



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

December 12, 2003

Rob Schroeder
U.S. Bureau of Reclamation
Central California Area Office
7794 Folsom Dam Road
Folsom, CA 95630

Subject: Freeport Regional Water Project Draft Environmental Impact
Statement/Environmental Impact Report (Draft EIS/EIR)
[CEQ # 030367]

Dear Mr. Schroeder:

The Environmental Protection Agency (EPA) has reviewed the document referenced above. Our review and comments are pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1509), and Section 309 of the Clean Air Act. Our detailed comments are enclosed.

We have rated this Draft EIR/EIS as Environmental Concerns - Insufficient Information (EC-2) (see enclosed "Summary of Rating Definitions"). EPA supports the multi-faceted approach outlined in the EBMUD Water Supply Management Program including water supply improvements, lower Mokelumne River management, water reclamation, and water conservation. Both the EBMUD Water Supply Management Program and the Sacramento County Water Agency (SCWA) water plans rely on effective management and sustainable balance of surface and ground water supplies. However, it does not appear that all needed elements of ground water management are in place and without this, the use of surface supplies can have long-term effects.

Recently updated information on the potential for water use efficiency (including water saving technologies, better management of outdoor use, and pricing strategies) is available and should be considered in estimating the water demands for the service area. EPA recommends working with the Department of Water Resources for these analyses. The Final EIR/EIS should discuss which measures, in addition to those already adopted in the Zone 40 area, can be applied

to reduce urban water demand.

The project need is based on full build-out of the Sacramento General Plan. The Final EIR/EIS should address the feasibility of full build-out occurring within the established time-line. In addition, the calculation of water demands for the area served by the Sacramento County Water Agency (Zone 40) appears to have been based on water use levels for existing and planned land uses in the early 1990s. The Draft EIR/EIS states that EBMUD needs 100 million gallons per day capacity for drought circumstances. However, EBMUD currently has a 8 million gallons per day capacity, with drought conditions estimated for 3 years out of every 10. The rationale behind the increased determination of water need for drought conditions should be included in the Final EIR/EIS.

While EPA commends the decision to take delivery of water from the Sacramento River instead of the more environmentally sensitive American River, we also recommend that the Final EIR/EIS include the following information:

- an analysis of all delta water uses, including other proposed projects, the cumulative and indirect impacts to terrestrial and water resources associated with these projects, and specific mitigation practices, water conservation, and monitoring commitments;
- justification for the identification of Alternative 5 as the environmentally preferred alternative; and
- results of consultation with the US Fish and Wildlife Service for protection of species of concern and if required, Clean Water Act 404 (b)(1) compliance for impacts to wetlands.

In addition, inconsistencies in the information regarding secondary impacts and growth-related impacts of FRWP should be resolved in the Final EIR/EIS.

We appreciate the opportunity to review this Draft EIR/EIS. Please send two copies of the Final EIR/EIS to this office when it is officially filed with our Washington, D.C. office. In the meantime, if you have any questions, please call Summer Allen, the lead reviewer for this project, at (415) 972-3847.

Sincerely,

Lisa B. Hanf, Manager
Federal Activities Office

MI# 003927

Enclosures:

EPA's Detailed Comments

Summary of Rating Definitions

cc:

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Cumulative Impacts

Projects that were determined to be within a reasonable proximity to the FRWP were included in the cumulative impacts evaluation. The current proposal was established based on previous environmental reviews such as the EBMUD Supplemental Water Supply Project. EPA provided comments on the EBMUD Supplemental Water Supply Project Draft EIS (February 17, 1998), Supplemental Draft EIS (November 20, 2000), and Final EIS (January 12, 2001).

The FRWA Draft EIR/EIS is also related to the activities of the California Bay Delta Authority (the Authority) and agencies participating in the CALFED Program. The Authority and CALFED agencies have been involved in assessing and implementing water management activities in the Central Valley of California pursuant to the CALFED Program Plan and Record of Decision. The Record of Decision for the CALFED Program (August 2000) addresses the future management of the area in detail. The FRWA Draft EIR/EIS also does not discuss the relationship to the Central Valley projects in detail.

The DEIS for the South Delta Improvements Program is expected in fall. The Notice of Intent for this project was released before the FRWP DEIS. In addition, the South Sacramento Corridor, Phase 2 transit project and its routing may affect the location of the Freeport pipeline. The Final EIS should also discuss the relationship of the FRWP to the I-5 interchange and extension, the Sacramento County Regional Sanitation District wastewater pipeline plans in the project area, the South Delta Improvements DEIS, the San Luis Unit Drainage Feature DEIS, the renewals of the Sacramento River Settlement Contract, and the Long-term Contract Renewals for the American River Division.

There are several objectives which the CALFED Program has established for the Bay-Delta that could be hindered by incremental erosion of Bay-Delta ecosystem conditions and water quality. Examples of these objectives include an established policy in "continuous improvement" of drinking water source quality and ecosystem restoration. The FRWP may contribute to significant cumulative impacts on these resources in combination with other water projects being pursued by CALFED and other parties.

Recommendations:

The Final EIR/EIS should include information regarding previous environmental reviews involved in the establishment of the current proposal and list conservation efforts that have been undertaken by EBMUD. The Final EIR/EIS should address the relationship of FRWP to the activities of the Authority and how the FRWP ties into the larger goals outlined in the August 2000 Record of Decision for the CALFED Program. It should also provide updated information on the Operating Criteria and Plan (OCAP) consultation for Central Valley Project water operations and related impacts to the Bay-Delta system.

