



We Advocate Thorough Environmental Review

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Sent via email to: DLL-DCP-EIS@usace.army.mil

RE: Comment on the USACE Draft Environmental Impact Statement for the Delta Conveyance Project

We Advocate Thorough Environmental Review (W.A.T.E.R.) is a California 501(c)(3) non-profit corporation dedicated to promoting quality local and regional planning, land use and development, as well as to preserve a healthy human and natural environment within the Siskiyou County area.

We are responding to a request for public comment on the Draft Environmental Impact Statement (DEIS) for the Delta Conveyance Project. Since the source waters that will be conveyed by this project include those from the Mt. Shasta watershed area in Siskiyou County, and since the river's ecology flows upstream as well as downstream, this project has significant importance to our organization's mission as well as our communities. Also, decisions about this project set political and legal precedents for water management over the whole state, so the outcome is of considerable concern to everyone in every region.

1). State Water Project (SWP) operations must be covered in the DEIS

The DEIS states: (Page 1-1 lines 23-26):

“Once constructed, the new facilities that comprise the proposed action would become part of the SWP. Operation of the SWP, including the facilities proposed in this project, is outside USACE authority under Section 408, Section 10, and Section 404. Therefore, the Draft EIS focuses only on those actions requiring USACE authorization or approval.”

Operation of the SWP project will certainly continually impact waters of the United States (the Sacramento River and associated tributaries and wetlands) far into the future. The integration of the SWP with the federal Central Valley Project (referred to multiple times in the Needs and Objective section and almost 200 times throughout the DEIS) also links federal authority to operation of the SWP. Thus SWP operations must be evaluated in this DEIS. If USACE insists that it does not have jurisdiction over SWP operations, then perhaps it is NOT the appropriate federal agency to be lead agency. Perhaps the USEPA or Bureau of Reclamation would be more appropriate as lead agency with the USACE as a Cooperating Agency.

Consequences of operations must be considered. For example, in recent years, even in spite of the ongoing drought, more and more water intensive nut orchards have been planted (<https://www.latimes.com/california/story/2023-02-01/should-california-stop-growing-almonds-and-alfalfa>). Ensuring “reliability of the State Water Project water deliveries south of the Delta” will most certainly accelerate the expansion of agricultural lands, driving up the demand for more water.

In addition, as noted in the DEIS, agricultural practices significantly contribute to GHG emissions:

“The major causes of this rapid loading of GHGs into the atmosphere include the burning of fossil fuels since the beginning of the Industrial Revolution, **agricultural practices**, increases in livestock grazing, and deforestation.” Page 3.6-1, lines 28-31, emphasis added.

Yet the contribution from expanded agricultural practices, a predictable consequence of project operations, is not included in the analysis of GHG (Air Quality section). Nor are these issues covered in Section 4.1-Growth-Inducing Effects or under Land Use (Section 3.13). This is just one example of significant project operational impacts that are ignored in this DEIS.

Thus without the inclusion of SWP operations in this DEIS, the environmental impacts are significantly underestimated leaving necessary mitigations unaddressed.

2). Narrowly limited Purpose of the proposed project precludes meaningful alternatives analysis

The project purpose is given as (e.g., Executive Summary, page ES-1, lines 14-15):

“The purpose of the Delta Conveyance Project is to improve diversion and conveyance facilities in the Delta to ensure reliability of the State Water Project (SWP) water deliveries south of the Delta.”

The implicit assumption that past/current levels of SWP water deliveries will be possible into the future is not substantiated, given that current water exports from the Bay Delta have already significantly contributed to the current unhealthy, severely degraded state of the Bay Delta ecosystems and upstream rivers and tributaries. The effects of Global Warming on California will likely increase the severity of

drought and occasional floods. During those enhanced droughts, warming will make things drier because of the enhanced evaporation.

Furthermore, the assumption of future water deliveries being possible at current levels precludes study of conservation alternatives to reduce water exports and increase Delta outflow, the latter being essential for sustaining healthy Delta and Sacramento River ecosystems and communities and protecting sensitive species therein.

