

DEIRS Ltr#	Cmt#	Comment	Response
3	1	<p>Premise: The State of California should investigate nuclear desalination to meet Southern California's need for drinking and crop water.</p> <p>Currently the State of CA is planning twin 40' tunnels that will be bored 150' below the Sacramento and San Joaquin River Delta. The tunnels will be between 35 to 40 miles in length depending upon the final planned path. Large tunnel boring machines will be lowered through access shafts and the shafts will be used to remove and deposit tunnel muck across the Delta project. River flow diversions will be from the Sacramento River downstream of Sacramento and, when allowable, 9,000 cubic feet per second of river flow (or 744 acre-feet an hour) will be pumped through the tunnels. The flows will be nearly doubled during winter flood levels.</p> <p>Several questions come to mind. Where will nearly 80 miles of tunnel muck go during this multi-decades long project? How cost effective will this project be during increasingly-frequent drought years, when no water flow is anticipated? Where will Southern California get fresh water during these droughts (this project does not create any new source of comparable water)?</p>	<p>Please see Master Response 4 for discussion of the scope of the proposed project and alternatives (such as desalination) that were not carried forward for analysis in this document due to the fact that required actions beyond the scope of the proposed project. However, nothing in the proposed project would prevent other entities from pursuing innovative approaches to desalination or other water supply solutions. As described in Appendix 3A, Section 3A.7, Results of Initial Screening of Conveyance Alternatives, EIR/EIS (2013), desalination was included as part of Alternative B7. Issues related to desalination include land use impacts, costs, and substantial energy use requirements. Advances in technology have improved feasibility of desalination and as a statewide water use planning component; it will be evaluated by water agencies on a local/regional level.</p> <p>Desalination, the process of removing salt and other minerals from seawater to make it suitable for drinking or irrigation, is being implemented in several California communities. However, it has not proven viable to secure adequate water supplies to meet California's needs due to high costs and energy demands.</p> <p>Today, desalination creates an estimated 84,000 acre-feet of potable water a year in the state, mostly through treatment of brackish groundwater, which is less salty and cheaper to treat than sea water. In comparison, the proposed project would secure an estimated 4.7 to 5.2 million acre-feet of water to supply more than 25 million people and 3 million acres of farmland.</p> <p>Although the proposed project would not increase the overall volume of Delta water exported, it would make the deliveries more predictable and reliable, while restoring an ecosystem in steep decline. Local water agencies will need to invest in additional strategies and technologies, including desalination, to meet future water demand.</p> <p>The proposed project is one part of a diverse portfolio of strategies needed to meet California's overall water management needs. It is not a substitute for increased commitments to other water supply solutions, including recycling, desalination, water conservation and storage.</p> <p>Please see Master Response 7 regarding desalination.</p> <p>Under Alternative 4 and 4a (the proposed project), the revised estimates of Reusable Tunnel Material (RTM) can be found in the recirculated documents in Table 3C-1 "Construction Assumptions for Water Conveyance Facilities" starting on page 3C-40 of Appendix 3C in Appendix A, which details the revised estimates for RTM storage acreage, volume, and potential reuses. Mapbook figures M3-4 and M14-7 show potential RTM storage locations. Final locations for storage of RTM would be selected based on guidelines presented in Appendix 3B Environmental Commitments, section 3B.2.18 "Disposal and Reuse of Spoils, Reusable Tunnel Material (RTM), and Dredged Material" starting on page 3B-50, also in Appendix A.</p> <p>The proposed project is costly, but proponents have assessed the benefits as described in the BDCP funding sources. Notably, the water contractors benefitting from the proposed project and their constituents will bear all costs associated with constructing new conveyance facilities and mitigating for the impacts of those facilities. Expenditures of public money from other sources would be limited to restoration activities beyond those needed to mitigate the impacts of facility construction. BDCP Chapter 8, which deals with cost issues, and cost-benefit analysis information are available on the BDCP website. Please see Master response 5 for more information on project costs and funding.</p> <p>For more information regarding purpose and need of the proposed project please see Master Response 3.</p>
3	2	Desalination creates unlimited new drinking water sources for Southern CA. With concerns of earthquakes disturbing water supplies, desalination plants can be distributed to all major	Whether any new desalination plants should be supported with some sort of nuclear power would be determined not by the proposed project's Lead Agencies, but by the proponents of such projects and the

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		<p>cities in costal Southern CA. The existing water project can then focus delivery to the Central Valley farms and cities. Desalination frees the state from drought cycles and lessens the burden on Northern CA and the Delta. Desalination is more affordable given inexpensive energy for plant pumps and processes. In the Middle East, oil and gas have been used to power desalination for decades. The only drawback with Green-Focused policy planners is CO2 emissions. Oil countries are now moving to displace combustion with nuclear power, both for efficiency and to preserve the income from their remaining fossil-fuel reserves. CO2 free power must run 24 hours a day and 365 days a year and be very energy dense to produce the volumes of drinking water California requires. This brings us to the Molten Salt Reactor (MSR), perhaps the Thorium solution, and what I call the "Good Reactor".</p> <p>The MSR is a superior reactor design, developed and operated by Oak Ridge National Laboratory in the 1960s. It can use conventionally processed Uranium, it can use inexpensive Thorium, or it can even consume existing nuclear fuel 'waste', which is not actually waste. Thorium was identified in the 1940s as a superior fuel. In 1962, President Kennedy asked the Atomic Energy Commission to recommend reactor designs for a lasting civilian nuclear-energy program. The AEC proposed both the Thorium and Uranium-238 breeding cycles, which make their own fissile fuels inside the reactor itself, and only as much as is needed. The MSR, which was under development at Oak Ridge National Lab as a safer, cleaner and more efficient energy source, was demonstrated as a working prototype, and ready for the next step of using Thorium salt to make such an MSR independent of external fissile sources, and thus disconnected from nuclear weapons.. Unfortunately, the Th-MSR (Liquid fluoride thorium reactor) was shelved during the Cold War because it was unrelated to weapons. Fifty years later the world is typically using the Light Water Reactor (LWR) design that has safety issues with its high-pressure water systems, and need for emergency backup power to maintain any shutdown conditions independently of the external power grid. Failures in any such key subsystems can lead to core melt downs, fuel damage, hydrogen explosions from water-fuel interactions and even venting of radioactive materials. The standard Uranium LWR fuel cycle also raises issues like nuclear-proliferation and long-term storage of used nuclear fuel. These are some of the reasons why the inventors of the LWR (Weinberg & Murray) worked as to design superior power systems for our civilian reactor fleet.</p> <p>California's San Onofre LWR is sidelined for a non-nuclear, but water-related safety reason, and Sacramento's Ranch Seco was closed after over a decade of operation, due to safety concerns with its LWR design. California has been substituting mostly combustion power for these 3Gigawatts of clean but troubled LWR power, thus adding to CO2 emissions and methane emissions from inevitable gas leakage. We've known how to do better with nuclear power for several decades, and other countries do too.</p> <p>Why is the MSR/LFTR a good fit for California? Why do I call it the Good Reactor? The design work at ORNL focused upon a walk-away safe "cannot blow up or melt down design". The design is not pressurized; there is no need for emergency-cooling plumbing, no emergency backup power, and no expensive, vast containment building. The ORNL designs resulted from a contract to develop an atomic-powered plane for the Air Force - by definition, small, reliable and efficient. The core is liquid fluoride salt inert to water and air, with a wide range of thermal stability and much more efficient than an LWR. Because there is no water, there is no possibility of a steam or hydrogen explosion as at Fukushima. This means they can be located near cities. Upon any threatening or thermal event, the Molten Salt Reactor's drains passively open and gravity drains core fuel into underground safety tanks, ready to be reused</p>	<p>regulatory agencies with authority over such decisions. Under any realistic scenario, however, the process of permitting, designing, and constructing such new facilities would take many years, and would likely be a source of great controversy, particularly in light of Japan's 2011 experience with its coastal Fukushima Reactor, which, after being inundated by salt water following an earthquake-induced tsunami, has exposed many people to unsafe levels of radiation and has leaked radiation into the eastern Pacific Ocean.</p> <p>Such nuclear projects would also face legal impediments. California law currently disallows the construction of any additional "nuclear fission thermal power plant requiring the reprocessing of fuel rods." Such power plants are prohibited until, if ever, the California Energy Commission (CEC) (1) determines that "the United States through its authorized agency has identified and approved, and there exists a technology for the construction and operation of, nuclear fuel rod reprocessing plants" and (2) reports these conclusions to the Legislature. If and when the CEC files such a report, the CEC "may proceed to certify nuclear fission thermal power plants 100 legislative days after reporting its findings unless within those 100 legislative days either house of the Legislature adopts by a majority vote of its members a resolution disaffirming the findings of the [CEC]." (Cal.Pub.Res.Code § 25524.1.)</p> <p>It is worth noting that, should nuclear power be determined to be an unacceptable source of energy input into new desalination plants, fossil-fuel powered desalination plants would result in substantial energy usage and the generation of greenhouse gas emissions that could undermine California's ability to meet its legislative mandate under the California Global Warming Solutions Act of 2006 to reduce the state's 2020 greenhouse gas emissions to 1990 levels.</p> <p>In short, although the commenter's views on the benefits of Molton Salt Reactors may have merit, the proposed project's Lead Agencies are not the appropriate governmental actors to make policy and legal determinations on the subject. At the state level, such decisions would be made by the CEC and the Legislature. At the federal level, nuclear power is regulatory by the Nuclear Regulatory Commission. Matters involving the construction of nuclear power plants and the choice of the best technology for such plants are beyond the scope of the proposed project.</p>

