SYNOPSIS OF KEY PROBLEMS WITH THE BDCP AND EIR-EIS

1. The BDCP is based upon this misrepresentation: that a massive new twin tunnel system, which would greatly reduce the natural flow of water through the Delta, qualifies as a "conservation" project to restore the Delta ecosystem and protect species already verging on extinction.
2. The BDCP conceals this central fallacy with a deceptive portrayal of the proposed program. It bundles the twin tunnel "conservation" project for immediate approval with 21 other vaguely defined conservation concepts. Many of these 21 measures are already required, or part of earlier-approved projects; others will not be capable of approval for years into the future.
3. The BDCP assumes without justification that benefits of the 21 conservation concepts will outweigh the destructive consequences of the twin-tunnel project. But all these concepts still lack crucial details and complete study, which the BDCP improperly seeks to defer until after the twin tunnels are approved and built.
4. The BDCP relies on phantom "paper" water, rather than actual supplies for generations to come, ensuring future conflicts over water rights. As the twin tunnels deprive the Delta of more water, the BDCP unrealistically assumes that miracles of management and engineering can simultaneously improve Delta water quality, protect endangered species, and avoid major damage to Delta farms and communities.
5. The BDCP's draft Implementing Agreement works primarily as an avoidance agreement. The IA leaves major gaps in accountability for project implementation, mitigation and financing. It assigns state and federal water contractors an excessive role in plan governance, consigns Delta counties to a marginal role, and misuses "adaptive management" as little more than a slogan to evade responsibility for the project's major risks.
6. The BDCP reflects a triumph of project advocacy over sound science. Independent experts, including the State of California's own reviewers in the Delta Science Program, have discredited the scientific credibility of the BDCP, and found it unable to meet federal and state requirements for a "conservation" plan.
7. The State of California's Delta Independent Science Board found that the BDCP's EIR-EIS "falls short" of scientific standards. The Board's report compared the EIR-EIS's water analysis to "an orchestra playing music without a conductor and with the sheets of music sometimes shuffled." Instead of merely headaches, the deficient analysis creates potential risks to public health, the environment and the economy.
8. The BDCP's EIR-EIS fails federal and state requirements for environmental review. It relies on a defective baseline for evaluation, fails to properly study direct and cumulative impacts, and lacks an adequate range of alternatives and meaningful mitigation measures.
9. With more than 40,000 pages of poorly organized supporting documents, the BDCP's EIR-EIS is among the least user-friendly environmental reviews in history. It buries essential information in technical appendices, and fails to fully inform the reader about the project's environmental consequences.

I. THE BDCP'S DRAFT IMPLEMENTING AGREEMENT UNDERSCORES MAJOR DEFICIENCIES IN ACCOUNTABILITY FOR PROJECT IMPLEMENTATION, MITIGATION, AND FINANCING.

A. BDCP Cannot Proceed Without a Lawful Implementing Agreement.

On May 30, 2014, several state and federal agencies involved in developing or reviewing the Bay Delta Conservation Plan (including the Department of Water Resources and federal and state fisheries agencies) finally released a draft Implementing Agreement (IA). A "note to reviewers" in the IA's first paragraph indicates that the "level of agency signatory" for this agreement remains to be determined.

The release of the IA more than five months after the final draft BDCP for a perfunctory two-month comment period does not fulfill the state and federal agencies' prior commitment to allow for public review of the IA concurrently with the BDCP public review draft. In October 2006, the same agencies--along with the California Resources Agency and the United States Bureau of Reclamation, among others--executed the *Planning Agreement Regarding the Bay Delta Conservation Plan* (Planning Agreement, or PA). The signatories retained and amended the agreement in 2009. Section 7.8 of this agreement commits to provide "[a]n Implementing Agreement that includes specific procedures for the implementation, monitoring and funding of the BDCP," and provides that "[a] draft of the IA will be made available *for public review and comment with the final public review draft of the BDCP.*" (PA, 18-19 (emphasis added).)

