



TRINITY COUNTY

Board of Supervisors

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January 2, 2013

Cindy Messer
Delta Plan Program Manager
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814
recirculateddpeircomments@deltacouncil.ca.gov

Subject: Comments on Recirculated Draft Program EIR for Delta Plan and Proposed Regulations

Dear Ms. Messer:

Trinity County is a county of origin for the Trinity River, which is used secondarily for beneficial uses of water in the Delta. The Trinity River Division is the only trans-basin diversion within the US Bureau of Reclamation's (USBR) Central Valley Project (CVP), and the Trinity River is a Delta Tributary Watershed under California Water Code Section 78647.4(b). Trinity County has a vested interest in the policies and recommendations contained in the Delta Plan.

We are alarmed at how the Trinity River is being dealt with in the Delta Plan and the Bay-Delta Conservation Plan. We have reviewed the Draft Program EIR and the Recirculated Draft Program EIR and we find them extremely deficient in relation to the description and relationship of the Trinity River to the Delta. Despite previous comments by others¹ on the Draft Program EIR that the Trinity River is not adequately described and protected from plans to restore the Delta ecosystem and provide "water supply reliability," the Recirculated Draft Program EIR has made no attempt whatsoever to address those concerns.

We are extremely concerned that Trinity County's interests, as a county of origin, are not being protected from the Bay-Delta Conservation Plan (BDCP). Pursuant to the Delta Reform Act, the Delta Stewardship Council is to accept the BDCP into the Delta Plan if it meets certain criteria. We demand that the Delta Plan include criteria for protection of the Trinity River and its beneficial uses to be contained in BDCP. If BDCP does not meet those criteria, then it cannot be

¹ We incorporate by reference the comments on the Delta Plan Draft EIR regarding the Trinity River by Michael B. Jackson on behalf of the California Water Impact Network, California Sportfishing Protection Alliance, AquAlliance and the Pacific Coast Federation of Fishermen's Associations dated February 2, 2012.

incorporated into the Delta Plan. There are significant impacts to the Trinity River from both the Delta Plan and BDCP, as they currently exist.

As an example, development of BDCP's "Combined Species 5" includes significant cumulative impacts to storage at Trinity Lake.² Reduced Trinity Lake storage adversely affects flows and water quality for salmon and steelhead, recreation, hydropower production and other beneficial uses in the Trinity River basin. Under California's area of origin and watershed of origin statutes, the priority for the waters of the Trinity River is beneficial uses within the Trinity River basin. Diversion of water from the Trinity River is dependent on water surplus to the needs of the Trinity River basin. Therefore, operational scenarios for Delta ecosystem restoration and water supply reliability cannot depend on the Trinity River. Impacts cannot be redirected from the Delta to the Trinity River.

Therefore, we recommend that the Delta Plan incorporate specific protections for the waters of the Trinity River basin as follows:

The State Water Resources Control Board shall convene a Trinity specific water right hearing, as directed in SWRCB Water Quality Order 89-18.³ The water right hearing shall license Reclamation's eight Trinity River water permits as follows:

1. Conformance of Reclamation's eight Trinity River water permits with the minimum instream flows contained in the Trinity River Record of Decision.
2. Inclusion of permit terms and conditions to require Reclamation to comply with the Trinity River temperature objectives contained in the Water Quality Control Plan for the North Coast Region.
3. A requirement to maintain a September 30 carryover storage in Trinity Reservoir of 1.25 million acre-feet, which is adequate to preserve and propagate all runs of salmon and steelhead in the Trinity River below Lewiston Dam during a multi-year drought similar to the 1928-1934 period.
4. Eliminate paper water in Reclamation's Trinity River water rights (conform water available for export to the CVP to actual water supplies).

Failure to incorporate the above requirements into the Delta Plan will result in unacceptable and unmitigated impacts to all beneficial uses of the Trinity River within the Trinity River basin and will not comply with the requirement of CEQA to identify and mitigate for significant impacts.

Under the section "*Whether the Proposed Regulation is Inconsistent or Incompatible with Existing State Regulations*", the statement is made that "None of the proposed regulations are inconsistent or incompatible with existing state regulations." This is clearly false. AB32, California's Global Warming Solutions Act was signed by Arnold Schwarzenegger in 2006 and mandates the reduction of state greenhouse gas emissions to the emissions levels of 1990 by the year 2020. AB32 requires the California Air Resources Board to adopt rules and regulations

² See http://www.essexpartnership.com/wp-content/uploads/2012/11/BDCP_CS5_Update_NGO-Meeting_11_14_12v3.pdf and http://www.essexpartnership.com/wp-content/uploads/2012/11/Summary-of-Fish-Agency-Scenario-Modeling_11_14_12.pdf

³See: http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/1989/wq1989_18.pdf, page 18.

“...to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions...” The proposed Delta Reform Act regulations are clearly at odds with the requirements of AB32 since these new regulations will result in a major increase in greenhouse gas emissions as existing hydroelectric generation is reduced and replaced with fossil generation. Delta Reform Act proposed flow changes could result in a 30% reduction in carbon-free hydroelectric generation from the central valley project. This lost power generation will inevitably be replaced with gas-fired power generation.

Under the section “*Cost Impacts on Representative Person or Business*”, it states, “The total indirect cost of Delta Plan policies to private business or individuals is uncertain.” Proposed flow changes contemplated by the Delta Plan could result in more than a 50% increase in the cost of power to Trinity Public Utilities District (TPUD). This could cost the 7500 customers of TPUD more than \$2 million per year. While \$2 million may seem like a rounding error in Sacramento, it is a very large amount of money to remove from an economy the size of Trinity County.

In conclusion, we find the Delta Plan and its Draft Program EIR to be completely deficient in their description and evaluation of impacts to beneficial uses within the Trinity River basin. The Delta Plan will adversely affect Trinity River basin recreation, fisheries, hydropower and water quality as it is currently written, but there is no acknowledgement of those impacts, nor is any kind of mitigation identified.

The Trinity County Board of Supervisors therefore recommends that the Delta Plan, Draft Program EIR and proposed regulations be reissued again with a proper analysis of impacts to the Trinity River basin and appropriate mitigation. The current Delta Plan and Draft Program EIR do not meet the requirements of California law.

Sincerely,



Debra Chapman, Chairman
Trinity County Board of Supervisors