

From:
To: [EIR-EIS-Comments](#)
Cc:
Subject: FW: COMMENTS ON DRAFT REVISED DRAFT ENVIRONMENTAL IMPACT REPORT/SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT (STATE CLEARINGHOUSE #2001112009) FOR THE SITES RESERVOIR PROJECT IN COLUSA, GLENN, TEHAMA, AND YOLO COUNTIES
Date: Friday, January 28, 2022 2:37:35 PM
Attachments: [Sites_CEQA_comment_ltr_01.28.2022.pdf](#)

From: Vang, BrightMoon@Waterboards <BrightMoon.Vang@Waterboards.ca.gov>
Sent: Friday, January 28, 2022 2:04 PM
To:
Cc: Herrig, Justine@Waterboards <Justine.Herrig@waterboards.ca.gov>
Subject: COMMENTS ON DRAFT REVISED DRAFT ENVIRONMENTAL IMPACT REPORT/SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT (STATE CLEARINGHOUSE #2001112009) FOR THE SITES RESERVOIR PROJECT IN COLUSA, GLENN, TEHAMA, AND YOLO COUNTIES

Good Afternoon,

Attached please find your pdf copy of the above reference letter dated "JAN 28 2022". If you have any questions or concerns regarding this matter, please contact the appropriate staff identified below:

Justine Herrig

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Permitting Section

State Water Board, Division of Water Rights

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Thank you,

BrightMoon Vang

Admin. Clerical

Office Technician

Division of Water Rights

State Water Resources Control Board

State Water Resources Control Board

JAN 28 2022

Sites Project Authority
c/o Alicia Forsythe
P.O. Box 517
Maxwell, CA 95655
EIR-EIS-Comments@SitesProject.org

Dear Ms. Forsythe:

COMMENTS ON DRAFT REVISED DRAFT ENVIRONMENTAL IMPACT REPORT/SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT (STATE CLEARINGHOUSE #2001112009) FOR THE SITES RESERVOIR PROJECT IN COLUSA, GLENN, TEHAMA, AND YOLO COUNTIES

Thank you for the opportunity to comment on the draft Revised Environmental Impact Report/Supplemental Environmental Impact Statement (REIR/SEIS) for the Sites Reservoir Project (Project).

The mission of the State Water Resources Control Board (State Water Board) and the nine Regional Water Quality Control Boards throughout the state (Regional Boards) (collectively Water Boards) is to preserve, enhance, and restore the quality of California's water resources and drinking water for the protection of the environment, public health, and all beneficial uses, and to ensure proper water resource allocation and efficient use, for the benefit of present and future generations.

The State Water Board administers water rights in California and the State and Regional Boards have primary authority over the protection of the State's water quality. The Sites Project will require both water right and water quality approvals from the State Water Board and Central Valley Regional Water Quality Control Board (Central Valley Water Board). Accordingly, the Water Boards are responsible agencies for the Project pursuant to the California Environmental Quality Act (CEQA).

As responsible agencies under CEQA, the Water Boards must review and consider the environmental effects of the Project identified in the draft REIR/SEIS that are within their purview and reach their own conclusions on whether and how to approve the project. (Cal. Code Regs., tit. 14, § 15096, subd. (a).) Responsible agencies should also comment on draft environmental impact reports and negative declarations for projects that will require the responsible agencies' approval. (*Id.*, § 15096, subd. (d).)

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

Accordingly, the Water Boards submit these joint comments. General comments regarding the Project are included below whereas specific comments are included in a comment table as an attachment to this letter. In addition, for each comment in the attached table, the commenting Water Board (or Section within the State Water Board) is identified to facilitate follow up discussion between staff if warranted. Should you have questions or topics for discussion regarding these comments, please contact the appropriate staff identified below.

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General Comments

Consideration of CEQA by the Water Boards

The Water Boards, as responsible agencies under CEQA, will review and consider the draft REIR/SEIS prepared by the Sites Project Authority (Authority) for the Project. Consideration of environmental effects is required before taking any final action, such as issuing a water right permit or a water quality certification pursuant to section 401 of the Clean Water Act. Accordingly, these comments are intended to assist in development of a robust CEQA document capable of supporting actions by the Water

Boards for the Project. Addressing the Water Boards comments provided in this letter may take additional time at this stage for the Project, but availability of this information is expected to result in more timely processing of the Authority's applications for permits and other approvals from the Water Boards. In exercising their independent authority, however, the Water Boards may reach determinations that differ from those presented in the draft REIR/SEIS.

Water Rights

The Project will involve the diversion and use of surface water from the Sacramento River and will require a water right permit. The draft REIR/SEIS states that the Authority intends to file a water right application to appropriate water by permit with the State Water Board. Consideration of such an application is a discretionary action that requires a determination that unappropriated water is available, a review of potential impacts to public trust resources, and a determination that the appropriation of water is in the public interest.

Water Right Processing, Timing, and Hearing

Water right applications can vary greatly in processing time depending on the size and complexity of the project. When a water right application is submitted to the State Water Board, staff will review the application for completeness within 30 days. However, if deficiencies are found that make the application incomplete, the State Water Board will send a deficiency letter which will provide a minimum of 60 days to address deficiencies.

The State Water Board will begin processing the application once it is deemed complete. The Board's first step will be to prepare a public notice of the application. Public noticing of water right applications includes publication to provide existing water right holders and other stakeholders that may be affected by the proposed project information about the project and the opportunity to file protests against approval of the application. The noticing period for the Project would be 60 days. Individuals and other entities may file protests against the water right application if they think that the proposed action will cause injury to an existing water right holder, adversely affect public trust resources, have an adverse environmental impact, or not be in the public interest.

If a valid protest is received during the noticing period, the water right applicant will be prompted to conduct protest resolution. (Wat. Code, § 1333.) Protest resolution typically lasts a minimum of 180 days. Depending on the number and content of the protests, protest resolution may be a lengthy process. Protest resolution may also result in the water right applicant and/or the protestants providing additional information to support their findings and/or claims. (Wat. Code, § 1334.) Protest resolution may result in the applicant conducting additional analysis to investigate matters raised by protestants. A robust draft REIR/SEIS and supporting documentation should assist a water right applicant in resolving protests. In addition to the notice and protest process,

other processing steps run concurrently, such as evaluation of water availability and potential impacts to public trust resources, as discussed below.

This project may involve a petition to acquire a state-filed application. A water right hearing is required if a petition for assignment of a state-filed application is filed. (Wat. Code, § 10504.1.) A water right hearing is also required if there are outstanding protests on a water right application that raise disputed issues of material fact. (Wat. Code, § 1350, 1351.) Whenever practicable, a hearing on a petition for assignment of a state-filed application will be combined with any required hearing on a related application. (See Cal. Code Regs., tit. 23, § 739.) If the water right application for the Project requires a water right hearing, the hearings process generally runs after the steps discussed above, as information generated during processing is relied upon during the hearing. As mentioned above regarding protests, a robust draft REIR/SEIS, addressing all State Water Board comments is expected to greatly assist with this process.

A hearing may take several years to complete. The California Water Commission has provided resources for State Water Board staffing to assist with processing of Proposition 1 Water Storage Investment Program (WSIP) projects, including this project. This dedicated staffing allows for expedited processing. The Authority should be aware that even when a project is considered expedited, hearing on an expedited project will be prioritized as appropriate in regard to other high priority efforts, such as other WSIP projects and other high priority matters that require a hearing, and reprioritization of State Water Board efforts due to drought conditions is a possibility. The Authority has indicated during its CEQA public scoping meetings and in the construction schedule (table 2C-18) in the draft REIR/SEIS that it would like to have all permit approvals for the Project, including any approvals from the State Water Board, by mid-2023. The Authority should be aware that processing a water right application for the Project will take a considerable amount of time due to the complexity of the Project, and the Authority should be prepared to accommodate a process that is likely to take longer to complete than 18 months. The applicant can help speed the hearing timeline, and the entire water rights process, by completing a robust water availability analysis and resolving protests prior to the hearing.

Water Availability and Public Interest

The State Water Board will consider the hydrologic analyses, diversion criteria, and water availability findings included in the draft REIR/SEIS while processing the water right application filed for the proposed project. However, the Authority is advised that the State Water Board is required under the Water Code to make its own independent findings on the availability of unappropriated water to supply the proposed project as a prerequisite to any water right permitting decision. In determining the amount of water available for appropriation, the State Water Board must take into consideration the public interest and the relative benefit to be derived from all beneficial uses of the water concerned, including irrigation, municipal, industrial, recreation, preservation and enhancement of fish and wildlife resources, and the water quality needed to protect

beneficial uses. In order to inform the State Water Board's decision making, the environmental document should include an evaluation of a range of operating criteria as discussed further below. If such analyses are not included in the environmental document, additional hydrologic analyses will likely be required during the water right permitting process to inform and support the State Water Board's water availability findings. These additional analyses may ultimately lead to water availability findings and associated restrictions on the proposed diversions that differ from those presented in the draft REIR/SEIS.

