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April 17, 2020

Delta Conveyance Scoping Comments
Attn: Renee Rodriguez, Department of Water Resources
P.O. Box 942836
Sacramento, CA 94236

DELIVERED VIA ELECTRONIC MAIL:
(DELTA CONVEYANCE SCOPING@WATER.CA.GOV)

Re: Comments on Notice of Preparation for Environmental Impact
Report – Delta Conveyance Project

Dear Ms. Rodriguez:

The Sacramento Regional County Sanitation District (Regional San) submits the following comments in response to the Department of Water Resources' (DWR) notice of preparation (NOP) for an environmental impact report (EIR) for the Delta Conveyance Project (Project).

Background

Regional San provides wastewater conveyance, treatment, and reclamation services for approximately 1.4 million people in the urbanized area of Sacramento County and the City of West Sacramento in Yolo County. The Sacramento Regional Wastewater Treatment Plant (SRWTP) facility, owned and operated by Regional San, is one of the largest wastewater treatment plants in the State of California, employing over 400 people, operating 24 hours a day, seven days per week. Since the 1970s, Regional San has been safely conveying, treating and discharging treated wastewater to the Sacramento River at Freeport. Over the last decade, its discharge averages of 133 million gallons per day. Regional San's discharge from the SRWTP is authorized and regulated under a National Pollutant Discharge Elimination System (NPDES) permit issued by the California Regional Water Quality Control Board (RWQCB), Central Valley Region. Regional San is also in the process of constructing its EchoWater project, a nearly \$2 billion investment that will produce disinfected tertiary treated water suitable for recycling and reuse for a broad range of beneficial uses.

The Delta Conveyance Project is proposed to construct and operate two intakes to be selected from three potential intake sites downstream of the SRWTP's treated wastewater discharge location, and about one mile downstream of the edge of the existing harmonic mean flow-based human health mixing zone provided in the SRWTP NPDES permit. The NPDES permit requires SRWTP treated effluent to be diverted to emergency storage basins, rather than being discharged, when the river-to-effluent ratio is below 14:1. These types of diversions typically occur when the Sacramento River flows are low and the tide is high; under this combination of factors, the Sacramento River flow at Freeport can reverse direction and temporarily flow upstream.

The NOP provides no information on proposed Delta Conveyance Project operations, but does state that diversions could range from 3,000 cfs up to 7,500 cfs. The location and operation of the Project intakes presents the potential for significant adverse impacts to Regional San's operations and facilities from reverse flow events in the Sacramento River, as well as significant water quality impacts in the Sacramento River and Sacramento-San Joaquin River Delta. Based on the information presented in the NOP, the proposed Delta Conveyance Project appears to be very similar to the discontinued California WaterFix project, with the exception that it may have one less intake and somewhat reduced diversion capacity.

Issues to Address in Draft EIR

I. Comments Related to Project Objectives

The Delta Conveyance Project objectives (NOP, p. 2.) are too narrowly defined, focusing only on benefits to State Water Project operations and south of Delta water deliveries. The objectives reference providing “operational flexibility to improve aquatic conditions in the Delta”, yet the Project does not commit to improving aquatic conditions, nor does it include any objectives that would protect water quality in the Delta from degradation. Framing Delta Conveyance Project objectives so narrowly could discourage consideration of alternatives to the Project that would protect and restore the Delta environment. This approach is not only inconsistent with CEQA, but it is also inconsistent with the Delta Reform Act's *coequal* goals of improving water supply reliability *and* protecting, restoring, and enhancing the Delta ecosystem. Regional San believes the Delta Conveyance Project objectives should be expanded to include prevention of water quality degradation in the Delta and avoidance of adverse impacts to Delta public facilities (which would include the SRWTP), which is consistent with the Delta Plan, as discussed further in section II.D, below.

II. Comments on the Scope and Methodology of Impact Analyses

A. The EIR Must Use a Baseline that Accurately Depicts Impacts Throughout the Life of the Project

Impact analyses that depend on the Sacramento and San Joaquin River and Delta hydrologic conditions (including impacts to water quality, water supply and public facilities that discharge into or divert water from the Sacramento-San Joaquin River Delta) must utilize a baseline that accurately reflects conditions at the time the Project is expected to begin operations, as well as reasonably foreseeable future conditions. Operational impacts to Delta water quality and Regional San's operations will occur immediately upon commencement of Project diversions and near-term impacts may be substantially different from those impacts occurring farther in the future, when background hydrologic conditions will be considerably different due to the effects of climate change.

B. The EIR Must Evaluate and Mitigate Impacts From Increased Frequency and Duration of Sacramento River Reverse Flow Events

In comments on the WaterFix EIR/EIS and draft Supplemental EIR/EIS and in testimony submitted in the WaterFix water rights change petition proceeding, Regional San raised concerns about the potential for the WaterFix project to adversely affect operations of the SRWTP through changes in water quality and the frequency and duration of reverse flow events. Due to the similarity of the

Delta Conveyance Project to WaterFix, Regional San's specific concerns and evidence regarding the potential impacts of WaterFix on SRWTP operations are also applicable to the Delta Conveyance Project and must be addressed in the EIR using appropriate methodology, assumptions and analysis. These concerns include changes in water quality and the number and duration of low-flow and reverse flow periods in the Sacramento River.