The IA must provide crucial details about the BDCP and its environmental consequences beyond those covered elsewhere in the public review drafts. The Natural Community Conservation Planning Act (NCCPA) expressly requires an approved plan to "include an implementation agreement" that "contains all" of a lengthy list of requirements. (Fish and Game Code, § 2830(b)(listing the required elements of an Implementation Agreement).) The BDCP's Planning Agreement therefore represented that the IA "will contain provisions for" the following:

- Conditions of species coverage;
- Long-term protection of any habitat resources other measures that provide equivalent conservation;
- Implementation of mitigation and conservation measures;
- Adequate funding to implement the plan;
- Terms for suspension or revocation of the proposed Incidental Take Permit;
- Procedures for amendment of the BDCP, the IA, and take authorizations;
- Implementation of monitoring and adaptive management;
- Oversight of BDCP allocations and funding;
- Periodic reporting.

(PA, pp. 18-19.)

As the Planning Agreement anticipated, the IA must provide essential information illuminating the details of project conditions and the assignment of responsibility for project construction, implementation, adequate funding, mitigation, monitoring, and adaptive management. This information is particularly crucial for a project such as the BDCP, which purports to rely heavily on adaptive management, and leaves 21 of its 22 ostensible "conservation" measures (all except for the proposed construction of a new north Delta twin tunnel system) unanalyzed except, and if at all, at the programmatic level. BDCP's public review draft prospectively relies upon its *future* IA when it generically denies that the project will operate in violation of the law. (See, e.g., BDCP, chapter 6 (Plan Implementation), chapter 7 (Implementation Structure) and chapter 8 (Implementation Costs and Funding Sources).)

In addition to being required for NCCPA compliance, the IA is crucial for compliance with the federal Endangered Species Act (ESA), which requires conservation plans to include steps, and available funding, to "monitor, minimize and mitigate" impacts. (40 C.F.R. § 222.307(b)(5)(iii).) Moreover, the IA's content is also closely related to the environmental review provided in the EIR-EIS. Reliance on a faulty IA would also fatally distort environmental review, because the IA provides an indispensable source of information about the project and its environmental consequences. Under CEQA, reviewing agencies are bound to "scrupulously" enforce CEQA's mandates. (*Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435 (quoting *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564).) In CEQA review, "[t]he preparation and circulation of an EIR is more than a set of technical hurdles for agencies and developers to overcome. The EIR's function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences, and equally important, that the public is assured those consequences have been taken into account." (*Id.* at 449-450.)

For the BDCP, the IA is necessary to understand, and establish accountability for, these environmental consequences. Without the IA, the project's review cannot fully achieve CEQA's mandate for public agencies to "mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so." (Pub. Res. Code, § 21002.1.) In light of its major role within BDCP, the IA must necessarily be considered as part of the "whole" of the action as CEQA requires. (14 Cal. Code Regs., § 15368; see section III, *infra.*)

Similarly, under NEPA, excluding full consideration of the IA would unlawfully piecemeal the project's proposed incidental take permit from essential terms of project implementation (40 C.F.R. § 222.307(b)(5)(3)), and would undermine the EIS's ability to fully address the "environmental impacts of the proposed action . .

. ." (42 U.S.C. § 4332(C)(i).) An EIS "shall provide full and fair discussion of significant environmental impacts and shall inform decision-makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts . . . ." (40 C.F.R. § 1502.1.)

Careful consideration of the IA is also crucial in light of the extensive role that the BDCP proposes for federal and state water contractors, from project financing to participation in an "Authorized Entity Group" tasked with extensive powers in the management and implementation of the BDCP. (BDCP, pp. 7-8 to 7-12.) Recent reports suggest that in a May 6, 2014 memorandum to its employees, DWR recognized that a "more detailed financing plan" for the BDCP has yet to be developed. Nonetheless, DWR announced that it is already establishing a separate BDCP Office to coordinate project implementation, and a Delta Conveyance Facility Design and Construction Enterprise (DCE) that will include unspecified local water agencies and private consulting firms as well as DWR. (See http://blogs.esanjoaquin.com/san-joaquin-river-delta/files/2014/05/BDCPJPA.pdf) This puts the cart before the horse.

Rather than proceeding as if BDCP implementation were a foregone conclusion, the reviewing agencies should take the time needed to consider the IA's serious deficiencies and their implications for BDCP and the EIR-EIS. The BDCP is widely recognized as "the most complex HCP/NCCP permit application ever attempted." (See https://watershed.ucdavis.edu/files/biblio/FINAL-BDCP-REVIEW-for-TNC-and-AR-Sept-2013.pdf.) Only through an accurate view of the project may the public and interested parties balance the proposed project's benefits against its environmental cost, consider appropriate mitigation measures, be assured of the feasibility and funding for necessary mitigation measures, and assess the advantages of terminating the proposal and properly weigh other alternatives. (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 672 (2007).)

