed project will require coverage under a NPDES permit.

³ Dischargers whose project disturbs one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ.

⁴ Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 2014-0057-DWQ.

⁵ If USACE determines that only non-jurisdictional waters of the State (i.e., "non-federal" waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement permit to be issued by the Central Valley Regional Water Quality Control Board.

⁶ If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Risk General Order) 2003-0003 or the Central Valley Regional Water Quality Control Board's Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Risk Waiver) R5-2013-0145.

criteria; Delta outflow criteria; export to Delta inflow criteria; provisions for meeting existing water quality and flow requirements; and any other operating rules. The EIR should clearly identify and differentiate between existing regulatory criteria, proposed operating criteria, and modeling assumptions in a summary table or other easily identifiable format. Each regulatory criterion, operating criterion, or modeling assumption should be clearly explained and justified. Where flexibility is proposed, a range of potential operations should be evaluated from least to most restrictive. For example, given the uncertainty concerning CVP participation, the EIR should evaluate a range of possible scenarios, including no CVP participation, partial CVP participation, and maximum CVP participation.

Any operating scenarios that are developed for the Project should adhere to all of the requirements currently in place under D-1641. One current D-1641 requirement is the Delta Export to Inflow (E:I ratio), which establishes a maximum percentage of the total Delta inflow that may be exported. The Delta E:I ratio is one of the water quality objectives for fish and wildlife beneficial uses (Table 3 of the Bay-Delta Plan) that was implemented pursuant to D-1641. Both D-1641 and the Bay-Delta Plan specify how the Delta E:I ratio is to be calculated. In the BDCP/WaterFix Final EIR/EIS (2016), however, the calculation was modified by using a Delta inflow measurement location below the North Delta Facilities and excluding water diversions from the North Delta Facilities as a part of the total Delta export for purposes of calculating the E:I ratio. Any such changes in water quality objectives and subsequent operational criteria would require an amendment to the Bay-Delta Plan, and therefore all operating scenarios evaluated in the EIR should assume that the existing Delta E:I ratio, as well as other Bay-Delta Plan water quality objectives, would apply.

DWR and Reclamation have pending petitions to extend the deadlines, which have expired, to maximize the beneficial use of water under their water right permits for the SWP and CVP, respectively. These petitions have been noticed and protested, but the Division of Water Rights has not processed them further due to a lack of environmental documentation. DWR and Reclamation may also wish to amend the petitions (the DWR petition only requests a time extension until 2015), which would require that the petitions be re-noticed. Although these petitions can be processed separately from a water right change petition for the Delta Conveyance Project, the EIR for the Delta Conveyance Project should address how the approval or disapproval of time extension petitions would relate to SWP and CVP operations with the new conveyance facilities. Specifically, the analysis of SWP and CVP operations in the EIR should be consistent with the fact that, absent State Water Board approval of time extension petitions, SWP and CVP exports, with or without approval of the new proposed points of diversion, are limited to the maximum amount of water put to beneficial use before the deadlines to maximize use contained in the permits. (See Wat. Code, §§ 1397, 1610.5; Cal. Code Regs., tit. 23, § 844.)

Baseline Conditions

The EIR should evaluate the effects of the Project with the Department of Fish and Wildlife's Incidental Take Permit (ITP) and with and without recent (2019) changes to

U.S. Fish and Wildlife Service (FWS) and National Marine and Fisheries Service (NMFS) Biological Opinions (BiOps) for the long-term operations of the CVP and SWP. It is important to understand the effects of the changes from the 2019 BiOps in combination with the proposed project because the State has filed suit on the 2019 BiOps which may result in modifications or invalidations of the BiOps. In addition, these changes were made very recently so are not well understood. These changes could also have large effects on export operations and Delta hydrodynamics as well as aquatic species (Reclamation's EIS identifies that the 2019 BiOp changes could result in increases in exports of up to 600 thousand acre-feet per year on average given existing infrastructure). These effects in combination with the effects of and the Project should be evaluated and disclosed.