Public Trust

In addition to the State Water Board's obligations under CEQA and the Water Code, the State Water Board has an independent obligation to consider the effect of an application for a water right permit on public trust resources, and avoid or minimize harm to those resources to the extent feasible and in the public interest. (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419, 446-447.). The common law public trust doctrine protects public uses of navigable water bodies, including fishing, recreation, and the preservation of fish and wildlife habitat. Under the public trust doctrine, the State Water Board has a duty of continuing supervision over the appropriation of water. The Board is not confined by past allocation decisions, and the CEQA baseline should not be construed as the appropriate baseline for consideration of the need to protect public trust resources. In addition, it is the policy of this state that all state agencies, boards, and commissions seek to conserve endangered species and threatened species and use their authority in furtherance of the purposes of the California Endangered Species Act. State agencies should not approve projects which would jeopardize the continued existence or habitat of any endangered species or threatened species if there are reasonable and prudent alternatives available consistent with conserving the species or its habitat which would prevent jeopardy. (Fish & G. Code, §§ 2053 & 2055.)

Range of Alternatives

The State Water Board acknowledges the significant benefit of a major new water supply project such as Sites Reservoir to enhance California's water resiliency, where such projects can be designed and operated in a manner that does not exacerbate existing pressures on the Delta ecosystem. In order to provide for the timely processing of the Sites Project water right application and associated approvals, the draft REIR/SEIS should include an evaluation of a reasonable range of operational alternatives, specifically including operating constraints that would result in concentrating diversions during high flow periods when there is excess flow in the system and avoiding proposed diversions during lower flow periods when those flows provide for protection of water quality, fish, and wildlife. As described in the draft REIR/SEIS, the mitigation actions may not be sufficient to reduce operational impacts of the proposed project to less than significant for salmonids, delta smelt, and longfin smelt. Current science indicates that average Delta outflows as high as 42,800 cfs from January through June provide benefits to longfin smelt and other Delta species. Evaluating a range of bypass flows needed to achieve outflows up to this level and other levels that current science identified in the State Water Board's 2017 Scientific

Basis Report indicates is protective of Delta species is important to understand the benefits and tradeoffs of this Project.

The alternatives evaluated in the draft REIR/SEIS all have very similar operational constraints, with relatively minimal bypass flow criteria. Additional operational alternatives should be evaluated in order to provide a reasonable range of alternatives to inform the public and other decision makers of the benefits and impacts of the Project. The alternatives are also needed to provide adequate information to support the State Water Board's independent decision-making process to determine if, and under what conditions, to issue a water right permit or water quality certification for the Project. The operating constraints for the Project identified in the draft REIR/SEIS are based largely on existing regulatory requirements applicable to the existing operations of the State Water Project (SWP) and Central Valley Project (CVP) that were developed without consideration of the Sites Project. Many of these requirements are in the process of being updated to strengthen environmental protections, including the water quality and flow objectives included in the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Plan) and the federal biological opinions issued under the federal Endangered Species Act for the long-term operation of the SWP and CVP.

In prior comments on the Project's environmental documentation, the State Water Board has consistently indicated that a range of operating criteria should be evaluated for the Project to inform the State Water Board's decision making. Specifically, the State Water Board has commented that operating criteria should be evaluated that are consistent with possible updates to the Bay-Delta Plan, which are reasonably foreseeable, as identified in the State Water Board's 2017 scientific basis report in support of potential update and implementation of the Bay-Delta Plan (www.waterboards.ca.gov/water_issues/programs/peer_review/docs/scientific_basis_phase_ii/201710_bdphaseii_sciencereport.pdf) and the State Water Board's 2018 Framework for possible updates to the Bay-Delta Plan. Specifically, bypass flow criteria should be evaluated that are consistent with achieving inflows and outflows of 55 percent of unimpaired flow, with a range of 45 to 65 percent. This information is needed to evaluate water availability for permitting purposes and the potential to meet state approved water quality objectives and standards for certification purposes. If this information is not included in the EIR/EIS, then supplemental analyses may be needed, which could result in longer processing timelines for the Sites water right application and could delay other decisions by the Water Boards.

As you are aware, the California Environmental Protection Agency and California Natural Resources Agency are engaged in efforts to develop a voluntary agreement to implement updates to the Bay-Delta Plan that, if successful, will be submitted to the State Water Board and potentially incorporated into the Bay-Delta Plan. A voluntary agreement, however, would not necessarily contemplate or address operating criteria for new diversion projects or other diverters that are not part of any voluntary agreement. Ideally, the draft REIR/SEIS would evaluate how the project would affect

tributary and Delta outflows that would be provided through a voluntary agreement and demonstrate, through imposition of appropriate operational criteria, that the project would not detract from voluntary agreement flows, including new flows or ambient flows that a voluntary agreement would rely on. This would facilitate a project design that is harmonized with a voluntary agreement and one that is potentially consistent with updated Bay Delta plan criteria. Absent this analysis, the Authority runs the risk of advancing a project that is not compatible with a voluntary agreement.

Evaluation of the Effects of the Project

The environmental document should fully describe how the Project is proposed to be integrated with other major existing and planned water infrastructure projects, many of which involve participants in the Sites project, including planned operations and accounting for those operations. The lack of explanation of how these projects would work together prevents a full understanding of the project. Further, the environmental document relies on the development of future plans to mitigate impacts of the project on water quality and fish and wildlife. The major details of these plans are needed in order to fully evaluate the effectiveness of these mitigation measures and the full impacts of the project.

Water Quality Certification

Section 401 of the Clean Water Act (33 U.S.C. § 1341) requires any applicant for a federal license or permit for an activity that may result in any discharge to waters of the United States to obtain certification from the State that the project will comply with the applicable water quality requirements, including water quality standards promulgated pursuant to section 303 of the Clean Water Act (33 U.S.C. § 1313). Clean Water Act section 401 directs that certifications shall prescribe effluent limitations and other conditions necessary to ensure compliance with the Clean Water Act and with any other appropriate requirements of state law, which includes the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.). Conditions of certification shall become a condition of any federal license or permit subject to certification. The Project requires one or more federal permits and will result in a discharge to waters of the United States, and therefore must obtain a water quality certification from the State Water Board. Since the Project involves a water right activity, the application for a Water Quality Certification should be submitted to the State Water Board, which will coordinate with the Central Valley Water Board on its processing.

The State Water Board's certification must ensure compliance with applicable water quality standards as listed in regional and state water quality control plans. Water quality control plans designate the beneficial uses of water that are to be protected (such as municipal and industrial, agricultural, and fish and wildlife beneficial uses), water quality objectives for the reasonable protection of the beneficial uses and the prevention of nuisance, and a program of implementation to achieve the water quality objectives. (Wat. Code, §§ 13241, 13050, subds. (h), (j).) The beneficial uses, together with the water quality objectives contained in the water quality control plans, and applicable state and federal anti-degradation requirements, constitute California's water

quality standards for purposes of the Clean Water Act. In issuing water quality certification for a project, the State Water Board must ensure consistency with the designated beneficial uses of waters affected by the project, the water quality objectives developed to protect those uses, and anti-degradation requirements. (*PUD No. 1 of Jefferson County v. Washington Dept. of Ecology* (1994) 511 U.S. 700, 714-719.)

Although the draft REIR/SEIS analyzes the Project's potential impacts to environmental resources in comparison to baseline (existing) environmental conditions, the water quality certification process will evaluate the Project's consistency with water quality standards. The evaluation of the Project's consistency with water quality standards may require actions in addition to proposed CEQA mitigation measures.

Central Valley Water Board

The Central Valley Water Board is responsible for protecting the quality of surface and groundwaters of the state through regulatory actions and permitting authorities as provided below. The Project must comply with the requirements listed below by the Central Valley Water Board which includes the Basin Plan, Antidegradation Considerations, Total Maximum Daily Loads (TMDLs) and Impaired Water Bodies, Construction Storm Water General Permit, Waste Discharge Requirements, Dewatering Permit, Limited Threat General NPDES Permit, and NPDES permit.