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		<p>later. After 4 years of operation, the MSR at ORNL was shut down this way in December 1969. Its fuel salt is still there, in safe, underground tanks, ready for re-melting and re-use. Such passive safety allows these plants to be used in distributed power systems close to power needs.</p> <p>MSRs also solve the nuclear waste problem in three important ways. First, LFTRs burn about 99% of their fuel, versus only about 4%, compared to an LWR. LWR's solid fuel is poisoned by the very nuclear-fission process that generates power and so must be removed after a small amount is consumed, leaving long- and short-term waste storage problems. The French has long mastered most of this waste problem by processing old LWR fuel into new, but in the US, such activity is politically discouraged. In an MSR, waste is reduced dramatically and, depending on MSR or LFTR design, can be measured in kg rather than tons per GW-year, with no need for storage that must be safe for millennia. These machines also satisfy the growing need for medical and industrial isotopes, because their salts are easily processed as the machines run. The third waste reduction is configuring the MSRs to burn the unspent nuclear fuel waste of our reactor fleet reducing the size and dramatically reducing the environmental impact.</p> <p>This Department of Energy, 4th Generation reactor is an industrial heat source; its 700-900c operating temperature is more efficient than the much lower water temperature of a LWR. The MSR is the least environmentally impacting, most dense source of energy available. Thorium (or Uranium) used in a Molten Salt Reactor is one million times more energy dense than are fossil fuels; 6600 tons of Thorium has the energy equivalent of the five billion tons of coal + 31 billion barrels of oil + 3 trillion cubic meters of gas + 75,000 tons of uranium in LWRs used yearly. Solar and Wind need costly energy storage or fossil-fueled peaking plants to run when the sun isn't shining or the wind isn't blowing. For solar to replace the San Onofre' s 2.2 GWs of power, over 5,000 acres of desert need to be covered with solar panels and a several large, gas-burning and CO2 producing power plants built for backup. There is a lot of CO2 produced and mined minerals used in manufacturing the panels, making concrete, steel and other materials that go into building industrial scale renewable power systems and their long-distance power lines, which waste about 10% of their output power.</p> <p>China is now on a crash program developing the US's 1960s technology into its 4th Generation Thorium MSR and our US DoE is helping them. They are spending a billion dollars, have hired 180 PhDs and are building a program of about 2000 researchers to complete this vital program for China - China now spends over 3% of GDP on health costs from coal emissions. The bad news for the US is that China will walk away with our intellectual property and own the rights to the US's development of what will be the superior, globally-marketable clean-energy source of this century and beyond.</p> <p>How can California leverage the Delta water tunnel Project funding into a new era?</p> <p>Let us start with regulations to launching California into a new global business in dense, clean power and inexpensive, clean water. California's scientists and entrepreneurs can help save the US's IP (Intellectual Property) on the MSR/LFTR, assuring our stake in a world market thirsting for abundant, cheap water and power. California schools need to focus on science, engineering and restore vocational training in early school years. Tax reform and regulations encouraging industry will be needed for firms researching and building key technologies. Formation of a Federal Chartered Rare Earth and Thorium Development PPP Bank can be useful for cutting through a slow-to-respond Nuclear Regulatory Agency and Department of</p>	

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		<p>Energy.</p> <p>We can re-tool the recently closed Boeing C-17 plant in Long Beach or a closed military base for the production line building modular MSR/LFTRs and Desalination plants. This is what the French did in the 1970s to eliminate their dependence on fossil fuels via standard, assembly-line-produced nuclear reactors. Boeing produces complex airplanes daily making them very safe and on budget, this should be our goal.</p> <p>Low-cost of energy equals more disposable income, a higher standard of living and more jobs for CA. Just like the natural gas boom is bringing manufacturing back to the US, MSR energy can bring valuable, advanced industry to the state. The zero-CO2 process heat of the MSR is perfect for clean steel making, cement production, Carbon-neutral fuels, grey-water to potable water treatment and even garbage to fuel conversion. With distributed power and water production the state will have less impact on its physical environment and one of my wishes fewer bird killing wind mills. We could even return Hetch Hetchy to Nature.</p>	
3	3	The CA Delta water tunnel project needs to investigate alternates to the Tunnel Project such as low cost energy desalination.	<p>Although components such as desalination plants and water demand management have merit from a statewide water policy standpoint, and are being implemented or considered independently through the state, they are beyond the scope of the proposed project. It is important to note that the proposed project is not intended to serve as a state-wide solution to all of California's water problems, and it is not an attempt to address directly the need for continued investment by the State and other public agencies in conservation, recycling, desalination, treatment of contaminated aquifers, or other measures to expand supply and storage.</p> <p>Please see Master Response 7, which describes why an alternative focused on desalination is not included in the EIR/EIS. Desalination is one strategy used in California to develop new supplies, yet it is not the primary solution for the State's water shortage due to many factors, including limited capacity and technology, high costs and energy demands, and regulatory uncertainty.</p>
7	1	The installment manner in which the document subparts have been posted to the DWR web site constitutes an unnecessarily laborious format for downloading, has a substantial chilling effect on public understanding of and ability to comment on the documents, and should be promptly revised to facilitate downloading by larger increments.	In order to facilitate faster downloading of the documents, the website includes separate large zip files of the RDEIR/SDEIS, the 2013 Public Draft BDCP, and the 2013 Public Draft EIR/EIS. Additional zipped folders containing grouped chapters of the BDCP and EIR/EIS also were provided. The webpages featured user-friendly grids with the contents of each chapter labeled and provided as separate files. These three different options for downloading were made available to accommodate a wide range of needs and preferences and DVDs containing the documents were provided upon request.
11	1	Comment on BDCP: \$25 billion to move water which will never materialize.	<p>The project proposes to stabilize water supplies, and exports could only increase under certain circumstances in which ecological goals and objectives would be fully satisfied. Water deliveries from the federal and state water projects under a fully-implemented Alternative 4A are projected to be about the same as the average annual amount diverted in the last 20 years. Although the proposed project would not increase the overall volume of Delta water exported, it would make the deliveries more predictable and reliable, while restoring an ecosystem in steep decline.</p> <p>For more information regarding cost of the proposed project please see Master Response 5.</p>
11	2	<p>It is hard to decide which is a more inane Governor's legacy plan: ruining the Delta to build tunnels for water which will not be there to steal, or the high-speed rail project in the agricultural fields of the Central Valley.</p> <p>My comment is that the Bay Delta Conservation Plan is actually a plan to destroy the Delta for</p>	The Lead Agencies acknowledge your opposition to the proposed project. Since 2006, the proposed has been developed based on sound science, data gathered from various agencies and experts over many years, input from agencies, stakeholders and independent scientists, and more than 600 public meetings, working group meetings and stakeholder briefings.