Effects of Climate Change

The EIR should include analyses of the Project with appropriate assumptions based on the latest science for expected climate change effects upon initial operations and other relevant time periods in the life of the Project. The analyses should be presented in a manner that allows for the effects of the Project to be discernable from the effects of climate change. Scientific studies⁷ have suggested that climate change will bring changes in precipitation patterns (from more snow to more rain), higher temperatures, vegetation expansion, and longer growing seasons, which would result in warmer water temperatures and lower annual streamflows than the current conditions. Previously, the EIR/EIS for BDCP/WaterFix included climate change scenario Q5 (BDCP/WaterFix Final EIR/EIS, Appendix 5A Section D: Additional Modeling Information), which forecasted slightly wetter and warmer conditions than current conditions. However, precipitation variation and temperature rise may be much more severe than the Q5 scenario. The EIR should consider climate change scenarios with warmer and drier conditions (with drought sequences similar to those that were experienced from 2012-2016). In addition, the EIR should evaluate possible sea level rise scenarios. The sea-level rise assessment reported by the Working Group of the California Ocean Protection Council Science Advisory Team (OPC-SAT)⁸ suggested the median sea-level rise at the Golden Gate would be 0.9 feet (ft) by 2050. The report also suggests that there is a 1-in-20 chance (5% probability) that sea-level rise will exceed 1.4 ft by 2050 with the possibility for more severe sea level rise by 2100 of 1.6 ft to 10 ft.

Project Alternatives and Operating Scenarios

The EIR should include a reasonable range of conveyance and operational alternatives. Sizing and alignments for the conveyance facility should be considered that avoid,

⁷ Berghuijs, W. R., R. A. Woods, and M. Hrachowitz. 2014. A precipitation shift from snow towards rain leads to a decrease in streamflow. *Nature Climate Change* 4: 583-586. doi:10.1038/nclimate2246.

Goulden, M. L., and R. C. Bales. 2014. Mountain runoff vulnerability to increased evapotranspiration with vegetation expansion. *PNAS* 111: 14071-14075.

Milly, P. C. D., and K. A. Dunne. 2020. Colorado River flow dwindles as warming-driven loss of reflective snow energizes evaporation. *Science*. DOI: 10.1126/science.aay9187.

⁸ Griggs, G., J. Árvai, D. Cayan, R. DeConto, J. Fox, H. A. Fricker, R. E. Kopp, C. Tebaldi, and E. A. Whiteman (California Ocean Protection Council Science Advisory Team Working Group). 2017. *Rising Seas in California: An Update on Sea-Level Rise Science*. California Ocean Science Trust, April 2017. <http://www.opc.ca.gov/webmaster/ftp/pdf/docs/rising-seas-in-california-an-update-on-sea-level-rise-science.pdf>.

minimize, and/or mitigate construction and siting related impacts and impacts to other legal users of water. Operating scenarios should be considered that improve conditions for native fish species that are currently in poor condition by improving Delta outflows, reducing entrainment and impingement related effects of SWP (and possibly CVP) diversions, improving cold water management, and other measures without redirected impacts to native fish species. Specifically, the EIR should evaluate a scenario that is consistent with the State Water Board's efforts to update the Bay-Delta Plan to improve protections for native fish species. In 2018, the State Water Board updated the Lower San Joaquin River Flow objectives in the Bay-Delta Plan and released a Framework⁹ for potential updates to Sacramento River and Delta inflow and outflow, interior Delta flow, and cold water habitat objectives included in the plan based on science summarized in the State Water Board's Scientific Basis Report.¹⁰ In addition, efforts are currently underway to develop proposed voluntary agreements that could be in effect for 15 years or longer if approved as a method to update/implement the Bay-Delta Plan. State Water Board staff is available to assist with the development of scenarios that serve this purpose.

Impact Assessment

Aquatic Ecosystems

The Project proposes additional hydromodifications to the Sacramento-San Joaquin Delta with construction and operation of two, new, additional points of water diversion and a tunnel to convey water from the northern Delta to the SWP pumping plant, and potentially the CVP pumping plant, in the southern Delta. The new points of diversion are proposed to be located on the banks of the Sacramento River in the northern Delta with a maximum diversion capacity of 3,000 cubic feet per second (cfs) each, 6,000 cfs combined. Currently, the SWP diverts water from the southern Delta at the SWP Banks Pumping Plant. The combined capacity of the CVP and SWP south Delta pumping plants is about 15,000 cfs, with median and maximum daily combined diversions of 6,854 and 13,720 cfs, respectively, since water year 2000 (Dayflow). The maximum, combined diversion capacity of the new proposed intakes (6,000 cfs) is about forty percent of the maximum diversion capacity of the existing southern Delta intakes (15,000 cfs). DWR refers to the operation of the new intake facilities and conveyance to the south Delta in combination with the existing diversion facilities as "dual conveyance."