Basin Plan

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act and has developed the Water Quality Control Plan for the Sacramento and San Joaquin River Basins. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38. For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website: www.waterboards.ca.gov/centralvalley/water_issues/basin_plans

Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The Antidegradation Implementation Policy is available on page 74 at:

www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_201805.pdf

In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

Total Maximum Daily Loads (TMDLs) and Impaired Water Bodies

Shasta Lake, Sacramento River, Lake Oroville, Feather River, Folsom Lake, American River, Yolo Bypass, and the Sacramento-San Joaquin Delta are currently on the Clean Water Act Section 303(d) List of Impaired Waters due to a wide variety of constituents of concern, including chlordane, chlorpyrifos, DDT (Dichlorodiphenyltrichloroethane), diazinon, dieldrin, group A pesticides, invasive species, mercury, PCBs (Polychlorinated biphenyls), and toxicity. Central Valley Water Board staff recommends referencing the most current 303(d) list and requirements contained in existing TMDLs for the potential discharge area of the reservoir within the draft REIR/SEIS.

The Yolo Bypass Sacramento River is identified on the Clean Water Act Section 303(d) List as impaired by mercury because of elevated methylmercury concentrations in fish that pose a risk to wildlife and humans who consume fish. Due to historical mercury and/or gold mining in the watershed, the project boundary likely has deposits of mercury-containing sediments. As project construction is occurring, Central Valley Water Board staff recommends project proponents implement practices to control erosion and minimize discharges of mercury and methylmercury. For instance, Central Valley Water Board staff recommends the implementation of turbidity curtains and/or cofferdams for in-water work to limit the discharge of suspended solids downstream, which will reduce the risk of methylation downstream of mercury that is attached to those suspended solids. The goal is to minimize erosion of the mercury-containing soils in order to protect beneficial uses in this portion of the Sacramento River and to reduce mercury and methylmercury loads moving downstream.

The Central Valley Water Board requests that the Project proponent coordinate with Central Valley Water Board TMDL staff to develop a monitoring plan that would reduce the potential for methylation and mercury contamination, or contamination of any other constituents of concern, in the surrounding areas that may be influenced by discharge from the reservoir from regular operation, as identified within mitigation measures discussed in Chapter 6 of the draft REIR/SEIS. Furthermore, due to concerns with likely spikes in methylmercury with the operation of the reservoir, the Central Valley Water Board recommends that reservoir managers monitor and report mercury in fish tissue periodically (minimum every 10 years) in a range of species, following Surface Water Ambient Monitoring Program (SWAMP) Safe To Eat Workgroup protocols.

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). For more information on the Construction General Permit, visit the State Water Board website at:

www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.html

Waste Discharge Requirements – Discharges to Waters of the State

If USACE determines that only non-jurisdictional waters of the State (i.e., “non-federal” waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation. For more information on the Waste Discharges to Surface Water NPDES Program and WDR processes, visit the Central Valley Water Board website at:

https://www.waterboards.ca.gov/centralvalley/water_issues/waste_to_surface_water/

Dewatering Permit

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Risk General Order) 2003-0003 or the Central Valley Water Board’s Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Risk Waiver) R5-2013-0145. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Risk General Order and the application process, visit the Central Valley Water Board website

at: www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf

For more information regarding the Low Risk Waiver and the application process, visit the Central Valley Water Board website

at: www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2013-0145_res.pdf

Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Limited Threat Discharges to Surface Water* (Limited Threat General Order). A complete Notice of Intent must be submitted to the Central Valley Water Board to obtain coverage under the Limited Threat General Order. For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at: www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2016-0076-01.pdf

NPDES Permit

If the proposed project discharges pollutants to waters of the United States and the discharge is not eligible for coverage under the Limited Threat General NPDES Permit, the proposed project will require coverage under an individual National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit. For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at: www.waterboards.ca.gov/centralvalley/help/permit/

Tribal Resources

For projects that may involve tribal resources, the Water Boards are committed to having meaningful involvement and consultation with California Native American Tribes on actions that may have an impact to tribal lands, tribal interest, and/or tribal cultural resources consistent with the mission of the Water Boards: www.waterboards.ca.gov/about_us/public_participation/tribal_affairs/docs/california_water_board_tribal_consultation_policy.pdf

Equity Resolution

The State Water Board adopted Resolution No. 2021-0050, Condemning Racism, Xenophobia, Bigotry, and Racial Injustice and Strengthening Commitment to Racial Equality, Diversity, Inclusion, Access, and Anti-Racism (https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2021/rs2021_0050.pdf). Any action by the State Water Board related to the Project will take this resolution into consideration ensuring there is no conflict with the resolution.

Closing

We appreciate the opportunity to participate in the environmental review process. If you have any questions regarding these comments please contact the appropriate staff identified above.

Sincerely,



Erik Ekdahl, Deputy Director
State Water Board, Division of Water Rights



Patrick Pulupa, Executive Officer
Central Valley Regional Water Quality Control Board

Attachment: Comment Table for Sites Reservoir Project's Draft REIR/SEIS

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COMMENT TABLE FOR SITES RESERVOIR PROJECT’S DRAFT REIR/SEIS
*COMMENTERS: PERMITTING AND SECTION (PERM); WATER QUALITY CERTIFICATIONS & PUBLIC TRUST SECTION (WQ);
BAY-DELTA SECTION (BAY-DELTA)*

Executive Summary

Comment No.	Page No.	Comment	Commenter
1	ES-7	For the No Project Alternative, the Executive Summary identifies that most water users would use their total contract amounts and most senior water right users would also fully use or divert pursuant to their water rights. However, many contractors and water right holders do not use their full contract amounts or water rights even when those supplies are available. This should be clarified. A summary of historical uses for the different groups of water users should be provided.	Bay-Delta
2	ES-7	The alternatives evaluated in the draft REIR/SEIS appear to be minor variations of one alternative and do not appear to provide a reasonable range of alternatives pursuant to CEQA requirements or meet the State Water Board’s informational needs. It does not appear that the action alternatives incorporate reasonably foreseeable changes to regulatory instream flow requirements as described in the Board’s scientific basis report in support of potential update and implementation of the Bay-Delta Plan. Potential changes include new and modified Sacramento River inflow, Delta outflow, and cold water habitat objectives, as well as other requirements to ensure the reasonable protection of fish and wildlife beneficial uses. The Board released a final report identifying the science upon which changes to the Bay-Delta Plan will be based. The draft REIR/REIS should analyze a range of bypass flows, diversion rates and amounts, that are consistent with the scientific basis report regarding potential modification to flow requirements and cold water habitat objectives for the protection of fish and wildlife. This information is needed to evaluate water availability for permitting purposes and potential to meet state approved water quality objectives and standards for certification purposes. https://www.waterboards.ca.gov/water_issues/programs/peer_review/docs/scientific_basis_phase_ii/201710_bdphaseII_sciencereport.pdf .	Bay-Delta

Chapter 1: Introduction

Comment No.	Page No.	Comment	Commenter
3	1-7	<p>The environmental document should identify and evaluate alternative operational criteria for the project that avoid additional modification of baseline flows in most water years to protect the aquatic ecosystem and fish populations in the Bay-Delta Watershed and to demonstrate proposed project feasibility taking into consideration possible updates to flow-dependent water quality objectives in the Bay-Delta Plan. Water diversions through infrastructure such as dams, reservoirs, and distribution facilities (canals, pumps, pipelines) have substantially modified the volume, timing, frequency, rate, and duration of river flows and these modifications are primary contributors to the decline, persistent low abundance, and high extinction risk for multiple native fish species and other aquatic organisms in the Bay-Delta watershed. A significant amount of scientific information indicates that existing river flows, Delta outflows, and interior Delta flows (baseline flows) are not sufficient for halting and reversing declines of multiple fish populations in the Bay-Delta watershed. Additional surface storage, conveyance, and operational flexibility in the Proposed Project allows for greater impairment of baseline flows (volume, timing, frequency, rate, and duration) in the Bay-Delta watershed and allows for increases in adverse impacts on depleted fish populations and other aquatic organisms. Modifications to the baseline hydrograph (volume, timing, frequency, rate, and duration) in the riverine and tidal portions of the Bay-Delta watershed and subsequent impacts to ecological resources including fish populations should be estimated and disclosed in the context of changes from baseline and unimpaired flow conditions. Given the potential for additional degradation of baseline flows associated with the Proposed Project, and the relationship between flows and fish population viability, operational alternatives that avoid loss of baseline flows in most water years are needed to assess the feasibility of mitigating ecological and fishery impacts in the context of anticipated updates to the Bay-Delta Plan and to produce a record in support of multiple Board decisions.</p>	Bay-Delta

