
From: Ana Ayala <AAyala@waterforum.org>
Sent: Tuesday, July 29, 2014 1:17 PM
To: 'BDCP.comments@noaa.gov'
Subject: BDCP Water Forum Letter final
Attachments: BDCP Water Forum Letter_72914_final.pdf

Importance: High

Letter from Water Forum attached.

Thank you.

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July 29, 2014

BDCP Comments
 Ryan Wulff, National Marine Fisheries Service
 650 Capitol Mall, Suite 5-100
 Sacramento, CA 95814



Re: Comments on Bay Delta Conservation Plan and Draft EIR/EIS

Dear Mr. Wulff:

The following provides comments by the Water Forum on the effects of implementation of the Bay Delta Conservation Plan (BDCP), as evaluated in the December 2013 Draft Environmental Impact Report/Environmental Impact Statement (Draft EIR/EIS), on Central Valley (CV) steelhead (*Onchorhynchus mykiss*) (Federally Threatened, 71 Federal Register [FR] 834, Jan. 5, 2006) and fall-run Chinook salmon (*O. tshawytscha*) (Federal Species of Concern, 69 FR 19975, Apr. 15, 2004) in the Lower American River (LAR). These comments summarize the Water Forum's substantial concerns regarding the adequacy of the environmental analysis based on a review of the BDCP and associated Draft EIR/EIS. Where appropriate, we have referenced technical memos enclosed in the American River Water Agencies' BDCP comment letter (ARWA 2014) for a more in-depth discussion of the issues.

Overall, the impact analysis in the Draft EIR/EIS is fundamentally flawed and fails to disclose significant adverse impacts on CV steelhead and fall-run Chinook salmon and their habitat in the LAR (critical CV steelhead and non-natal spring-run Chinook salmon critical habitat, 70 FR 52488, Sept. 2, 2005; and Essential Fish Habitat for Chinook salmon, 73 FR 60987, Oct. 15, 2008). By failing to disclose impacts from implementation of the BDCP on anadromous fish in the LAR, the Draft EIR/EIS does not comply with the California Environmental Quality Act (CEQA) (California Public Resources Code §21000 et seq.), or the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.). To comply with CEQA and NEPA, the underlying modeling assumptions, alternatives analysis, and impact analysis in the Draft EIR/EIS require substantial modification, therefore re-circulation of that document is necessary.

Errors in the BDCP Draft EIR/EIS that must be corrected to accurately identify the effects of implementation of the Plan on CV steelhead and fall-run Chinook salmon in the LAR are:

- Failure of the impact analysis to accurately identify and disclose adverse impacts to CV steelhead and fall-run Chinook salmon in the LAR by relying on the No Action Alternative as the basis for comparison in the impact analysis rather than existing condition (Cardno ENTRIX 2014), namely:
 - The BDCP significance criterion does not consider the current condition of the sensitive species and habitat with respect to water temperature in the LAR. That criterion assumes that certain percentage increases in LAR water temperatures would not constitute significant impacts on the LAR's anadromous fish. Under current Central Valley Project (CVP)/State Water Project (SWP) operations, however, LAR water temperatures exceed important temperature thresholds for anadromous fish during critical life stages. The Draft EIR/EIS therefore cannot assume that increases in those temperatures would have

insignificant impacts on those fish. Accordingly, while the temperature significance criterion was not exceeded in the BDCP Draft EIR/EIS analysis, water temperatures under the No Action Alternative and Proposed Action Alternative are above the threshold criteria for CV steelhead and fall-run Chinook salmon survival, particularly in the drier years, and would result in significant adverse impacts.