Impacts to Regional San's diversion operations are driven by hourly river flow rates at Freeport. Based on evidence submitted by Regional San and available to DWR in connection with the WaterFix, it is reasonable to assume that Delta Conveyance Project operations will alter the conditions of the Sacramento River at Freeport, such that Regional San will need to divert effluent to emergency storage basins for longer durations and in larger quantities than under existing conditions. Essentially, every time the Delta Conveyance Project causes river conditions that necessitate a diversion greater than would occur in the baseline condition, Regional San will be forced to commit its facilities to correcting conditions created by the Project in order to meet its NPDES permit obligations, thereby reducing Regional San's operational flexibility and creating unknown risks to Regional San's operations. By consuming emergency storage basin capacity that otherwise would be available for SRWTP operations, the Delta Conveyance Project has the potential to result in significant environmental impacts by necessitating construction of additional storage facilities. The Delta Reform Act requires that a new Delta conveyance project fully mitigate impacts. Therefore, the EIR must not only evaluate and disclose these impacts, but it must also identify the measures that commit DWR to fully mitigate these impacts.

In evaluating impacts to Regional San's operations and facilities, the EIR must employ the appropriate methodology. DWR's evaluation of the WaterFix effects on SRWTP effluent diversions to emergency storage basins was incorrectly based on treatment plant inflows. An accurate assessment of the frequency and duration of Regional San's effluent diversion must properly account for discharges of effluent. Effluent flows are the flows regulated by the 14:1 river-to-effluent requirement, not inflows. Any simulations based only on inflows would not provide meaningful, relevant information, because they would fail to account for the discharge of treated effluent previously diverted to ESBs.

Further, the 14:1 river flow threshold at which effluent must be diverted to ESBs is continuously changing since SRWTP flow rates continuously change – both seasonally and over the course of a day. Therefore, SRWTP diversions (and impacts to diversions) must be simulated on a continuous, hour-by-hour basis using hourly flow rates in the Sacramento River at Freeport and hourly SRWTP operations up to the maximum authorized discharge rate of 181 mgd.

In addition, DWR must not repeat the error made with WaterFix in assuming, without evidence or analysis, that an undefined operational protocol for the Delta Conveyance Project intakes will be capable of mitigating Delta Conveyance Project impacts. As it prepares the draft EIR, DWR should consult with Regional San on both the appropriate methodology for impact assessment and to determine whether there are feasible means of avoiding impacts to SRWTP operations.

C. The EIR Must Evaluate Impacts From Locating Intakes Downstream of SRWTP Discharge

The WaterFix diversion structures were characterized by DWR and the SWRCB as “drinking water intakes.” If such a characterization were applied to the Delta Conveyance Project and accepted by the RWQCB, it could result in substantial additional capital costs and NPDES permit compliance challenges.¹ Notably, it could lead to the loss of the SRWTP human health mixing zone for the calculation of trihalomethane (THM) effluent limitations. Human health criteria are generally based on long term exposure, and the RWQCB evaluates if the mixing zone meets the requirements of the State Implementation Plan and the Basin Plan requirements to ensure protection of beneficial uses.²

Due to the location of diversion structures within or near the edge of the current mixing zone, the RWQCB may disallow the mixing zone, requiring Regional San to meet end of pipe THM effluent limitations. This is a very important issue to the successful operation of the SRWTP. Regional San is engaged in a massive effort to design and construct facilities required to comply with its existing permit conditions through its EchoWater project. These new facilities will cost Regional San’s rate payers an estimated \$2 billion. If the current dilution credit for THMs were eliminated due to concerns regarding the short distance between the edge of the mixing zone and the diversion structures, Regional San could not reliably meet the resulting effluent limitations and would be compelled to cease operation of its new EchoWater project chlorine disinfection facilities. In lieu of chlorine disinfection, Regional San would be forced to construct an alternative disinfection system to meet the THM effluent limitations and Title 22 equivalent requirements in its NPDES permit, leading to additional significant environmental impacts from constructing that system. The EIR Project description should include a commitment that DWR and the State Water Project contractors will not characterize the intakes as “drinking water intakes,” and also evaluate the potential adverse impacts to Regional San’s operations if the RWQCB were to adopt such a characterization.