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		<p>no purpose. Drought and lack of Sierra snowfall is commonplace, and worse each year. What water does the Governor plan to put into these pipes? How does he view destroying the Delta as a solution to save the Delta?</p> <p>Putting a major dig in a sensitive place is insane, in my opinion, and it will be for naught in the changing climatic conditions. I am opposed on environmental grounds, and strictly rational and scientific grounds. Stop this proposal now.</p>	<p>DWR's fundamental purpose of the proposed project is to make physical and operational improvements to the SWP system in the Delta necessary to restore and protect ecosystem health, water supplies of the SWP and CVP south of the Delta, and water quality within a stable regulatory framework, consistent with statutory and contractual obligations. Existing water diversions, including the existing State Water Project/Central Valley Project diversions in the southern Delta, can impact water flows and quality. By establishing a point of water diversion in the north Delta and new operating criteria with the goal of improving water volume, timing, and salinity, the proposed project is designed to establish a more natural east-west flow for migratory fish, improve habitat conditions, and allow for greater operational flexibility. Please see Master Response 3 for additional information regarding the purpose and need behind the proposed project.</p> <p>Socioeconomic effects of the various alternatives are described and assessed in Chapter 16, Socioeconomics, of the 2013 Public Draft BDCP EIR/EIS. A Draft BDCP Statewide Economic Impact Report has also been published, which indicates that the BDCP would result in a substantial economic net benefit to the State of California. Please see Master Response 5 for more information on costs and funding.</p> <p>The anticipated hydrologic changes due to climate change (increased temperatures and more years of critical dryness, increased water temperatures, changes in precipitation and runoff patterns, sea level rise, and tidal variations) will constrain and challenge future water management practices across the state, with or without the proposed project. The state is addressing climate change through strategies and a decision-making framework as outlined in the California Climate Adaptation Strategy and Adaptation Planning Guide. However, no single project and indeed none of the project alternatives would be able to completely counteract all of the impacts of climate change.</p> <p>The State of California has acknowledged that sea level rise threatens coastal and near coastal resources (such as the Delta and Delta water supplies) and that adaptation and resiliency planning to protect these resources from expected levels of sea level rise is appropriate. (OPC, 2013) http://www.opc.ca.gov/2013/04/update-to-the-sea-level-rise-guidance-document/</p> <p>(CCC, 2013) http://www.coastal.ca.gov/climate/SLRguidance.html</p> <p>EO S-3-05. http://gov.ca.gov/news.php?id=1861</p> <p>EO S-13-08 http://gov.ca.gov/news.php?id=11036</p> <p>AB 32 also mentions SLR as a threat to California.</p> <p>California Waterfix would help to address the resilience and adaptability of the Delta to climate change through water delivery facilities combined with a range of operational scenarios, measures focused on the protection, restoration, and enhancement of the Delta ecosystem and measures to reduce other stressors (Environmental Commitments 3, 4, 6, 7, 8, 9, 10, 11, 12, 15, 16. In addition to the added water management flexibility created by new water diversions and operational scenarios, California Waterfix would improve habitat, increase food supplies and reduce the effects of other stressors on the Delta ecosystem. By improving and expanding available habitat, the proposed project would increase resilience and adaptability to climate change by making alternative habitat available during periods of high stress, such as very high or low freshwater inflow or very high salinity intrusion.</p> <p>Multiple analyses were performed in the proposed project to test the robustness of the alternatives to a range of potential future conditions. Water supply, aquatic and terrestrial resources were all analyzed with projected future conditions. The proposed project will likely remain in place and functional far into the</p>

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			<p>future when salinity intrusion may require less frequent use of the south Delta pumps. Far from being stranded assets, the tunnels will be part of the state's strategy in adapting to climate change.</p> <p>More information on ways in which the BDCP/California WaterFix proposes to improve resiliency and adaptability of the Delta to climate change can be found in Chapter 29, Climate Change, EIR/EIS and Appendix A RDEIR/SDEIS and Appendix 3E, Potential Seismic and Climate Change Risks to SWP/CVP Water Supplies, EIR/EIS and RDEIR/SDEIS (in appendix A).</p> <p>The project's proposed dual conveyance facilities would allow water to be moved through the Delta when conditions permit, and allow water to be diverted from the Sacramento River in the northern Delta when conditions in the south Delta do not permit diversions from the existing State Water Project and Central Valley Project facilities. The location of the north Delta diversion facility is less vulnerable to salinity intrusion, a potential impact of sea level rise, or levee failure, in the future. By establishing an alternative diversion point for exports, a great deal of water management flexibility is added. This added flexibility would provide more options for adaptively managing the Delta so that conditions can be optimized to provide the greatest benefits across all Delta water uses and habitat conditions.</p>
18	1	As a retired Caltrans/BLM Environmental Planner, I strongly oppose the BDCP plan. My specialty was cultural resources. This project will never survive the CEQA/NEPA process necessary to obtain State and Federal Funding.	The issue raised by the commenter addresses the merits of the project and does not raise any issues with the environmental analysis provided in the EIR/EIS documentation.
18	2	I am living in Woodland which (with Davis) is taking Sacramento River water starting in 2016. There are countless other entities which have water rights on the Sacramento River. Many of them have never taken water from the Sacramento River yet.	For more information regarding changes in delta exports please see Master Response 26.
18	3	Cultural resources includes Native American and Historical Archaeological Sites. I promise Department of Water Resources the Native Americans will never allow this project to move forward. They have rights to water, salmon, land etc. and they are sovereign nations. Why would Northern California Native Americans or anyone else that lives in Northern California support this fiasco?	<p>The BDCP, through conservation measures, would take a proactive approach in reversing the trends of habitat loss, habitat degradation, and declining populations of native species and would improve the natural flow patterns through the Delta. Over its 50 year permit duration, the proposed BDCP would restore and protect up to 150,000 acres of habitat, including the protection of about 50,000 acres of existing agricultural land.</p> <p>Where significant environmental impacts have been identified in the EIR/EIS, mitigation measures have been proposed to avoid and/or minimize these effects.</p>
18	4	I oppose this BDCP plan. It, to put it plainly...sucks.	<p>Please note that the BDCP is no longer the preferred alternative. See Alternative 4A, which no longer includes an HCP. Alternative 4A has been developed in response to public and agency input. The EIR/EIS analyzes all alternatives, including Alternative 4A.</p> <p>The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.</p>
19	1	Please, please, please do not proceed with the Delta tunnel plan. Our Delta waterways are being depleted! Southern California residents should be taxed for local desalination plants.	<p>The Lead Agencies acknowledge your opposition to the proposed project.</p> <p>For more information regarding desalination please see Master Response 7.</p>
24	1	Unfortunately, your Myth 1 blog post was not a good start. DWR has not yet produced an operation plan for the tunnels. And without a valid operation plan, no one knows how much water is likely to be delivered for export to the state and federal water contractors by the	Water deliveries by the SWP and CVP systems under the Existing Conditions, No Action Alternative, and the action alternatives are presented in Tables C-13-1 through C-13-25 in Appendix 5A, Section C, Modeling Results, in the Draft BDCP EIR/EIS.

