



TRINITY COUNTY JAN 31 2006

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BOARD OF SUPERVISORS

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January 18, 2006

Mr. Paul A. Marshall
Department of Water Resources
South Delta Branch, Draft EIS/EIR Comments
1416 9th Street, 2nd Floor
Sacramento, CA 95814
Fax: (916)653-6077

RE: Comments on the South Delta Improvements Program, Draft Environmental Impact Statement/Environmental Impact Report

Dear Mr. Marshall:

The County of Trinity (County) has had the opportunity to review the Draft Environmental Impact Statement/Environmental Impact Report (DEIS/R) of November 2005, by the California Department of Water Resources (DWR) and the US Bureau of Reclamation (BOR) concerning the South Delta Improvements Program (SDIP). We recommend that DWR and BOR withdraw the proposed DEIS/R for this project because of numerous legal and technical inadequacies. Some of the inadequacies include, but are not limited to the following:

- The document is based upon the "Biological Opinion (BO) on the Long-Term Central Valley Project (CVP) and State Water Project (SWP) Operations Criteria and Plan (OCAP)", which has been found faulty by an independent technical review team convened by the CALFED Bay-Delta Program whose findings were made public January 3, 2006. A report by the Department of Commerce's Inspector General also found the BO process violated government procedures.
- The document does not consider an alternative which **reduces** exports from the Delta, per the Third District Court of Appeals Decision (RCRC et al v State of California), which sets aside the CALFED PEIR because the PEIR improperly fails to discuss an alternative that requires reduced exports of water from the Delta.
- Similar to the CALFED PEIR and the Third District Court of Appeals Decision (RCRC et al v State of California), the document does not adequately disclose the environmental impacts of diverting water from various potential sources to meet the CALFED Program's goals. In particular, the analysis of impacts to Trinity Lake, Trinity River fisheries and Trinity County recreation are not only inadequate, but grossly misleading. The modeling analyses for the document

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include fundamentally erroneous assumptions about the 2000 Trinity River Record of Decision (Trinity ROD) which are in direct conflict with the Trinity ROD's requirements for flows and Trinity Lake storage.

- The larger CALFED program, which includes SDIP, CVP long-term contract renewal, the so-called "Napa Proposal" and other elements to integrate CVP and SWP operations requires an EIS/EIR which amends the 1986 Coordinated Operating Agreement between DWR and BOR.
- The SDIP DEIS/EIR is premature in assuming that ever-larger deliveries of water to the San Luis Unit of the CVP is justified, as the ROD for the San Luis Unit Drainage Re-Evaluation has not been completed. The National Economic Analysis for that project identified that land retirement would be the most cost effective alternative, which could actually allow for **reduced** Delta exports.

We also request that the comment period be extended another 30 days in order to allow adequate time to review this complex and lengthy document.

Long Term CVP OCAP BO is Inadequate

The SDIP project is based on Endangered Species Act compliance through the CVP OCAP. A revised BO should be prepared with adequate analyses to determine jeopardy to listed species, including Klamath-Trinity coho salmon (Southern Oregon/Northern California Coho). The independent review by a team of 6 scientists concluded that the BO had the following deficiencies:

1) Global climate change was not considered. The BO assumes that the climate and hydrologic regime during the last century will persist into the future. The Panel does not believe that global climate change (e.g., temperature warming), and the consequent temperature and hydrological changes, received adequate treatment in the BO. This deficiency resulted in an important uncertainty being ignored that could affect the characterization of the risk to the ESUs.

2) Variability in ocean productivity, and its affect on fish production, was not incorporated into the analyses.

The current status of the listed populations is, in part, an outcome of recent favorable ocean conditions. What will the status of listed populations be under less favorable conditions that may occur in the near future? By not including variability of ocean conditions in its analysis, the BO does not adequately address whether or not the listed populations are sufficiently large to survive a period of poor ocean conditions.

3) Unknowns or uncertainty were either not adequately incorporated into the analyses, or their incorporation was not clearly explained.

In some cases, uncertainties were simply ignored or their consideration was deferred to other future analyses or other in-progress biological opinions. For example, Table 9 in the BO (page 193) summarizes the effects of the proposed project on the listed ESUs, but Table 9 fails to list eleven additional effects mentioned in the text of the BO. Ignoring or deferring the consideration of these effects in analyses does not give the listed species the required benefit of the doubt.

