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18 July 2022

Zachary Simmons, Project Manager
US Army Corps of Engineers
Sacramento District, Regulatory Division
1325 J Street, Room 1350
Sacramento, California 95814-2922

Subject: **Dredge and Fill (404) Application from California Department of Water Resources (DWR) to construct North Delta Drought Salinity Barriers Project (Public Notice SPK #2021-00763)**

Dear Mr. Simmons:

This letter originates from lands of the Lisjan Ohlones in the East Bay, of Yokut lands in the Stockton area, and Miwok lands of the Delta further north. These lands represent the great connections of the San Francisco Bay with the Delta estuary.

Restore the Delta (RTD) is a grassroots campaign of residents and organizations committed to restoring the Sacramento-San Joaquin Delta so that fisheries, communities, and family farming can thrive there together again; so that water quality is protected for all communities, particularly environmental justice communities; and so that Delta environmental justice communities are protected from flood and drought impacts resulting from climate change while gaining improved public access to clean waterways. Ultimately our goal is to connect communities to our area rivers and to empower communities to become the guardians of the estuary through participation in government planning and waterway monitoring. RTD advocates for local Delta stakeholders to ensure that they have a direct impact on water management decisions affecting the well-being of their communities, and water sustainability policies for all Californians.

Proposed Project

RTD appreciated receiving notice from your office on June 21, 2022. We understand from the notice that DWR proposes to add two more temporary rock fill barriers along Steamboat and Miner sloughs in the North Delta intending to prevent intrusion of high-salinity tidal waters into the Sacramento-San Joaquin Delta should critical drought conditions persist into 2023 and beyond. The two barriers, states the notice, would include culverts installed within the barriers to allow fish passage and manage water quality. A small-boat portage would be provided at the Steamboat Slough barrier, as is shown in drawings attached to the notice. Both barriers,

continues the notice, would be installed annually, as needed, starting as early as June 1 and removed (we presume) each year no later than November 15.

The notice goes on to state as the project's purpose: "Based on the available information, the overall project purpose is to protect beneficial uses of water in the Delta during drought periods, including reducing the intrusion of saltwater in the Delta, while minimizing reservoir releases. The applicant believes there is a need to protect water supplies used by people who live in the Delta and in Contra Costa, Alameda, and Santa Clara counties, as well as those who rely on the Delta-based federal and state water projects for at least some of their supplies."

We further understand that this is essentially a notice for the public, governmental agencies, and other interested parties to comment on these proposed activities for purposes of the Corps' preparing either an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act (NEPA). As you have stated in the notice, "Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity." As such, the comments we offer in this letter are intended to help the Corps decide on the content of an Environmental Assessment and make a determination as to whether it will prepare an EIS on the proposed barriers.

In this light, we submit these comments:

Comments

Alternatives: Under NEPA, the Corps will be obligated to examine a No Action Alternative that would assume the situation of existing allocation practices by the DWR and the Bureau of Reclamation. The No Action Alternative should foreground the serious salinity intrusion impacts to Delta agriculture and small community drinking water systems that could result if the barriers were NOT installed. Delta agriculture could face crop losses, and Delta communities who draw their water directly from Delta channels or groundwater wells adjacent to salinizing Delta channels would lose their capacity to deliver clean, safe, and good-tasting fresh drinking water. These are impacts of No Action that are not to be taken lightly. DWR's compliance with its water quality contract with the North Delta Agency and its agricultural customers is another example of such impacts from excessive salinity intrusion. In this light, RTD recognizes that the barriers have local and pragmatic purposes in addition to potential benefits they would provide to pumped exports and the meeting of in-Delta water quality objectives.

Overall, ***alternatives analysis should address the potential for changes in water allocation and delivery by DWR and the United States Bureau of Reclamation, despite drought conditions, to avoid use of any further Delta barriers beyond the West False River Barrier.*** The Corps' analysis should build on scenarios that involve curtailing the three major groups of senior water contractors—the San Joaquin River Exchange Contractors, the Sacramento River Settlement Contractors (both of the CVP system), and the Feather River Service Area (of the State Water Project system). In other words, if each junior agricultural water contractor is cut to X percent of their contract amount, regardless of project, then the senior water contractors we have just listed would also receive reductions in their deliveries to X percent of their contract amounts. The alternatives in the Environmental Assessment and/or EIS could proceed iteratively:

- Curtail deliveries to all three sets of senior water contractors (San Joaquin River Exchange, Sacramento River Settlement, and Feather River settlement).
- Curtail deliveries to just Sacramento Valley senior contractors (Sacramento River Settlement and Feather River Settlement contractors).
- Curtail deliveries to just San Joaquin River Exchange and Sacramento Valley senior contractors.
- Curtail deliveries to just San Joaquin River Exchange contractors.
- Curtail deliveries to just Sacramento River Settlement contractors.
- Curtail deliveries to just Feather River Settlement contractors.

Such an alternatives analysis would model the extent to which curtailing deliveries to these contractors and applying the savings to carryover storage for meeting Delta water quality objectives may avoid the need for additional installation of north Delta barriers—assuming the West False River barrier continues in place. In other words, this analysis addresses the question: are there non-obstructive alternatives that may serve to maintain the hydraulic barrier against tidal salinity intrusion in North Delta channels? The alternatives analysis of these scenario alternatives should examine the equity and environmental justice issues that arise and how they may be mitigated. These are reasonable and feasible alternatives to the proposed action from DWR

Separate from this application, DWR is proposing a 10-year program in which the West False River Barrier would be emplaced for some few years out of ten to provide relief to the interior Delta from risk of salinity intrusion. Given that climate change with its expected sea level rise impacts to the Delta and precipitation impacts to northern California reservoirs, it is reasonable, feasible, and prudent to consider alternatives to the status quo methods of allocating water within the two large water systems. What if California's water systems allocated water equitably so that all contractors got at least some water, and Delta water quality standards were still complied with? The Corps could take the lead in examining this question and help stimulate California to begin its long-postponed planning for extended drought conditions and how the system could cope with the effects.