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		<p>proposed tunnels.</p> <p>For reference from the Blog Post:</p> <p>Myth 1: No one knows how much water will be exported under the Bay Delta Conservation Plan. The BDCP would provide approximately 10% more or 10% less than the average annual amount diverted by the federal and state water projects over the last 20 years (see related video clip "How Much Water" here). For even more detailed analysis, please see Chapter 9. The main goal is to modernize a 50-year-old water system that leaves Californians vulnerable to water shortages from court-mandated decisions, earthquakes and other natural disasters.</p>	<p>Please see Master Response 26 for discussion on expected changes in exports under BDCP.</p>
24	2	<p>The modeling that was done for the BDCP EIR assumed that the climate will change, shifting the pattern of seasonal runoff, and sea level would rise by 17 inches by 2060; but that all existing Delta water quality requirements (meaning the location of X2) would remain the same as they are today. The purpose of this modeling was to isolate the impacts of climate change from the tunnels for purposes of identifying the impacts (or lack thereof) of the tunnels on Northern California water users. An understandable objective, but unfortunately the modeling shows that the additional reservoir releases required to maintain X2 with higher sea levels will drain Shasta and Folsom reservoirs for several months in more than one year in ten. The economic and environmental devastation that would result from frequent and prolonged empty reservoirs throughout northern California would be enormous, but the analysis shows this is not the fault of the BDCP.</p> <p>Clever, but the point is that the environmental modeling is not a realistic operations plan. An operations plan will need to identify changes in regulatory requirements, infrastructure and operations necessary to adapt to climate change while preventing Northern California reservoirs from being drained. As yet, no one knows how this will be accomplished or what the results, in terms of export deliveries, will be.</p>	<p>The amount of water DWR can pump from the new north Delta facilities is set by Federal regulating agencies, ESA compliance and project design, and not by the water contractors. Operations for the proposed project would still be consistent with the criteria set by the FWS (2008) and NMFS (2009) BiOps and State Water Resources Control Board Water Right Decision 1641 (D-1641), subject to adjustments made pursuant to the adaptive management process as described in the 2008 and 2009 BiOps (RDEIR/SDEIS Executive Summary ES.2.2). In addition to permitting constraints on daily operations of the SWP and CVP, DWR must maintain proper performance and bypass flows across fish screens when endangered and threatened fish species are present within the north Delta facilities area. The intake fish screens drive the overall size of the intake structure on the riverbank, and have been numbered and sized to permit water to flow through the screens within a predetermined flow regime set by California Department of Fish and Wildlife and NMFS fish screen criteria (BDCP Appendix 5B Section 3.B.3.3).</p> <p>Operation of the new north Delta facilities will be guided by strict regulations that are set by the SWRCB. Adaptive management and collaborative science will aid operators in managing the pumping schedule in the presence of sensitive species. Appendix B of the RDEIR/SDEIS shows supplemental modeling results for the new alternatives. In particular Section B.2.1 Alternative 4A the modeling demonstrates that under the preferred alternative (4A) reservoir levels (e.g., Trinity Lake, Shasta Lake, Folsom Lake, and Lake Oroville) would be similar to the No Action Alternative (ELT).</p> <p>Considerable scientific uncertainty exists regarding the Delta ecosystem, including the effects of CVP and SWP operations and the related operational criteria. To address this uncertainty, DWR, Reclamation, DFW, USFWS, NMFS, and the public water agencies will establish a robust program of collaborative science, monitoring, and adaptive management. It is assumed the Collaborative Science and Adaptive Management Program (AMMP) developed for Alternative 4A would not, by itself, create nor contribute to any new significant environmental effects; instead, the AMMP would influence the operation and management of facilities and protected or restored habitat associated with Alternative 4A.</p> <p>Collaborative science and adaptive management will support the proposed action by helping to address scientific uncertainty where it exists, and as it relates to the benefits and impacts of the construction and operations of the new water conveyance facility and existing CVP and SWP facilities.</p> <p>The collaborative science effort is expected to inform operational decisions within the ranges established by the biological opinion and 2081b permit for the proposed action. However, if new science suggests that operational changes may be appropriate that fall outside of the operational ranges evaluated in the biological opinion and authorized by the 2081b permit, the appropriate agencies will determine, within their respective authorities, whether those changes should be implemented. An analysis of the biological effects of any such changes will be conducted to determine if those effects fall within the range of effects analyzed and authorized under the biological opinion and 2081b permit. If NMFS, USFWS, or DFW determine that impacts to listed species are greater than those analyzed and authorized under the</p>

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			<p>biological opinion and 2081b 41 Bay Delta Conservation Plan/California WaterFix permit, consultation may need to be reinitiated and/or the permittees may need to seek a 2081b permit amendment. Likewise, if an analysis shows that impacts to water supply are greater than those analyzed in the EIR/EIS, it may be necessary to complete additional environmental review to comply with CEQA or NEPA.</p> <p>For more information regarding adaptive management please see Master Response 33.</p>
32	1	<p>The time and money spent on this plan is a total waste. The proposed project is horrible. [In order] to protect the Delta, halt water waste, overdraft, and restore adequate natural flows. Let farmers and others build storage facilities to meet their needs at their locations.</p> <p>My feelings will be reflected at the polls.</p>	<p>The Lead Agencies acknowledge your opposition to the proposed project.</p> <p>As a plan prepared to meet the rigorous standards of the federal and state Endangered Species Acts, the proposed project is intended to be environmentally beneficial, not detrimental. Existing water diversions, including the existing State Water Project/Central Valley Project diversions in the southern Delta, can impact water flows and quality. By establishing a point of water diversion in the north Delta and new operating criteria to improve water volume, timing, and salinity, the proposed project is designed to improve native fish migratory patterns and allow for greater operational flexibility.</p> <p>The project proposes to stabilize water supplies, and exports could only increase under certain circumstances in which ecological goals and objectives would be fully satisfied. Water deliveries from the federal and state water projects under a fully-implemented Alternative 4A are projected to be about the same as the average annual amount diverted in the last 20 years. Although the proposed project would not increase the overall volume of Delta water exported, it would make the deliveries more predictable and reliable, while restoring an ecosystem in steep decline.</p> <p>While water storage is a critically important tool for managing California’s water resources, it is not a topic that must be addressed in the EIR/EIS for the proposed project. This is because the proposed project does not, and need not, propose storage as a project component. Although the physical facilities contemplated by the proposed project, once up and running, would be part of an overall statewide water system of which new storage could someday also be a part, the proposed project is a stand-alone project for purposes of CEQA and NEPA, just as future storage projects would be. Appendix 1B, Water Storage, of the 2013 Public Draft BDCP EIR/EIS, describes the potential for additional water storage.</p> <p>Please see Master Response 4 regarding the development of alternatives. Please see Master Response 6 for information on Demand Management.</p>
37	1	<p>Based on the expected volume of the 25,000 or more pages of BDCP documents which are scheduled to be released on December 13 with a 120 day public review period, we believe that review and preparation of formal response comments will be an impossible task. Additionally, NEPA regulation 40 CFR 1502.7 declares that the text of an EIS for "proposals of unusual scope or complexity shall normally be less than 300 pages."</p> <p>25,000 plus pages would require more than 200 pages per day to be covered, counting every Saturday and Sunday, and including Christmas, New Years, Presidents’ Day, and Martin Luther King’s Birthday. If the BDCP draft plan and EIS/EIR documents are a similar size, this estimate would double. Moreover, reading the enormous mass of material is just the beginning; the commenter must take notes on what has been read and then relate the portions of the Plan to the portions of the Draft EIR/EIS, and then review requirements applicable to EIRs and EISs. Finally, the commenter must then prepare and revise meaningful comments. It is impossible for organizations interested in thoughtfully responding to these BDCP documents to be staffed for a thorough NEPA/CEQA review.</p>	<p>In order for the Lead Agencies to effectively communicate with the public, several different types of summary documents and presentations on the BDCP, Draft EIR/EIS, and related documents were made available on the BDCP website. For instance, lay-friendly highlight documents for both the BDCP and the EIR/EIS were published to provide summary information about the documents and to help readers get acquainted with the documents. The BDCP Highlights and the EIR/EIS Highlights were posted online at http://baydeltaconservationplan.com/AboutBDCP/InformationalMaterials.aspx. Short one-page factsheets on the BDCP and EIR/EIS, as well as California Water Fix, were also provided online and by request. In addition, 17 narrated informational webinar episodes were posted to the website for both the BDCP and EIR/EIS. These webinars were developed to provide short, easy to understand summaries of key elements of the BDCP and EIR/EIS. Background documents, additional factsheets, and FAQs continue to be available on-line. For more information, please see Master Response 38 regarding the length and complexity of the documents.</p> <p>For more information regarding the document's length and complexity please see Master Response 38.</p>

