



SAN JOAQUIN FARM BUREAU FEDERATION

MEETING TODAY'S CHALLENGES / PLANNING FOR TOMORROW

October 27th, 2015

BDCP/ WaterFix Comments

P.O. Box 1919

Sacramento, CA 95812

Dear: Secretary Laird:

The San Joaquin Farm Bureau Federation (SJFB) is a private, not for profit, volunteer based organization that is committed to the growth and development of the agricultural industry in the San Joaquin and Delta region since 1914. We are the largest agricultural organization in the county, currently working on behalf of over 3,800 members to find solutions to the unique issues that local farmers face every day. We appreciate the opportunity to comment on the recirculated Draft EIR/EIS for the conveyance project now known as the California WaterFix, formerly the BDCP.

Our detailed comments can be find attached on behalf of all of five of the Delta County Farm Bureaus. Our specific concerns are as follows:

I. The Project Is Inconsistent With The Delta Reform Act

The Delta Reform Act of 2009 established the co-equal goals of water supply reliability and ecosystem restoration and conditioned their achievement on protection and enhancement of Delta resources to include agriculture. Section 29702 (a) states that "The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resources and agricultural values of the Delta as an evolving place." The Delta Reform act also created the Delta Stewardship Council and directed it to develop the Delta Plan. Chapter 5 of the Delta Plan establishes policies and goals to protect Delta agricultural resources (Delta Plan: Pages 183 and 192-198).

The Delta Reform Act of 2009 as explained in Water Code §85021, requires that reliance on the Delta in meeting California's future water needs be reduced. Because this is very large infrastructure project, it is reasonable to assume that if it is built, it would operate in the future. Therefore, the WaterFix should demonstrate that it reduces reliance on the Delta through strategies such as regional self-reliance, local and regional water supply projects, and other strategies, however, none of these are discussed in the preferred Alternative 4A. On the contrary, the WaterFix seems to increase rather than reduce dependence on the Delta as a source of future water. The document fails to address the operational concerns of those within the Delta and offers no concrete operational criteria that is consistent with prevailing California water law and issues of priority. We must see a determination of consistency for every implicated water law and policy consideration. "Adaptive management" for future determination is not sufficient

to provide interested parties with enough facts regarding the impacts to flow and water quality to make informed comments.

II. Unmitigated Loss Of Agricultural Land

The construction and operation of the project will remove an untold amount of prime farmland from production within the statutory Delta. The San Joaquin County General Plan recognizes the importance of both protecting the Delta and the importance of preserving agricultural land and county code strictly enforces 1:1 mitigation for the loss of agricultural land. The mitigation strategy identified in Alternative 4A is to develop an Agricultural Land Stewardship Plan (ALSP).

The ALSP mitigation is inadequate because it is not defined, and therefore, is not feasible. It is not enforceable nor is it funded. Mitigation as proposed in the RDEIR that is discretionary, deferred, unfunded, not enforceable, ungoverned or where feasibility has not been determined, is per se inadequate.

We are concerned that before comments have been closed on Alternative 4A, the state has moved forward in seeking a permit from the Army Corps of Engineers to store the “reusable tunnel material” without identifying the impacts that will have on the land, soil quality, or possible degradation of water quality.

III. The Degradation of Water Quality Will Lead To Agricultural Losses Within The Delta

The Delta relies on two rivers, the Sacramento River and the San Joaquin River to supply the fresh water necessary to repel salt intrusion into the vast agricultural landscape. The intake on the Sacramento River that will divert fresh water into an isolated conveyance system will undoubtedly affect the salinity of the Delta and lead to significant downstream water quality impacts.

This impact is not adequately analyzed with respect to its effect on agricultural resources.

We are concerned that construction impacts are considered “short term impacts” for which the RDEIR offers no mitigation. The construction of a project of this size will undoubtedly be a lengthy process and the impacts of the short term construction will lead to long term impacts on Delta agriculture, particularly where water quality is concerned. The construction impacts of the WaterFix remain unmitigated and will have lasting impacts on Delta farms.