B. The Implementing Agreement Underscores Major Gaps in Accountability for Project Implementation, Mitigation and Financing

Despite its length, the IA does little more than make undocumented assertions of BDCP's compliance with the NCCPA's mandatory requirements for permitting listed in IA section 4.2.1. Rather than realistically addressing the major challenges BDCP implementation faces and clearly assigning responsibility, the current draft IA relies heavily on a morass of elliptical phrases, vague assurances, and deferrals of responsibility to the future decisions and actions of project proponents. Unfortunately, the IA's liberal use of reassuring phrases such as "regulatory assurances" and "adaptive management" cannot paper over BDCP's major problems establishing accountability for project implementation, mitigation and financing. These problems undermine BDCP's compliance with the related legal requirements noted above under the ESA, CEQA and NEPA, as well the IA's ability to live up to

its own asserted purposes. These purposes include the duties to ensure that terms and conditions are "properly implemented," delineate the implementing entities' "responsibilities, financial or otherwise (including the commitment and management of resources" and "set forth the remedies and recourse" should any party to the IA fail to perform its obligations. (IA, section 2.2, at 4.) Without providing any secure foundation for meeting these objectives, the IA appears to place a far higher premium on offering "assurances and protections" to a select group of "authorized" entities compromising BDCP's major proponents. (*Id.*) Indeed, despite previous criticisms of deficiencies in BDCP governance, the IA confirms that a small group of "authorized" entities--including DWR, the Bureau of Reclamation, and unnamed representatives of the State Water Project (SWP) and Central Valley Project (CVP) contractors—are slated to receive sweeping and unprecedented authority to implement (and in some cases to modify) plan requirements. Several of the IA's central defects are highlighted here.

1. Conclusory and Unscientific Findings

The IA relies prospectively on the still-unmade findings of USFWS and NMFS required for ESA compliance (section 4.1) and the still-unmade findings of the Department of Fish and Wildlife (DFW) required for NCCPA compliance (section 4.2). Although the IA correctly notes that these findings are legally required, it contains only bare assertions of compliance, without any analysis that would support findings of compliance. That analysis cannot be complete until these agencies have the full-benefit of public review and comment. The same is the case with respect to section 4.2.2, in which DFW summarily announces without analysis that BDCP and its EIR comply with the Delta Reform Act. (Wat. Code, § 85320, *et seq.*) Although these agencies have not yet even purported to provide the legally required findings, the IA elsewhere misleadingly asserts that the fish and wildlife agencies "*have found that the BDCP fulfills*" the requirements of the ESA and NCCPA for the issuance of take authorizations. (Section 8.0 (emphasis added).)

As explained in the remaining sections of this summary, BDCP and the EIR have not come close to complying with the NCCPA, ESA, CEQA and NEPA. The asserted findings of "compliance" in these placeholder sections of the IA are markedly at odds with the detailed criticisms of leading scientists charged with reviewing BDCP under the Delta Science Program. These criticisms raise fundamental doubts about the advocacy-driven scientific case for BDCP, and confirm that failure to address these deficiencies may well undermine BDCP's ability to meet key requirements of the Delta Reform Act, including the "coequal" goal of the protection, enhancement and restoration of the Delta ecosystem (See section II, *infra.*)

2. Defective Governance and Implementation Structure

The IA underscores major defects in BDCP's implementation structure, confirming and compounding problems evident earlier in Chapter 7 of the plan. For many of the key decisions involved in implementing BDCP (BDCP, Table 7-1), the IA assigns major decision-making responsibilities to the extremely small "authorized entity group" (AEG), consisting of "the Director of DWR, the Regional Director for Reclamation, a representative of the SWP contractors and a representative of the CVP contractors." (IA, Section 15.3.1, at 58; see also section 3.7, at 5 (defining "authorized entity group").) The AEG provides state and federal water contractors with combined representation equivalent to that of the state and federal lead agency, while providing no representation to others, including the Delta's own counties and communities. (*Id.*)

The IA thus assigns an extraordinarily high level of responsibility to a group dominated by project proponents who have incentives to maximize BDCP's commitment to water supply deliveries, and minimize liability for project costs. Under the IA, the AEG "will engage" in decisions on numerous matters relating to administration, oversight, monitoring and funding, but is not even "limited to" those powers. (IA, section 15.3.1, at 58-59.) In addition, the AEG selects BDCP's program manager (section 15.2.4.1, at 56-57). The AEG-appointed program manager will, in turn, select and supervise BDCP's science manager (section 15.2.4.2, at 57).