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		The EWC and its 33 grassroots members respectfully request that the period be extended beyond the currently planned 120 days of public review, based on the size estimate of the documents you will release in December.	
38	1	In the BDCP no project analysis, what are you assuming for current diversions from the American River and the same in 2060, or whatever future date you are using?	Overall, diversions increase in the American River watershed between the Existing Conditions and the No Action Alternative in 2025 due to land use development, in accordance with adopted general plans, and construction of new facilities, as described in Section 5.3.3.1 of Chapter 5, Water Supply, of the EIR/EIS. The assumptions for deliveries in the American River Basin for water rights holders and CVP water service contracts are presented in Tables B-8 and B-18 and discussed in Section B-7 of Appendix 5A-B, CALSIM II and DSM2 modeling Simulations and Assumptions. Deliveries to water rights holders were the same for all years in the 82-year modeling simulation, and were based upon the water rights, land use “build-out” conditions, and physical capacity of the pipeline and pumping facilities. Deliveries to CVP water service contractors changed every year in the 82-year modeling simulation based upon maximum contract amounts, land use “build-out” conditions, physical capacity of the pipeline and pumping facilities, hydrologic conditions, and the operational criteria for CVP facilities under each alternative, as presented in Tables 13-1-1 and 13-25-2 of Appendix 5A-C, CALSIM II and DSM2 Modeling Results.
40	1	<p>In the interests of accuracy and transparency, please change the name of the plan from:</p> <p>Bay Delta Conservation Plan to</p> <p>Bay Delta Destruction and Water Theft Plan.</p> <p>In the interests of democracy, please require a public vote on the proposal.</p>	<p>Prior to construction of the proposed project, the EIR/EIS must be certified and adopted by the implementing agencies, and permits must be obtained. However, a public vote is not required to move forward. California Water Code section 12934, subdivision (d)(3), of the Burns-Porter Act and Water Code section 11260 of the Central Valley Project Act authorize DWR to build water facilities in the Delta, as part of the State Water Project, and give DWR broad discretion as to what those facilities may involve. Thus, DWR has the authority to build the proposed project without a public vote.</p> <p>Even so, the proposed project is the result of more than seven years’ collaboration and consultation with numerous stakeholders, agencies, public water agencies and environmental organizations. The organizations that have participated in the Steering Committee, public meetings or written letters to provide input on the Plan include: American Rivers, Bay Institute, Defenders of Wildlife, The Endangered Species Coalition, Environmental Defense Fund, The Golden Gate Salmon Association, National Audubon Society, Natural Resources Defense Council, the Nature Conservancy, and Planning and Conservation League. The feedback was used to guide the development and subsequent revisions of the Proposed Project and its associated EIR/EIS to reflect concerns addressed from the various groups. All of the documents, studies, administrative drafts, and meeting materials have been posted online since 2010 in an unprecedented commitment to provide public access and government transparency.</p> <p>Although the RDEIR/SDEIS, EIR/EIS and much of the proposed project has been drafted by scientists working for a private consulting firm (ICF) working for the Lead Agencies, the Agencies’ scientists have been intimately involved, and their judgments are reflected throughout the EIR/EIS and the proposed project itself. The State is most interested in putting forth the best project that meets the goals of ecosystem improvement and water supply reliability. To the degree that the current Plan is endorsed by some environmental organizations serves as confirmation that the proposed plan protects species, habitats and the Delta ecosystem in a way that is compatible with their goals. The website includes correspondence from agencies and NGOs received prior to the start of the formal comment period. Comments received during the comment period are to be included in the Final EIR/EIS.</p> <p>For more information on public outreach efforts, please see Master Response 40.</p>
41	1	I am a resident of Northern California and am extremely concerned about the proposed tunnels to restore the Delta and transport more water to Southern California. I believe the Delta has been degraded by years of water diversions; the fish and other wildlife are	The Proposed Project proposes to stabilize water supplies, and exports could only increase under certain circumstances in which hydrological conditions result in availability of sufficient water and ecological objectives are fully satisfied. It is projected that water deliveries from the federal and state water projects