The Bay-Delta ecosystem and freshwater ecosystems in tributary watersheds are in a state of prolonged decline. Fish species in the Bay-Delta have continued to experience precipitous declines in recent years. In the early 2000s, scientists noted a steep and lasting decline in population abundance of several native estuarine fish species, which

⁹ The Framework can be found at:

https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/docs/sed/sac_delta_framework_070618%20.pdf

¹⁰ The Scientific Basis Report can be found at:

https://www.waterboards.ca.gov/water_issues/programs/peer_review/docs/scientific_basis_phase_ii/2017_10_bdphasell_sciencereport.pdf.

continued and worsened during the sustained drought during 2012-2016. Simultaneously, natural production of all runs of Central Valley Chinook salmon and steelhead remains near all-time low levels.

Changes in land use due to agricultural practices, urbanization, and flood control combined with substantial and widespread water infrastructure development, including the construction and operation of the SWP and CVP, have been accompanied by significant declines in nearly all species of native fish. The SWP and CVP facilities are the largest contributors to hydromodification in the freshwater and estuarine ecosystems of the San Francisco Bay-Delta estuary and freshwater tributary watersheds. Modification to the volume, pattern, and timing of flows caused by the dams, water diversions, canals, and related operation of the CVP and SWP have contributed to declining fish populations, contraction of the freshwater and estuarine habitats and food webs, and persistently poor aquatic ecosystem conditions.

The new conveyance facility and dual conveyance operations of the Project have the potential to reduce the impacts of the SWP (and possibly the CVP) on aquatic resources by reducing entrainment at the southern Delta export facilities, reducing reverse flows in the southern Delta, and allowing more water to be exported during high flow conditions when aquatic resources are less likely to be adversely affected. If not appropriately conditioned, however, the Project also has the potential to adversely affect aquatic resources by modifying the timing, volume, and duration of freshwater flows and tidal energy that influence the amount of aquatic habitat and water quality habitat conditions such as freshwater flow, salinity, dissolved oxygen, turbidity, and temperature. In particular, adding new water diversion facilities closer to the major migratory routes of vulnerable fish populations, such as Sacramento River Chinook salmon (all runs), has the potential to expose these species to greater risks and impacts as compared to current conditions. Sacramento River Chinook salmon, sturgeon, and other species such as Sacramento splittail are not currently exposed at close proximity to diversion facilities of the proposed size and capacity of the new intakes, which may modify flow signals and impact habitat characteristics. As stated above, the new intake facilities may reduce some adverse effects of the existing southern Delta pumps on Sacramento and San Joaquin River Chinook salmon and steelhead; however, the new north Delta facilities will introduce new entrainment and impingement risks.

The EIR should evaluate multiple fish species and communities to determine if there are potentially significant environmental effects to aquatic resources that could be caused by the Project and propose appropriate mitigation or avoidance measures. Specifically, the EIR should evaluate the timing and volume of flows in the tributaries and Delta outflows, potential for entrainment and impingement at new north Delta intakes as well as existing south Delta intakes, temperature effects, and impacts of reverse flows near the new intakes and in the interior Delta caused by the new and existing diversion facilities.

The following list includes fish species that should be evaluated in the EIR at the life-stage and population level to determine the potential for the Project to cause significant environmental effects and appropriate avoidance and mitigation measures.

- CESA and ESA Endangered Sacramento River winter-run Chinook salmon (*Oncorhynchus tshawytscha*),
- CESA and ESA Threatened Central Valley spring-run Chinook salmon (*O. tshawytscha*),
- ESA Threatened Central Valley Distinct Population Segment (DSP) steelhead (*O. mykiss*),
- ESA Threatened Green Sturgeon southern DPS (*Acipenser medirostris*), and White Sturgeon (*Acipenser transmontanus*)
- ESA Endangered Killer whale Southern Resident DSP (*Orcinus area*)
- ESA Threatened Delta smelt (*Hypomesus transpacificus*)
- CESA Threatened Longfin smelt (*Spirinchus thaleichthys*)
- Sacramento splittail (*Pogonichthys macrolepidotus*)
- Starry flounder (*Platichthys stellatus*)
- California Bay shrimp (*Crangon franciscorum*)
- Zooplankton (*Neomysis mercedis*, *Eurytemora affinis*, and *Pseudodiaptomus forbesi*)
- Non-native species: American shad (*Alosa sapidissima*), Striped bass (*Morone saxatilis*), Largemouth bass (*Micropterus salmoides*), and other ecological and fishery species of concern

Potential ecological effects to fish populations and the lower food web (e.g., phytoplankton and zooplankton biomass and flux) should also be summarized and presented in the EIR using methods that clearly identify and isolate the effects of alternatives and the baseline condition so that they can be easily compared. Finally, the EIR should define specific operating criteria and mitigation measures to avoid or reduce impacts to fish populations and aquatic resources.

