



California Sportfishing
Protection Alliance

"An Advocate for Fisheries, Habitat and Water Quality"

August 28, 2009

Mr. Louis Moore
Bureau of Reclamation
2800 Cottage Way, MP-700
Sacramento, CA 95825

Re: Comments on Draft Environmental Impact Statement for Delta-Mendota Canal/California Aqueduct Intertie

Dear Mr. Moore:

The California Water Impact Network (C-WIN) and the California Sportfishing Protection Alliance (CSPA) have reviewed the Draft Environmental Impact Statement (DEIS) for the Delta-Mendota Canal/California Aqueduct connection Intertie (Intertie). The proposed project would increase Central Valley Project (CVP) pumping from the Delta at the Jones Pumping Plant through construction a physical pipeline between the two canals which would allow pumping of up to 457 cfs from the Delta-Mendota Canal (DMC) to the California Aqueduct, or 900 cfs gravity flow from the California Aqueduct to the DMC. The proposed project could result in an additional 250,000 AF of pumping from the Delta annually, primarily to serve Westlands Water District and other western San Joaquin Valley CVP agricultural customers.

We find that the environmental document is highly inadequate and the conclusion that there are no significant environmental impacts and therefore no need for mitigation is erroneous. Furthermore, we find that the use of a 2005 Mitigated Negative Declaration by the San Luis Delta Mendota Water Authority is grossly inadequate in meeting the requirements of the California Environmental Quality Act (CEQA), and that an Environmental Impact Report (EIR) should be prepared with the California Department of Water Resources acting as the CEQA lead agency.

The recent biological opinions (BO's) on the Central Valley Project/State Water Project Operations Criteria and Plan (CVP/SWP OCAP) by the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service are ignored in the document, both in terms of defining existing requirements and using the standards contained in the BO's for analysis purposes. Instead, the DEIS claims to have conducted a worst-case analysis, but its conclusion that small impacts to water quality, fisheries, reservoir carryover storage and Delta tidal hydraulics are not significant is unwarranted. The DEIS fails to disclose that the Bureau and the California Department of Water Resources repeatedly violate existing Delta water quality standards and objectives, and

that the proposed project would increase both the frequency and intensity of those violations. Such violations are already the subject of Cease and Desist Order proceedings before the State Water Board at this time, and must be analyzed in this document. The DEIS fails to recognize that the Delta is an ecosystem that has already collapsed (i.e. Pelagic Organism Decline and the Salmon collapse) and that continued, incremental increases in pumping is a significant impact on these ecological and fishery resources, as well as Delta agriculture.

Construction of the Intertie concurrent with ongoing Delta water quality violations by the CVP does not comply with Public Law 108-361 (CALFED Authorization), which requires all CVP Delta water quality standards and objectives be met prior to construction of the Intertie.

Additionally, the DEIS ignores impacts to water quality/temperature objectives protective of salmon in the Sacramento and Trinity Rivers. The analysis completely fails to mention or analyze the 600,000 AF minimum carryover storage requirement for Trinity Reservoir contained in the 2000 Biological Opinion by the National Marine Fisheries Service for the Trinity River Record of Decision. Neither does the DEIS examine consistency with State and Federal Fish Doubling goals.

DEIS alternatives analysis does not examine an alternative to limit groundwater pumping which continues to create and exacerbate capacity limitations for the DMC and possibly the California Aqueduct as well.

The cumulative impacts section fails to consider cumulatively significant impacts such as increased groundwater pumping and subsequent subsidence along the DMC, facilitated by American Recovery and Reinvestment Act of 2009 (ARRA) funding, the combined water permit places of use for the CVP and SWP, as well as renewal of the CVP's San Luis unit long-term water contracts and associated drainage issues.

Our specific comments are included in the attached pages. We urge you to withdraw the DEIS and prepare a revised Draft EIS/Environmental Impact Report that complies with both the National Environmental Policy Act and the California Environmental Quality Act. However, until the CVP meets its share of Delta water quality standards and objectives, the Intertie Project is prohibited by federal law from proceeding and it should be abandoned.

