



**Delta
Stewardship
Council**

A CALIFORNIA STATE AGENCY

March 30, 2022

Cindy Meyer

US Bureau of Reclamation

801 I Street, Suite 140

Sacramento, CA 95814-2536

715 P Street,
Suite 15-300
Sacramento, CA 95814

916.445.5511
DELTACOUNCIL.CA.GOV

CHAIR

Vacant

VICE-CHAIR

Virginia Madueño

MEMBERS

Frank C. Damrell, Jr.

Maria Mehranian

Daniel Zingale

Don Nottoli

Christy Smith

Julie Lee

EXECUTIVE OFFICER

Jessica R. Pearson

Delivered via email: sha-MPR-BDO@usbr.gov

RE: Comments on the Notice of Intent to Prepare an Environmental Impact Statement on the 2021 Endangered Species Act Reinitiation of Section 7 Consultation on the Long-Term Operation of the Central Valley Project and State Water Project

Dear Cindy Meyer:

Thank you for the opportunity to comment on the Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) on the 2021 Endangered Species Act Reinitiation of Section 7 Consultation on the Long-Term Operation (ROC on LTO) of the Central Valley Project (CVP) and State Water Project (SWP). The Delta Stewardship Council (Council) understands that the objective of the EIS for ROC on LTO of the CVP and SWP, as described in the NOI, is to review and analyze alternatives, topics, and important issues related to the multi-year operations of the CVP and SWP.

The Council is an independent agency of the state of California, established by the Sacramento-San Joaquin Delta Reform Act of 2009, codified in Division 35 of the California Water Code, sections 85000-85350 (Delta Reform Act). The Delta Reform

Act charges the Council with furthering California’s coequal goals of providing a more reliable water supply and protecting, restoring, and enhancing the Sacramento-San Joaquin River Delta (Delta) ecosystem. (Wat. Code, § 85054.) The Delta Reform Act further states that the coequal goals are to be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place. The Council is charged with furthering California’s coequal goals for the Delta through the adoption and implementation of the Delta Plan, a comprehensive long-term management plan for the Delta and Suisun Marsh that furthers the coequal goals. (Wat. Code, § 85300.)

COMMENTS ON NOTICE OF INTENT

As part of the 2021 ROC on LTO of the CVP and SWP, the U.S. Bureau of Reclamation (Reclamation) should support California’s coequal goals for the Delta and the Department of Water Resources’ (DWR) compliance with the 2020 Incidental Take Permit¹ (2020 ITP). Additionally, we recommend Reclamation account for the effects of climate change on Reclamation’s operations and management of its facilities in the environmental analysis.

Implementation of California’s Coequal Goals for the Delta

California’s coequal goals for the Delta are achieved, in part, through implementation of regulatory policies, recommendations, and performance measures in the Delta Plan. The Delta Plan guides State and local agencies, such as DWR, in the implementation of their programs, plans, and projects. As a Coordinated Operating Agreement (COA) partner with DWR, Reclamation should describe in the EIS how Reclamation implements, operates, and manages DWR-partnered programs, plans, and projects that would advance the coequal goals. Specific considerations include, but are not limited to, the following:

- **Reduced Reliance on the Delta through Improved Regional Water Self-Reliance.** Reclamation should support and encourage CVP contractors to report their expected outcome for measurable reduction in Delta reliance

¹ Incidental Take Permit for Long-term Operation of the State Water Project. 2020. <https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/State-Water-Project/Files/ITP-for-Long-Term-SWP-Operations.pdf>

and improvement in regional self-reliance in their Urban and Agricultural Water Management Plans.

- **Transparent Water Contracting.** Reclamation should conduct contracting processes for CVP water in a publicly transparent manner consistent to section 226, Title II, Public Law 97-293 or section 3405(a)(2)(B) of the Central Valley Project Improvement Act, Title XXXIV of Public Law 102-575. Reclamation should also review and update its contracting processes to account for more current transparency capabilities (e.g., hybrid in-person and virtual public meetings, list serv public notices with links to electronic versions of public documents) to ensure that the public, including stakeholders who do not usually engage in contract matters, have transparent access to public CVP contracting documents.
- **Delta Flow Objectives.** Reclamation and DWR are required to operate and manage water to meet the State Water Resources Control Board's (Water Board) Bay-Delta Water Quality Control Plan² flow objectives. Reclamation should support DWR's efforts and evaluate and seek potential actions to minimize instances when both agencies are not in compliance with the Bay-Delta Water Quality Control Plan and request temporary urgency change petitions from the Water Board.