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		endangered because of the existing pumps, screens and salt water intrusion.	<p>under the Proposed Project would be roughly 10 percent more or equal to the average annual amount of water that would be diverted under the No Action Alternative (i.e. 2025 conditions without the Proposed Project). It is projected that Delta exports from the federal and state water projects would either remain similar or increase in wetter years and decrease in drier years under Alternative 4A as compared to exports under No Action Alternative (ELT) depending on the capability to divert water at the north Delta intakes during winter and spring months. The estimated changes in deliveries for 4A are provided in the RDEIR/SDEIS 4.3.1 and Appendix A Chapter 5 Water Supply. Although exports under the Proposed Project would be similar to the amount water exported in recent history, it would make the deliveries more predictable and reliable, while reducing other stressors on the ecological functions of the Delta.</p> <p>The Proposed Project would enable DWR to construct and operate new conveyance facilities that improve conditions for endangered and threatened aquatic species in the Delta while at the same time improving water supply reliability, consistent with California law (see, e.g., Cal.Wat. Code, § 85001[c]). Implementing the conveyance facilities would help resolve many of the concerns with the current south Delta conveyance system, and would help reduce threats to endangered and threatened species in the Delta, including entrainment at the south Delta export facilities. For instance, implementing a dual conveyance system would align water operations, and their location, to better reflect natural seasonal flow patterns by creating new water diversions in the north Delta equipped with State-of-the-art fish screens, thus reducing reliance on south Delta exports during times of the year when listed aquatic species are present and most vulnerable. For more information on mitigation measures to minimize contraction and operational-related impacts to fish species, including Delta and longfin smelt, please see Chapter 11, RDEIR/SDEIS.</p> <p>For more information regarding MWD Water Supply please see Master Response 35.</p>
41	2	The proposed tunnels and related infrastructure are estimated to cost \$25 billion, an astronomical price tag. Has there been any thought to building several desalinization plants along the coast to bring water to the San Joaquin farmers and Southern California cities? If such projects were built, the Delta would be restored through the increased water flows and the removal of pumps and screens. This sounds like a simple solution and I can't imagine the price tag and the disruption to property rights and values would be more than the current estimate of \$25 billion. Conveyance pipes would have to be built across private property, but those owners could be compensated.	<p>The Natural Resources Agency and DWR staff will continue seeking improvements and refinements to the current proposal in order to enhance species benefits and to avoid, reduce or mitigate for negative impacts to people, communities, sensitive species and habitats.</p> <p>The California Water Action Plan recognizes that all Californians have a stake in the future of our state's water resources, and that a series of actions are needed to comprehensively address the water issues before us. The five-year agenda spells out a suite of actions in California to improve the reliability and resiliency of water resources and to restore habitat and species — all amid the uncertainty of drought and climate change. For more information regarding future developments of the California Action Water Plan please follow http://resources.ca.gov/docs/Final_Water_Action_Plan_Press_Release_1-27-14.pdf. Future committees for the Proposed Project implementation may provide future opportunities for innovative input as well.</p> <p>The California Water Plan evaluates different combinations of regional and statewide resources management strategies to reduce water demand, increase water supply, reduce flood risk, improve water quality, and enhance environmental and resource stewardship. Follow the California Water Plan here: http://www.waterplan.water.ca.gov/.</p> <p>Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1, EIR/EIS, describes the range of conveyance alternatives considered in the development of the EIR/EIS. Appendix 1B, Water Storage, EIR/EIS, describes the potential for additional water storage and Appendix 1C, Demand Management Measures, EIR/EIS, describes conservation, water use efficiency, and other sources of water supply including desalination. While these elements are not proposed as part of the proposed project, the Lead Agencies recognize that they are important tools in managing California's water resources.</p> <p>Please see Master Response 4 regarding the selection of alternatives analyzed, Master Response 7</p>

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			<p>regarding desalination, Master Response 6 regarding demand management and Master Response 37 regarding water storage</p> <p>The proposed alternative (referred to in the RDEIR/SDEIS as Alternative 4A) is estimated to cost significantly less relative to the former preferred alternative (Alternative 4 under the BDCP). The difference in cost is largely due to the reduced level of restoration specifically funded by the project, as well as other Conservation Measures that are not included under Alternative 4A. As such, the total estimated cost for Alternative 4A is \$14.9 billion in undiscounted 2014 dollars. The estimated cost to implement the former preferred alternative under BDCP is \$24.7 billion in undiscounted 2012 dollars. For additional information on the cost of the proposed project, please see Master Response 5.</p> <p>The proposed project is costly, but proponents have assessed the benefits as described in the BDCP funding sources. Notably, the water contractors benefitting from the proposed project and their constituents will bear all costs associated with constructing new conveyance facilities and mitigating for the impacts of those facilities. Expenditures of public money from other sources would be limited to restoration activities beyond those needed to mitigate the impacts of facility construction. BDCP Chapter 8, which deals with cost issues, and cost-benefit analysis information are available on the BDCP website. Please see Master response 5 for more information on project costs and funding.</p>
42	1	<p>The Colfax Todds Valley Consolidated Tribe is a tribe of federally unrestored Miwok and Maidu peoples whose ancestry derives from aboriginal roots specifically from portions of Sacramento, Placer, Nevada, Sutter and Yuba Counties. As you may be well aware, these counties are dotted well with springs, streams, creeks, lakes and rivers which have historically brought our people many things; the most important being that of plain pure and simple existence.</p> <p>It is our wish to inform you on behalf of all of our people that our water is held in a most sacred manner. That what you are proposing in light of needs of many of those who feel entitled to use this sacred water for the sake of their own prosperity is outrageous and unacceptable to us. Not only does it disturb the waterways but the life that exists within it (fish habitat, native plants and all water thriving entities) all of which are alive in some form to us and will be devastating and will certainly have an adverse effect on our generations to come and have negative effects our culture. Traditional ceremonies, food and medicine to name a few will be forever changed.</p>	<p>The Lead Agencies acknowledge the commenter’s opposition to the proposed project.</p> <p>Please note that Alternative 4A, also known as California WaterFix, has been developed in response to public and agency input and is the new CEQA Preferred Alternative. Alternative 4A is also the NEPA Preferred Alternative, a designation that was not attached to any of the alternatives presented in the 2013 Public Draft EIR/EIS. Alternative 4 remains a potentially viable alternative and is being carried forward in this RDEIR/SDEIS because it represents the original habitat conservation plan/natural community conservation plan (HCP/NCCP) alternative approach, and because it provides an important reference point from which the Alternative 4A, 2D, and 5A descriptions and analyses were developed. If the Lead Agencies ultimately choose the alternative implementation strategy and select an alternative presented in the RDEIR/SDEIS after completing the CEQA and NEPA processes, elements of the conservation plan contained in the alternatives in the 2013 Public Draft EIR/EIS may be utilized by other programs for implementation of the long term conservation efforts. State constitutional restrictions require the reasonable and beneficial use of water and state law requires that water pumped from the Delta be put to stipulated beneficial uses. Identified impacts to fish habitat and mitigation are discussed in Chapter 11, Aquatic Resources, Final EIR/EIS. Identified impacts to native plants and mitigation are discussed in Chapter 12, Terrestrial Resources, Final EIR/EIS. Please see Section 4.3 of the Recirculated Draft EIR/Supplemental Draft EIS (RDEIR/SDEIS) for impacts to aquatic and terrestrial resources of the current proposed project.</p> <p>For more information regarding cultural resources please see Master Response 20.</p> <p>Please refer to Master Response 3 for the Purpose and Need and Master Response 28 for a discussion of the proposed project’s Operational Criteria.</p> <p>The project proposes to stabilize water supplies, and exports could only increase under certain circumstances in which ecological goals and objectives would be fully satisfied. Water deliveries from the federal and state water projects under a fully-implemented Alternative 4A (the preferred project) are projected to be about the same as the average annual amount diverted in the last 20 years. Although the proposed project would not increase the overall volume of Delta water exported, it would make the deliveries more predictable and reliable, while restoring an ecosystem in steep decline.</p>