D. The EIR Must Evaluate the Project’s Consistency with the Delta Plan

The Delta Plan contains policies, recommendations, and performance measures designed to protect the Delta environment and existing Delta land uses from the impacts of major new projects, including the proposed Delta Conveyance Project. The Delta Reform Act requires that projects within the boundaries of the Delta that will significantly impact the achievement of the statutorily-established coequal goals for protection of the Delta and provision of a reliable water supply demonstrate consistency with the coequal goals and each of the regulatory polices contained in the Delta Plan before the project may be implemented. (Wat. Code, §§ 85054, 85057.5, 85225; Cal. Code Regs.,

¹ Project proponents and users of water exported from the Delta have a history of commenting on the NPDES permit and wastewater facility EIR documents prepared by Regional San and other Central Valley publicly owned treatment works (POTWs). They have consistently asked for increasing levels of treatment by Regional San and by other municipalities in the Central Valley (e.g. Stockton, Modesto, Turlock, etc.). State Water Contractors and numerous other export water users submitted comments on the EchoWater project EIR. In those comments, they advocated for additional removal of nutrients and salinity, above and beyond the capability of the EchoWater project. Thus, it is entirely foreseeable that placing the Project diversion structures within the vicinity of the SRWTP discharge to the Sacramento River will result in intensification of such requests by Project proponents and others.

² Order R5-2016-0020-01 NPDES No. CA0077682 Waste Discharge Requirements for the Sacramento Regional County Sanitation District Sacramento Regional Wastewater Treatment Plant Sacramento County, accessible at https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/sacramento/r5-2016-0020-01.pdf.

tit. 23, § 5002, subd. (b)(1)). The Delta Plan also contains priority recommendations that identify actions “essential to achieving the coequal goals” (Delta Plan, p. ES-17) and performance measures related to meeting the Plan goals and policies. (Delta Plan, Appendix E: Performance Measures for the Delta Plan, as amended Apr. 26, 2018.)

Regional San has worked with the Delta Stewardship Council since 2009 in the development of the Delta Plan, Delta Science Plan, and Delta Science Program and Delta Independent Science Board work products. Regional San is very committed to the health of the Delta ecosystem and has invested substantial resources to help produce a Delta Plan that serves the coequal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. Project impacts to Regional San’s treatment facilities and operations, described above, would present a substantial obstacle to Regional San’s ongoing efforts to further the coequal goals and are inconsistent with specific Delta Plan policies and the coequal goals themselves.

Specifically, DWR’s decision to locate the Delta Conveyance Project diversion structures directly downstream of the SRWTP is not consistent with Delta Plan Policy DP P2 (Cal. Code Regs., tit. 23, § 5011), which requires that water management facilities be sited so as to avoid or reduce conflicts with existing uses. The potential for increased regulatory requirements and substantial physical modifications to Regional San’s facilities and operations create direct conflicts with the existing SRWTP use, and thus the Delta Conveyance Project as described in the NOP is inconsistent with DP P2. The Delta Conveyance Project should be revised prior to release of the draft EIR to move the proposed intakes so that there is no potential for adverse effects to the SWRTP.

III. The Significant Impacts to the SRWTP and Its Operations Require Analysis of Alternatives to the Project, Including Alternative Intake Locations

CEQA requires that DWR consider alternatives to the Delta Conveyance Project capable of avoiding or substantially lessening its significant impacts. DWR staff have represented in Project scoping meetings that there are no available alternative intake locations due to fish concerns. This is inaccurate and contradicted by information developed in the WaterFix CEQA process. Moreover, such statements suggest that DWR has improperly prejudged the scope of its alternatives analysis for the Draft EIR.

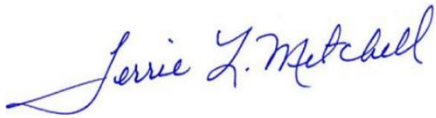
Information in the WaterFix EIR Appendix 3F, Intake Location Analyses (pp. 3.F.6 - 3.F.8), relying on the Fish Facilities Technical Team (FFTT) report, indicates that there are suitable intake locations farther downstream below Steamboat Slough (identified as intakes 6 and 7), which would reduce the potential for conflicts with and significant impacts to SRWTP operations and have the benefit of being better for salmon. At a minimum, the draft EIR alternatives must include a robust analysis of alternative locations for the intakes that avoid these significant impacts.

Given the potential for significant water quality impacts in the Delta due to the reduction in freshwater flows, and Delta Reform Act mandates, the EIR should also fully evaluate both a non-structural alternative that includes water reclamation, localized desalination and increased capture and storage of localized rainfall in lieu of continued or increased Delta exports.

Conclusion

The Delta Conveyance Project is likely to have significant adverse impacts to Regional San's facilities and operations, as well as impacts to water quality. In addition, the Project could create other impacts by necessitating construction of new public facilities at the SRWTP site that would be required as a result of the Delta Conveyance Project. These conflicts with the SRWTP also make the Project described in the NOP inconsistent with the Delta Plan. Regional San encourages DWR to move the proposed intake locations to an area that would not adversely impact SRWTP operations and to coordinate closely with Regional San as it develops the draft EIR to ensure that impacts to the SRWTP facility operations are accurately and adequately evaluated and mitigated. Please contact Terrie Mitchell at 916-876-6092 or at mitchellt@sacsewer.com if you need additional information or would like to discuss these comments.

Sincerely,



Terrie L. Mitchell,
Manager, Legislative & Regulatory Affairs

Cc: Prabhakar Somavarapu, Regional San District Engineer
Christoph Dobson, Regional San Director of Policy & Planning
Kelley Taber, Somach, Simmons and Dunn