Such a comprehensive alternatives analysis could enable the Corps to find either that some combination of upstream curtailments would be sufficient to obviate the proposed barriers, and avoid the significant environmental effects of the two proposed barriers, or could help inform conditioning of mitigations on installation of barriers on compliance with specified curtailment requirements. We are well aware that the Corps cannot impose conditions directly onto propertyed water rights; but the curtailment requirements should be specified as **performance measures** by which DWR as applicant would have to meet prior to installation of new barriers and would be responsible to seek adjustments to operations and deliveries under its coordinated operations pathways with the Bureau of Reclamation. The Bureau would have incentive to participate because installation of north Delta barriers would also benefit their operations and export water quality; yet if they can meet their water quality objectives by other non-barrier means, they should be able and willing to abide by DWR's permit conditions as well.

Restore the Delta proposes such an alternatives analysis for the north Delta Barriers because we and others have observed during the temporary urgency change petition process before the

State Water Resources Control Board earlier this year that the water rights priority system is obstructing equitable solutions for all farmers who need water to irrigate crops and cities and rural communities who serve their customers with good quality water. These alternatives to the proposed project would help the Corps and other policy makers and water agencies to begin design of alternative approaches to how California allocates water under climate change conditions.

Endangered Species and Essential Fish Habitat: Steamboat Slough and Miner Slough are distributaries of the Sacramento River. The Corps' EA on this project must address the effects that emplacement of barriers in these sloughs at these locations would result in for endangered fish species, including any Chinook salmon and Central Valley steelhead runs that would be attempting to return to natal streams in the Sacramento River basin upstream, as well as to the summer time habitat needs of longfin smelt and Delta smelt, resident fish that are both listed species. Among the effects the Corps must consider will be straying of anadromous fish. The culverts and their flaps on both barriers are likely to become predation hotspots where small fish passing through (if they even find the culverts along these barriers) could be ambushed by predatory fish (such as various bass species that are piscivorous) at the other end of these otherwise blind passages. At a minimum, the Corps must require seasonal "notching" of the barriers by Applicant DWR of these barriers to permit fish traversing Miner and Steamboat sloughs more than one alternative to get past these barriers once they are in place.

Water Quality and Harmful Algal Blooms: The Corps' environmental document should acknowledge the growing problem of high residence time of water in the Delta from further emplacement of channel barriers and the spread of environmental conditions favorable to harmful algal blooms (HABs). Applicant DWR recently completed a study of harmful algal blooms in the area of Franks Tract resulting from their West False River barrier, installed in the spring of 2021 and kept over winter. The study found that the False River barrier did have some effect on the residence time of water in Franks Tract and that harmful algal blooms occurred where in previous years with the barrier, they were either non-existent or were smaller than occurred in 2021. Restore the Delta has commenced its own water quality testing program to track aquatic conditions and presence of cyanobacteria and cyanotoxins in channels relatively close to and within the City of Stockton. The Corps should be aware that HABs occurring in stagnant waters can emit airborne cyanotoxins up to several miles beyond their original source bloom when mobilized by air currents and wind. By introducing yet more barriers into Delta channels like Miner and Steamboat sloughs, the Corps must take account of and mitigate potential airborne release of cyanotoxins to neighboring communities upwind of these channels. Moreover, when conditions cool and harmful algal blooms subside and degrade, they consume dissolved oxygen, and so the Corps should also examine the potential seasonal effects of HAB decomposition's effects on dissolved oxygen—all of which would stem from an original cause of installation of the north Delta barriers in Miner and Steamboat sloughs.

Environmental Justice: Because north Delta barriers' installation would likely increase the spread of HABs with their attendant air quality impacts, the Corps' environmental document should also describe potential air quality impacts of HABs on environmental justice communities and neighborhoods within the interior Delta. It will not be correct or reality-based to claim that EJ issues are not present because environmental justice communities may be under-reported in the U.S. Census for 2020. These disadvantaged communities still exist in interior Delta communities like Isleton, Clarksburg, Courtland, and elsewhere as well as in surrounding neighborhoods in south Sacramento, Elk Grove, Hood, Galt, Lodi, and Stockton. We urge the

Corps to include environmental justice issues as part of the scope of their eventual environmental document on the north Delta barriers proposed by DWR.

In all, we urge that the Corps of Engineers prepare an Environmental Impact Statement on the proposed north Delta Barriers project. There is sufficient time to complete the EIS process and it would render to the public a real service, especially to the extent that its alternatives analysis considers non-barrier ways of boosting the hydraulic barrier in the Delta through water allocation scenarios, and to the extent it fairly and fully addresses the water quality and air quality impacts of HABs.

Thank you for the opportunity to comment on this notice for DWR's proposed north Delta barriers on Steamboat and Miner sloughs. If we may be of service with additional information or to answer questions you may have about our letter, please do not hesitate to contact Tim Stroshane at 510.847.7556 or tim@restorethedelta.org

Sincerely,



Barbara Barrigan-Parrilla
Executive Director



Tim Stroshane
Policy Analyst

cc: E. Joaquin Esquivel, Chair, State Water Resources Control Board
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