



October 1, 2007

Paul Maltzer
Environmental Review Officer
WSIP DEIR
1650 Mission Street, Suite 400
San Francisco, California 94103

Dear Mr. Maltzer:

As senior water rights holders and long-time stewards of the Tuolumne River, the Turlock and Modesto irrigation districts ("Districts") welcome the opportunity to provide comments on the Draft Program Environmental Impact Report ("PEIR") for the San Francisco Public Utilities Commission's Water System Improvement Program ("WSIP"). Written comments submitted on October 25, 2005 and April 26, 2007, during earlier phases of the EIR process, are attached hereto and incorporated herein by reference.

We offer the following comments on the June 29, 2007 version of the Draft PEIR.

General Comments

The Districts strongly support the City and County of San Francisco's ("CCSF") efforts to replace an aging infrastructure and to make the necessary earthquake retrofits and other improvements needed to meet modern seismic standards. However, we are concerned about the proposed operational changes and how those changes may impact the Tuolumne River flows or the Districts' water supplies.

The Districts previously requested copies of the models used by the CCSF in analyzing the impacts associated with the WSIP to evaluate the proposed project to determine if: (1) the assumptions made with respect to the Districts' operations are correct; (2) the impacts to the Districts' water and power resources; and (3) the impacts to the Tuolumne River and its fishery resources. Our review of the Draft PEIR reemphasized the need for the Districts to review the models in order to be able to provide informed comments on the Draft PEIR. For example, the logic and assumptions that the hydrologic model uses in its decision process are not clear and there are unexplained inconsistencies. It appears the maximum Don Pedro capacity stated on page 5.3.1-32 is too high, monthly storage values for Don Pedro shown on Table 2.6.3 of Appendix H2-1 appears incorrect, and the model appears to use incorrect criteria for the Districts' dry water year operations resulting in incorrect Don Pedro Reservoir storage numbers. Consequently, we are renewing our request for the models. In addition, we request a 60-day

extension of the comment period after receipt of the models to allow for a full evaluation of the models and to enable the Districts to supplement the comments contained herein.

The WSIP relies upon assumptions related to the various water rights and entitlements claimed by the CCSF. The Draft PEIR should provide sufficient information to substantiate the validity of those rights, and the ability to increase the CCSF diversions from the Tuolumne River. With that rationale, the Districts can then evaluate the adequacy of the CCSF claims.

The stated fundamental principles guiding the WSIP are (1) "maintaining a clean, unfiltered water originating from Hetch Hetchy Reservoir..." and (2) to "maintain gravity-driven system." (Draft PEIR, page 5-6). This, of course, is understandable given that it is the best quality water available to CCSF and is delivered by gravity. However, CCSF uses these principles to reject alternatives to the project that would result in significantly less environmental impact on the Tuolumne River. It is also important to note that the surface water treatment technology used by most other water suppliers in California are available to meet water quality requirements for other water supply sources, and that most other water suppliers must use pumps to pressurize systems. Such programs can be more costly, but are available to help meet the CCSF's water supply needs. Conformance with the two fundamental principles and other specific "goals and objectives" are not sufficient grounds by themselves to summarily dismiss other available alternatives with less environmental impact.

Specific Comments

WSIP Flow and Volume Numbers Need to be Clarified

It is difficult for the Districts as well as other reviewers to evaluate the potential impacts of the WSIP or the validity of the assumptions made in modeling and evaluating the Tuolumne River system, without clarification of the flow and volume numbers used in the analysis. As previously indicated by the Turlock Irrigation District ("TID") in its April 26, 2007 letter, the CCSF should be clear in the Draft PEIR whether millions gallons per day ("MGD") numbers are intended to express an instantaneous rate of flow, such as cubic feet per second ("cfs"), or a total volume of water, such as acre-feet ("AF"). For clarity, we asked if the MGD is intended as an average rate of flow, then the expected minimum to maximum range of flow rates must be disclosed. If MGD is being used for a total volume of water, then both the MGD number and the intended AF number should be reported.