Mr. Louis Moore, Bureau of Reclamation; C-WIN/CSPA comments on DEIS for Delta-Mendota Canal/California Aqueduct Intertie Project
August 28, 2009
Page 3 of 12

Respectfully submitted,



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SPECIFIC C-WIN/CSPA COMMENTS ON INTERTIE DEIS

Salmon and Smelt Biological Opinions are not considered- The DEIS completely ignores the Reasonable and Prudent Alternatives (RPA) identified in the recent Biological Opinions for Central Valley salmon and Delta smelt. It mentions the Biological Opinions, but does not analyze the different alternatives in terms of how well they meet the RPA's. The DEIS instead treats the Biological Assessment for the Central Valley Project/State Water Project Operations Criteria and Plan (OCAP) as if it is one and the same with these biological opinions, when in fact, they are not. The National Marine Fisheries Service and the U.S. Fish and Wildlife Service both determined that the OCAP Biological Assessment would cause jeopardy to listed species, and therefore require several Reasonable and Prudent Alternatives. Specifically, the salmon biological opinion cites (page 629-630) adverse effects from CVP pumping as follows:

“The adverse effects of the proposed action identified in the NMFS Biological Opinion includes:

1) Diversion from the North Delta into the Delta interior of early emigrating winter-run juveniles, yearling spring-run, and CV steelhead, through the operation of the DCC gates in late fall and early winter.

2) Enhanced vulnerability of juvenile salmonids to entrainment and indirect mortality, through alteration of the hydrodynamics of the interior and south Delta waterways, due to the influence of export pumping actions in winter and spring.

3) Enhanced vulnerability of CV steelhead from the San Joaquin River basin to exports and export-related changes in hydrodynamics.

4) Direct mortality from entrainment of juvenile salmonids and green sturgeon at the CVP and SWP export facilities.”

Clearly, increased pumping above existing levels facilitated by the proposed project and alternatives would further aggravate impacts to salmonids in the Delta, yet the DEIS fails to acknowledge that incremental increases in impacts to listed and other species would result from the increased pumping at the Jones Pumping Plant.

Some of the salmon Biological Opinion's Reasonable and Prudent Alternatives are specific for the Intertie Project (starting on page 629) including the following:

“Action IV.2.1 San Joaquin River Inflow to Export Ratio- Objectives: To reduce the vulnerability of emigrating CV steelhead within the lower San Joaquin River to entrainment into the channels of the South Delta and at the pumps due to the diversion of water by the export facilities in the South Delta, by increasing the inflow to export

ratio. To enhance the likelihood of salmonids successfully exiting the Delta at Chipps Island by creating more suitable hydraulic conditions in the main stem of the San Joaquin River for emigrating fish, including greater net downstream flows.”

“Action IV.2.3 Old and Middle River Flow Management- Action: From January 1 through June 15, reduce exports, as necessary, to limit negative flows to -2,500 to 5,000 cfs in Old and Middle Rivers, depending on the presence of salmonids. The reverse flow will be managed within this range to reduce flows toward the pumps during periods of increased salmonid presence.”

“Action IV.3 Reduce Likelihood of Entrainment or Salvage at the Export Facilities- Objective: Reduce losses of winter-run, spring-run, CV steelhead, and Southern DPS of green sturgeon by reducing exports when large numbers of juvenile Chinook salmon are migrating into the upper Delta region, at risk of entrainment into the central and south Delta and then to the export pumps in the following weeks.”

“Action Suite IV.4 Modifications of the Operations and Infrastructure of the CVP and SWP Fish Collection Facilities- Objective: Achieve 75 percent performance goal for whole facility salvage at both state and Federal facilities.”

“Action IV.6 South Delta Improvement Program—Phase I (Permanent Operable Gates)

Action: DWR shall not implement the South Delta Improvement Program, which is a proposal to replace temporary barriers with permanent operable gates.”

The DEIS simply acknowledges an incremental increase in impacts to water quality, fisheries, reservoir storage, temperature control, but fails to acknowledge that the proposed project will result in a significant impact by incrementally increasing Delta exports at the Jones Pumping Plant. Furthermore, despite Action IV.6 contained in the salmon Biological Opinion, the DEIS analyzes the various alternatives assuming that the Permanent Operable Gates for the South Delta Improvement Project will be in place, even though the salmon Biological Opinion prohibits them! Given ongoing water quality violations and the Bureau and Department of Water Resources’ blatant disregard for D-1641, the Existing Conditions and No Action alternatives already have significant impacts on fisheries, water quality, Delta agriculture, reservoir storage and Folsom/Sacramento/Trinity temperature control. Additional increases in Delta pumping through the Jones Pumping Plant will exacerbate ongoing water quality violations. Therefore, significant impacts will occur from the Proposed Project.