Chapter 2: Project Description and Alternatives

Comment No.	Page No.	Comment	Commenter
4	-	Chapter 2 indicates that a benefit of the Sites Project is exchanges in releases from Shasta and Folsom for cold water pool maintenance and other environmental needs. However, the CalSim and HEC5Q modeling does not show noticeable benefits of such exchanges. Any assertions of cold water pool benefits should be supported with quantitative results that demonstrate such benefits.	Bay-Delta
5	2-29	The Project proposes to divert water during times that Shasta Reservoir should be minimizing loss of storage or gaining storage for temperature management during the summer and fall. The environmental document should include proposed operating constraints specifically designed to avoid impacts to Shasta and Trinity River storage, temperature management, and impacts to salmonid redd dewatering and stranding associated with these operations.	Bay-Delta
6	2-29	More details should be provided about the timing and magnitude of releases for specific Storage Partners and the route that water would be conveyed to ensure that possible impacts associated with these issues can be fully evaluated and disclosed. In addition, the total quantity of diversions, including losses, should be identified and evaluated.	Bay-Delta
7	2-29	The environmental document states that the Authority intends to apply for and obtain a water right permit from the State Water Board for operations of the Project and that actual operations will depend upon the terms and conditions of the water right permit. As discussed above, in order to inform the State Water Board's decision making on appropriate operational constraints for the project, a reasonable range of operational constraints should be evaluated in the environmental document and the public should be given the opportunity to review and comment on those analyses before the environmental document is finalized. Specifically, a range of operations that include criteria that provide additional protection for fish and wildlife should be evaluated, including Sacramento River and Delta outflow bypass flows.	Bay-Delta
8	2-30	The proposed Project states that "Sites Reservoir would be filled through the diversion of Sacramento River water that generally originates from unregulated tributaries to the Sacramento River downstream from Keswick Dam. A limited volume of the diversions to Sites Reservoir would come from flood releases from Shasta Lake." The draft	Perm

		<p>REIR/SEIS should be revised to include discussion as to how water targeted for diversion by the Project will generally be limited to water generated in the watershed below Keswick Dam. In the limited circumstances where flood releases from Shasta Lake of water originating above Keswick Dam will be relied upon, the draft REIR/SEIS should be revised to clearly define what constitutes “flood releases” and should explain how flood releases will be tracked to ensure the Project is diverting only “flood releases” to the extent it diverts water that originates above Keswick Dam. Additionally, even if a limited volume of water comes from flood releases, please note that the entire watershed from the lowest proposed point of diversion (Hamilton City) upstream should be considered when evaluating water availability, as well as downstream instream flow needs.</p>	
<p>9</p>	<p>2-31, 32</p>	<p>The Bend Bridge Pulse Protection specifies criteria for qualified pulse flow events that would occur during October through May for the protection of migrating juvenile salmonids. For these criteria, the fish pulse protection is flow-based to simulate the effect of pulse flows on fish migration. The draft REIR/SEIS should identify fish pulse protection criteria and associated modeling rules to simulate implementation. If fish pulse protection criteria are based solely on real-time fish monitoring, flow-based modeling may overestimate actual river flows, which may be lower due to real-time decision making by water resource managers and advice from technical working groups. Pulse protection criteria should incorporate options for flow-based pulses to trigger migration and pulse flows in response to real-time fish monitoring information. Identifying these criteria will allow modeling to more accurately reflect flow conditions resulting from pulse protection. The pulse flow event is defined as 3-day trailing averages at the Sacramento River at Bend Bridge and tributary flows. A 3-day “trailing” average has the potential to miss the initial “pulse”, i.e., within the first three days of a precipitation event, of flow and fish migration. Alternative methods should be considered to protect the initial pulses of flow and migrating fish, such as using the California Nevada River Forecasting Center daily river forecast and/or fish monitoring data. The second bullet item describes a qualified pulse event as the 3-day trailing average flows at Bend Bridge (Sacramento River) flow greater than 8,000 cfs “and” tributary flow upstream exceeding 2,500 cfs. The inclusion of the conjunction “and” indicates that the pulse flow criteria for both the Sacramento River and tributaries must be met for a pulse protection to be initiated. In order to protect migrating fish from both the mainstem Sacramento River and the tributaries, however,</p>	<p>Bay-Delta</p>

		<p>pulse flow criteria should be established separately for the mainstem Sacramento River and the tributaries. In addition, the draft REIR/SEIS should explicitly state whether the tributary flow of 2,500 cfs criteria represents the combined flows for the three tributaries (Cow, Cottonwood, and Battle creeks) or for an individual tributary.</p>	
10	2-33	<p>The minimum bypass flow in the Sacramento River at RBPP is proposed to be 3,250 cfs. The draft REIR/SEIS states that when the Sacramento River flows exceed 3,250 cfs at RBPP that diversions would occur “until the full 2,100 cfs diversion could be achieved at flows of approximately 7,860 cfs.” Diversion at this rate represents about 27% of Sacramento River flows. Further, Figure 2-26 shows that any, and all, flows above the minimum bypass flows (3,250 cfs) will be diverted until the diversion rate reaches 1,801 cfs at the Sacramento River flow of 5,050 cfs, which represents a diversion of approximately 36%.</p> <p>A full analysis should be provided of the potential impacts of diverting over a third of the flow of the Sacramento River, including an analysis for all months and water year types, as well as possible shorter term impacts on rearing and migration of salmon and other native fishes.</p>	Bay-Delta
11	2-33	<p>The proposed minimum bypass flow in the Sacramento River at Hamilton City Pumping Station is 4,000 cfs. The draft REIR/SEIS states that when the Sacramento River flows exceed 4,000 cfs at Hamilton City Pumping Station that diversions would occur “until the full 1,800 cfs diversion could be achieved at flows of about 5,800 cfs.” The diversion at this rate represents about 31% of Sacramento River flows. Further, Figure 2-27 shows that any, and all, flows higher than the minimum bypass flows (4,000 cfs) will be diverted until the diversion rate reaches 1,800 cfs.</p> <p>An analysis of the impact of these high rates of diversion compared to the Sacramento River flow at Hamilton City Pumping Station has not been provided in the draft REIR/SEIS. Table 11-7 only provides the percentages of diversion at Hamilton City Pumping Station up to 24% or 25%. (June of Wet years, May and June of Below Normal, Dry, and Critical years). This issue needs further clarification.</p>	Bay-Delta
12	2-33	<p>The Hamilton City Pump Station is located at an oxbow channel away from the mainstem Sacramento River, thus experiences different hydraulic conditions. Diversion criteria at</p>	Bay-Delta

		the Hamilton City Pump Station should take into account additional bypass flow needs for an oxbow channel needed to protect fish species.	
13	2-33	The operational criteria should identify ramping rates for diversions appropriate to protect native fish species that may be residing near or migrating past diversion facilities.	Bay-Delta
14	2-36	The environmental document states that the critical months for cold water pool management are August through September. Cold water pool protection is important year-round and most important from April through November to protect winter-run, spring-run, and fall-run Chinook salmon. High releases throughout this period reduce cold water supplies available later in the year. Cold water is needed throughout this period until ambient temperatures cool in the fall.	Bay-Delta
15	2-36	The Project is proposing the use of “exchanges” of Sites water in-lieu of releases from Central Valley Project (CVP) and State Water Project (SWP) reservoirs. The draft REIR/SEIS is unclear as to how these “exchanges” are coordinated between the proposed project and the CVP and SWP operators, and it does not specify how water being “exchanged” will be adequately tracked to ensure that these “exchanges” are reported adequately under a valid basis of right. Additional information should be added to better describe the “exchanges” that would occur with entities downstream from Sites Reservoir. Specifically, coordinated operations between the Proposed Project, CVP, and SWP should be identified in order to accurately simulate changes to river flows and water supplies throughout the watershed.	Perm
16	2-38	The Authority has yet to complete the field studies to determine baseline conditions and other environmental parameters for Funks Creek and Stone Corral Creek. The Authority states that the field studies cannot be completed until land access is obtained. The information and analysis that would be collected as part of the field studies may be needed for analysis as part of the water right application process and may need to be completed prior to any final action of any water right application filed for the Project.	Perm
17	2-60	Section 2.6.4.1 Water Operations: Although the draft REIR/SEIS states that Alternative 1 is the preferred alternative (page 2-5), the impact analysis in Chapter 11 Aquatic Resources presents two alternatives under Alternative 1 (1A and 1B). Alternative 1A includes no Reclamation investment and Alternative 1B includes up to 7% Reclamation investment, which equates to about 91,000 AF of storage dedicated to Reclamation in Sites Reservoir. The DEIR/DEIS should	Bay-Delta

		clarify which alternative is the “preferred alternative” as the modeled impacts under Alternatives 1A and 1B were different. Specifically, conditions for salmonid juvenile rearing and migration would increasingly worsen under alternatives with higher Reclamation participation, i.e., 0% (Alternative 1A), 7% (Alternative 1B), and 25% (Alternative 3).	
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Chapter 4: Regulatory and Environmental Compliance: Project Permits, Approvals, and Consultation Requirements