- 4) **Some models and analyses appeared to be flawed.** The application of monthly temperature models to anadromous fish studies is a point of concern. Of particular concern is the adoption, with little discussion, by NMFS of these monthly results both for assessing potential impacts and for setting thermal criteria. In addition, the data used to develop relationships between water temperature and salmon gamete, egg, and alevin mortality was not the best available.
- 5) **Greater consideration should be given to genetic and spatial diversity in the ESUs.** Too little consideration was given to the genetic and spatial diversity aspects of the ESUs. The Central Valley Technical Recovery Team (CVTRT) noted that the “dependent” populations of spring Chinook and steelhead occupy marginally suitable habitats that either depend on migrants from the nearby streams or operate as a metapopulation in which each stream is not individually viable, but the group persists. These dependent populations are a valuable resource because they exist in marginal environments, may contain valuable genetic attributes (e.g., higher temperature tolerance), and may serve as links with other populations in ways that increase the viability and resiliency of the ESUs over long time scales. The BO did not adequately treat the genetic and spatial diversity aspects in their analysis.

Clearly, the BO for the SDIP is inadequate and must be revised and completed prior to release of a new DEIS/R. In order to fully disclose impacts and mitigation measures, the revised BO must be completed prior to release of the new DEIS/R.

An Alternative That Reduces Delta Exports Is Not Considered

In October, the California Third District Court of Appeals set aside the CALFED ROD because, among other things, the PEIS for CALFED did not consider an alternative which **reduces** exports from the Delta. Similar to the CALFED PEIS, the SDIP DEIS/R does not contain an alternative which reduces Delta exports. This is a serious deficiency in the SDIP DEIS/R and must be remedied by development of an alternative which does not require an increase in the capacity of the SWP’s pumping capacity at Clifton Court Forebay.

Trinity County suggests development of a “Land Retirement Alternative” which returns water to environment as follows (Excerpted from comments by the Trinity County Board of Supervisors on various Central Valley Project Long-Term Water Contract Renewal NEPA documents):

A revised SDIP DEIS/R should expand on Appendix A of the Trinity River Fishery Restoration Supplemental EIR (shown below revised as Table 1). Table 1 portrays a rough estimate of the potential water savings associated with the retirement of lands within the San Luis Unit, Delta-Mendota Canal Unit and the San Joaquin River Exchange Contractors of the Central Valley Project that are expected to require drainage service. The purpose of this analysis is to estimate an amount of CVP water that could be obtained from the retirement of drainage-impacted lands in the 3 units of the CVP. The water savings would then be dedicated to increase Trinity Lake storage to offset instream fishery flows as prescribed in the Trinity River Record of Decision (Trinity ROD). The

reduction in project use power needs would also reduce power demands to help mitigate impacts to CVP power customers from loss of generation from implementing the Trinity ROD.

The total land with drainage problems is 376,751 acres in the water districts identified below in Table 1, but other problem areas also exist outside of the SLU and DMC areas, as identified in Table 2 below.

The analysis below shows that land retirement could save 793,056 AF in total CVP contracted water, which would have been an actual reduction in demand of 568,373 AF in 2002, the same year as the unprecedented Klamath Fish Kill. Permanent land retirement and dedication of water to other CVP project purposes would result in significant benefits from reduced pollution from drainage water, reduced CVP project power usage, increased ability to meet various water quality standards, increased water storage, increased M&I water supplies, and more water for environmental needs such as Trinity River fishery flows and wildlife refuges. **Land retirement could also be the basis for an alternative which reduces exports from the Delta, per the Third District Court of Appeals decision on the CALFED PEIR.**

Table 1 from the Draft Trinity River Fishery Restoration Supplemental Environmental Impact Report (Trinity County 2004, as amended 1/24/05 and 2/16/05)

	Acres	Acres Requiring Drainage Service	% of District Requiring Drainage Service	Max CVP Contract Amount (AF)	Max CVP Contract Water Savings (AF)	2002 CVP Contract Deliveries (AF)	2002 CVP Water Savings (AF)
Broadview Water District	9,515	9,515	100.00%	27,000	27,000	18,588	18,588
Panoche Water District	39,292	27,000	68.72%	94,000	64,593	66,743	45,863
Westlands Water District	604,000	298,000	49.34%	1,154,198	569,455	776,631	383,172
Eagle Field	1,438	1,435	99.82%	4,550	4,542	2,869	2,864
Mercy Springs	3,589	2,417	67.35%	2,842	1,914	4,679	3,151
Oro Loma	1,095	,1095	100%	4,600	4,600	3,173	3,173
Widren	881	881	100%	2,990	2,990	2,094	2,094
Firebaugh	23,457	23,457	100%	85,000	85,000	85,000	85,000
Cent. Cal ID	149,825	4,951	3.30%	532,400	17,569	532,400	17,569
Charleston Drainage District (portion of San Luis WD)	4,314	3,000	69.54%	8,130	5,654	Not avail	Not avail
WILLIAM CHAMBERS DISTRICT 1	JEFF MORRIS DISTRICT 2	ROGER JAEGEL DISTRICT 3	HOWARD FREEMAN DISTRICT 4	WENDY REISS DISTRICT 5			

with drainage problems)							
Pacheco Water District	5,175	5,000	96.62%	10,080	9,739	7,137	6,896
Total	842,581	376,751	NA	1,925,790	793,056	1,499,314	568,370

