

California Sportfishing Protection Alliance
“An Advocate for Fisheries, Habitat and Water Quality”

COMMENTS

Programmatic Environmental Impact Report
East Bay Municipal Utilities District
Water Supply Management Program 2040

Filed by:

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Dear Mr. Thomas:

The California Sportfishing Protection Alliance respectfully submits these comments on the District’s Draft Programmatic Environmental Impact Report for its Water Supply Management Program 2040.

CSPA has hundreds of members in California, many of whom have long been active in issues relating to planning and conservation on the Mokelumne River. CSPA also has many members in the EBMUD service area, including the author of this comment letter.

Water Demand Assumptions

The Water Supply Management Program is built around two overriding assumptions: first, that the District should base its planning on a worst-case scenario, three-year extended drought; and second, that water supply demand in the EBMUD service area will grow at an annual rate of 2% from now until 2040. These are neither valid assumptions, nor responsible ones.

Should the District face extended drought, those of us in the East Bay will have to tighten our water belts, as we have in the past. The District is blessed with a ratepayer base that is

willing and able to make necessary sacrifices in drought, or even dry year situations; indeed, the District just announced a water rate increase because its customers are using water (*SF Chronicle*, April 15, 2009). Should the District, however, base its planning on extreme, emergency demand, it will have rather incentivized development that will only further increase future drought condition water demand. The District has not even finished its latest program to meet demand during dry year or drought conditions. Yet before a single drop of water has been moved through the Freeport connection, the drought reserve is already cast in WSMP 2040 as part of the future's baseline water supply. Will the District even reach 2040 before the projected new storage in an expanded Pardee is transformed in the same way?

The projected 2% annual increase in demand is not supported by historic use, as many verbal comments, and the written comments by the Amador County Board of Supervisors, have pointed out. Demand projection by city officials in the service area, on which much of the 2% figure is based, depends as much as anything on who one asks and how one frames the question.

We suggest that the Board ask a different question: Since we have reached the point where the District can no longer count on additional water supplies, how will your city manage both severe drought conditions and future growth?

The District's Board should reflect and in fact direct the political will and environmental morality of its constituency. The revolving door must stop.

Water Accounting in the Mokelumne Watershed

California is in a situation where water is allocated for use, under riparian, pre-1914, or appropriative water rights, at a level that is about five times the average annual runoff in the state. Even the State Water Resources Control Board acknowledges that it does not know how much water is diverted under most of the riparian and pre-1914 rights. The Mokelumne watershed is no exception to the general trend.

“Channel losses” between Camanche Dam and Woodbridge are estimated in Table 4.2.A-1 of the draft PEIR at as much as 120 TAF in normal years and 56 TAF in dry years. This is in part an already-existing conjunctive use program, by which the lower Mokelumne River aquifer is recharged. It is also doubtless an artifact of riparian pumping of the aquifer at an unaccounted-for level. Given the existing and reasonably foreseeable future water supply demands on the Mokelumne watershed, it is irresponsible as well as inadequate under CEQA not to quantify and identify more precisely what happens to this water, and to ascertain how much of that water is being illegally or wastefully diverted or consumed. Existing demands on the Mokelumne system must be rigorously accounted for, not approximated under a catch-all category, particularly in a programmatic EIR. The District cannot evaluate the impacts of its instream flow releases to the Mokelumne River if it cannot determine how much water is left in the river at any given time.

Impacts to Mokelumne River Fisheries

Neither baseline nor future impacts to the fishery downstream of Camanche are described in the draft PEIR, but are rather simply assumed to be fully mitigated by the Joint Settlement Agreement (JSA) signed by the District, California Department of Fish and Game, and the U.S. Fish and Wildlife Service in 1996. But existing instream flow levels are not adequate to protect lower Mokelumne River fishery resources. On the contrary, the anadromous salmonids in the lower Mokelumne are in imminent danger of extirpation.

The fact that the District cannot account for the actual instream flow at any given point downstream of Camanche is only the beginning. Beyond that, no information is provided about fish screens or the degree of entrainment into diversions downstream of Camanche. No information is provided about successful escapement of naturally spawning salmon and steelhead, or about returns to the Mokelumne River hatchery. The draft PEIR contains no discussion of precipitous decline over the last three years of salmon and steelhead in the lower Mokelumne, or of the consequent need to provide passage past Camanche and Pardee dams to over 40 miles of habitat in the Mokelumne River upstream of Pardee. No information is provided about the inadequacy of the flows below Woodbridge, which, with a dry year requirement for June through September flows of 20 cfs, and a critically dry year requirement for May through September flows of 15 cfs, must be augmented beyond the given minimum flow requirement simply in order to maintain connectivity between Woodbridge and the mouth of the Cosumnes. No information is provided about the effects of these inadequate flows on the riverine ecosystem downstream of Woodbridge. No information is provided about how these inadequate flows below Woodridge, especially in September, leave salmon unable to ascend the fish ladder at Woodbridge due to inadequate flow through that ladder, or how they are thus picked off by various predators. In spite of growing evidence of the importance of high spring flows for the juvenile rearing of salmon and steelhead, the draft PEIR equally says nothing about the inadequacy of spring flows under the JSA, even in normal and wet year conditions.