That same program manager also makes staffing decisions for the Implementation Office, which "shall be responsible for planning, implementation and design" of BDCP's conservation measures (section 15.2.4.3, at 58). The "authorized entities" retain the "ultimate responsibility" for actions undertaken by the Implementation Office. In addition to DWR and some other state entities, state and federal water contractors will staff the implementation office. (*Id.*) In short, the IA undermines genuine responsibility for implementation of BDCP—a task critically in need of scientific candor and public accountability—with repeated reliance on a self-interested entity group that seems structured to minimize obstacles to BDCP's twin tunnel conveyance system. Missing from the IA, as well as the BDCP and the EIR-EIS, is any meaningful recognition of how the BDCP would centralize and transform key aspects of the SWP and CVP in the Implementation Office, with ultimate responsibility retained by the four-member AEG with two water contractor representatives. None of the BDCP documents come to terms with a major proposed revision in the nature of the projects, made without legislative approval, contract amendments, or approval by the California Water Commission.

Further evidence of the water contractor-friendly AEG's excessive authority over BDCP implementation is evident in the IA's provisions addressing the role of the fish and wildlife agencies' Permit Oversight Group (POG), whose representatives are the USFWS director, the NMFS regional administrator, and the DFW director

(section 15.4.1, at 60). Under the IA, key decisions of the POG must be approved *jointly* with the AEG, including those relating to such crucial matters as adaptive management, mitigation monitoring, funding, operations planning, and approval of progress reports (*Id* at 61).

Moreover, even very basic questions about the nature of AEG's decision-making remain unanswered. The IA assumes that the AEG will express a "single position" on matters under its consideration, without explaining how dissent is addressed. (IA, section 15.3.3, at 60.) It opaquely asserts that "the entity(ies)" (*sic.*) with "vested statutory or regulatory authority over the matter" will make the final determination, without explaining to the reader who possesses that authority in specific situations (*Id.*) It never explains how SWP and CVP contractors, groups whose history is replete with major internal disagreements and who have expressed widely differing opinions on BDCP, will manage to appoint a single "representative" apiece to the AEG. (IA, section 15.3.1, at 58.)

Despite a deluge of prior criticism, the IA improperly marginalizes the role of Delta counties and their constituencies, excluding them from any meaningful role in BDCP governance and decision-making even though they will bear the brunt of BDCP's adverse consequences for decades to come. The IA notes that "representatives of the counties of San Joaquin, Sacramento, Solano, Yolo and Contra Costa" will serve—along with dozens others representing NGOs, professional organizations, and other constituencies—on a Stakeholder Council conspicuously lacking in decision-making responsibilities. (IA, section 15.6.2, at 63-64.)

The Stakeholder Council functions simply as an advisory entity, which meets quarterly to exchange information and provide non-binding "input" to the AEG-selected BDCP program manager on the "current significant issues at hand." (IA, section 15.6.3, at 64.) The IA's exclusion of Delta counties from any more substantive role is especially noteworthy in light of their years of efforts to secure a more consequential role. A cryptic "note to reader" in section 7.2.8 of the BDCP asserts that the Resources Agency is "working with" representatives of Delta counties to involve them in plan implementation, and announces an "intention" to later incorporate unspecified revisions addressing their participation in the plan's final iteration (BDCP, at 7-26).

The IA notably does not incorporate the alternative governance proposal advanced by the Delta Counties Coalition. Unlike the IA, that proposal would secure each Delta county a voting role on any decision-making body having oversight, implementation and approval authority over the BDCP's conservation measures. The proposal, unlike the IA, would provide full funding for the counties' participation, recognizing that the counties lack the effective means to otherwise cover their participation costs from customers or ratepayers. Providing for the counties' effective

participation is necessary to ensure consistency with county planning, as well as six regional conservation plans within the BDCP's plan area that the IA notes are "being implemented or are under development." It would also help ensure fairness to those most directly affected by BDCP, and honor the Delta counties' need to protect their residents' health, safety, and welfare.