The DEIS erroneously makes a finding of no adverse impacts to water quality, fisheries, Delta tidal hydraulics and upstream cold water reservoir storage, and therefore erroneously recommends no mitigation, when in fact, all of the alternatives considered have the potential to and are likely to increase Delta pumping by up to 250,000 AF/year. It makes no mention of the specific reasonable and prudent alternatives in the salmon

and Delta smelt Biological Opinions which affect this project and should be included in the analyses. Existing conditions should include, for analytic purposes, ongoing violations of water quality standards and flow objectives contained in D-1641 (see below)! Rather than continuing with denial that the SWP/CVP delta operations do not impact fisheries, the impacts must be identified as significant and the reasonable and prudent alternatives must be listed specifically as mitigation measures.

Reverse flows caused by State and Federal water exports in the South Delta causes increased loss of juvenile outmigrating salmon from the Sacramento River as well as take of Delta smelt and longfin smelt. The DEIS simply writes off this hydrodynamic phenomenon as a small, insignificant impact to listed species, even though cumulatively it is extremely significant, as evidenced by the salmon collapse and the Pelagic Organism Decline. It is a death by a thousand cuts.

Decreased cold water reservoir storage in the Bureau's Shasta, Trinity and Folsom reservoirs is impacted, albeit slightly, and written off as an insignificant impact. However, the issue of cold water carryover storage is addressed extensively in the salmon Biological Opinion. This biological opinion makes clear that operations proposed in the OCAP Biological Assessment will aggravate depleted upstream cold water pools through increased upstream reservoir releases in order to increase pumping at the Jones Pumping Plant.

Temperature control in the Sacramento River is not adequately addressed or analyzed. The alternatives analysis should examine the frequency of violations of Sacramento River Basin Plan temperature requirements to protect salmon. The Water Quality Control Plan for the Sacramento River contains a 56 degree (Fahrenheit) requirement between Keswick Dam and Hamilton City¹, which is implemented through the State Water Resources Control Board's (SWRCB) Water Right Order 90-05.²

Similarly, the National Marine Fisheries Service's 2000 Biological Opinion for the Trinity River Record of Decision contains a 600,000 AF minimum cold water pool for Trinity Reservoir to protect salmon and steelhead.³ That minimum cold water pool was designed to meet downstream Trinity River temperature objectives approved by the State Water Resources Control Board and U.S. Environmental Protection Agency.⁴

¹ See Table III-4 in the Water Quality Control Plan (Basin Plan) for the Central Valley Regional Water Quality Control Board, Central Valley Region, Fourth Edition; accessed at:

http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr.pdf

² See SWRCB WR Order 90-05, page 54, condition 1; accessed at

http://www.swrcb.ca.gov/waterrights/board_decisions/adopted_orders/orders/1990/wro90-05.pdf

³ See page 49 term and condition 7b, accessed at

http://www.fws.gov/arcata/fisheries/reports/technical/TREIS_BO_NMFS.pdf

⁴ See Table III-1, footnote 5 on page 3-8.00 in the Water Quality Control Plan for the North Coast Region, North Coast Regional Water Quality Control Board, January 2007; accessed at:

http://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/083105-bp/070605_Basin_Plan.pdf

Water Right Order 90-05 implements a portion of those Basin Plan temperature requirements for the Trinity River. However, the DEIS fails even to mention minimum pool and temperature requirements, let alone analyze how often these requirements would be violated by implementation of the Proposed Project or other alternatives. The analysis contained in the "Trinity River Mainstem Fisheries Restoration EIS/EIR"⁵ provides an excellent framework to evaluate temperature impacts in both the Trinity and Sacramento rivers.

The Trinity Adaptive Management Working Group (TAMWG), a Federal Advisory Committee established under the Trinity River Record of Decision, has identified adequate Trinity cold water carryover storage as a crucial fisheries issue. They believe that the Bureau of Reclamation is ignoring this issue, as evidenced by projections of low reservoir storage and a possible temperature emergency in 2009. A March 30, 2009 letter⁶ to the Trinity Management Council (TMC) stated as follows:

"No matter what release schedule is approved, TAMWG recommends that the TMC write the Bureau of Reclamation requesting that it adjust operations so as to maintain a minimum carryover pool in Trinity Lake to avoid any violation, in the event the Trinity Basin experiences consecutive dry and/or critically-dry water years, of the Trinity River water temperature requirements specified in State Water Resources Control Board Water Right Order WR 90-05, recognizing that the State Board both issued and controls the Bureau's permits to divert water from the Trinity Basin."