Comment No.	Page No.	Comment	Commenter
18	4A-16	The draft REIR/SEIS states, “The following <u>three</u> basin plans.” Please correct <u>three</u> to <u>two</u> .	WQ

Chapter 5: Surface Water Resources

Comment No.	Page No.	Comment	Commenter
19	5-30	Average estimated decreases to Sacramento River flows (11%, Table 5-16) in May of critically dry years and associated adverse impacts to fish survival and fish populations may not be sufficiently mitigated or offset by the minimal average estimated increases to Shasta Lake storage in May of critically dry years (2-4%, Table 5-11). Minimal storage increases in the month of May are not necessarily likely to provide temperature benefits in later, warmer, summer and fall months when temperature benefits are most needed, especially in critically dry conditions. The net effect of these changes may be a significant adverse effect to fish species present in the Sacramento River in spring of critically dry years.	Bay-Delta
20	5-33	Reductions in flow due to Proposed Project operations and diversions on the Sacramento River during the October – June period in critically dry years for Alternatives 1 – 3, result in potentially significant adverse impacts to aquatic biological resources. Increased bypass flow requirements should be evaluated that would avoid reducing baseline flows and reduce potentially adverse impacts to fish species to less than significant.	Bay-Delta
21	5-36 and 37	The draft REIR/SEIS shows that changes to baseline flows as a result of water exchanges made possible by the Proposed Project may result in adverse impacts to fish	Bay-Delta

		species. For example, flow increases of 5 – 25 percent in fall months may dewater fall-run Chinook and steelhead redds when flows recede. Flow reductions in June and July of critically dry years (3 – 14 percent, Table 5-23) on the Feather River may adversely impact migrating spring-run Chinook salmon and green sturgeon. Similar flow changes on the American River due to Folsom Lake exchanges are estimated to occur with the same concerns for adverse impacts to salmon and steelhead. Operational criteria should be developed to avoid changes to baseline flows that may cause adverse impacts to fish species on the Feather and American Rivers.	
22	5-49	Hydrologic modeling results in the main body chapters and appendices should be presented using methods that demonstrate the full range of outcomes in modeling results. Hydrologic modeling results are currently summarized as averages by water year type and results are presented for wet years and critically dry years only. To capture the full range of potential impacts, modeling results should include the full range of outcomes and be presented without averaging and without the filter of water year type (which is a proportional sum of monthly unimpaired flow plus a proportion of last year's water year index volume). Narrative descriptions of outcomes should present median, maximum, minimum, 90 th and 10 th percent quartile outcomes. Presenting results as averages by water year type narrows the range of results presented and can mask potential adverse effects of the proposed project. Modeling data should be displayed with exceedance tables, exceedance charts, and box and whisker plots to show the full continuum of modeling results in an efficient format. Displaying modeling data using these methods efficiently discloses project impacts for all water years and does not obscure or skew potential impacts.	Bay-Delta
23	5-49	Chapter 5 should include an analysis of the impact of Proposed Project alternatives (including an alternative that sufficiently anticipates updates to flow-dependent water quality objectives in the Bay-Delta watershed) on the Sacramento River and Delta hydrograph. This analysis should include an evaluation of monthly changes in the volume of river flows for all project alternatives. Results should be compared to the no action alternative and to unimpaired flows to estimate the contribution of Proposed Project operations to changes in the hydrograph. Results should be presented to show the full range of simulated changes to monthly river flows with in the CalSim II spatial domain and for the 82-year simulation period. This hydrologic analysis should then be	Bay-Delta

		used to support the aquatic biology analyses in Chapter 11. Substantial modification to the unimpaired hydrograph is a primary driver of reductions of native fish populations that should be evaluated in the environmental document from a project specific and cumulative perspective.	
24	5-49	Chapter 5 should also include impact categories for changes to monthly reservoir storage for Sites and non-Sites storage partners, changes to Delta exports, and changes to interior flows (Old and Middle River reverse flow patterns) associated with Proposed Project alternatives. The additional storage and water exchange flexibility provided by Proposed Project alternatives may have impacts on storage volumes in storage partner and non-storage partner reservoirs that subsequently affect availability and quality of water releases and river flows for fish and wildlife management. Similarly, Delta export patterns and the duration, frequency, and magnitude of reverse interior Delta flows may change in response to increased storage and water exchange potential provided by the Proposed Project. Modifications to Delta exports and interior river flow patterns are surface water modifications important for estimating impacts associated with Proposed Project alternatives on fish and wildlife resources and on water quality for Delta water rights holders.	Bay-Delta
25	-	The environmental document should evaluate the potential hydrologic effects of the project that are not captured by monthly modeling evaluations, including sub-monthly effects and effects of real time operations that could occur under the proposed operating rules for the project.	Bay-Delta
26	-	The draft REIR/SEIS indicates that Funks Creek and Stone Corral Creek will be managed for flood purposes only and no water from any local drainages that will be inundated by Sites Reservoir will be collected in Sites Reservoir for diversion and use. The draft REIR/SEIS should include discussion as to how water entering Sites Reservoir from the local drainages will be monitored, recorded, and timely released through Sites Reservoir.	Perm
27	5-27	Additional hydrologic analyses may be required during the water right permitting process to inform and support the State Water Board's water availability findings. These additional analyses may ultimately lead to water availability findings and associated restrictions on the proposed diversions that differ from those presented in the draft REIR/SEIS. As such, staff recommends that the Authority consider including additional	Perm

		project alternatives and/or hydrologic analyses that contemplate greater restrictions on diversions to support fish and maintain water quality.	
28	5-49	The table lists expected water use and water sources for construction activities. Surface water is listed as a source water for all three project components. However, the immediate section after the table states that “As identified in Chapter 8, there is sufficient groundwater supply to provide this water during the construction period without affected yield from other wells.” The draft REIR/SEIS should be revised to clarify whether surface water will be used for construction purposes. If surface water will be used during construction activities, the draft REIR/SEIS should indicate under what valid basis of right the surface water will be used. Please note that any existing water right that may be selected to use for construction activities must be used in a manner that does not violate the terms and conditions of that basis of right. A water right permit, temporary permit, petition for change, or other applicable water right might need to be obtained if surface water needed for construction cannot be used under an existing valid basis of right.	Perm
29	-	A more detailed description of the proposed bypass flows is needed, including how these bypass flows affect diversions, which is not clear in the modeling.	Bay-Delta
30	-	A detailed discussion about the accounting of water diverted and released is needed. Ideally this accounting would be publicly available in real-time.	Bay-Delta

Chapter 6: Surface Water Quality

Comment No.	Page No.	Comment	Commenter
31	-	The environmental document should include an analysis of potential sub-monthly water quality impacts, including temperature and other impacts that could have sub-monthly significant impacts.	Bay-Delta
32	-	The draft REIR/SEIS states “The analysis in this chapter focuses on the Central Valley Basin Plan objective for waterbodies designated with the WARM or COLD beneficial use that at no time or place shall the temperature of intrastate waters be increased more than 5°F above natural receiving water temperature.” In addition to this objective, the Basin Plan also includes a narrative WQO, and provides as follows: “The natural receiving water temperature of intrastate waters shall not be altered unless it can be	Bay-Delta

