

Letter	Comment #	Comment	Relation to Final EIR/EIS
United States Environmental Protection Agency Region IX	1	<p>The U.S. Environmental Protection Agency has reviewed the Bay Delta Conservation Plan/California WaterFix Final Environmental Impact Statement (FEIS) pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act.</p> <p>The WaterFix project evolved from the Bay Delta Conservation Plan (BDCP), which was proposed as a Habitat Conservation Plan (HCP) to support the issuance of a 50-year incidental take permit under Section 10 of the Endangered Species Act (ESA). EPA's August 26, 2014 comments on the Draft EIS for the BDCP detailed our significant concerns with that proposal and its potential adverse impacts on water quality and aquatic life in the Bay Delta. We withheld our rating due to the lead agencies' commitment to produce a Supplemental Draft EIS. In April 2015, the Bureau of Reclamation (Reclamation) and California Department of Water Resources (DWR) announced fundamental changes to the proposed project and changed its name from BDCP to the California WaterFix. The WaterFix project focuses on the construction and operation of proposed new water export intakes on the Sacramento River to divert water into a 35-mile twin tunnel conveyance facility.</p> <p>In our October 30, 2015 review of the SDEIS, we noted that the proposed WaterFix project continued to predict significant adverse impacts to the Delta and its resources. As we reiterated in that letter, the most essential decision for achieving the desired balance of water reliability and restoration of the Bay Delta ecosystem is how freshwater flows through the Delta will be managed. We noted that decisions regarding appropriate flow management are being deferred, pending future regulatory actions by multiple state and federal agencies that will determine operational parameters important to the evaluation of the project's impacts. Because information was not available for a complete evaluation of environmental impacts, we found the SDEIS to be inadequate.</p>	This comment is about previously submitted comments regarding water quality, fish and aquatic resources, and flow management. This comment does not raise any substantive new environmental information or analysis that was not previously addressed in the Final EIR/S.
United States Environmental Protection Agency Region IX	2	<p>The FEIS provides a modified statement of the purpose of the federal action, no longer mentioning construction. It clarifies that the purpose of the Reclamation's proposed action is "to improve movement of water entering the Delta from the Sacramento Valley watershed to existing Central Valley Project (CVP) and State Water Project (SWP) pumps in the south of the Delta in a manner that minimizes or avoids adverse effects to listed species, supports coordinated operation with the SWP, and is consistent with the Project Objectives", which include ecosystem restoration and "delivery of up to full contract amounts of CVP Project water" when conditions are such that sufficient water is available. This purpose would be accomplished by adjusting the operations of the CVP, specific to the Delta, to accommodate new conveyance facility operations and flow requirements. As explained in the joint document, DWR intends to pursue construction of dual, 40-foot diameter, 35-mile long tunnels under the Sacramento-San Joaquin Delta to provide such conveyance.</p> <p>To date, none of the regulatory processes mentioned in our SDEIS letter have been completed. The impact analysis in the FEIS is based on updated modeling that more accurately reflects the proposed project operations to the limited extent that they can be predicted at this time, and an appendix to the document includes information from the Biological Assessment. Nevertheless, the FEIS continues to predict that water</p>	This comment is about purpose and need, CVP/SWP and project operations, modeling, water quality, and fish and aquatic resources. The comment does not sufficiently describe how the commenter arrived at this alternative conclusion and it is not reasonable to summarize the entire findings of the FEIR/FEIS on fish species habitat effects in this response to retort their unsupported assertion. However, please refer to the Final EIR/EIS Executive Summary table for a list of all determinations and Chapter 11 for specific information on these determinations. The Final EIR/EIS discloses that there occasionally would be negative effects on habitat for a given species, but these effects would not be of sufficient magnitude or frequency to be considered "substantial" and therefore, are not considered adverse or significant. This comment does not raise any substantive new environmental information or analysis that was not previously addressed in the Final EIR/S.

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		<p>quality for municipal, agricultural, and aquatic life beneficial uses will be degraded and exceed standards as the western Delta becomes more saline. Significantly, the FEIS' conclusions regarding impacts to aquatic life remain unchanged from those in the SDEIS, predicting substantial declines in quantity and quality of aquatic habitat for 15 of 18 fishes evaluated under WaterFix preferred operations.</p>	
<p>United States Environmental Protection Agency Region IX</p>	<p>3</p>	<p>Because the operations proposed in the FEIS do not reflect the real world operational scenarios likely to be generated by the aforementioned regulatory processes, the amount of water that will actually be available for diversion through the proposed conveyance facilities may differ significantly from what was assumed for purposes of the EIS/EIR. We continue to recommend that the federal and state lead agencies for WaterFix carefully consider such reasonably foreseeable operational constraints to ensure that the project is appropriately designed and operated to achieve the aforementioned balance and avoid unnecessary costs and environmental impacts.</p> <p>EPA remains committed to working with our federal and state partners on actions to restore and protect the Bay Delta ecosystem and the communities that depend upon it.</p>	<p>This issue was raised and responded to in the EPA's letter on the RDEIR/SDEIS (RECIRC 2577, Volume 2, Final EIR/EIS).</p> <p>The lead agencies believe that the range of operations criteria used in the EIR/EIS to evaluate and disclose potential effects, do represent real world scenarios that could be adopted for the proposed project. It would be speculative to estimate what, if any, changes to operations criteria might be necessary as part of the larger SWP and CVP long term operations, as identified through the reinitiation of consultation process. It would also be speculative to estimate that flows might be imposed as part of the SWP's and CVP's proportionate share of additional meeting revised standards, as identified through the SWRCB's Bay Delta WQCP update. These regulatory processes, and not the CEQA/NEPA analysis for the California WaterFix and alternatives, are the more appropriate forums to determine how the SWP and CVP would go about "achieving the desired balance between water reliability and restoration of the Bay-Delta ecosystem is how freshwater flows through the Delta will be managed." Any changes that would occur due to non-Project actions resulting from these other processes, would occur in both the No Action Alternative and the Proposed Project; and therefore, the incremental changes described in the EIR/EIS would continue to occur with future non-Project actions.</p> <p>This comment does not raise any substantive new environmental information or analysis that was not previously addressed in the Final EIR/S.</p>