3. Avoidance of Conservation Measures

Although the IA is labeled an "implementation" agreement, it also provides opportunities for BDCP decision-makers, using unprecedented loopholes, to *avoid* responsibility for implementing its purported conservation measures. Divorcing "adaptive management" from scientific rigor and institutional accountability, the IA reverses the traditional role of such agreements in NCCPA compliance, allowing decision-makers to reduce, expand, delete or relocate the conservation and mitigation measures specified in BDCP and its EIR-EIS. (IA, section 10.3.1, at 29.) Using this method, the IA enables the AEG to secure removal or change of the plan's Conservation Measures 2-22 (those other than the twin tunnel conveyance system itself), whether or not the plan's Adaptive Management Team (AMT) recommends this change. In the IA's euphemistic language, it provides flexibility to allow the "addition to or elimination of" BDCP's conservation measures and biological objectives. (*Id.*) In other provisions of the IA, the AMT receives extensive authority to make changes in BDCP, couched in such terms as performance measures, effectiveness monitoring, and monitoring results. (See IA, section 3.1, at 5.)

BDCP even confers on the AMT the opportunity to decide whether, or if, science review is to be included in these decisions at all. (BDCP, at 7-15.) Likewise, the IA not only allows decision-makers to change conservation measures and biological objectives under the rubric of adaptive management; it authorizes them to do so *without requiring an amendment to BDCP or its regulatory authorizations.* (IA, section 10.3.6, at 36 (emphasis added).) The IA specifies an unusually protracted process for permit revocation, which add additional leeway for permittees to evade conservation requirements.

Another ominous provision buried within the IA's discussion of adaptive management is section 10.3.7.3 ("The Supplemental Adaptive Management Fund"), which in vague language records the parties' anticipation that the referenced funds could be used "to *acquire water to supplement flows....*" (*Id.* at 38.) If "additional outflow" is found to be necessary, "supplemental water *may be acquired from voluntary sellers.*" (*Id.*) The reader is left to speculate when such additional outflow may be necessary, or the conflicts that may arise if voluntary sellers do not materialize, or if the ostensibly voluntary transactions harm other water users. Between the lines, this language may amount to an implicit recognition that the combined provisions of BDCP may well not meet water exporters' expectations for deliveries, and that BDCP funds should be reserved for water purchases that enable additional exports at the

new BDCP intakes. If BDCP ultimately could involve the public in underwriting the costs of transfers that could deplete existing aquifers, that suggestion should be fully analyzed and debated on the merits, not hidden within the implementation provisions of a "conservation" plan.

Taken together, these provisions render the plan itself a moving target, undermining the certainty accountability required for NCCPA compliance. Moreover, because they turn BDCP's ultimate provisions and protections into a cipher that may remain unknown until years after project decisions are made, they also disable the consistent project definition and commitment to effective mitigation required for compliance with CEQA and NEPA.

4. Failure to Ensure Adequate and Reliable Sources of Funding

As the IA concedes, the NCCPA requires a legally adequate conservation plan to ensure "adequate funding to carry out the conservation actions identified in the BDCP." (IA, section 4.2.1, at 12 (discussing Fish & Game Code, § 2820).) Likewise under the ESA, approval of a legally adequate HCP requires identification of sufficient sources of funding, and specification of the sources relied upon to mitigate impacts to covered species. (16 U.S.C. § 1539(a)(2); see also *Southwest Center for Biological Diversity v. Bartel* (S.D. Cal. 2006) 457 F. Supp.2d 1070, 1105.) Failure to include this required analysis and disclosure in an EIR-EIS also fatally compromises its ability to fully inform the reader of the project's environmental consequences, vitiating compliance with NEPA and CEQA. Nonetheless, the IA, like the BCDP itself and its EIR-EIS, thoroughly fails to ensure that the plan is supported by adequate and reliable sources of funding. Section 8.3 of BDCP purports to provide such sources. Moreover, under the IA, only measures other than the twin tunnel conveyance (CM-1) are to be cut back, beginning with terrestrial species. Sacramento County extensively detailed the speculative and unstable nature of BDCP's funding sources in its May 28, 2014 comments. Unfortunately, the IA does not improve on the paucity of reliable funding addressed in those comments.

II. THE DELTA INDEPENDENT SCIENCE BOARD'S REPORT CONFIRMS THE LACK OF SCIENTIFIC AND LEGAL FOUNDATION FOR BDCP AND ITS EIR-EIS.