Population Level Effects

The EIR should include an assessment of the effects of the Project alternatives and operating scenarios on populations of fish and aquatic species. Previously, the EIR/EIS for the BDCP/WaterFix assessed the impacts of that project on aquatic species at a regional or division scale and a single action or component of that project on a specific life stage(s). For example, the BDCP/WaterFix EIR/EIS analyzed the following impacts of WaterFix Project operations to winter-run Chinook salmon separately for each life state: spawning and egg incubation, juvenile rearing habitat, juvenile emigration, juvenile entrainments, and adult migration conditions that would occur at different locations and attributable to different project components (e.g., upper Sacramento River, upstream of the Delta, through-Delta, south Delta water export facilities, the proposed north Delta intake facilities, and predation impacts). (BDCP/WaterFix Final EIR/EIS, Chapter 11 Fish Aquatic Resources.) However, those site- and life stage-specific effects analyses did not identify the cumulative population-level impacts (e.g., winter-run Chinook salmon population change over generations) of the project and operating scenarios. Additionally, the EIR should evaluate the Project effects on sustainability of listed species in the project area based on the population, evolutionarily

significant unit (ESU), or distinct population segment (DPS). For salmonid species, viable salmonid population (VSP) parameters should be evaluated. A similar approach using VSP-equivalent parameters could be employed to assess population effects on listed fish species (e.g., Delta smelt and longfin smelt) as recommended by the Independent Scientific Advisory Panel (2019).¹¹

Water Quality

The EIR should include comprehensive water quality analyses to estimate potential impacts to beneficial uses that may occur as a result of the Project and identify specific mitigation measures to reduce, mitigate, or avoid adverse impacts to water quality and beneficial uses. The water quality analysis should evaluate the potential for the Project to cause or contribute to potential significant environmental impacts related to salinity, submerged and floating aquatic vegetation, harmful algal blooms, mercury, nutrients, dissolved oxygen, dissolved organic carbon, turbidity, temperature, and other water quality constituents. The environmental analysis should assess the effects of any changes in water residence time and flows within Delta waterways, in the Stockton Deep Water Ship Channel, and south Delta channels in particular. Mitigation measures should be proposed for adverse impacts to water quality conditions including dissolved oxygen, frequency and severity of harmful algal blooms, and excessive aquatic weed growth.

The EIR should evaluate the effects of water quality changes, such as increases in salinity, on the multiple beneficial uses that are protected through water quality objectives. For example, salinity should be evaluated with respect to the potential for significant environmental impacts to municipal and industrial uses, agricultural uses, and ecological habitat for pelagic fish species, and specific operational constraints and mitigation measures should be identified to avoid significant impacts.

Portions of the Delta within the project area are currently on the Clean Water Act Section 303(d) List of Impaired Waters for not meeting water quality standards due to chlordane, chlorpyrifos, DDT (dichlorodiphenyltrichloroethane), diazinon, dieldrin, electrical conductivity, Group A pesticides, invasive species, mercury, PCBs (polychlorinated biphenyls), and toxicity. The EIR should reference the most current 303(d) list and requirements contained in existing TMDLs for the Sacramento-San Joaquin Delta within the EIR, discuss any potential short- or long-term effects of these pollutants from project activities, and discuss mitigation measures, including monitoring and best management practices, to reduce potential impacts. If the Project has the potential to affect mercury or methylmercury concentrations in the Delta, acceptable mitigation options could include actions to reduce mercury entering the Project area.

Legal Users of Water

Construction of the Project requires modifications to water rights to add points of diversion and rediversion of water. In order to approve a change in a water right permit

¹¹ <https://www.deltacouncil.ca.gov/pdf/science-program/biological-goals/2019-09-18-April-2019-biological-goals-final-report.pdf>

or license, the State Water Board must find that the change will not injure any legal user of water or unreasonably affect fish and wildlife. The EIR should fully analyze and propose measures to address any potential impacts of the Project on other legal users of water. The EIR should evaluate whether and how the Project may affect specific surface and groundwater diversion facilities, salinity levels, residence times (that may affect aquatic vegetation and harmful algal growth and proliferation), water elevations, and dissolved oxygen levels, which may in turn affect legal users of water. CEQA does not specifically require analysis of impacts to other legal users of water; however, the State Water Board will rely, if possible, on the EIR to support decisions regarding the addition of points of diversion to existing water rights. If this information is not available in the EIR, the State Water Board may request additional information outside the CEQA process in order to meet its obligations under the Water Code and other applicable legal authorities.