The purpose of the project is written such that continuation of the SWP water delivery system is the only alternative actually addressed in the DEIS (although there are several variations on the same theme). The screening of alternatives is then severely limited by this narrow purpose:

“...screening [of alternatives] started with the provision that the proposed action meets the Delta Conveyance Project’s purpose and need, and the alternatives were screened with these specific needs in mind.” (page ES-5, line 38 through page ES-6 line 1).”

The purpose must be expanded to allow a broader range of alternatives to this one questionable potential solution.

The DEIS relies heavily on information from the California Department of Water Resources Draft Environmental Impact report (DEIR) which similarly very narrowly defines the project objective so only the SWP will suffice. We note a recent court decision where an FEIR (for an unrelated project) was ruled in violation of CEQA because the FEIR for the project based its analyses on an impermissibly narrow set of project objectives, such that approval of the project as proposed was a “foregone conclusion,” rendering the alternatives analysis an “empty formality.” (*We Advocate Thorough Env’t Review v. County. of Siskiyou* (2022) 78 Cal. App. 5th 683). The FEIR and the FEIS for the Delta Conveyance Project assume the SWP is the ONLY solution to the water crisis and as a result do not seriously consider alternatives for addressing the state water issues. This is a serious limitation of both the FEIR and FEIS.

Thus in the FEIS the purpose needs to be expanded to acknowledge the reality that continued export of water to the south is likely not sustainable and to incorporate additional alternative strategies for realistically managing the states waters. Such approaches, including watershed protection, water conservation, recycling, and desalination infrastructure (where green energy sources are practical), and conservation and demand reduction measures, must be considered as alternatives to the proposed project.

3) Lack of consideration of upstream effects

The ecological health of the Delta not only affects the Delta, it affects the entire river. Marine nutrients moving from the ocean via anadromous fish populations into the upper reaches of the Sacramento River are vital for the ecology of upstream regions. Yet the DEIS limits the study of ecological effects to the Delta with some areas east and southwest:

“The study area for the aquatic environment analysis includes the Delta.” (Page 3.3-27line 10)

“The biological resources study area primarily comprises the statutory Delta, as well as a few areas east of this boundary, to capture infrastructure and areas to the southwest of the statutory Delta to include the area around Bethany Reservoir for one of the action alternatives.” (page 3.4-22, lines 14-17).

Thus, other than being a source of water, the full length of the Sacramento River is largely ignored in the DEIS. However, we (and many others) have great concern about the health of the Delta since it is a vital passageway for the anadromous species that carry marine nutrients to the upstream Sacramento regions. Fall run Chinook salmon populations have been on the decline and estimates of this year’s run is the lowest in 15 years, such that the fishing season will need to be seriously curtailed or shut down completely (<https://www.latimes.com/environment/story/2023-03-02/declining-salmon-population-could-trigger-ban-on-fishing>). Maintaining Delta outflow is critical for maintaining fish populations and removing more water from the Sacramento River, as the Delta Conveyance Project will do, is not in the interest of recovering and maintaining these populations. The impacts of the demise of these fish on the full length of the Sacramento River ecology must be addressed.

4) Comments regarding DWR’s DEIR

The DEIS relies heavily on the California Department of Water Resources DEIR for information. We and many other have found the DEIR to be insufficient. We are submitting along with this letter our comments on DWR’s DEIR, which we here incorporate by reference.

5) Conclusion

As a result of the many deficiencies of the DWR’s DEIR and this DEIS, we recommend the No Project Alternative and denial of the following USACE permit requests: Section 408 permission request under Section 14 of the Rivers and Harbors Act (RHA); application for a real estate outgrant; Department of the Army (DA) permit application under Section 10 of the RHA; and permit application under Section 404 of the Clean Water Act (CWA).

Sincerely,



Geneva M. Omann
Secretary, Board of Directors
We Advocate Thorough Environmental Review