It is clear that the TAMWG would find even a small decrease in Trinity carryover storage a significant impact. Therefore the finding that there is no significant impact to upstream reservoir cold water storage and Trinity River temperature compliance is inaccurate, misleading, and just plain wrong.

Fish Doubling Goals in State and Federal Law are not considered. The requirement to double Central Valley fish populations was not considered in either the DEIS (See California Fish and Game Code Section 6900-6924 and Public Law 102-575, Section 3406(b)(1), the Central Valley Project Improvement Act of 1992). Even the 1% increase in fish mortality identified in the 2005 Mitigated Negative Declaration represents a large number of dead fish, including listed species, and is inconsistent with the state and federal fish doubling goal.

The proposed action violates Public Law 108-361, the Water Supply, Reliability and Environmental Improvement Act. Section 103(d)(2)(D)(i) requires (prior to

⁵ See http://www.fws.gov/arcata/fisheries/reports/technical/treis/final_document_new.html

⁶ See letter from Trinity Adaptive Management Working Group to Trinity Management Council. March 30, 2009, accessed at <http://www.fws.gov/arcata/fisheries/reports/tamwg/2009/March18/Letter%20to%20TMC%20March%2030,%202009%20from%20TAMWG%20Chairman.JPG>

increasing deliveries through an intertie) that the Secretary of Interior must develop a plan and “...*implementation of a program to meet all existing water quality standards and objectives for which the Central Valley Project has responsibility.*”

However, despite preparation of the plan, it is not being implemented and the Bureau and the Department of Water Resources are responsible for ongoing violations of water quality and flow standards for the Delta including the following:

- March 2009: Delta outflow requirements violated.
- June 2009: San Joaquin River flow requirements violated.
- Since mid-December 2008, South Delta salinity standards have been violated.
- Water transfers are occurring using “Joint Point of Diversion” (JPOD) despite D-1641 prohibiting its use when salinity standards in the south Delta, above, are violated. For instance, the running 30-day average for electrical conductivity- the measure of salinity, at Old River near Tracy is currently 1.02 umhos/cm. The water quality standard for this period is 0.7 umhos/cm to protect Delta agriculture. South Delta salinity standards have been continually violated the last seven months, imperiling Delta fish populations and Delta farming operations

These are routine events in the wake of the adoption of D-1641 in 2000. A State Water Resources Control Board 2006 Cease and Desist Order requiring the projects to comply with D-1641 salinity requirements in south Delta river channels has not been complied with nor enforced by the State.

Therefore, since existing Delta standards and objectives are not being met, the Intertie project is illegal and must not be allowed to proceed. If the proposed project will increase the amount and level of existing water quality violations, it is clearly a significant impact under NEPA and CEQA.

Alternatives Analysis is Inadequate

Restriction of groundwater pumping along the DMC is not considered as an alternative or part of an alternative to minimize or halt ongoing subsidence and subsequent capacity reduction in the DMC, which is a recognized problem in meeting the Purpose and Need of the Proposed Project.

The recent approval of \$32.9 million in funding through the American Recovery and Reinvestment Act of 2009 (ARRA) for construction and/or renovation of over 100 wells, mostly along the Delta Mendota Canal and the California Aqueduct in an area of continued groundwater overdraft assures that subsidence and continued reduction in the capacity of both aqueducts will continue. A recent report by the U.S. Geological Survey developed a Central Valley Hydrologic Model (CVHM) “*that accounts for integrated, variable water supply and demand, and simulates surface-water and*

*groundwater-flow across the entire Central Valley system.*⁷ The report identifies a significant amount of land subsidence from overdraft along the Delta Mendota Canal and California Aqueduct. A revised DEIS/DEIR should include an alternative which includes regulation of groundwater pumping in order to halt continued subsidence and resultant reduction in capacity of the DMC. The CVHM should be used to analyze the performance of each alternative in terms of reduction in subsidence as it relates to the purpose and need to utilize the DMC at its full capacity.