Conclusion

In San Joaquin County, agriculture is a \$3 billion dollar industry that strengthens our community by providing employment and a reliable tax base. Farms in the Delta are among some of the oldest in the area, with many families that have been on the land for more than five generations. Over the last two decades, as water exports from the Delta have increased, our farmers have been left with unfulfilled promises of water quality standards that are routinely violated that have led to increased salinity in the water and ever increasing salt buildup in some of the most productive soil in the world. The San Joaquin Farm Bureau sincerely believes that California has a significant water supply deficit, not a conveyance issue. The historical policies that just move water to one area of the state at the expense of another are not sustainable over the long term and do nothing to address the deficiency of overall water supply. There are better, more affordable projects to enhance the available water supply in California such as north of the Delta fresh water storage projects and desalination that enhances regional self reliance. Neither of these key elements is included in the RDEIR for the California WaterFix. The San Joaquin Farm Bureau Federation remains committed to protecting the family farms in the Delta and will continue to advocate that any project in the Delta is in accordance with the Delta Reform Act of 2009.

We wish to express our appreciation for your consideration of our comments and concerns as they relate to the RDEIR for the California WaterFix and the attached comments on behalf of all five Delta County Farm Bureaus.

Sincerely,



President

The Delta Caucus is comprised of the five Delta County Farm Bureaus; Contra Costa, Sacramento, San Joaquin, Solano and Yolo. The five Delta Counties joined to form the Delta Caucus to protect and promote the viability and sustainability of Delta agriculture. On June 1, 2014, we submitted comments to the BDCP DEIR and have attached them to this letter for reference and inclusion as they relate to the RDEIR and California Water Fix.

Our prior comments focused on the tremendous damage that the BDCP would inflict on Delta Agriculture. The revised alternative 4 described in the Recirculated Draft makes minor changes to the BDCP preferred alternative 4 but does not result in any significant reduction in negative impacts to Delta agriculture. The new alternatives 4A, 2D, and 5A eliminate negative impacts to Delta agriculture associated with the conversion of and restrictions on Delta agricultural caused by implementation of BDCP Conservation Measures 2-21. However, new alternatives 4A, 2D, and 5A will still inflict substantial negative impacts on Delta agricultural resources.

As in our prior comments, we will focus on the following:

1. Consistency of the California Water Fix with laws and regulations protecting Delta agricultural resources;
2. Collective negative impacts of California Water Fix on Delta agriculture;
3. Unidentified/minimized impacts;
4. Analysis of proposed mitigation;
5. And inadequate study of alternatives.

Consistency with laws and regulations protecting Delta agricultural resources

New alternatives described in the RDEIR remain inconsistent with County General Plans, the Land and Resource Management Plan and the Delta Economic Sustainability Plan of the Delta Protection Commission and with the Delta Stewardship Council's Delta Plan.

The Delta Reform Act, § 29702 states that “The coequal goals **shall** be achieved in a manner that protects and enhances the unique cultural, recreational, natural resources and agriculture as an evolving place.” The new alternatives described in the RDEIR not only do not achieve the co-equal goals as defined in the Delta Reform Act of 2009, but also do major damage to agricultural resources of the Delta by:

1. converting agricultural lands to industrial uses;
2. disrupting agricultural operations during construction;
3. damaging agricultural infrastructure;
4. and changing flow patterns downstream of diversion sites.

The California Water Fix and the new alternatives 4A, 2D and 5A will violate plans and laws enacted to protect agricultural resources in the Delta.

As pointed out on page 11 of the California Department of Water Resources (DWR) permit (33 C.F.R. 325) application to the Army Corps of Engineer submitted on August 24, 2015, “Changes in water inflow and outflow throughout the Delta affect the water quality within the Delta, particularly with regard to salinity. It has been estimated that seawater is pushing 3 to 15 miles farther inland since development began in the Delta over 159 years ago (Contra Costa Water District 6 2010).” Figure 7b of the Delta Vision Report details a steep decline in Delta outflow from 81% of unimpaired flow during 1930-1949 to 48% of unimpaired flow during 1990-2005. During the same time period State Water Project (SWP) and Central Valley Project (CVP) exports (not including Contra Costa Water District diversions) went from 0 to 17% of unimpaired flow and in-Delta watershed diversions (before reaching the Delta) increased from 14% to 31% (some of these are exported from the Delta watershed). It is not surprising that water quality in the Delta and the San Francisco Bay has been severely impacted.

The importance of protecting water quality in the Delta has resulted in plans, decisions and contracts establishing water quality and flow standards. The SWP and CVP are responsible for achieving both flow and salinity standards. DWR is responsible for maintaining standards of the North Delta Water Agency Contract.