Table 1 above was derived by obtaining acreage information for each district through Chris Eacock at the Bureau of Reclamation (USBR) in Fresno. The number of acres requiring drainage by 2050 was taken from estimates in the San Luis Drainage Feature Evaluation, Plan Formulation Report, USBR, December 2002 (pages 2-5 and 2-6). The maximum water savings associated with the retirement of these lands was calculated by multiplying the maximum contract amounts for each district by the percent of that district requiring drainage. Contract amounts were taken from a list of CVP contracts provided by Reclamation. Each district's total contract amount was calculated by adding all of its water contracts if more than one contract exists.

According to information we have received from the Environmental Working Group, water and crop subsidies to Westlands in 2002 amounted to over \$100 million. If approximately half of Westlands, as well as those impacted lands in other drainage-problem districts such as Broadview, Widren, Mercy Springs, Panoche, Pacheco and others were retired, it would free up hundreds of thousands of acre-feet of water, as well as significantly reduce water and crop subsidies by tens of millions of dollars a year. Full analysis of such an alternative would provide meaningful disclosure to decision makers and the public about the true costs of delivering water to these problem lands.

Table 2

	Total Irrigated croplands in 2002(acres)	Drainage Impaired acreage in 2000 (acres)	% of County Requiring Drainage Service	Estimated Contract Amounts (AF)	Estimated Water Savings (AF)
Tulare County	652,385	291,000	44.60%	1,304,770	581,927
Kern County	811,672	313,000	38.56%	1,623,344	625,961
Total	1,464,057	604,000	N/A	2,928,114	1,207,888

Table 2 above portrays a very preliminary estimate of water savings in Tulare and Kern County within the SWP service area. The acres of irrigated croplands was taken from the USDA farm census statistics report in 2002. The acreage of drainage impaired acres is derived from a report by CA Dept of Water Resources, the 2000 San Joaquin Valley Drainage Monitoring Program. The acreages identified are for lands with high groundwater within 20 feet of the surface. The contract amounts were figured by estimating 2 acre-feet per acre irrigated, most likely an underestimated amount. Further investigation is needed to verify and refine these numbers, but clearly there is adequate

justification to remove these lands from irrigation due to continuing drainage problems and salinization of land, in violation of Water Code Section 100- Wasteful and Unreasonable Use of Water.

Inadequate Impact Analysis For Trinity County- A County of Origin for the CVP

The SDIP DEIS/EIR contains unsubstantiated findings about the lack of impacts to Trinity River fisheries. The Stage 2 analysis of Trinity River fisheries only includes an analysis of coho salmon, but does not analyze impacts on fall and spring chinook, winter and summer steelhead, lamprey and sturgeon. In particular, the statement on page 6.1-87 that *“The effects on coho salmon are representative of the potential effects on Chinook salmon and steelhead”* grossly ignores the life history of all species in the Trinity River. Adult Coho salmon generally migrate and spawn when temperature isn’t an issue (late fall/winter), while spring chinook, fall chinook and summer steelhead spawn, migrate and hold during periods when temperatures can be an issue (summer/early fall).

The DEIS/R fails to recognize the importance of steelhead and chinook in sport, tribal and commercial harvest, and it fails to identify that lower Trinity Lake carryover storage will have a negative impact on the survival of Trinity River fisheries. It tries to make the case that increased exports from the Trinity River to the Sacramento River will reduce Trinity River temperatures, but the DEIS/R completely ignores the issue of cold water reserves to ensure that adequate temperatures can be achieved.

