



**PACIFIC COAST FEDERATION OF FISHERMEN'S ASSOCIATIONS
and the
INSTITUTE FOR FISHERIES RESOURCES**

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(Via Email: PachecoExpansion@valleywater.org)
Senior Environmental Planner
Santa Clara Valley Water District
5750 Almaden Expressway
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February 15, 2022

**Subject: Comments on Pacheco Dam Project
Draft Environmental Impact Report**

Dear Mr. Sexauer:

These comments are submitted on behalf of the Pacific Coast Federation of Fishermen's Associations ("PCFFA"), and its sister organization, Institute for Fisheries Resources (IFR). PCFFA is the largest and most active trade association of commercial fishing families on the West Coast. PCFFA has led the fishing industry in protecting the rights of fishermen and fishing communities since 1976. PCFFA fights for the long-term survival of commercial fishing as a productive livelihood and way of life. IFR funds and implements PCFFA habitat protection programs, particularly for salmonid species which many PCFFA members harvest and market for livelihoods.

The Pacheco Reservoir Draft Environmental Impact Report ("DEIR") provides an inadequate analysis regarding the Project's impacts to the Sacramento-San Joaquin Delta ("Delta"). The

DEIR fails to consider an increase in Delta exports that the Project would facilitate, and the resulting negative impacts on salmon in the Delta.

The Project would further exploit the already imperiled Delta and the fish that rely on its health to survive. Any increased South Delta diversions resulting from the proposed project would be a significant cumulative impact to Central Valley fishes. The DEIR fails to disclose and analyze effects of the Project's new South-of-Delta storage on Delta exports nor the source of such new exports, as well as the potentially significant cumulative impact to Central Valley listed fishes, including both winter-run and spring-run Chinook salmon. Neither does the DEIR describe the potential effects on San Luis Reservoir operation or how it might affect the proposed Expanded San Luis Project under Cumulative Impacts of the Project.

Chinook salmon also do occur in the San Felipe Lake, according to data in the DEIR (p. 3.6-6 & 9), and can only be getting there from the ocean via the Pajaro River and then swimming up the Miller Creek canal into the lake. The impact of impounding water feeding San Felipe Lake and then Miller Creek will likely be negative upon these remnant Chinook populations struggling to recolonize San Felipe Lake. Chinook salmon also exist in San Luis Reservoir (DEIS, p. 3.6-7), for which we have similar concerns. This impact is not analyzed, nor are any mitigation measures to protect that fragile population proposed.

The DEIR concludes that all those potential cumulative effects are less than significant, but that conclusion is not substantiated in the cumulative effects analysis of this DEIR.

The DEIR highlights the creation of habitat for threatened steelhead as a claimed benefit of the Project. (DEIR, p. ES-1.) However, pumping water from the already imperiled Delta, combining that water with some quantity of water from upper Pacheco Creek, and releasing it to lower Pacheco Creek is fraught with risks and unknowns. The DEIR glosses over the fact that these supposed benefits may never materialize, while ignoring potential impacts to the Delta and its ESA- and CESA-listed fish populations. Expanding the Pacheco Reservoir and exporting even greater amounts of water from the Delta would contribute to worsened conditions in the Delta, such as increased levels of salinity and reduced Delta outflows.

Currently, Valley Water's contracts provide for the import of roughly 252,500 acre-feet per year (152,500 of CVP water and 100,000 of SWP water) from the Delta. (DEIR, p. 2-7.) According to Valley Water's website, it imports an average of 170,000 acre-feet per year.¹ The Project would create the possibility of an additional 82,500 acre-feet of water being exported from the Delta for storage by Valley Water under the Project.²

The DEIR determined that the impact to special-status anadromous and resident fish and their habitat in the Delta would not be substantial. (DEIR, pp.3.6-79 & 80.) The DEIR comes to this conclusion by simply writing off the changes caused by additional diversions in the Delta as "negligible." However, this conclusory language fails to consider the cumulative impacts water

¹ <https://www.valleywater.org/your-water/where-your-water-comes/imported-water>

² The DEIR did not contain all of this information, calling into question whether the DEIR meets the CEQA requirements of an informational document.

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exports have on the Delta watershed. The DEIR fails to disclose the Project's cumulative contribution to already severely stressed conditions in the Delta.

Additionally, the DEIR ostensibly relies on the 2019 CVP Biological Opinion ("BiOp") to cover the Project's potential impacts on Delta salmonids. (DEIR, p. 3.6-170.) However, it is unclear whether the 2019 BiOp even considered potential increases in the amounts of water Valley Water may receive from the Delta due to enlarged storage. That BiOp also did not consider the timing of such exports. Furthermore, the Project may create the capacity for water transfers that fall well outside the activities authorized by the BiOp. Additionally, that 2019 BiOp has been challenged in two U.S. Federal District Court (Eastern Dist. of California) cases (*PCFFA, et al. vs. Raimondo*, Case No: 1:20-cv-00431; *California Natural Resources Agency (CNRA), et al., vs. Raimondo*, Case No: 1:20-cv-00426) as "arbitrary and capricious" as well as "not in accordance with the best available science," and has been administratively withdrawn by the Biden Administration for ESA Sec. 7 re-consultation as of October 1, 2021. Therefore, reliance on the 2019 BiOp for coverage of Project take may be unfounded.

The DEIR must provide additional information regarding the actual amounts of water that could be diverted from the Delta and describe whether those amounts would cause significant impacts. Further, the DEIR must provide clarification regarding the Project's reliance on a separate BiOp and whether that BiOp considered the potential impacts of an additional project. Without such information it is impossible to determine the extent of the Project's impacts on Delta fisheries.

Please place my organization on the notice list for updates regarding the Project. PCFFA and IFR are both very concerned that the Project would only further strain California salmon fisheries.

Sincerely,



Glen H. Spain, J.D.,
NW Regional Director/
General Legal Counsel
PCFFA and IFR