The Final EIR/EIS should analyze the cumulative effects of the FRWP and other projects on the Delta and the river system hydrology, fish, water quality, and water supply. The Final EIR/EIS should document recent or proposed changes in Delta operations associated with the CALFED program and how this could contribute to impacts in the Delta. The Final EIR/EIS should fully document groundwater sources and the long term groundwater trends in the basin. The long-term implications of using CVP surface water to avoid groundwater overdraft should be discussed.

The Final EIR/EIS should fully document cumulative impacts to drinking water quality as identified in the CALFED Water Quality Program Plan, as well as ecosystem health. The Final EIR/EIS should discuss monitoring for project impacts and identify types of mitigation responses which may be undertaken in the event specific impacts are detected. The Final EIR/EIS should also include identification of related projects and the associated impacts to aquatic and terrestrial resources, such as the conversion of upland habitat related to the Central Valley Project contracts.

Indirect Impacts

The FRWP would deliver 185 million gallons of surface water from the Sacramento River, allowing Sacramento County Water Agency (SCWA) to provide water to the Zone 40 area and EBMUD to improve water delivery reliability to its service area during drought years. The Draft EIR/EIS does not clearly address the estimated growth resulting from implementation of FRWP. On page 774 of the Draft EIR/EIS, it states, “the implementation of the FRWP would support this goal and remove an obstacle to the planned growth of the city of Rancho Cordova.” However, on page 777, the Draft EIR/EIS states “growth is projected regardless of whether the FRWP is implemented because EBMUD has adequate water supplies during normal years.” While EPA agrees that growth is expected in the area regardless of the alternative selected, additional available water supply may encourage a more intense rate of development.

Recommendations:

The Final EIR/EIS should resolve inconsistencies related to indirect impacts associated with future population growth.

Alternatives Analysis

Alternative 5 is identified as the environmentally preferred alternative. The basis for this conclusion seems to be the avoidance of impacts to the built environment. Alternative 2 appears to have fewer impacts on prime agricultural lands, grasslands, vegetative communities, and production values. It is comparable with Alternatives 3, 4, and 5 with regard to impacts on fish, water quality, recreation, and construction-related traffic.

From our review, Alternative 2 or Alternative 3 appear to be the environmentally preferred alternative. In addition, the Draft EIR/EIS identifies potential significant impacts to wetlands and anticipates that a Clean Water Act 404 permit would be required. As a result of these potential impacts, choosing a less environmentally damaging alternative at this stage would be beneficial. The alignments proposed for Alternative 2 and Alternative 3 have fewer impacts to western spadefoot, fairy and tadpole shrimp, swainson's hawk, native vegetation, pasture, water, vineyards, open/agricultural land, and archaeological sensitive areas than the other proposed alignments.

Recommendations:

If the Final EIR/EIS makes the determination that Alternative 5 is the preferred alternative, a more detailed analysis of the environmental preferability should be included. In addition, Option 1 has avoidable impacts to prime farmland and if this option is proposed in the Final EIR/EIS, the basis for including this optional alignment should be documented.

If a CWA 404 permit is required, the Final EIR/EIS should demonstrate compliance with respect to evaluation of alternatives, identification of the Least Environmentally-Damaging Practicable Alternative (LEDPA), siting and design of project features, and mitigation of impacts to wetlands as required by CWA 404 (b)(1) Guidelines. The Final EIR/EIS should provide examples of successful habitat preservation and conservation actions completed by the County in response to past, current, or future development. These should include plans for excavation material, erosion and sediment control, storm water prevention, channel and levee restoration, agricultural restoration, and conservation measures, as guaranteed in the FRWP's biological assessment.

Habitat and Wildlife Consideration

The Central Valley Project Improvement Act (CVPIA), signed in 1992, mandates that fish and wildlife resources receive equal consideration with other features of the proposed project. The project must comply with the Endangered Species Act, which will require consultation on both water operations-related impacts and terrestrial effects to threatened and endangered species. Although informal consultation with the U.S. Fish and Wildlife Service and NOAA Fisheries has begun, the Draft EIR/EIS does not quantify impacts to wildlife in the project location or to fisheries. The project includes potential impacts to coldwater and warmwater fisheries; additional fisheries in the lower reaches of the American, Feather, Trinity, Mokelumne, and Sacramento rivers; and various riparian and terrestrial habitat.

Recommendations:

The protection of species of concern as a result of changes in American River flows

US EPA DETAILED COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR
FREEPORT REGIONAL WATER PROJECT, DECEMBER 12, 2003

should be assured. The Final EIR/EIS should discuss means of providing protective flows and habitat in the American River, the Sacramento River, and the Delta, especially as this relates to migratory and resident fish. For impacts to terrestrial and aquatic resources that cannot be avoided, the Final EIR/EIS should address mitigation. The Final EIR/EIS should incorporate the results of the Endangered Species Act Section 7 consultation with the US Fish and Wildlife Service and NOAA Fisheries. Additionally, to the extent that it is relevant, the Final EIR/EIS should include information on the ESA consultation for the Operating Criteria And Plan. This consultation may provide specific measures for Freeport-related operations. USFWS-approved mitigation plans should be finalized prior to Project contract deliveries.