In discussing a possible raise of Pardee Dam, the draft PEIR makes no mention of the impacts to possible volitional fish passage past that facility, and does not even contemplate a trap and haul solution past both Camanche and Pardee. As such, it fails to analyze the impacts of the program to the recovery of threatened Central Valley steelhead, whose historic habitat in the Mokelumne system was almost completely blocked by Pardee, and then Camanche dams. An existing, albeit inadequate, trap and haul program is provided for under some circumstances in the Joint Settlement Agreement; the impacts to that aspect of the settlement agreement of a Pardee raise are not evaluated.

Water Availability

The water that EBMUD seeks to impound behind a new Pardee Dam is the same water that the Mokelumne River Joint Powers Authority, in water rights Application 29835,

seeks to siphon off to a proposed Duck Creek Reservoir for ground water recharge in eastern San Joaquin County and for other purposes. Following conventional limited thinking about the need to divert more water at high flows, EBMUD, in the footsteps of San Joaquin County and many others, seeks to cut the off the top of the Mokelumne hydrograph, much as proponents of a peripheral canal believe they can conjure mysteriously available water off of high flows to capture before it reaches an ever-increasingly squeezed Bay-Delta estuary.

The theory that high flows will waste away to the sea under climate change, in spite of increasing evidence of the importance of high flows for salmon outmigration, and for restoring the Delta ecosystem and Delta water quality by increasing Delta outflows, is faithfully reproduced in the draft PEIR. As if this were not bad enough, the draft PEIR contemplates removing high flows from the Sacramento River system at Freeport, when low flow conditions are not in effect that would require the already-approved use of Freeport to convey dry year water from the American River. The use of water transfers from upstream in the Sacramento system explicitly promotes increased groundwater pumping in the Sacramento Valley, tapping one of the last remaining areas of California not yet brutalized by over-exploitation of finite groundwater resources. This proposed use of Freeport is also effectively a mini-peripheral canal that will further choke the Delta, degrade its water quality, destroy its pelagic fisheries, and rob it of critical high flows necessary for the outmigration and upstream migration of anadromous fish.

The final PEIR should analyze the environmental consequences of what will happen if leading Bay Area entities like the East Bay Municipal Utilities District do not stand up politically to save and restore the Bay-Delta estuary.

The District's cooperation with the Intra-Regional Conjunctive Use Program (IRCUP) that is promised in the draft PEIR is so vague that it amounts to little more than lip service meant to placate San Joaquin and upcountry entities. Eastern San Joaquin County has been subject to immense overdraft, and has become literally a hole in the ground that numerous entities are clamoring to throw water into. County agriculture, which has lived on borrowed water for fifty years or more, continues to bleed both available surface and groundwater resources dry. Having failed to realize the Auburn Dam dream, and refusing to take on the State Water Project and Central Valley Project head on, the County seeks to exploit the very same water that EBMUD proposes to conjure in order to fill up an expanded Pardee Reservoir.

Building a bigger bathtub does not fill it with water. A water availability analysis conducted in 2002 by Mokelumne River Water and Power Authority for a competing water right application (28935) showed that there is no water available for appropriation in the Mokelumne system in 51 out of 75 years in a period of record. That analysis also made the same assumption as does the draft PEIR, that the JSA adequately protects the anadromous fish of the lower Mokelumne. A complete analysis of the cumulative impacts on both the lower Mokelumne and the Bay-Delta of removing more of the high flows from Mokelumne watershed can only show that the number of years that water

might actually be available for appropriation in the watershed is less than the one third figure arrived at in the MRWPA water availability analysis.

Finally, should the district partner with San Joaquin entities in a conjunctive use program, how does it propose that the water stored in the ground will be accounted for? Or will water that goes into the ground simply disappear to a dozen or a hundred competing uses, as surely as water in the lower Mokelumne aquifer disappears with no evident accounting or so much as a faretheewell from the District?

Conclusion

EBMUD should take an aggressive leadership role in restoring the anadromous fisheries of the Mokelumne River, including improved lower river flows and passage upstream of Camanche and Pardee Dams to 40 miles of excellent habitat.

EBMUD should institute a management plan that controls water demand starting today. Control of demand requires a clear policy, buy-in from ratepayers, and the political will to put the policy into practice. Control of demand is the only way that the District in the next thirty will be able to live within the means of its already over-allocated hydrologic system. Failing clear vision, the leadership to achieve buy-in, and the and the courage to implement its political will, EBMUD will be looking, by 2030, at a new water supply management program for 2060 to find a dry year water supply to supplement the water that rarely came to a raised Pardee.

To the degree that such documents are necessary, EBMUD should issue new draft EIRs to reflect these policy changes. The District should abandon the current draft document and the program it contemplates.

Thank you for the opportunity to comment on the Draft Programmatic EIR for the Water Supply Management Plan 2040.

Respectfully submitted,

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