

# Reclamation Districts 2060 and 2068

Appeals of DWR Delta Plan Certification No. C20215

Lookout Slough Tidal Habitat Restoration and Flood Improvement Project

# Introduction

- ▶ The RDs agree with the inconsistencies identified in the proposed staff determination.
- ▶ The RDs request that the DSC reconsider the other inconsistencies identified in the RDs appeals, particularly as to:
  - ▶ Protected Species
  - ▶ Water Quality
  - ▶ Flood Control
  - ▶ Impacts to Agriculture
- ▶ Lookout Slough Project poses an existential threat to agricultural operations and municipal diversions in the surrounding area, and is therefore **fundamentally inconsistent with the Delta Plan.**

# Protected Species - Pumping Impacts

- ▶ Project aims to increase populations of Delta Smelt and other protected species.
- ▶ To avoid take/entrainment, diverters will likely be required to install costly upgrades (fish screens) or relocate intakes.
- ▶ Certification fails to address funding for these reasonably foreseeable impacts of the Project.
- ▶ DWR fails to address physical impacts of construction required to protect against take/entrainment.



# Water Quality - Modeling Limitations

- ▶ EIR concludes no significant impacts to water quality based on “predictive models,” but models are flawed and based on artificially narrow data sets.
- ▶ FEIR expressly recognizes uncertainties in the models:
  - ▶ “flows and salinity in the Delta are dynamic, with historic data indicating large fluctuations between seasons and between years due to variation in precipitation, water management practices, and other factors. While modeling can replicate a substantial fraction of these dynamics, there is a limit to their capacity to fully replicate observed conditions.” (FEIR 3-5.)
  - ▶ Model replicates 67-80% of the EC variance at some locations . . .” (*Ibid.*)
  - ▶ “the current scientific understanding is not sufficient to make accurate predictions to determine the significance of direct, indirect, and cumulative impacts of the Proposed Project’s effects on dissolved organic carbon . . .” (FEIR Master Response Pg.3-22)

# Water Quality - Salinity and Bromide

- ▶ The Certification acknowledges that “[f]or agricultural operations and municipal water facilities’ use, including RD 2068’s agricultural diversion . . . RMA modeling results showed that **the Proposed Project is predicted to cause both decreases and increases in salinity and bromide concentrations.** (Certification at 5.)
- ▶ Changes in salinity and bromide concentrations will impact water supply of municipal and agricultural diverters in the vicinity of the Project.
- ▶ Based on flawed modeling, EIR declares impacts less than significant.
- ▶ **No mitigation to address potential impacts.**



# Water Quality - Mercury and Methylmercury

- ▶ EIR does not analyze the Project's potential to impact mechanisms that contribute to mercury methylation.
- ▶ EIR recognizes that “[c]urrent mercury and methylmercury dynamics in tidal wetlands are not well understood, and until recently, few, if any studies existed that were able to collect mercury, methylmercury, and flow data with enough accuracy and precision to make realistic estimates of methylmercury dynamics in tidal wetlands.”
- ▶ FEIR adds reference to the Sacramento-San Joaquin Delta Mercury Control Program and Total Maximum Daily Load, then concludes impacts are less than significant.
- ▶ No mitigation to address potential impacts.

# Water Quality - Invasive Aquatic Weeds

- ▶ Certification fails to adequately address invasive aquatic weeds, like water hyacinth, which can have substantial secondary impacts on water quality.
- ▶ BIO-4 is inadequate:
  - ▶ No performance measures
  - ▶ Lists measures that may be taken “where determined necessary” and “with the goal of controlling populations.”
  - ▶ Calls for removal to be conducted “to control identified weed populations” and monitoring “to ensure that the procedures are effective,” but it is unclear who decides how to implement, and “control” and “effective” are not defined.



# What happens if models prove incorrect or invasives are not managed?

- ▶ Impacts to water quality threaten the ability of agricultural and municipal diverters to continue pumping water, thus impacting water supply.
- ▶ No infrastructure in place to treat water for agricultural or municipal use if these impacts manifest.
- ▶ This is expressly inconsistent with the coequal goal of providing reliable water supply.

# Impacts Related to Flooding

- ▶ Project calls for RD 2098 to play a key role in Operation and Maintenance (O&M), but fails to identify funding for that maintenance or address how maintenance will occur if RD 2098 cannot perform it.
- ▶ Certification fails to address risks of flooding and changes in emergency access.
- ▶ Potential loss of 40,000 acre-feet of flood storage.
- ▶ Potential impacts to local, regional, and FEMA flood plains.



# Impacts Related to Agriculture

- ▶ Viability of agriculture is a distinct value of the Delta
- ▶ The Project fails to protect agriculture in the Delta.
  - ▶ Impacts to water quality and increased populations of protected fish will threaten the ability of local diverter to use their intakes.
- ▶ DWR should prioritize outstanding repairs to area levees, rather than funding a restoration project with nominal flood benefits.