Evaluation of Additional Conveyance Capacity

The proposed new North Delta intakes would both provide more diversion capacity and remove existing constraints on SWP and possibly CVP diversions, such as Old and Middle River flow and San Joaquin River flow to export ratio constraints (Inflow to Export or I:E), allowing for greater diversions than currently allowed. The EIR should analyze and disclose the potential effects of this increased diversion capacity assuming existing and future levels of demand. The potential for use of this additional capacity by other water users should also be fully evaluated, including increased use of joint points of diversion (JPOD), utilization of spare wheeling capacity by the CVP, and use of the new facilities for additional water transfers. The EIR should also evaluate reasonably foreseeable increased demands for water for groundwater banking, conjunctive use, and south of Delta storage.

Construction-Related Effects

A lengthy construction schedule for the Delta Conveyance Project could have a prolonged effect on nearby residents, communities, public services, classrooms, marinas, fishing, boating, recreation, tourism and businesses including noise, traffic, economic, and aesthetic impacts. The EIR should fully evaluate all construction-related impacts, including impacts to terrestrial and aquatic species during construction, and propose detailed avoidance, minimization, or mitigation measures for potential impacts.

Cumulative Effects

The EIR should analyze the cumulative impacts of the Project and current and probable future projects including current and potential future water storage and diversion facilities north and south of the Delta (e.g., Sites, Del Puerto Canyon, Pacheco reservoirs, etc.); changes in the regulatory environment (e.g., the update to the Bay-Delta Plan, Federal Energy Regulatory Commission relicensing projects, etc.); implementation of the Sustainable Groundwater Management Act; and activities identified in the Water Resiliency Portfolio.

Modeling Results Presentation

The EIR should include detailed modeling results as well as appropriate summary results that allow for meaningful evaluation of potential environmental effects of the Project at appropriate model time steps. Summary modeling data should have sufficient granularity to determine whether there may be significant impacts in different hydrologic conditions or times of year, including impacts to water quality, fish and wildlife, recreation, and agricultural and municipal uses of water. Specific parameters that should include summary and detailed modeling results include river flows, Delta outflows, reverse flows, stage, velocity, north and south Delta exports, reservoir storage levels, temperatures, and salinity. The presentation of modeling results should be uniform, clear, and consistent. Additionally, full model studies and results should be shared with the public promptly following the release of the EIR.

Monitoring

The EIR should identify monitoring, assessment, reporting and special studies needed to support construction and operation of the Project to determine compliance with construction and operational criteria, account for and track impacts over time, and answer any management questions. Any new monitoring, assessment, reporting, and special studies should be integrated with and build upon existing water quality and aquatic biology monitoring programs that support the SWP and CVP. Existing monitoring programs, such as the fish surveys conducted by the Department of Fish and Wildlife, water quality compliance and baseline monitoring conducted by DWR, and special studies included in the Interagency Ecological Program Annual Workplan, provide information about the impact of the SWP and CVP on native and migratory fish species, aquatic habitat, ecosystem conditions, and water quality which are important for managing and protecting the estuary and all beneficial uses. Existing programs combined with new monitoring, assessment, reporting and special studies associated with new conveyance facilities should continue to provide information on status and trends in the abundance and distribution fish species and lower food web resources in the estuary.

Closing

The Water Boards appreciate the opportunity to provide comments on the NOP. By participating in the process in an advisory capacity, the Water Boards hope to ensure that a broad range of alternatives is evaluated, and the potential impacts of all the alternatives are fully disclosed. While the Water Boards can provide information that will help guide the Project toward a successful completion of the process, the Water Boards cannot make a prior commitment to the outcome of any regulatory approval by the Water Boards. The State Water Board acts in an adjudicative capacity when it acts on a water right application, change petition, or other water right approval that may be required for or requested in connection with a proposed project. The State Water Board must be an impartial decision-maker, avoiding bias, prejudice, or interest in any adjudicative proceedings conducted in accordance with the State Water Board's

regulatory approvals. Accordingly, Water Board staff will not act as advocates for any particular alternatives during the Delta Conveyance Project processes.

In closing, the Water Boards appreciate the opportunity to continue to participate in an advisory capacity regarding the Water Boards' regulatory and informational requirements. If you have any questions, please contact me at (916) 341-5297, or at Diane.Riddle@waterboards.ca.gov.

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