Impacts from increased delivery of water to drainage-impaired lands are not evaluated. The proposed project would increase deliveries to drainage-impaired lands in the San Luis Unit above current levels. A revised DEIS/DEIR should be issued which examines the drainage impacts of increased delivery of water to lands which create seleniferous, salty drainage. Alternative analysis compared to Existing Conditions and No Action includes the following:

- ❖ How much additional drainage will be created?
- ❖ How many more acres per year will turn to bare soil evaporation?
- ❖ How much more contamination of the various surface waters and aquifers will occur and how much additional seepage will there be in the San Joaquin River, including volume, but also loading of selenium, boron and salt?
- ❖ How does the proposed project affect the Grasslands Bypass Project?
- ❖ How does the proposed project relate to resolution of San Luis Drainage problems?
- ❖ Is the Proposed Project consistent with the California Constitution's prohibition on Wasteful and Unreasonable Use of Water (Article X, Section 2)?
- ❖ What are the indirect and direct costs to society from creation of increased contaminated drainage water?

Cumulative Impact Analysis is Inadequate

The proposed Intertie Project would cumulatively impact Delta water quality and fisheries because the federal and State water projects are already in violation of D-1641 water quality and flow standards, as stated above, thus making a mockery of plans to operate the Intertie in compliance with measures protective of water quality and fisheries. The Pelagic Organism Decline and an unprecedented two consecutive years with no commercial fishing for Sacramento River Chinook salmon indicate a system in total collapse. Given this level of ecological destruction, it is unconscionable that Reclamation would find that taking additional tens, if not hundreds of thousands of acre-feet of water from the Delta is not a significant impact, given the fisheries' collapse.

The cumulative impact analysis does not even mention that approximately 1.4 million AF of water in the San Luis Unit contracts is up for renewal within the next few months. This is a significant issue and could directly impact the need for increased or decreased

⁷ Faunt, C.C., ed., 2009, Groundwater Availability of the Central Valley Aquifer, California: U.S. Geological Survey Professional Paper 1766, 225 p. See <http://pubs.usgs.gov/pp/1766/>

Delta exports through significant retirement of drainage-impaired lands in the San Luis service area of the CVP.

The cumulative impacts section completely fails to mention the San Luis Drainage Settlement/San Luis Drainage Feature Re-evaluation Record of Decision. The San Luis Drainage Settlement would transfer a million AF of water under a 9d permanent water contract, as well as potentially some federal facilities to the San Luis contractors. The proposed San Luis Drainage Feature Re-evaluation Record of Decision would cost an estimated \$2.7 billion dollars, and yet Reclamation's feasibility study conducted in 2008 found that this technology was far from feasible at this time.

The cumulative impacts section also completely fails to mention DWR's 2008 Drought Water Bank and the combining of the CVP and SWP Places of Use by the State Water Resources Control Board. There are significant cumulative impacts to Delta water quality, fisheries and tidal hydrology from the additional Delta exports during a series of dry years, as evidenced by the ongoing water quality and flow violations mentioned above. The increase in proposed water transfers using CVP water is also not mentioned.

The existing 2005 Mitigated Negative Declaration by the San Luis Delta Mendota Water Authority (SLDMWA) is inadequate to approve this project:

The CEQA documentation for this project is a 2005 Mitigated Negative Declaration approved by the San Luis Delta Mendota Water Authority. The 2005 Negative Declaration (MND) is faulty and an EIR should be prepared for the following reasons:

Incorrect CEQA Lead Agency- The California Department of Water Resources (DWR) should be the CEQA lead agency for this project. In an August, 2009 letter to the National Marine Fisheries Service, DWR Director Lester Snow stated "*...it is impossible to effectively address many of the federal operations in the Delta without involving participation and cooperation of the Department [of water resources] on behalf of the SWP.*"

- ❖ The project is a direct intertie between the CVP and SWP, including significant reconstruction of a portion of the lining of DWR's California Aqueduct. The California Department of Water Resources operates the SWP. The purpose of the project is to create a direct connection between the federal Central Valley Project (CVP) and the State Water Project (SWP).
- ❖ SLDMWA has 32 member agencies, only one of which is a SWP contractor, the other 31 are federal contractors
- ❖ The Court of Appeal in the Monterey Amendments litigation clearly stated that DWR is the "state agency charged with the statewide responsibility to build, maintain and operate" the SWP. The court further stated that it is "incongruous

to assert that any of the regional contractors," could be the CEQA lead agency for such a project.