Specifically, the DEIS/R should analyze how well the project will meet water quality objectives for the Trinity River adopted by the North Coast Regional Water Quality Control Board, the SWRCB and USEPA as follows:

NCRWQCB Temperature Objectives for the Trinity River

Temperature Not to Exceed; Time Period; River Reach

60°F (15.6°C); July 1-September 14; Lewiston Dam to Douglas City Bridge
 56°F (13.3°C); September 15-October 1; Lewiston Dam to Douglas City Bridge
 56°F (13.3°C); October 1-December 31; Lewiston Dam to confluence with North Fork

Trinity River water quality is also explicitly protected by Water Right Orders 90-05 and 91-01. These orders state that exports from the TRD to the Central Valley for Sacramento River temperature control shall not harm Trinity River fisheries, as measured by compliance

with specific temperature requirements in the Trinity River. The temperature requirements contained in Water Right Orders 90-05 and 91-01 for the Trinity River are 56°F (13.3°C) and 56°F (15.6°C) at Douglas City and the North Fork confluence, respectively, as shown

in the table above. The 60°F summer objective at Douglas City is not a requirement of Water Right Orders 90-05 and 91-01.

The DEIS/R should be revised to include a full analysis of impacts to Trinity River temperatures and consistency with State, federal and Tribal water quality standards and objectives.

Trinity Lake is a 2.48 million AF reservoir located on the Trinity River near Lewiston, California. Water released from Trinity Dam is approximately 45°F, and can be diverted via Clear Creek and Spring Creek tunnels to the Sacramento River for use by the CVP; but it can also be released into the Trinity River to meet fishery needs in the Trinity River and the Lower Klamath River. Since the massive adult salmon kill of 2002 where at least 68,000 adult chinook salmon died due to poor water conditions from Klamath Project operations, additional water was released from Trinity Dam in 2003 and 2004 to prevent another fish kill (additional releases were deemed unnecessary in 2005). Releases of water from Trinity and Lewiston Dams have been shown to significantly decrease water temperatures (by 5-6°F) and increase dissolved oxygen in the Lower Klamath River, approximately 112 miles downstream of Lewiston Dam.

However, Trinity Lake is approximately twice the size of the average annual inflow from the upstream watershed. Thus, the refill potential of the reservoir is extremely low compared to other reservoirs such as Shasta Lake, which has an inflow roughly equal to its size. Once Trinity Lake is drawn down during an extended drought, it will not refill, but will likely get even lower, such that cold water supplies will eventually be exhausted, leaving virtually no source of cold water to keep the Trinity and Lower Klamath rivers' fisheries alive. Such action would also negatively affect the economy of Trinity County such as businesses that rely upon water storage in the Reservoir and those that rely upon flows within the Trinity River for tourist and recreation opportunities.

The 2000 Trinity River Record of Decision (ROD) called for increased fishery flows into the Trinity River from Trinity and Lewiston Dams, corresponding to roughly a 1/1 reduction in water exports to the Sacramento River. It is now apparent that the BOR, through the SDIP, has no intention whatsoever of honoring the requirement to reduce water exports to the CVP commensurate with the increase in fishery flows. Instead, BOR intends to continue historic deliveries of CVP water, as stated in the numerous CVP long-term contracts such as the San Luis Unit, with possible larger deliveries.

Therefore, approval of the SDIP and implementation of the Joint Point of Diversion whereby the CVP can send its "surplus" water south of the Delta using SWP pumping capacity will surely result in depleted cold water reserves in the Trinity Lake at the beginning of the next multi-year drought. Since the reservoirs on the Klamath River upstream of the Trinity River confluence are shallow, nutrient-rich and warm, this will leave absolutely no safeguards for protection of the KTW's fisheries. This includes coho salmon, a state and federal listed species, as well as steelhead, spring and fall chinook, lamprey and green sturgeon. These species support a broad range of tribal, commercial and sport fisheries, and communities in the North Coast Region and southern Oregon.

The DEIS/R should be revised to include a full analysis of impacts to all Trinity River fisheries, and an honest assessment of the environmental and economic impacts of reduced carryover storage and recreation in Trinity Lake on not only the Trinity River, but also on the Lower Klamath River's fisheries.

Trinity County believes that the statement found with Table 4-1 (pg. 13-14) of the SDIP that salmonids with the Trinity River will be "less than significant" is extremely misleading, and is based on assumptions which conflict with the Trinity ROD. Within

the DEIS/R discussion of the TRD (pg. 5.1-9), it is stated that based upon the simulation used to predict carry-over capacity, that a minimum pool of 250 TAF every few years, with 500 TAF every several years would be the minimum pool. However, the Trinity ROD mandates that at least 600 TAF yearly be left as a Trinity Lake minimum pool, except with NMFS reconsultation it may go to an absolute minimum of 400 TAF in drought years. Based on the SDIP simulations, there would be 21 years out of 100 where there would be minimum pools less than Trinity ROD requirements. This would likely have a severe impact to salmonids in the Klamath-Trinity watershed by having water temperatures instream being higher than State, federal and tribal water temperature standards and objectives. Therefore the County believes that DWR and BOR declaration that there would be a "less than significant impact" to Trinity River fisheries is untrue. A true disclosure analysis that takes in consideration the Trinity ROD minimum pool standard, reduced long-term Trinity exports to the CVP, and Trinity instream flow requirements be fully analyzed and discussed in a new SDIP DEIS/R.