		<p>demonstrated to the satisfaction of the Regional Water Board that such alteration in temperature does not adversely affect beneficial uses.”</p> <p>Temperature objectives for COLD interstate waters, WARM interstate waters, and Enclosed Bays and Estuaries are as specified in the <i>Water Quality Control Plan for Control of Temperature in the Coastal and Interstate Waters and Enclosed Bays of California</i> including any revisions. There are also temperature objectives for the Delta in the State Water Board's <i>2006 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary</i>.</p> <p>At no time or place shall the temperature of COLD or WARM intrastate waters be increased more than 5°F above natural receiving water temperature. Temperature changes due to controllable factors shall be limited for the water bodies specified as described in Table 3-7. To the extent of any conflict with the above, the more stringent objective applies. In determining compliance with the water quality objectives for temperature, appropriate averaging periods may be applied provided that beneficial uses will be fully protected.”</p> <p>The 5 degree requirement is the maximum allowable change in temperature. Per the narrative WQO, no change in temperature can be made without first demonstrating to the Regional Board that the alteration would not adversely affect beneficial uses. The analysis lacks any evaluation of potential impacts to beneficial uses, e.g., aquatic life, in terms of the WQO. The significance of a potential impact should be evaluated in terms of impacts to beneficial uses, not the 5 degree threshold.</p>	
33	-	The analysis evaluates temperature impacts to the Sacramento River from the discharge of water from Sites Reservoir; however, it appears that the analysis lacks an evaluation of temperature impacts in the Sacramento River that may be caused by the additional diversions from the river and coordinated operations with Shasta Reservoir.	Bay-Delta
34	6-29	State Water Board staff note that the issuance of a Clean Water Act section 401 water quality certification could serve as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act (Water Code sections 13000 et seq.) as authorized by State Water Board Water Quality Order No. 2003-0017-DWQ, Statewide	WQ

		General Waste Discharge Requirements for Dredged or Fill Discharges that have Received State Water Quality Certification.	
35	6-31	<p>The environmental document states that while the Delta is impaired by elevated selenium, “selenium is not included in the evaluation because the Project would not affect the major sources of Delta selenium: natural sources, San Joaquin River flow, and industries in the San Francisco Bay Area. Selenium concentrations in the Sacramento River are low, with most measurements below detection limits and measured values for total selenium all being less than 1 µg/L (WDL values for Sacramento River below Red Bluff, Sacramento River at Hamilton City, and Sacramento River above CBD measured from 2000 through 2020). Selenium concentrations in Stone Corral Creek are somewhat higher (average measured total selenium of 6.74 µg/L; Appendix 6E), but the Project would not affect the selenium load from Stone Corral Creek, and Stone Corral Creek is expected to contribute only a small percent of the water in Sites Reservoir.” USEPA 2016 criterion for Se is 1.5 ug/L in lentic systems and 3.1 ug/L in lotic systems. Stone Corral Creek concentrations appear to be elevated. The document includes USEPA 2016 in the references but does not mention the criterion and does not include a Se cycling discussion in the text, which may be warranted considering the concentrations in the creek. Stone Corral Creek concentrations are 4 times the criterion for lentic systems. An evaluation of loading to the reservoir may be warranted, as continued loading may result in localized elevated bioaccumulation rates due to the change from a lotic system to a lentic environment.</p>	Bay-Delta
36	6-31	<p>The environmental document states that “Contaminants associated with sediments were also dismissed from detailed evaluation. Contaminated sediments could move into Sites Reservoir as suspended sediments during high flows, but the main supplies of contaminated sediments and their potential effects would remain in the Sacramento River channel because the amount of sediment contained in the diversions to Sites Reservoir would be small compared to what is contained in the Sacramento River channel.”</p> <p>Reservoirs can create conditions, e.g., anoxia and hypolimnetic enrichment, that convert insoluble oxidized precipitates into reduced soluble forms, and as a result these soluble chemicals can be released from the sediment. Contaminant levels that may not pose a</p>	Bay-Delta

		threat in the riverine setting may react differently and cause toxicological impacts in the reservoir or in discharges from the reservoir. Such potential impacts from metals, phosphates, HS, and other contaminants that may be caused by the reservoir conditions require analyses.	
37	6-31	According to the draft REIR/SEIS, "Contaminants associated with sediments were also dismissed from detailed evaluation. Contaminated sediments could move into Sites Reservoir as suspended sediments during high flows, but the main supplies of contaminated sediments and their potential effects would remain in the Sacramento River channel because the amount of sediment contained in the diversions to Sites Reservoir would be small compared to what is contained in the Sacramento River channel." The draft REIR/SEIS should include a quantitative estimate of the amount of sediment contained in the diversions to the Terminal Regulating Reservoir, Funks Reservoir, and Sites Reservoir. Additionally, the draft REIR/SEIS should include a discussion regarding the need and frequency of dredging activities at the Terminal Regulating Reservoir, Funks Reservoir, and Sites Reservoir and the likelihood that the sediment would contain contaminants and the associated impacts related to dredging contaminated sediment.	WQ
38	6-39, 6-54, 6-58	<p>The environmental document includes a qualitative assessment of the primary factors that could increase or decrease mercury and methylmercury concentrations at the four geographies that could be affected by Project. Aqueous methylmercury concentration is the single most important factor influencing fish tissue Hg concentrations. The predicted aqueous MeHg concentration in the reservoir is 22 to 33-fold (short-term) and 11-17-fold (long-term) higher than the proposed aqueous MeHg allocation (<0.009 ng/L) in the Statewide Reservoir Methylmercury TMDL (SWRCB 2017b, as referenced in the draft REIS/SEIS). This suggests that Sites Reservoir will create conditions that result in elevated fish tissue mercury levels that will persist indefinitely.</p> <p>Reservoirs create new conditions that enhance the production of MeHg and bioaccumulation and biomagnification of Hg. The creation of the reservoir has a high risk of resulting in elevated fish Hg levels that pose a risk to human recreators and consumers of fish from the reservoir as well as wildlife that consume fish. The analysis lacks an evaluation of the significance of creating a waterbody with elevated fish tissue</p>	Bay-Delta

		<p>Hg concentrations. Instead the analysis compares inorganic Hg concentrations against the California Toxics Rule, which is inadequate for this kind of environmental assessment, as stated in the early sections of the chapter.</p> <p>Elevated MeHg discharged to the Colusa Basin Drain (CBD), which already has one of the highest average concentrations of aqueous MeHg in the Central Valley (CVRWQCB 2010) will exacerbate bioaccumulation conditions in the canal. The fish Hg levels are near 0.2 ppm and increasing aqueous MeHg concentrations will likely increase their concentrations to levels that pose risk to consumers.</p> <p>The environmental document states, “Because Funks Creek, Stone Corral Creek, and the CBD do not support sport fish, it is unlikely that anglers would be fishing these waterbodies; accordingly, any potential exceedances of the sport fish objective at these locations would not be expected to affect the public.” The CVRWQCB staff have observed many people fishing in CBD on many occasions. This statement should be revised accordingly.</p>	
39	6-50	<p>Please note that CVRWQCB Order R5-2016-0076-01 expires in January 2022, according to the following: https://www.waterboards.ca.gov/rwqcb5/board_decisions/adopted_orders/general_orders/r5-2016-0076-01.pdf. State Water Board staff recommend the final draft REIR/SEIS reference any update to the Order.</p>	WQ
40	6-50	<p>Since Stone Corral Creek is listed on the Clean Water Act Section 303(d) list for dissolved oxygen, the construction, dewatering, and diversion activities will need to comply with Basin Plan objectives and the anticipated TMDL in development for dissolved oxygen.</p>	WQ
41	6-54 6-88	<p>While the draft REIR/SEIS states studies of Funks and Stone Corral Creek have not yet been conducted, a general discussion should be included of how Funks and Stone Corral Creeks will be protected from any harmful algae blooms or low-quality water from the reservoir over the long-term operation of the reservoir. The draft REIR/SEIS appears to lack an evaluation that includes the complexities of cyanobacteria and may understate the true impacts of cyanobacteria or other harmful algal blooms (e.g., pelagic and benthic states, bioaccumulation of cyanotoxins by benthic invertebrates, sediment accumulation of cyanotoxins, multiple species, reservoir discharges of cyanobacteria</p>	Perm

		and toxins, and impacts to recreational users and wildlife) in water years where the reservoir levels are primarily stagnant. The draft REIR/SEIS should be revised to include additional information and analysis to address these issues.	
42	6-56	It is not clear that the proposed mitigation measures to address water quality impacts that rely on plans that have not yet been developed will be adequate to mitigate potential water quality impacts, including impacts associated with harmful algal blooms. Further, analysis should be included on impacts from algal blooms in general due to odor, aesthetic impairment, and recreational impacts at the project site, within the Sacramento River, and in the Delta, including an analysis of cumulative impacts.	Bay-Delta
43	6-60	According to the draft REIR/SEIS, "Ongoing monitoring of aqueous and fish tissue methylmercury in Sites Reservoir will be implemented per permit conditions, to assess the effectiveness of fisheries management actions over the long term." The final REIR/SEIS should identify the specific permit(s) referenced.	WQ
44	6-72	The environmental document indicates that providing water to the Yolo Bypass is not expected to impact dissolved oxygen conditions. Additional analyses should be provided to support this conclusion, particularly given recent results from the North Delta Food Subsidy Study.	Bay-Delta
45	6-88	The environmental document should discuss the effects of the project on HABs in pelagic, benthic, and organic systems.	Bay-Delta
46	6-81, 6-100	The environmental document states that "Alternatives 1, 2, and 3 would increase the aqueous methylmercury concentration at Freeport during summer and fall months of Dry and Critically Dry Water Years. These increases would range from approximately 3% above existing conditions when Sites Reservoir releases are at the long-term expected methylmercury concentration of 0.1 ng/L, to 28% above existing conditions when releases are at the short-term reasonable worst-case methylmercury concentration of 0.3 ng/L. Fish tissue methylmercury concentrations would increase by at least 5% above existing conditions when the aqueous methylmercury concentration in Sites Reservoir releases is 0.1 ng/L (estimated long-term expected concentration), and up to 50% above existing conditions when Sites Reservoir releases have the short-term reasonable worst-case methylmercury concentration of 0.3 ng/L."	Bay-Delta