Support Implementation of DWR's SWP 2020 ITP

Reclamation should include increased CVP support of DWR and the SWP's compliance with provisions of the 2020 ITP as part of the EIS project description, and analyze the potential environmental effects of such support in the EIS. Specific ITP provisions that Reclamation should support include, but are not limited to the following:

- **8.16 Relationship between the SWP adaptive management program (AMP) and the ITP.** The SWP AMP may result in recommendations regarding operational components for the SWP which Reclamation and CVP contractors should support. (2020 ITP, p. 101).

² Water Quality Control for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary. 2018. https://www.waterboards.ca.gov/plans_policies/docs/2018wqcp.pdf

- **8.17 Export curtailments for spring outflow.** Reclamation and CVP Contractors should support actions by the SWP and its contractors to propose export reductions to protect outflows in the springtime period, April 1 to May 31 of each year. (2020 ITP, p. 102).
- **8.18 Potential to redeploy up to 150 thousand acre feet (TAF) for Delta Outflow.** Reclamation should support the potential for the SWP, under agreement with the California Department of Fish and Wildlife (CDFW), to increase exports in April and May whereby up to 150 TAF of water (known as the Spring Outflow Block) would be made available for CDFW use during the following water year. (2020 ITP, p. 105).
- **8.19 Additional 100 TAF for Delta Outflow.** Reclamation should support SWP efforts to develop a flexible block of water of 100 TAF to supplement Delta outflow during the spring, summer, and fall months to benefit Delta Smelt and Longfin Smelt. (2020 ITP, p. 107).
- **8.20 Delta Outflow Operations Plan and Report.** Reclamation should collaborate with DWR to develop an annual Delta Outflow operations plan to describe potential water available to support ITP provisions such as 8.18 and 8.19. (2020 ITP, p. 108).
- **8.21 Drought Contingency Planning.** Reclamation should coordinate with DWR to meet and confer with State and federal agencies to develop a drought contingency plan for implementation if dry conditions continue into the following year, if the prior water year was dry or critical. (2020 ITP, p. 110).
- **9.1 Compensatory Mitigation for Delta Smelt and Longfin Smelt.** Reclamation should support DWR efforts to mitigate for effects to Delta Smelt and Longfin Smelt by implementing restoration actions. Such actions may include, but are not limited to, developing tidal wetland habitat and Delta Smelt summer-fall food supply and habitat. (2020 ITP, p. 112).
- **9.2 Compensatory Mitigation for Winter- and Spring-run Chinook Salmon.** Reclamation should support DWR efforts to mitigate for effects to Winter- and Spring-run Chinook Salmon by implementing restoration actions. Such actions may include, but are not limited to annually funding restoration projects identified by State and federal fish agencies, supporting implementation of the Yolo Bypass Salmonid Habitat Restoration and Fish

Cindy Meyer – USBR, Bay-Delta Office
NOI for EIS for ROC on LTO of CVP and SWP
March 30, 2022
Page 5

Passage Project, supporting and funding habitat acquisition and protection, and providing funding for ongoing management of restored habitats. (2020 ITP, p. 120).

Climate Change Considerations

Various models indicate that both the CVP and the SWP will be affected by climate changes due to vulnerabilities from stressors such as increased air temperatures, changes in timing and variability of precipitation, and sea level rise. These stressors will impact the ability of the CVP and the SWP to provide reliable water supplies.

Reclamation should include in the environmental analysis the best available science on climate change; consider climate change impacts to water resources in the Delta watershed and areas that rely on water from the Delta watershed; and ongoing climate change adaptation planning.

CLOSING COMMENTS

As Reclamation proceeds with identifying potential actions to be included in its environmental analysis, the Council invites Reclamation to engage Council staff to discuss potential actions, features, and mitigation measures that would promote the State's Coequal Goals as well as support Reclamation's COA partner, DWR.

More information on the Delta Plan, its regulatory policies, recommendations, and performance measures can be found on the Council website, <https://deltacouncil.ca.gov/delta-plan/>. Please contact Anthony Navasero at 916-445-5511 or Anthony.Navasero@deltacouncil.ca.gov with any questions.

Sincerely,



Jeff Henderson, AICP
Deputy Executive Officer
Delta Stewardship Council