



July 28, 2021

Via email

Scientific Integrity Fast-Track Action Committee (SI-FTAC)
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Executive Office of the President
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Re: Comments on scientific integrity in federal agency decisions regarding water management by Reclamation’s Central Valley Project

California Water Research has advocated for the use of best available science in California water infrastructure projects and management for over a decade. California Sportfishing Protection Alliance has advocated for scientific integrity in support of decisionmaking in California water policy for over 30 years. The San Joaquin Audubon Society has advocated for scientific integrity in assessing impacts of the massive Delta tunnel project on habitat for Sandhill Cranes, black rail, and migrating waterfowl in the Sacramento-San Joaquin Delta. We respectfully submit the following comments on scientific integrity in federal agency decisions regarding water management by the US Bureau of Reclamation’s Central Valley Project.

First, the Bureau of Reclamation’s Scientific Integrity Policy requires the following for a finding that a loss of scientific integrity has occurred:

The actions causing the scientific misconduct or loss of scientific integrity be committed intentionally, knowingly, or recklessly.¹

This is a high burden of proof and should not be required for a finding that remedial actions are necessary to restore scientific integrity. Procedural requirements to prove intention should be eliminated.

¹ US Bureau of Reclamation, Scientific Integrity Procedures Handbook (305 DM 3), 2014, p. 14.

Second, with respect to item (5) in the RFI, “Other important aspects of scientific integrity and effective approaches to improving trust in Federal science,” there needs to be a process to address instances where there was a wholesale loss of scientific integrity in the previous administration. While complaint processes were available during the previous administration, if there was corruption at the highest levels of agency administration, complaints were unlikely to be filed.

As an example, management of Reclamation’s Central Valley Project has long been tainted by suppression of science that would reduce water deliveries. But under the previous administration, political interference with the Endangered Species Act consultation on Reclamation’s Reinitiation of Consultation on Long-Term Operations of the Central Valley Project and State Water Project was so egregious that Congressman Jared Huffman called it “illegal” and “textbook illegal.”²

TIMELINE

January 2019 Reclamation transmits its Reinitiation of Consultation Biological Assessment to NMFS and FWS for their consultation on the effects of the proposed CVP and SWP operations.

May 2019 According to the Guardian, the regional director of the US Fish and Wildlife Service tells agency scientists that the “goal” of their reviews was “no J”, a reference to a jeopardy opinion, according to the meeting notes. “That is the objective,” he said, “and the schedule does not allow time for a J.”

June 2019 NMFS circulates a draft of its biological opinion for independent peer review. That June draft highlighted heightened risks to the listed species and their critical habitats, especially with respect to Reclamation's proposed operations at Shasta Dam, which were expected to result in high levels of temperature dependent mortality of salmonid eggs.

July 2019 The Trump administration removes most of the scientists working on the biological opinion and established a team of lawyers and scientists from Reclamation and other agencies to review and revise the biological opinion, deeming the July version a "draft" in need of improvement.

October 2019 NMFS and FWS release final biological opinions. In contrast to the agencies' earlier findings the final biological opinions conclude that the proposed action will not jeopardize listed species or adversely modify critical habitat.

July 2021 The California Department of Fish and Wildlife projects that nearly all winter run juvenile Chinook salmon could die this year.

² Jimmy Tobias and Emily Holden, Trump’s California Water Plan Troubled Federal Biologists. They Were Sidelined Exclusive: Although Scientists Recommended Otherwise, Trump Officials Favored Political Allies Over Endangered Wildlife, Internal Emails Show, The Guardian, February 13, 2021. <https://huffman.house.gov/media-center/in-the-news/trumps-california-water-plan-troubled-federal-biologists-they-were-sidelined>.

Timeline sources: Natural Resources Defense Council, Defenders of Wildlife, Golden Gate Salmon, and the Bay Institute / Pacific Coast Federation of Fishermen’s Associations and the Institute for Fisheries Services, The Guardian,³ Doug Obegi, NRDC.⁴

While the Biden administration has promised to reinitiate consultation on Long Term Operations of the CVP and SWP by October 1st for new or amended biological opinions, the situation which led to such blatant interference in regulatory decisions by agency scientists has not been addressed. The deadlines to file complaints under the scientific integrity policies of the relevant agencies has also passed.

Public access to data

Scientific integrity requires transparency and timely public access to relevant data used in policy decisions. Data access is not addressed in scientific integrity policies, but should be. There are currently issues that Reclamation’s Central Valley Operations Office is not providing timely updates to the 2021 Central Valley Project Water Delivery Monthly Tables.⁵ Reclamation has not yet reported deliveries for May or June of 2021, although in prior years data was available shortly after the end of a month.

Reclamation is also not updating the website on Central Valley Project Water Operations and Watershed Monitoring Technical Teams meetings with team meeting information. Although the Sacramento River Temperature Task Group is meeting weekly, the agendas and summaries from the weekly meetings are not being posted. In addition, meeting notes for the weekly meetings are not available.⁶

The resulting lack of transparency significantly erodes public confidence in the scientific integrity of real-time operations during a critically dry year.

Working groups

With respect to item (1) in the RFI, regarding “Political or other improper interference in the conduct of scientific research, the collection of scientific or technological data, and the utilization of science in decision-making.”

There should be a process to review whether working groups created under the previous administration institutionalize political interference in the utilization of science in decision-making. In the case of the Bureau of Reclamation, the new Delta Monitoring Work Group includes state and federal water contractors, and involves them in decisionmaking about real-time operations of the Central Valley Project and State Water Project to protect fish. See the description at <https://www.usbr.gov/mp/bdo/delta-monitoring-work-group-2021.html> .

³ Jimmy Tobias and Emily Holden, Op. Cit.

⁴ Doug Obegi, The (Not Surprising) Failure of the Shasta Temperature Plan, July 8, 2021. Available at <https://www.nrdc.org/experts/doug-obegi/not-surprising-failure-shasta-temperature-plan>.

⁵ Available at <https://www.usbr.gov/mp/cvo/deliv.html>.

⁶ Bill Jennings, Chairman, California Sportfishing Protection Alliance, personal communication.

The Union of Concerned Scientists has advocated that the “use of science to inform agency decisionmaking must be as unbiased as possible, and the science itself should be independent—in other words, free of political, ideological, or financial influence.”⁷ For these reasons, our organization advocates that only agency staff should be in work groups making determinations about real-time operations of the CVP and SWP.

Thank you for your consideration of these comments.



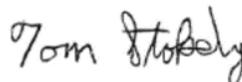
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⁷ Center for Science and Democracy, Union of Concerned Scientists, Strengthening Scientific Integrity at Federal Agencies: Recommendations for 2021 and Beyond, August 2020. Available at <https://ucsusa.org/sites/default/files/2020-08/si-report-roadmap-for-science.pdf>.