		This would conflict with the Delta MeHg TMDL and BPA. New projects should not result in an increase in aqueous MeHg concentrations or elevated fish Hg concentrations. Even the long-term MeHg concentration is 1.7 to 2.5-fold higher than the adopted aqueous MeHg goal in the TMDL and BPA.	
47	6-91	<p>The draft REIR/SEIS states, “There are several reasons why the effect of moving Sites Reservoir releases through the Yolo Bypass could have a limited effect on pesticides in the Delta.</p> <ul style="list-style-type: none"> • The pesticide load from the CBD to the Delta would not change; only the discharge location would change. • Pesticides are already present in the Yolo Bypass and are already being discharged to the Cache Slough Complex.” <p>This greatly oversimplifies pesticide use and interactions. Pesticides are registered for specific uses, and pesticides are applied according to crop types and time of year. The environmental document lacks any analysis of the different types of pesticides used, concentrations of pesticides present in the Yolo Bypass, Cache Slough, or the Colusa Basin Drain, the interactions of currently observed pesticides in the Yolo Bypass and Cache Slough and the addition of CBD pesticides (e.g., additive or synergistic interactions). For example, the CBD will contain, at a minimum, pesticides associated with rice farming, whereas monitoring in the Cache Slough has observed high levels of pesticides associated with urban land uses from Ulatis Creek. The environmental document should address these issues.</p>	Bay-Delta
48	6-92	<p>The environmental document states that “operation would not increase water temperature more than 5°F at discharge locations, in compliance with the Central Valley Basin Plan.”</p> <p>This is not a correct metric for evaluating impacts to beneficial uses, as discussed above.</p>	Bay-Delta
49	6-92	The environmental document states that “operation would not reduce drinking water quality downstream due to nutrients and organic carbon or cause low DO because nutrients and organic carbon in Sites Reservoir releases would be diluted and water	Bay-Delta

		<p>would be aerated upon release. Any increases in reservoir nutrient concentrations may benefit fish.”</p> <p>An evaluation against drinking water standards does not address the environmental impacts of the discharge of biostimulatory constituents. The evaluation should include an evaluation of the cumulative impacts of the discharge of biostimulatory constituents and resulting changes in productivity downstream combined with the discharge of reservoir produced HABs and cyanotoxins.</p>	
50	6-93	<p>The environmental document states that operation would not cause mercury concentrations to exceed the CTR criterion in Sites Reservoir. Sites Reservoir releases with estimated expected long-term aqueous methylmercury concentrations would be lower than that in the CBD under existing conditions and therefore would not be expected to increase bioaccumulation of methylmercury in CBD fish. Sites Reservoir releases could increase aqueous and fish tissue methylmercury concentrations in the CBD, particularly during Dry and Critically Dry water years at estimated long-term worst-case methylmercury concentrations in releases. However, fish tissue methylmercury levels in the CBD would likely return to baseline levels within months following the May–November release period.”</p> <p>As stated earlier, the production of elevated fish Hg levels in the reservoir where human and wildlife fish consumers will be exposed to toxic levels would be a significant impact.</p>	Bay-Delta
51	6-100	<p>The environmental document states that “Construction, operation, and maintenance of Alternative 1, 2, or 3 would increase overall beneficial use of water in the Sacramento River watershed. The Project would not conflict or obstruct a water quality control plan and this impact would be less than significant.”</p> <p>This statement is overly broad. As discussed above, the project could have significant impacts on water quality constituents or beneficial uses, and it is not clear that the proposed mitigation measures will be adequate to address these impacts given their level of detail and feasibility questions.</p>	Bay-Delta

Chapter 7: Fluvial Geomorphology

Comment No.	Page No.	Comment	Commenter
52	7-9	The permits mentioned under BMP-14 will expire in January 2022. BMP-14 must require compliance with the existing permits and any amendments thereto.	WQ
53	7-9	BMP-12 should include the following information regarding the Construction General Permit: Water Quality Order No. 2009-0009-DWQ and NPDES No. CAS000002, as amended by Order No. 2010-0014-DWQ, Order No. 2012-0006-DWQ, and any amendments thereto.	WQ

Chapter 9: Vegetation and Wetland Resources

Comment No.	Page No.	Comment	Commenter
54	9-8	The extent of wetland and water quality and flow related impacts is not project-level. Accordingly, additional project level information will likely be needed for 401 Water Quality Certification purposes. The extent of wetland areas and waters on the Project site and subsequent estimates of project impacts may change, potentially significantly, once project-level information is developed. Section 9.3.1 states that the wetland resources in the study area are based on results of high-resolution aerial imagery and prior surveys of approximately 75% of the study area conducted between 1998 and 2003, which is approximately two decades ago. This section also states that the estimates of wetland and non-wetland waters are subject to revision based on pedestrian surveys once access has been granted to the study area and pending field verification by US Army Corps of Engineers, State Water Board, and CDFW. Tables 9-2a and 9-2b note that acreage of impacts to wetlands and waters are based on preliminary engineering designs instead of project-level information needed to support decision making under section 401 of the CWA, specifically relevant to meeting state approved water quality standards and future updates to water quality standards that are currently in process. A verified delineation and jurisdictional determination of state and federally regulated waters will be needed before the Clean Water Act Section 401 certification process can proceed. A scientifically defensible estimate of jurisdictional waters and assessment of	Bay-Delta

		conditions is needed to fully evaluate potential impacts of the project and potential opportunities to mitigate any unavoidable impacts.	
55	9-19 through 9-21	Alternatives 1-3 are described as potentially eliminating more than 375 acres of wetland resources and more than 200 miles of stream resources. This would be a substantial impact and removal of resources that are important for natural communities and ecological functions. The CEQA determination is less than significant after mitigation, however mitigation is proposed as preservation and does not include replacement at a 1:1 ratio or higher of wetland and non-wetland resources through construction and/or restoration of wetland and non-wetland aquatic habitats. This does not appear to be consistent with the finding of “not significant after mitigation.”	Bay-Delta

Chapter 11: Aquatic Biological Resources

Comment No.	Page No.	Comment	Commenter
56	-	As described in comments on Chapters 2 and 5, reductions in flows and survival of juvenile fish with a demonstrated flow survival relationship are likely to be negatively impacted by Proposed Project operations that reduce baseline flows. Anticipated negative impacts on native fish species that have documented positive flow: abundance relationships reinforce the previously stated need for a project alternative that concentrates diversions during high flow periods when there is excess flow in the system and avoids diversions during lower flow periods when those flows provide for protection of fish and wildlife.	Bay-Delta
57	11-2	Lake Berryessa appears to be incorrectly labeled Stone Corral Creek in Figure 11-1.	WQ
58	11-104 11-140	The draft REIR/SEIS states that “At all locations, mean monthly water temperatures for all months in all water year types under Alternatives 1A and B were within 0.5 °F of the NAA water temperature modeling results for Alternatives 2 and 3 were similar to those of Alternative 1 at all locations.” This statement is unclear and should be modified.	Bay-Delta
59	11-107	This paragraph addresses the Tiered water temperature management for winter-run Chinook salmon; however, it only provides results in Tier 1 and Tier 2 management years. Further analysis and results for Tier 3 and Tier 4 years would be needed for comparison. In addition, “Table 11D-19” in Chapter 11, page 107, should be changed to “11D-18.”	Bay-Delta