The MGD and AF numbers requested in the April 26, 2007 letter form the heart of the Tuolumne River issues and are absolutely necessary for meaningful analysis of the adequacy of the Draft PEIR. A preliminary review of the Draft PEIR shows that these issues have not been clarified as requested. As a result, it is unclear what the anticipated diversion amounts and flows will be with the WSIP, and how they differ from current conditions. Providing the aforementioned data, in a clear format, is essential for Districts to evaluate the WSIP. The Districts renew their request for the models; that the CCSF provide the requested flow data in tabular format; and that sufficient time is given to review the additional data and provide comments.

Proposed Water Transfers

Under Section 3.6.2 “Proposed Drought Water Supply” (pages 3-36 and 3-38) the Draft PEIR envisions the transfer of 27,000 AF of water from the Districts to the CCSF. The Districts do not believe there is sufficient water within the watershed under dry conditions to support the transfers as described in the Draft PEIR. It is inappropriate, therefore, to include the proposed transfer as a part of the CCSF’s water supply plan. In addition, the Draft PEIR’s discussion of the proposed water transfer from the Districts is [wholly] inadequate for CEQA purposes. A project-specific EIR is legally required to describe the proposed transfer in detail and to thoroughly assess all potential impacts.

The Draft PEIR does not discuss the publicly announced proposed Oakdale Irrigation District (“OID”) water transfer involving a water exchange with the Modesto Irrigation District (“MID”) and, consequently, does not state whether the proposed OID water transfer is intended to substitute for or to be in addition to the CCSF’s proposed TID-MID water transfer. If the 28,000 AF OID transfer is intended to be in addition to the 27,000 AF TID-MID transfer, then the potential cumulative environmental impact of some 55,000 AF being eliminated from the Upper Tuolumne River and from the Lower Tuolumne River and the Delta could be significant.

Water Quality Impairments may Worsen with Additional Diversions Proposed by WSIP

The San Joaquin River system and its tributaries are currently listed as impaired for a variety of water quality parameters, with others being proposed. For example, the Department of Fish and Game has asked the Central Valley Regional Water Quality Control Board to “list” the San Joaquin River system as “impaired” for temperature, under Section 303(d) of the Clean Water Act. The Draft PEIR proposes increases in mean daily river temperatures of 1-2 degrees Celsius during 15% of the months modeled (page 5.3.3-19), which would be significant, if the river system is already “impaired.” Any reductions in lower Tuolumne River flow could exacerbate current conditions. The impacts to the Tuolumne River or San Joaquin River water quality by the WSIP should be thoroughly evaluated and mitigation measures proposed where necessary to ensure that implementation of the WSIP would not result in reduced water quality or increased burdens on other water agencies within the San Joaquin River system.

Additional Instream Flow Requirements

In Section 3.7.1, page 3-43, the Draft PEIR states, “Although the fishery release requirements that FERC may impose in 2016 cannot be anticipated at this time, the CCSF assumes, for the purposes of the WSIP, that it will be able to continue its current agreement with TID and MID to pay them to provide all the additional water, if any, required for the fishery releases.” CCSF should not assume that it will be able to purchase water from the Districts to meet its future instream flow requirements.

While the increased diversions proposed under the WSIP accrue solely to CCSF’s benefit, they could potentially result in future measures being imposed by the Federal Energy Regulatory

Commission ("FERC"), or other regulatory agencies. Under Article 8(a) of CCSF's Fourth Agreement with the Districts, CCSF has agreed that "any burdens or change in conditions imposed on account of benefits accruing to City shall be borne by City." As such, any new or additional water release requirements imposed on the Districts as a result of CCSF's increased diversions are to be borne by CCSF.

The CCSF should include in their analysis additional releases down the Tuolumne River to meet future instream flow requirements due to the future actions of the FERC, or other regulatory agencies. To accommodate the ability to increase instream flows, yet still provide the necessary water supplies to its customers, the CCSF should re-evaluate the potential opportunities to recapture some of those flows at a lower point in the system.

Compliance with the Raker Act Requirements

The Hetch Hetchy project, as described in the Draft PEIR, was developed under the authority of the Raker Act. The Raker Act, enacted by Congress in 1913, is a conditional grant of an easement through Yosemite National Park. It was the intent of the Raker Act that San Francisco first develop and use its own water resources before exporting Tuolumne River supplies. It states that CCSF may not export from beyond the San Joaquin Valley any more water of the Tuolumne watershed "than, together with the waters which it now has or may hereafter acquire, shall be necessary for its beneficial use for domestic and other municipal purposes." (38 Stat. 242, section 9(h).)