A. Overview: The EIR-EIS Failed to Use "Good Enough" Science to Meet the Project's Environmental Review Requirements.

On May 15, 2014, the Delta Independent Science Board submitted a detailed report reviewing the BDCP and the EIR-EIS (Science Board Report) to the Delta Stewardship Council (DSC) and California Department of Fish and Wildlife (DFW), as directed under the 2009 Delta Reform Act (Wat. Code, § 85320(c).) This report

follows a similar one prepared by the Delta Science Program's Independent Science Review Panel (Panel), which analyzed the "Effects Analysis" (BDCP, chapter 5) prepared in connection with requirements of endangered species law. (See sections III and V, *infra.*) Both the Science Board and the Panel were sharply critical of the tendency in BDCP and its review documents to tilt the analysis in favor of the proposed project and avoid sound science.

The Science Board examined "the science in the DEIR/DEIS" and the BDCP, focusing on "how well the statements and conclusions are supported by current scientific information; how science is applied to proposed actions; how completely actions and their potential consequences have been assessed; and how science is communicated." (Science Board Report, p. 4.) Examining whether the BDCP's EIR-EIS used the "best available science" in analyzing project alternatives and their effects, the Science Board answered in the negative, concluding that the EIR-EIS failed to use science that was "good enough, and use it well enough" to meet the requirements of project review. (*Id.*, p. 4.) The Science Board summarized its major concerns:

1. Many of the impact assessments hinge on overly optimistic expectations about the feasibility, effectiveness, or timing of the proposed conservation actions, especially habitat restoration.

2. The project is encumbered by uncertainties that are considered inconsistently and incompletely; modeling has not been used effectively to bracket a range of uncertainties or to explore how uncertainties may propagate.

3. The potential effects of climate change and sea-level rise on the implementation and outcomes of BDCP actions are not adequately evaluated.

4. Insufficient attention is given to linkages and interactions among species, landscapes, and the proposed actions themselves.

5. The analyses largely neglect the influences of downstream effects on San Francisco Bay, levee failures, and environmental effects of increased water availability for agriculture and its environmental impacts in the San Joaquin Valley and downstream.

6. Details of how adaptive management will be implemented are left to a future management team without explicit prior consideration of (a) situations where adaptive management may be inappropriate or impossible to use, (b) contingency plans in case things do not work as planned, or (c) specific thresholds for action.

7. Available tools of risk assessment and decision support have not been used to assess the individual and combined risks associated with BDCP actions.

8. The presentation....makes it difficult to compare alternatives and evaluate the critical underlying assumptions.

(Science Board Report, p. 3.)

The Science Board warned that leaving its concerns unaddressed "may undermine the contributions of BDCP to meeting the co-equal goals for the Delta." (Science Board Report cover letter, p. 1; see Wat. Code, §85054 (defining the Delta Reform Act's "coequal goals" as "providing a more reliable water supply for California" and "protecting, restoring, and enhancing the Delta ecosystem").) To comply with the Delta Reform Act enacted in 2009 (Delta Reform Act), the coequal goals "shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place." (Water Code, § 85054; see also Wat. Code, § 85900, listing other specific goals for the Delta inherent in these goals, including restoration of the Delta ecosystem).)

The BDCP "shall not" be incorporated into the Delta Stewardship Council's Delta Plan, and make its public benefits qualify for state funding, unless the BDCP complies with the NCCPA and CEQA. (Wat. Code, § 85320(b).) In addition to these general requirements, the Legislature has noted that CEQA compliance for the BDCP requires "*comprehensive review and analysis*" of all the following:

(A) A reasonable range of flow criteria, rates of diversion, and other operational criteria required to satisfy the criteria for approval of a natural community conservation plan as provided in subdivision (a) of Section 2820 of the Fish and Game Code, and other operational requirements and flows necessary for recovering the Delta ecosystem and restoring fisheries under a reasonable range of hydrologic conditions, which will identify the remaining water available for export and other beneficial uses.

(B) A reasonable range of Delta conveyance alternatives, including through-Delta, dual conveyance, and isolated conveyance alternatives and including further capacity and design options of a lined canal, an unlined canal, and pipelines.

(C) The potential effects of climate change, possible sea level rise up to 55 inches, and possible changes in total precipitation and runoff patterns on the conveyance alternatives and habitat restoration activities considered in the environmental impact report.

(D) The potential effects on migratory fish and aquatic resources.