60	11-111	The draft REIR/SEIS concludes that the project alternatives would have “no” adverse effect on the rearing habitat for winter-run fry in the Sacramento River (page 11-111, last paragraph), however, several month-water combinations would have considerable negative impacts according to the analyses. Table 11k-23 evaluating winter-run fry rearing WUA in the Sacramento River, Segment 6, identifies that rearing habitat will be mostly reduced under the project alternatives compared to NAA; the greatest reduction will occur in October, by 3.3% in AN, 2.6% in BN, and 4.8% in CD years under Alternative 1A compared to NAA. In addition, many factors influence survival through the rearing life stages in addition to WUA. Factors such as temperature and the relationship between WUA and water temperature on the probability of survival should be discussed as part of supporting findings.	Bay-Delta
61	11-112	These tables (11N-28, 29, 30) show potential for large-scale increases (over 30%) and decreases (over 55%) of juvenile salmonid stranding under different project alternatives compared to the NAA. The draft REIR/SEIS, however, does not address any potential mitigation measures for such changes in juvenile stranding. Instead, the draft REIR/SEIS concludes that the project alternatives would not be expected to affect winter-run juvenile stranding based on the varying levels of juvenile stranding stating “some large reductions and increases in juvenile stranding occur, but large reductions in juvenile stranding are more frequent than large increases.” Mitigation for increases to juvenile stranding should be identified instead of relying on potential decreases at other times to offset increases in stranding and losses to juvenile survival.	Bay-Delta
62	11-152; 11-185	Spring-run (Table 11K-18) and fall-run Chinook salmon (Table 11K-19) spawning habitat WUA downstream of the Thermalito Afterbay Outlet will be reduced under Alternatives 1A (6.8%), 1B (5.6%), and 2 (6.7%) in October of Below Normal water years. Despite these reductions of spawning habitat in the Feather River, the draft REIR/SEIS concludes the Alternatives would have “mostly minor effects.” Further analyses of the impacts of the reduced spawning habitat and justification for the conclusion of “minor effects” should be provided. Given the status of these fish populations, a finding of “minor effects” does not appear to be supported by the estimated losses to spawning habitat that result from the proposed project.	Bay-Delta
63	11-166	In table 11-29, numbers presented for “All Fish Abundance Upstream of Red Bluff” and “All Fish Abundance Upstream of Hamilton City” are the same. Please clarify.	Bay-Delta

64	11-174	The project would result in reduced spawning habitat WUA for fall-run, especially in river segments 4 and 6 in the Sacramento River under Alternatives 1A, 1B, and 3 (Tables 11K-8, 9, 10, and 11). The draft REIR/SEIS also concludes that “Alternatives 1, 2, and 3 would result in frequent minor reductions in spawning habitat WUA for fall-run, and occasional somewhat greater reductions, primarily for Alternative 3.” The mitigation measure FISH-2.1 is designed to enhance migration survival of juvenile salmonids, and its impacts on spawning habitat WUA is uncertain. This should be clarified.	Bay-Delta
65	11-207	The following sentence is unclear and should be revised: “These results indicate that steelhead in the Feather River would be negligible.”	Bay-Delta
66	11-258	An analysis of the impact of changes to Delta outflow on dispersal of larval Delta smelt should be included in the environmental document to improve understanding of the potential impacts of the Proposed Project on Delta smelt. Reduced outflow is expected to reduce the distribution of Delta smelt larvae downstream to areas of higher quality habitat for larval and post-larval Delta smelt. Results should be discussed by month and not averaged across season or multiple months.	Bay-Delta
67	11-260	For tables 11-58 and 11-59, the results of abundance of the Delta smelt copepod food source (<i>Eurytemora affinis</i>) should be presented on a monthly basis to avoid underestimating the potential effects of reduced food sources as a result of reduced Delta outflow. Delta smelt are food limited and large reductions within a month may have a more significant biological impact than would appear based on average reductions over several months. The draft REIR/SEIS averages the results over several months (March – May, Table 11-58; March – June Table 11-59) and concludes that changes are minimal. This summary approach to presenting the data and making conclusions may significantly underestimate impacts of changes to Delta outflow on food sources for Delta smelt.	Bay-Delta

Chapter 17: Energy

Comment No.	Page No.	Comment	Commenter
68	17-12	The Federal Energy Regulatory Commission (FERC) exempts from licensing certain hydropower facilities located on non-federally owned conduits with installed capacities up	WQ

		to 40 megawatts. The applicant must file a Notice of Intent to Construct a Qualifying Conduit Hydropower Facility with FERC. It is unclear if FERC has approved an exemption for the proposed generation.	
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Chapter 28: Climate Change

Comment No.	Page No.	Comment	Commenter
69	-	The basis of the analysis for Section 28.4 is the near-term average climate hydrology. The average change in 2035 is not sufficient to describe the range of conditions expected by the end of the century. Having at least a qualitative analysis of climate change impact on water supply, and other changes that might affect the Project through its useful life (or over the century) would be better suited for analyzing the long-term feasibility of the Project. The draft REIR/SEIS should evaluate what conditions could be expected by the end of the useful life of the Project.	Perm
70	28-8	The assessment of performance with extreme change should accompany analyses, such as a drier and extreme warming scenario, and a wetter with moderate warming scenario. Analyses in Chapter 28 are based on the average amount of change in 2035 (central tendency, CT). On page 28-4 the text indicates “While average precipitation may not change significantly, there will be a change in precipitation patterns and extremes.” It seems that relying only on central tendency is not adequate for describing a full range of effects.	Perm
71	28-11	Analyses are for Critically Dry and Wet Water Years with average climate change (CT 2035). While Critically Dry and Wet are the bookends for water year types, the analysis under average change does not reflect the extremes and does not reflect “the full extent of future climate scenarios.” The draft RDEIR/SEIS should address how the frequency of Critically Dry and Wet water year types change with extreme change and how different Critically Dry Water Year hydrology is under extreme change compared to CT 2035.	Perm
72	28-12	If the Sites Reservoir operations are most sensitive to Wet Water Year changes under climate change, the analysis should show the extent of impacts on relevant variables during Wet Water Years with extreme climate change, not just with average change.	Perm

Chapter 31: Cumulative Impacts

Comment No.	Page No.	Comment	Commenter
73	31-35	The cumulative analysis should include a CalSim study that evaluates possible updates to the Bay-Delta Water Quality Control Plan as identified in the 2018 Framework Document: https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/docs/sed/sac_delta_framework_070618%20.pdf . The update of the Bay-Delta Plan has the potential to affect bypass/diversion amounts, as well as storage in Shasta, which could also affect the ability to divert from the Sacramento River by the Sites Project.	Bay-Delta

Appendix 2D: Best Management Practices, Management Plans, and Technical Studies

Comment No.	Page No.	Comment	Commenter
74	2D-2 to 2D-30	For table 2D-1, State Water Board staff request the Sites Authority to consult with State Water Board - Water Quality Certification Program staff when developing best management practices (BMPs) or plans that address water quality. For example, the Spill Prevention and Hazardous Materials Management/Accidental Spill Prevention, Containment, and Countermeasure Plans should be developed in consultation with State Water Board staff prior to construction. Additionally, State Water Board staff request the Sites Authority to consult with State Water Board staff regarding BMP-6, BMP-7, BMP-8, BMP-9, BMP-10, BMP-13, BMP-30, and the Initial Sites Reservoir Fill Plan.	WQ

Appendix 5A6: Modeling Limitations

Comment No.	Page No.	Comment	Commenter
75	5A6-2	Appendix A6 states that the Reclamation Temperature Model was used to simulate temperatures on the Feather River and a reference to Appendix H of 2008 OCAP BA is provided. In Appendix H of the 2008 OCAP BA there is no mention of a temperature model for the Feather River. The model used to simulate temperatures on the Feather River should be correctly identified and documented.	Bay-Delta

Appendix 6A: California State Water Resources Control Board Constituents of Concern

Comment No.	Page No.	Comment	Commenter
76	6A-11 to 6A-14	For table 6A-4, the table should reference the most recent California Integrated Report (Clean Water Act Section 303(d) List and 305(b) Report). State Water Board staff anticipate the 2020-2022 California Integrated Report will be submitted to the USEPA in March 2022. Additional information can be found here: https://www.waterboards.ca.gov/water_issues/programs/water_quality_assessment/2020_2022_integrated_report.html .	WQ

Appendix 6F: Mercury and Methylmercury

Comment No.	Page No.	Comment	Commenter
77	6F-18	The environmental document states that “Since no reservoir exists under the No Project Alternative, these fluctuations cannot be compared to a baseline. However, comparison to other reservoirs indicates that expected fluctuations are greater than median fluctuations of other reservoirs in California, indicating that reservoir fluctuations will likely contribute to conditions favorable to mercury methylation.” The baseline is no reservoir producing MeHg, so the analysis should encompass all of the new MeHg being produced by the new reservoir and subsequent exposure to fish, humans, and wildlife.	Bay-Delta