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			It is projected that Delta exports from the federal and state water projects would either remain similar or increase in wetter years and decrease in drier years under Alternative 4A as compared to exports under No Action Alternative (ELT) depending on the capability to divert water at the north Delta intakes during winter and spring months. The estimated changes in deliveries for Alternative 4A are provided in the RDEIR/SDEIS Section 4.3.1 and Appendix A Chapter 5 Water Supply.
42	2	<p>Basis of facts are simply this:</p> <p>http://baydeltaconservationplan.com/AboutBDCP/YourQuestionsAnswered.aspx states that: "The existing operation of the SWP/CVP pumps in the southern Delta can cause or increase a reversal in river flows, potentially altering salmon migratory patterns and contributing to the decline of sensitive fish species such as the delta smelt".</p> <p>To The Colfax Todds Valley Consolidated Tribe, this is not an acceptable manner at which to balance water usage and habitat. Man cannot balance whatever he wishes and ignore impacts!</p>	The existing operation of the SWP and CVP pumps in the south Delta can contribute to reversals in river flows, potentially altering salmon migratory patterns.. The new system would reduce the ongoing physical impacts associated with sole reliance on the southern diversion facilities and allow for greater operational flexibility to better protect fish. Minimizing south Delta pumping would provide more natural east–west flow patterns (RDEIR/SDEIS Section 4.1). Overall reductions in OMR reverse flows under all flow scenarios for the proposed project would be beneficial with corresponding increases in net positive downstream flows, during the migration period of Chinook salmon through the interior Delta channels (Appendix B, Supplemental Modeling for Alternative 4A, Section B.7 (RDEIR/SDEIS Section 4.3.7). Operations would still be consistent with the criteria set by the FWS (2008) and NMFS (2009) BiOps and State Water Resources Control Board Water Right Decision 1641 (D-1641), subject to adjustments made pursuant to the adaptive management process as described in the 2008 and 2009 BiOps (RDEIR/SDEIS Executive Summary ES.2.2).
42	3	<p>http://baydeltaconservationplan.com/AboutBDCP/YourQuestionsAnswered.aspx states that: "Operation of the BDCP water delivery system could not drain the Delta Rivers and channels dry. The BDCP only would be permitted to operate with regulatory protections, including river water levels and flow, which would be determined based upon how much water is actually available in the system, the presence of threatened fish species, and water quality standards".</p> <p>Water delivery systems regulated by and for the specific use of water needs has historically never met the needs of all affected. Dams created for hydro power have all but limited and extinguished salmon migratory routes for decades now. By regulating water flow you are disturbing and destroying the natural living plant life in and around the waterway and taking nature’s own abilities out of the equation. Secondly, fish, regardless of its endangered or threatened status are of equal importance to us! There will be fish species treated as such according to your statement.</p>	<p>See Response to Comment 42-1.</p> <p>For more information regarding purpose and need of the proposed project please see Master Response 3.</p> <p>The proposed project would enable DWR to construct and operate new conveyance facilities that improve conditions for endangered and threatened aquatic species in the Delta while at the same time improving water supply reliability, consistent with California law (see, e.g., Cal.Wat. Code, § 85001[c]). Implementing the conveyance facilities would help resolve many of the concerns with the current south Delta conveyance system, and would help reduce threats to endangered and threatened species in the Delta, including entrainment at the south Delta export facilities. For instance, implementing a dual conveyance system would align water operations, and their location, to better reflect natural seasonal flow patterns by creating new water diversions in the north Delta equipped with State-of-the-art fish screens, thus reducing reliance on south Delta exports during times of the year when listed aquatic species are present and most vulnerable. For more information on mitigation measures to minimize contraction and operational-related impacts to fish species, including Delta and longfin smelt, please see Chapter 11, Final EIR/EIS.</p>
42	4	<p>http://baydeltaconservationplan.com/AboutBDCP/YourQuestionsAnswered.aspx states that: "Mitigation required to offset the direct and indirect effects of construction activities and operation of the water facility will be funded by state and federal water contractors."</p> <p>The Mitigation refers to a project alone that seeks to "restore" what has been tampered with by the project at hand. All effects would be direct effects and in most cases, not ones that are reversible. Construction activities of any kind we view as dangerous to all natural habitats.</p>	<p>Construction of the proposed California WaterFix water conveyance facilities under Alternative 4A would be sequenced over approximately 10 years. Construction of individual components (e.g., intakes, tunnels) would range from one to six years. Temporary construction-related impacts include noise, visual, and transportation, among others. The construction-related impacts are disclosed in individual resource area chapters in the Final EIR/EIS.</p> <p>As part of the planning and environmental assessment process, the project proponents will incorporate environmental commitments and best management practices (BMPs) into the action alternatives to avoid or minimize potential adverse effects (a NEPA term) and potential significant impacts (a CEQA term) to the degree feasible. The project proponents will implement these environmental commitments as part of the project construction activities. In other words, these commitments will be satisfied even if not separately imposed by the permitting agencies. If permitting agencies impose additional measures or modifications, those will also be adhered to as part of the permit(s). The project proponents will coordinate planning, engineering, design and construction, operation, and maintenance phases of the preferred alternative with the appropriate agencies. For more information regarding Environmental Commitments please see</p>

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42	5	<p>http://baydeltaconservationplan.com/AboutBDCP/YourQuestionsAnswered.aspx states that: "The BDCP conservation measures include actions to improve flow conditions, increase aquatic food production, restore habitat for covered species, and reduce the adverse effects of many biological and physical stressors on those species. The BDCP also recognizes the considerable uncertainty that exists regarding the understanding of the Delta ecosystem and the likely outcomes of implementing the conservation measures."</p> <p>If the BDCP recognized that considerable uncertainty exists regarding understanding the Delta ecosystem and the likely outcomes of the conservation measures, we simply have to again wonder why, and strongly disagree with this concept, that it is an acceptable way of changing a living flourishing environment to provide water supply to whom? And for what reason? In our eyes, it is for the purpose of again causing irreparable damage to the water and all that lives within it.</p> <p>The commentary here for the tribe could go on and on, but in case you're wondering what our opinion is on this project, we have no qualms about telling you that we are definitely against it. Please do not allow this project to continue. It will be with great impacts to all for many generations to come should this occur.</p>	<p>Appendix 3B of the Final EIR/EIS.</p> <p>The Lead Agencies acknowledge the commenter's opposition to the proposed project.</p> <p>See Response to Comment 42-1.</p> <p>For more information regarding purpose and need of the proposed project please see Master Response 3.</p> <p>For more information regarding adaptive management please see Master Response 33.</p>
47	1	<p>Let us end droughts and help bay quality by considering a new form of Desalination?</p> <p>Not Desalination / Natural Desalination: eliminating all issues with traditional Desalination by using Reverse Osmosis and nature's forces to desalinate ocean water and convey it to shore.</p> <p>Attached is a presentation on utilizing natural desalination to solve California's water issues. This process was sent to be patented but let go, so that no one would profit from it. J. Rizzi's gift to California and the world.</p> <p>Natural Desalination uses zero man-made energy to desalinate new rivers of water with little to no environmental issues.</p> <ul style="list-style-type: none"> -Ocean water needs 1,000 psi to desalinate water using Reverse Osmosis (RO). -Off shore at ½ mile under the water you get 1,000 psi for the outside of a RO tubes. -A flexible air pipe from the surface down to the RO system would bring air and 0 psi pressure to the inner part of RO tubes. -The difference between the RO outside pressure and inside pressure gives a constant 1,000 psi -Constant free flowing salt free water flows into the RO tubes which can be collected and sent back to shore -Gravity would carry the water to shore in a pipeline or tunnel. -Once at shore the water would be lifted for use or put in aqueduct or other transportation systems. 	<p>Please see Master Response 4 for discussion of the scope of the proposed project and alternatives (such as desalination) that were not carried forward for analysis in this document due to the fact that required actions beyond the scope of the proposed project. However, nothing in the proposed project would prevent other entities from pursuing innovative approaches to desalination or other water supply solutions. As described in Appendix 3A, Section 3A.7, Results of Initial Screening of Conveyance Alternatives, EIR/EIS (2013), desalination was included as part of Alternative B7. Issues related to desalination include land use impacts, costs, and substantial energy use requirements. Advances in technology have improved feasibility of desalination and as a statewide water use planning component; it will be evaluated by water agencies on a local/regional level.</p> <p>Desalination, the process of removing salt and other minerals from seawater to make it suitable for drinking or irrigation, is being implemented in several California communities. However, it has not proven viable to secure adequate water supplies to meet California's needs due to high costs and energy demands.</p> <p>Today, desalination creates an estimated 84,000 acre-feet of potable water a year in the state, mostly through treatment of brackish groundwater, which is less salty and cheaper to treat than sea water. In comparison, the proposed project would secure an estimated 4.7 to 5.2 million acre-feet of water to supply more than 25 million people and 3 million acres of farmland.</p> <p>Although the proposed project would not increase the overall volume of Delta water exported, it would make the deliveries more predictable and reliable, while restoring an ecosystem in steep decline. Local water agencies will need to invest in additional strategies and technologies, including desalination, to meet future water demand.</p> <p>The proposed project is one part of a diverse portfolio of strategies needed to meet California's overall water management needs. It is not a substitute for increased commitments to other water supply solutions, including recycling, desalination, water conservation and storage.</p>