Implementation of the preferred alternative 4 as described in the Draft BDCP, would result in reduced Delta outflow, increased seawater intrusion and frequent violations of water quality standards as described in the United States Environmental Protection Commission comment letter dated August 26, 2015.

The Delta Water Fix RDEIR claims that water quality impacts have been reduced to less than significant by removing Conservation measures 2-21 even though it is expected that some of the restoration and conservation activities will still occur under California EcoRestore and by making other adjustments to the models which were used for the BDCP. As pointed out in comments submitted by MBK Engineers and Dan Steiner, the BDCP model provides “very limited useful information to understand the effects of the BDCP.” The modeling used in the California Water Fix RDEIR is not reliable as acknowledged on page 2-10 lines 13-15 of the RDEIR, “Finally understanding the uncertainties and limitations in modeling...” The very optimistic and unsubstantiated conclusion on RDEIR page 2-10 lines 25-27 is “Thus, it is likely that some objective exceedances simulated in the modeling would not occur under the real time monitoring and operational paradigm that will be in place to prevent such exceedances.” Project proponents continue to assert the California Water Fix will be operated in accordance with biological opinions and D-1641 and therefore current conditions in the Delta will be maintained and significant impacts will be avoided. However, the current water quality conditions required by the Biological Opinions and D-1641 were developed to address impacts created by the current export facilities and do not account for changes in operation by the California Water Fix. Because the California Water Fix will change flow and water quality in and through the Delta, the impacts need to be understood and clearly articulated. Instead the RDEIR relies on inaccurate modeling of BDCP and assumptions to conclude that impacts to water quality will be less than significant.

The BDCP DEIR and the California Water Fix RDEIR fail to address consistency with the State Plan of Flood Control as required by Water Code Section 85320 (b)(2)(E) which requires that BDCP studies include “the potential effects on Sacramento River and San Joaquin River flood management.” The BDCP DEIR and California Water Fix RDEIR rely on inadequacies of Delta levees as a primary reason for building the twin tunnels, yet California Water Fix will rely heavily on dual conveyance (through Delta and North Delta Diversion) and levees will perform a key role in project performance. Levee inadequacies as detailed in the BDCP DEIR and California Water Fix RDEIR are not addressed and therefore the project and the RDEIR are incomplete.

Collective Negative Impacts of the California Water Fix on Delta Agricultural Resources

With the exception of the reduced impacts resulting from removing BDCP conservation measures 2-21 and the questionable reclassification of some impacts from significant and unavoidable to less than significant, not much has changed from our previous comments. The California Water Fix will have tremendous negative unmitigated impacts on Delta agricultural resources. So called short term impacts will result in an irreparable, permanent loss of agricultural resources, irrigation water of sufficient quality to some of the strongest priority users will be impaired, productive and diverse agricultural land will lie fallow, businesses that depend on agriculture will close, and agriculture employment will decline. While some of these collective impacts are recognized and discussed in Section 5.2.1.10 of the RDEIR, there is no effort to quantify or reduce the combined impacts and proposed mitigation such as a developing an Agricultural Land Stewardship Plan (please see our comments regarding the proposed Agricultural Land Stewardship Plan in our June 1, 2014 comment letter) is inadequate and the combined negative impacts remain significant and unavoidable. In fact, all four agricultural impacts (AG1-4 RDEIR pages ES82-83) affecting agricultural resources are recognized as significant and unavoidable. In addition on pages ES 88-90 19 potential impacts to the Delta economy are recognized are found to be less than significant for 1 and no impact for the remaining 18. This lack of regard for agricultural resources and the Delta economy will result in economic devastation and will destroy the viability, sustainability and resiliency of the Delta economy, its businesses, communities and livelihood of its residents.

Unidentified Impacts

Even though some of the unidentified impacts identified in our previous comments to the BDCP DEIR/EIS have been resolved, the California Water Fix RDEIR is incomplete because it has not recognized, analyzed and mitigated for unidentified impacts 1-4, 6, 9, and 10 as stated in our comment letter dated June 1, 2014.

Water quality impacts as presented in the California Water Fix RDEIR are inadequate and incomplete. Without meaningful and accurate analysis of how the California Water Fix will change flow and water quality throughout the Delta conclusions that water quality impacts are less than significant are unsubstantiated. Water flow and quality analysis should also include expected actions in the Yolo Bypass as required under the Biological Opinions and California EcoRestore.