- The No Action Alternative is a radical departure from existing habitat conditions and has large, significant, unmitigated impacts on CV steelhead (rearing) and fall-run Chinook salmon (spawning) in the LAR compared to existing conditions. The No Action Alternative would likely cause age class failures in drier years and eventual local extinction of the small natural rearing CV steelhead population in the LAR. The No Action Alternative would result in large scale fall-run Chinook salmon fish kills in the fall of the drier years. Relying on the No Action Alternative as the basis for comparison with other Project Alternatives fails to disclose the impacts of the Project because it co-mingles the effects of climate change, sea level rise, future demand, and implementation of the Project.
- Inclusion of numerous erroneous operating and coding assumptions in the CalSim II modeling which are inconsistent with the actual purposes and objectives of the CVP and SWP, thereby, precluding meaningful interpretation of the results (MBK 2014), including:
 - Errors in the estimate of American River future demand over time and simulation of diversion limitations at the City of Sacramento's Fairbairn diversion, such that, modeled flows in the LAR are inaccurate and result in an inaccurate environmental effects analysis.
 - Unrealistic depiction of the No Action Alternative (which serves as the baseline for the entire BDCP analysis) which incorporates climate change and sea level rise without concurrently including reasonable operational adaptations in CalSim II modeling. This results in an unreasonable depiction of foreseeable future operations of the CVP and SWP.
 - Inadequate modeling effects of climate change by only adjusting inflow into Folsom Reservoir rather than applying the effects of climate change on operations of upstream reservoirs, including Placer County Water Agency's Middle Fork American River Project and Sacramento Municipal Utility District's Upper American River Project.
 - Failure to adjust CVP and SWP operations to address Coordinated Operations Agreement (COA) pay back debts. BDCP modelers inaccurately assume that additional water will become available through water transfers from upstream users to address COA issues. This inaccurate modeling assumption substantially underestimates impacts on Folsom Reservoir storage and resulting effects on anadromous fish in the LAR.

In conclusion, the modeling errors must be corrected before a meaningful analysis of the impacts of implementation of the BDCP on CV steelhead and fall-run Chinook salmon in the LAR can be completed. Further, BDCP improperly uses a generic percentage increase as a significance threshold for LAR temperatures given existing environmental conditions in the watershed and therefore obscures significant impacts. As written, the Draft EIR/EIS is inadequate and does not provide sufficient information to evaluate

Mr. Ryan Wulff
July 29, 2014
Page 3

BDCP/1661

Project effects. To comply with CEQA and NEPA, the impacts analysis must be revised to disclose Project impacts and the document re-circulated.

Please contact me if you have any questions regarding this letter.

Sincerely,



Tom Gohring
Executive Director

CC: The Honorable Sally Jewell
Secretary
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240

The Honorable John Laird
Secretary
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

BDCP1661

References

- American River Water Agencies (ARWA). Comments on Bay Delta Conservation Plan and Draft EIR/EIS. July 2014.
- Cardno ENTRIX. Technical Memo: Effects of Implementation of the Bay Delta Conservation Plan as Evaluated in the Draft Environmental Impact Report/Environmental Impact Statement on Central Valley Steelhead and Fall-run Chinook Salmon in the Lower American River. July 2014. Included as Attachment B in ARWA comment letter dated July 2014.
- Federal Register. 2004. Endangered and Threatened Species; Establishment of Species of Concern List, Addition of Species to Species of Concern List, Description of Factors for Identifying Species of Concern, and Revision of Candidate Species List Under the Endangered Species Act; published in the Federal Register, Vol. 69, No. 73, April 15, 2004.
- Federal Register. 2005. Endangered and Threatened Species; Designation of Critical Habitat for Seven Evolutionarily Significant Units of Pacific Salmon and Steelhead in California; Final Rule published in the Federal Register, Vol. 70, No. 170, September 2, 2005.
- Federal Register. 2006. Endangered and Threatened Species: Final Listing Determinations for 10 Distinct Population Segments of West Coast Steelhead published in Federal Register Vol 71, No. 3, January 5, 2006.
- Federal Register. 2008. Fisheries Off West Coast States; West Coast Salmon Fisheries; Amendment 14; Essential Fish Habitat Descriptions for Pacific Salmon" published in the Federal Register, Vol. 73, No. 200, October 15, 2008.
- MBK Engineers (MBK). Technical Comments on Bay-Delta Conservation Plan Modeling. July 2014. Included as Attachment A in ARWA comment letter dated July 2014.