

Friends of Trinity River  
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FEB 07 2006 00142

February 6, 2006

Via Email and FedEx

Mr. Paul A. Marshall  
Department of Water Resources  
South Delta Branch, Draft EIS/EIR Comments  
1416 9<sup>th</sup> Street, 2<sup>nd</sup> Floor  
Sacramento, CA 95814

Re: Comments on the South Delta Improvement Program, Draft Environmental Impact Statement/Environmental Impact Report

Dear Mr. Marshall:

Friends of Trinity River and California Trout, Inc., submit the following comments on the South Delta Improvement Program (SDIP) Draft Environmental Impact Statement/Environmental Impact Report (DEIS/EIR) of November 2005 by the California Department of Water Resources (DWR) and the U.S. Bureau of Reclamation (BOR).

**The Draft Environmental Impact Statement/ Report should be Withdrawn.**

The SDIP DEIS/EIR should be withdrawn. The document is not in compliance with the requirements of the National Environmental Policy Act (NEPA). Alternatives are limited to promote the South Delta Improvement Program (SDIP) and do not represent a full range of objective alternatives. The DEIS/EIR does not fully disclose environmental impacts and promotes irresponsible management of an environmentally significant resource. The DEIS/EIR is based upon a Biological Opinion (BO) that has been found to be seriously deficient on many issues by an independent review of highly regarded scientists. The DEIS/EIR is a premature assumption since it is not known now if additional water needs to be delivered south of the Delta. In fact, much less water may need to be delivered south of the Delta. Further, the Record of Decision is not completed for the San Luis Feature Re-evaluation (SLFRE) EIS that proposes to retire a large area of land.

**New SDIP DEIS/EIR should not be Initiated until Additional Information/Action is Undertaken and Completed.**

Determination of the cause(s) of the collapse of Delta fisheries must be determined and

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corrective action completed before development of a new DEIS/EIR is initiated.

Impacts from proposed renewal of Long-Term Water Service Contract Renewals in the San Luis Unit (SLU) and the SFLRE are inextricably intertwined with impacts of the proposed SDIP. Each of these three initiatives creates impacts upon the others that have not been evaluated. This is because there has been no communication between developers/authors of each document or coordination among them in the development of legally sufficient environmental documentation evaluating impacts emanating from these three interrelated proposals.

Development of a new legally adequate DEIS/EIR must be held in abeyance until the above actions are undertaken and completed. Communication/coordination must be established among the three developers/authors before work on new environmental documentation is started to evaluate inter-related impacts not now susceptible to evaluation in accordance with the NEPA.

To cite merely one example, while the SLDFR/DEIS proposes as one alternative retirement of significant amounts of land in the SLU, the Long Term Contract Renewal DEIS does not evaluate the impact of reduced water deliveries arising from land retirement. Some land in SLU already has been retired.

The SLDFR/DEIS suggests land retirement of 44,106 acres under the No Action Alternative, 92,592 acres under In valley/ground water quality Land Retirement Alternative, 193,956 acres under In valley/water needs Land Retirement Alternative, and 308,000 acres under In valley/ Drainage Impaired Land Retirement Alternative. In fact, Westlands Water District alone is interested in retiring as much as 200,000 acres. Reduced water deliveries are not considered either in the subject DEIS/EIR or the SLU/DEIS. Reduced water deliveries would significantly affect impacts not evaluated in this DEIS/EIR and ultimate decision making on alternatives.

Beyond Westlands' land retirement, much more land south of the Delta, 376,751 acres as a minimum, should be retired. This is set forth in a Table 1 below. As much as 604,000 acres requires retirement, as reflected in Table 2.

**An Alternative that Reduces Exports from the Delta is not Considered.**

As required by NEPA standards, all reasonable alternatives must be considered and evaluated. Reducing exports from the Delta is a reasonable alternative that should be considered in the DEIS/EIR to ensure a valid and credible EIS/EIR. To exclude an

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alternative that reduces exports is a critical flaw in the DEIS/EIR. In October, the California Third District Court of Appeals set aside the CALFED Record of Decision because, among other things, the PEIS for CALFED did not consider an alternative which **reduces** exports from the Delta. This judicial decision should guide alternative development in this DEIS/EIR.

The DEIS/EIR also fails to acknowledge many other options to meet unmet water supply needs south of the Delta other than increased pumping of water from the Delta. Land retirement of drainage-impaired agriculture lands is one option that could free up more than a million acre-feet of water a year. Water conservation, groundwater management and reclamation are other methods not being utilized to their full potential. The California State Water Plan indicates that if water conservation and reclamation were fully invested, demand for water would decrease and would eliminate any need for increased Delta exports.

**The DEIS/EIR is Premature.**

DWR and BOR are making a grand assumption that increased pumping and exports are needed for water users south of the Delta. As indicated above, the DEIS/EIR fails to evaluate the connection with SLD/FE/EIS proposed alternatives to retire large tracts of land in the Central Valley which would reduce water needs south of the Delta.