The SDIP analysis also includes tables which identify both exports from the Trinity River to the Sacramento River, as well as Trinity River instream flows in terms of cubic feet per second (cfs). This is very misleading and is inconsistent with other environmental documents related to the CVP whereby water amounts are typically shown in annual Acre-Feet (AF). CFS is an instantaneous amount of water, while AF is an appropriate metric for water measurement on an annual basis. Again, the DEIS/R should be withdrawn and a new document should be prepared which clearly identifies impacts and mitigation measures in commonly understood terms.

Trinity County is a disadvantaged, low-income county, as described in State guidelines for various grant programs. Our poverty levels are similar to the City of Oakland, and well below state averages for both income and children covered by the school lunch program. Therefore, impacts to Trinity County should also be addressed in terms of environmental justice.

Need for an SEIS/EIR to Amend the 1986 Coordinated Operations Agreement

The operational component of SDIP is actually an amendment of the 1986 Coordinated Operation Agreement (COA) between BOR and DWR for meeting Delta Water Quality Standards. An EIS/EIR was completed in 1986, yet no supplemental NEPA/CEQA document has subsequently been prepared to address changes in operations of the 2 systems over the past 20 years.

The purpose of the COA was to jointly meet the water quality standards in SWRCB Decision 1485, which was subsequently replaced by SWRCB Decision 1641 in 1999. CALFED, the Napa Proposal and other integrations of the SWP and CVP are clearly amendments to the 1986 COA, yet no mention is made whatsoever in this DEIS/R about that issue.

The DEIS/R should be withdrawn and a revised DEIS/R should address how the COA is being amended by the SDIP.

Assumptions About Irrigation of the San Luis Unit of the CVP Are Predecisional

Trinity County also believes that the SDIP DEIS/R is premature to approve at this time because it would be pre-decisional as it relates to renewal of CVP contracts south of the Delta and drainage issues in the San Luis Unit of the CVP. Currently the BOR is negotiating Long-Term Contracts (LTC's) for San Luis Unit and Western San Joaquin Division CVP contractors and has released NEPA documents, which are also premature. The reason why the County believes that the LTC's are premature is due to the fact that the San Luis Drainage Feature Re-Evaluation (SLDFRE) has not been completed, nor has the intent of the San Luis Act of 1960 (P.L. 86-488) been met. The San Luis Act states that the Secretary of Interior is prohibited from signing LTC's for the San Luis Unit (who would benefit from the SDIP) benefit before the Secretary of Interior:

"...has... received satisfactory assurance from the State of California that it will make provision for a master drainage outlet and disposal channel for the San Joaquin Valley, as generally outlined in the California water plan, Bulletin Numbered 3, of the California Department of Water Resources, which will adequately serve, by connection therewith, the drainage system for the San Luis unit or has made provision for constructing the San Luis interceptor drain to the delta designed to meet the drainage requirements of the San Luis unit as generally outlined in the report of the Department of the Interior, entitled 'San Luis Unit, Central Valley Project,' dated December 17, 1956."

Therefore to move forward with the SDIP before the SLDFRE has been complete is illegal and premature at this point in time. The County calls upon DWR and BOR to withdraw the SDIP DEIS/R at this time, and re-evaluate the potential impacts this action will take.

The County also incorporates by reference the comment letters that Trinity County sent in regard to CVP LTRC to BOR for the Delta-Mendota Canal Unit (12/7/2004) and the San Luis Unit (1/18/2005 & 12/15/2005). Copies of those comment letters have been attached to this comment letter for the SDIP DEIS/R.

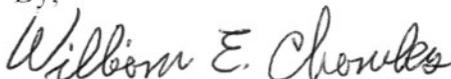
Thank you for the opportunity to comment on this document.

If you have any questions regarding our comments, please contact Principal Planner Tom Stokely at 530-623-1351, extension 3407.

Sincerely,

TRINITY COUNTY
BOARD OF SUPERVISORS

By,



WILLIAM E. CHAMBERS, Chairman

JAN 3 1 2006

cc: Clifford Lyle Marshall, Chairman Hoopa Valley Tribal Council
Howard McConnell, Chairman Yurok Tribal Council
Roger Rodoni, Chairman Humboldt County Board of Supervisors
Marcia Armstrong, Chairman Siskiyou County Board of Supervisors

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