The federal courts rejected a FONSI and an EIS was prepared- The fact that the Bureau of Reclamation lost in federal court on an Environmental Assessment/Finding of No Significant Impact for the same project and has now prepared an EIS is indicative that the project has significant impacts under CEQA, a Mitigated Negative Declaration is inadequate, and an EIR is required.

A Mitigated Negative Declaration is inappropriate because circumstances have changed dramatically since 2005.

- ❖ The Delta's Pelagic Organism Decline (POD)
- ❖ The collapse of the Sacramento River Chinook fishery
- ❖ A new biological opinion on Delta Smelt by the U.S. Fish and Wildlife Service
- ❖ A new biological opinion on Central Valley salmon and steelhead by the National Marine Fisheries Service
- ❖ Below average precipitation and runoff for the past 3 years
- ❖ Significant funding for additional groundwater depletion and subsidence through ARRA funding of over 100 wells along the DMC.
- ❖ Suspension of water quality standards through the Governor's Drought Declaration
- ❖ Consolidation of the CVP and SWP permitted places of use by the SWRCB
- ❖ Approval of a State/Federal Water Drought Water Bank
- ❖ A proposed 10-year time extension to continue waiving Basin Plan selenium, salt and boron water quality standards for the Grasslands Bypass Project

The 2005 Mitigated Negative Declaration and the 2009 Draft EIS fail to analyze adequate alternatives.

- ❖ An alternative to reduce Delta exports and reduce demand through recycling, conservation and groundwater management/cleanup was never considered in either document.
- ❖ An alternative to examine how to reduce demand for DMC capacity through permanent retirement of drainage-problem lands in the San Luis Division of the CVP was not analyzed.
- ❖ The capacity of the Delta-Mendota Canal is compromised in part by subsidence due to groundwater overpumping, Neither the 2005 nor the 2009 documents propose an alternative to regulate groundwater in the area to prevent future loss of capacity through subsidence along the DMC and California Aqueduct. Neither document utilizes the new groundwater report and modeling capability for Central Valley aquifers produced by USGS, "*Groundwater Availability of the Central Valley Aquifer, California*" (See <http://pubs.usgs.gov/pp/1766/> <<http://pubs.usgs.gov/pp/1766/>>).

The 2005 MND fails to identify significant impacts from the proposed project, as well as the Existing Conditions and No Action alternatives (as does the 2009 DEIS). Given the ongoing water quality and flow violations, the assumption that there are not significant impacts from the proposed project is erroneous. The proposed project would allow up to an additional 250,000 AF be pumped out of the Delta annually. Delta pumping since 2001 has increased significantly above historic levels. Numerous listed species are adversely affected by the combined CVP and SWP operations. The POD and salmon collapse are indicative of the fact that Delta exports and water deliveries are unsustainable. The 2005 Draft Initial Study identifies the project as “a *substantial change in CVP pumping capability*.” (Draft EA/IS p. 78). See CEQA Guidelines Section 15065 (a)(1)

The 2005 Mitigated Negative Declaration (and the 2009 DEIS) completely fail to acknowledge significant cumulative impacts from the proposed project. Given the ongoing water quality violations, the POD, salmon collapse, the drought mentioned above, there is no acknowledgement that any additional pumping from the Delta will further aggravate a system already in a state of collapse. See CEQA Guideline Sections 15064(h)(1) and 15065(a)(3).

Despite the recent Fish and Game Code Section 2080 Consistency Determination by the California Department of Fish and Game for SWP operations, there has yet to be a comprehensive CEQA review of the cumulative impacts of the CVP/SWP Operations Criteria and Plan (OCAP), including, but not limited to a CEQA review of Delta smelt, longfin smelt, spring Chinook and winter run Chinook take with identification of “full mitigation” required by the California Endangered Species Act. An EIR is required in this instance.

Fish Doubling Goals in State and Federal Law are not considered. The requirement to double Central Valley fish populations was not considered in either the 2005 Mitigated Negative Declaration or the 2009 DEIS (See California Fish and Game Code Section 6900-6924 and Public Law 102-575, Section 3406(b)(1), the Central Valley Project Improvement Act of 1992). Even the 1 percent increase in fish mortality identified in the 2005 Mitigated Negative Declaration represents a large number of dead fish, including listed species, and is inconsistent with the state and federal fish doubling goal. An EIR is required in this instance.