As stated in the Draft PEIR, the CCSF must adhere to the Raker Act. The program evaluated in the Draft PEIR proposes to increase diversions from the Tuolumne River. With today's technology there are additional resources available to the CCSF and its customers, that were not available in 1913, when the Raker Act was enacted, that if implemented, would eliminate the necessity for the CCSF to divert additional water from the Tuolumne River, and would continue to keep the CCSF in compliance with the Raker Act. Desalinization, advanced treatment processes, conservation options, reclamation projects, and other measures are now available which can provide significant water supplies. Many of these alternatives are evaluated in the Draft PEIR but were determined, for one reason or another, to not be in keeping with the key project principles or objectives. The Raker Act requirements supersede any project principles or objectives the CCSF may establish. As a result, the other alternatives must be fully developed before additional diversions from the Tuolumne River are considered.

Additionally, the portions of the Draft PEIR that deal with the expansion of water service appear to be driven by the future needs of the CCSF wholesale customers. Consistent with the Raker Act provisions, these additional needs should first be met through local and other available resources before proposing additional supplies be taken from the Tuolumne River. It is unrealistic to expect that the CCSF could accommodate all future demands of its wholesale customers by drawing additional supplies from the Tuolumne River watershed. Likewise, it would be imprudent for the CCSF to add additional wholesale customers.

Therefore, the Draft PEIR should evaluate the potential options for meeting future needs through the use of local and other available resources, and not rely so heavily upon the Tuolumne River watershed for its supply.

Reduction in Power Supplies

The Draft PEIR acknowledges that implementation of the WSIP will result in lower inflows and operating levels at the Don Pedro Reservoir which will reduce the Districts' hydroelectric production at its powerhouse. The impact of this loss, which is projected to be 14,000 mega-watt hours of clean, renewable energy each year (Draft PEIR page 5.3.9-3), has not been adequately addressed. At a minimum, an evaluation should be made as to the impact, both to the Districts and the state as a whole, of replacing the renewable energy from a thermal resource and mitigation measures identified. This is particularly important in light of current laws and rules requiring the limiting the emissions of greenhouse gases. Simply dismissing the reduction of hydroelectric generation as de minimus is not sufficient.

Potential Impacts Resulting from Climate Change

The Districts question the adequacy of the Draft PEIR's analysis of the potential effects of climate change on the WSIP. A detailed analysis needs to be performed on the potential impacts to Tuolumne River water supplies resulting to the measures contained within the WSIP, with specific attention given to the proposed increased diversions and in-stream flow requirements.

CCSF's Lower Tuolumne River Diversion Alternative and Adequacy of CCSF's Proposed Lower Tuolumne River Mitigation Measures

It is inappropriate to take additional water supply from the Tuolumne River watershed to supply to the San Francisco Bay Area when such an action results in redirected impacts to the river system. Additional supplies needed to meet demands within the San Francisco Bay Area should be supplied by resources available to CCSF in their service area.

More consideration should be given to the Lower Tuolumne Diversion and the two desalination options, which were determined to have less environmental impacts to the Tuolumne River watershed. We do not believe the evaluation of those options were adequate. All three were superior to the WSIP and the Modified WSIP in terms of reduced impacts to the Tuolumne River system.

Furthermore, the proposed mitigation measures designed to address the potential impacts of diverting more water from the Tuolumne River are inadequate. For example, the Draft PEIR envisions only one mile of river channel restoration as compensation for the long-term reduction in Tuolumne River flows. In addition, there is no mitigation proposed for the impacts to the Districts associated with the reduced power generation that may result from the WSIP's proposed operational changes.

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The Districts appreciate the opportunity to provide these preliminary comments on the Draft PEIR. We anticipate that these preliminary comments will be addressed and incorporated into the Final PEIR; that the model and detailed information will be forthcoming; and that additional time will be provided to enable the Districts to complete their evaluation and provide additional comments.

Should you have any questions regarding these comments, please do not hesitate to contact Robert M. Nees at TID (209-883-8214) or Walter Ward at MID (209-526-7459).

Sincerely,



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