According to DWR's application to the Army Corps of engineers dated August 24, 2015, 2,099,259 cubic yards of tunnel muck will be generated during construction of California Water fix (page 12). The tunnel muck (now called reusable tunnel material-RTM) will be stacked from 6-15 feet high (page 6) in 11 disposal sites (page 4). DWR indicates that, if feasible, the tunnel material will be used during construction of various habitat restoration efforts (page 6). There is no provision for permanently storing or disposal of tunnel muck if reuse is infeasible. In the California Water Fix RDEIR tunnel muck is recognized as a potential problem, but the magnitude of the impact is minimized by assuming the material can be reused and by not providing analysis and provisions in the event that it cannot. The claim made in the DEIR page D.3-98 lines 10-11 that less than 1% of the tunnel muck will not be suitable for reuse is unsubstantiated and is contradicted by designing storage areas for either permanent or temporary storage. Page D3-96 lines 25-26 indicates temporary storage areas will be designed for RTM while lines 30-31 say that material will be temporarily or permanently stored in designated storage areas. On page D.3-99 lines 18-19 RTM will be placed in either lined or unlined storage areas suitable for long-term storage at an assumed depth of 6 ft (page D.3-97 line 29). In addition, the provision for reuse is qualified by terms such as if feasible and to the extent practicable while the definition of RTM on page D.3-96 line 19 describes RTM as "...appropriate for reuse based on chemical characterization and physical properties." 2,099,259 cubic yards of tunnel muck stacked up to 15 feet deep could result in significant negative impacts not recognized or provided for in the California Water Fix RDEIR.

Finally our previous comments pointed out that the CEQA required Draft Implementation Agreement was not available. Since then, a Draft Implementation Agreement was released but is incomplete because it does not include operating information and financial commitments. In addition, the Draft Implementation Agreement does not seem to be consistent with changes which have resulted in new alternatives as contained in the California Water Fix. A complete draft must be available for public review and comment and should restart the beginning of the public comment period.

Analysis of Proposed Mitigation

In our prior comment letter, we pointed out that under CEQA, mitigation must be feasible, fully enforceable, adequately financed and monitored. Mitigation measures that are discretionary, deferred, unfunded and may not be feasible are not adequate mitigation.

In addition, because of inadequate analysis especially relating to water quality and tunnel muck impacts, agricultural, economic, water quality and aesthetic impacts need to be reassessed and adequate mitigation developed.

AG-1 “develop an Agricultural Lands Stewardship Plan (ALSP) to maintain agricultural productivity and mitigate for loss of Important Farmland and land subject to Williamson Act contracts or in Farmland Security Zones” remains the primary mitigation measure for agricultural and economic impacts. As pointed out in our prior comments the ALSP is merely conceptual and does nothing to mitigate for the very real impacts that family farms will be faced with. In fact, as presented in the BDCP DEIR/EIS the ALSP could result in advancing isolated conveyancerather than mitigating for impacts to agricultural resources. Mitigation measure AG-1 is inadequate because the ALSP is not defined, not feasible, not enforceable or funded.

Inadequate Study of Alternatives

Since 2006, a great deal of effort has been spent designing what today is the twin tunnels project, Alternative 4 in the BDCP. Alternative 4 has now been modified to become alternative 4A, the preferred alternative of the California Water Fix. The twin tunnels project has been pursued in the courts and is being advanced even before public comment closes on the California Water Fix RDEIR. DWR has applied for permits to divert water in the north Delta and has applied to the Army Corp of Engineers in preparation for constructing California Water Fix. All alternatives not involving tunnels, north Delta diversion or suggested for study by the public have remained static, rejected or ignored. Alternatives as presented in the BDCP and as proposed by the public have not been studied in equal detail and DWR’s continued implementation of the twin tunnels project before close of comments on the California Water Fix implies that CEQA/NEPA public participation is simply a formality and the process is not meant to provide meaningful participation and input into projects that will have long-term environmental, economic and human impacts.

Conclusion

California Water Fix will devastate the Delta. The twin tunnels project will not make California’s water supply more reliable, will not restore the Delta environment, will not reduce reliance on the Delta, will damage Delta resources to include agriculture and will waste valuable resources which could be employed to implement projects to advance water reliability for California—projects that impact the supply/demand equation by reducing demand and increasing supply. The Delta Caucus believes that there are more efficient and effective ways to improve water reliability for California and improve conditions in the Delta. We remain committed to ensuring that Delta agricultural resources are protected and enhanced in accordance with the Delta Reform Act of 2009.