Trinity County has developed a Land Retirement Plan that proposes a solution to water deficits and a manageable way to reduce exports.

A revised DEIS/EIR should expand upon 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 (CVP) 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 retirement of drainage-impacted lands in these three units of the CVP. The water savings then would 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 also would 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.

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The analysis below shows that land retirement could save 793,056 acre feet of water (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	<b>604,000</b>	<b>298,000</b>	<b>49.34%</b>	<b>1,154,198</b>	<b>569,455</b>	<b>776,631</b>	<b>383,172</b>
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 with	4,314	3,000	69.54%	8,130	5,654	Not avail	Not avail

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

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 developed by the Environmental Working Group, water and crop subsidies to Westlands in 2002 amounted to more than \$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

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

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 calculated by

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estimating 2 acre-feet per acre irrigated, most likely an underestimated amount. Further investigation is needed to verify and to 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.

### **Environmental Impacts are not Adequately Analyzed**

Although the DEIS/EIR claims that SDIP is being pursued to address the needs of the aquatic environment, it appears its main focus is to increase pumping and exports south and to ignore the negative consequences this action will have upon the aquatic environment it is attempting to protect. Greater detail and consideration should be evaluated on environmental impacts. There is a significant amount of environmentally sensitive species and habitats that will be impacted from this project and the mitigation measures to address these impacts are not defined in sufficient detail to meet the basic questions of how and when, or to satisfy NEPA requirements.

It is irresponsible to claim that the “unexpected declines in pelagic fish populations cannot be explained by relationships that have been developed in the past among environmental conditions such as Delta flow export rates and fish population.” This statement is used to validate this project and to avoid and to overlook negative consequences. Decades of studies have linked water project operations to the decline of the estuary's fish. To deny this research allows this project to go forward without concern for the physical environment.

### **Long Term CVP OCAP BO is Inadequate**

The DEIS/EIR is based upon the “Biological Opinion (BO) in the Long-Term Central Valley Project (CVP) and State Water Project (SWP) Operations Criteria and Plan (OCAP)”, which has been found faulty and totally unsupported by an independent technical review team composed of highly regarded scientists convened by the CALFED Bay-Delta Program. Its 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 and did not use the best available science to develop its conclusions. Examples of problems with the BO are that the temperature criteria is inconsistent with the best available standards, there is inadequate accounting for fluctuating ocean conditions that effect ecosystem survival, too little attention is devoted to effects of future global climate change, and the use of questionable calculations.

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

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The 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 upon 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 lethal (summer/early fall).

The DEIS/EIR fails to recognize the importance of steelhead and chinook in sport, tribal and commercial harvest interests, and it fails to identify that lesser Trinity Lake carryover storage will have a negative impact upon 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/EIR completely ignores the issue of cold water reserves to ensure that adequate fish survival temperatures can be achieved.

Specifically, the DEIS/EIR should analyze whether or not the project will meet water quality objectives for the Trinity River adopted by the North Coast Regional Water Quality Control Board, the State Water Resources Control Board and U.S. Environmental Protection Agency 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 also explicitly is protected by Water Right Orders 90-05 and 91-01. These orders state that exports from the Trinity River Division of the CVP 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.

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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 result in depleted cold water reserves in 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 Lower Klamath River'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/EIR 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 the Trinity River, but also on the Lower Klamath River's fisheries.

### Conclusion

The SDIP EIS/EIR should be withdrawn and revised to include a complete range of alternatives including an alternative that reduces exports from the Delta. This should not be undertaken until all of the coordination/inter-related impact issues set forth above have been completed.

The SDIP does little or nothing either to improve Delta water quality or to protect the fragile ecosystems surrounding the Delta. The DEIS also should analyze extensively and disclose fully environmental impacts using the best available science before moving forward with any aspect of this project.

The consequences to Areas of Origin should be revised and assessed. DWR and BOR are agencies responsible for making sustainable policy decisions that conserve and protect the State's limited water resources. This DEIS/EIR does not fulfill this responsibility.

Finally, a 30 day extension of the comment period is suggested as this document is very extensive and technical and a longer time period is needed to complete a full and proper review.

Thank you for the opportunity to comment on this document.

Yours very truly,

Friends of Trinity River

California Trout, Inc.

By: s/ Byron W. Leydecker, Chair

By: s/ Brian Stranko, Executive Director

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cc: The Honorable Dianne Feinstein  
The Honorable Barbara Boxer  
The Honorable George Miller  
The Honorable Mike Thompson  
The Honorable Arnold Schwarzenegger  
Mr. Kirk Rodgers  
Mr. Steve Thompson  
Secretary Michael Chrisman  
Mr. Lester A. Snow