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		<p>Advantages of Natural Desalination:</p> <ul style="list-style-type: none"> -Can supply all of California with drought resistant water supply for crops and people. -No brine because only water is taken from the ocean, located far off shore and near the ocean floor helps too. -Large area for RO system for expansion with no impact to coastal residents. -Little to no impact to ocean, plants or sea creatures; and no shipping hazard, due to location and design. -Side benefit of increased water would be more farming, increased economic, more oxygen, cleaner air, etc.. -Droughts, Delta, water quality, sea level rising and many other water issues can be decreased or eliminated. 	<p>Please see Master Response 7 regarding desalination.</p>
47	2	<p>Ocean Floor Desalination</p> <p>Zero energy for desalination and conveyance to shore</p> <ul style="list-style-type: none"> -Reliable supply - no droughts -Low cost -Environmentally friendly -Extract and re-pressurize for state. -Easily expandable and repeatable. <p>Ocean Floor one atmosphere structure for natural desalination</p> <ul style="list-style-type: none"> -Horizontally drilled gravity conveyance pipeline to shore. -Pipeline connected to tank. -Tank has flexible pipe to surface. -Tank is at one atmosphere. -Reverse Osmosis (RO) field is higher than tank and connected to tank to create pressure difference for RO and gravity conveyance into tank. <p>Gravity conveyance from tank to shore.</p> <ul style="list-style-type: none"> -RO field expandable to limit of shore pipe. -RO units standard. <p>Reliable Supply - no droughts</p>	<p>Please see Master Response 4 for discussion of the scope of the proposed project and alternatives (such as desalination) that were not carried forward for analysis in this document due to the fact that required actions beyond the scope of the proposed project. However, nothing in the proposed project would prevent other entities from pursuing innovative approaches to desalination or other water supply solutions. As described in Appendix 3A, Section 3A.7, Results of Initial Screening of Conveyance Alternatives, EIR/EIS (2013), desalination was included as part of Alternative B7. Issues related to desalination include land use impacts, costs, and substantial energy use requirements. Advances in technology have improved feasibility of desalination and as a statewide water use planning component; it will be evaluated by water agencies on a local/regional level.</p> <p>Desalination, the process of removing salt and other minerals from seawater to make it suitable for drinking or irrigation, is being implemented in several California communities. However, it has not proven viable to secure adequate water supplies to meet California’s needs due to high costs and energy demands.</p> <p>Today, desalination creates an estimated 84,000 acre-feet of potable water a year in the state, mostly through treatment of brackish groundwater, which is less salty and cheaper to treat than sea water. In comparison, the proposed project would secure an estimated 4.7 to 5.2 million acre-feet of water to supply more than 25 million people and 3 million acres of farmland.</p> <p>Although the proposed project would not increase the overall volume of Delta water exported, it would make the deliveries more predictable and reliable, while restoring an ecosystem in steep decline. Local water agencies will need to invest in additional strategies and technologies, including desalination, to meet future water demand.</p> <p>The proposed project is one part of a diverse portfolio of strategies needed to meet California’s overall water management needs. It is not a substitute for increased commitments to other water supply solutions, including recycling, desalination, water conservation and storage.</p> <p>Please see Master Response 7 regarding desalination.</p>

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		<p>Located miles from shore makes the water supply less polluted by mankind.</p> <ul style="list-style-type: none"> -Constant supply year round. -Transported to shore and/or inland via free gravity conveyance via horizontal well bore(s). Wells connected for long distances. -Terrorist resistant by being under water. -Unlimited drinking water can be supplied. <p>Low cost</p> <ul style="list-style-type: none"> -Ocean floor site would have less issues than site on land and more expansion opportunities. -Standard design brings down costs. -Totally automated, few moving parts (valves). -Maintenance (of filters) weekly or monthly. -Remote monitoring. -Automated fault (high volume) shut off valves. -New stream source of endless desalted water. <p>Environmentally Friendly</p> <ul style="list-style-type: none"> -Construction offshore, so site is easy to find and procure. -No Visual Blight. -Using horizontal drilling eliminates or reduces environmental issues verses trenches. -No concentrated salt (brine) issues, since only water is extracted from sea water. -Farming could increase with added endless water supply, which in turn would reduce greenhouse gasses. -New supply means healthier Sacramento delta. -Fish and other ecosystems improve due to less diversions. -Public health improves with consistently better water. <p>Extract and re-pressurize for state.</p> <ul style="list-style-type: none"> -Send salt free water to shore. Lifted and re-pressurized for distribution to city water treatment facilities and/or other conveyance distribution systems. 	

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		<p>-Connect cities via horizontally drilled pipelines.</p> <p>Easily expandable and repeatable.</p> <p>-Standard Reverse Osmosis (RO) units.</p> <p>-Connect as many RO units for volume desired.</p> <p>Zero energy costs.</p> <p>-Ocean is constant & quality consistent.</p> <p>-Horizontal drilling has been around & accurate.</p> <p>-Automatic valves can insure quality by shutting off flow if excess water flow in pipes (by leaks).</p> <p>-Flexible air pipe to surface, that helps create pressure differences, should not be a shipping problem since it would move aside if hit.</p> <p>Options</p> <p>-Ocean power by CETO Wave Power to pump desalted water to surface?</p> <p>-Other Wave, Wind, Solar and Tidal power are also readily available to make conveyance from sea shore to city water processing plants or to other conveyance like delta aqueduct totally green and renewable.</p>	
49	1	<p>You may recall that in a November 21 letter to you, prior to the December 13 release of the BDCP Draft Plan and EIR/EIS, we requested that the public review and comment period be extended beyond the planned 120 days, based on the anticipated 25,000 page estimate of the BDCP documents. We have now determined that there are 40,214 actual pages of the released documents and we request that you extend the public review and comment period for at least 120 additional days, due to the extraordinary size of the documents to be reviewed.</p> <p>Based on the dictated 120 day review time period, the public is being asked to review 473 pages of technical and scientific material per day during the 85 working days that are available during the public review and comment period. Additional time would be required to understand, research, and prepare comments on the voluminous documents. The BDCP web site provides instructions that: "Comments should identify the specific part of the document at issue and should include supporting evidence and facts."</p> <p>As we pointed out in our previous request, NEPA regulation 40 CFR 1502.7 declares that the text of an EIS for "proposals of unusual scope or complexity shall normally be less than 300 pages." As we also stated in that previous letter, it is impossible for organizations interested in thoughtfully responding to these BDCP documents to be staffed for a thorough NEPA/CEQA</p> <p>review based on the outlandish size of the documents to be reviewed. Moreover, individual</p>	<p>For a more concise summary of the impact conclusions made in the documents, the BDCP Executive Summary and the EIR/EIS Executive Summary are available on the project website. Additionally, lay-friendly Highlight documents for both the BDCP and the EIR/EIS were published to provide summary information about the documents and to help readers get acquainted with the documents. The BDCP Highlights and the EIR/EIS Highlights are posted online at http://baydeltaconservationplan.com/AboutBDCP/InformationalMaterials.aspx. Short one-page factsheets on the BDCP and EIR/EIS are also provided online and by request. In addition, 17 narrated informational webinar episodes have been posted to the website for both the BDCP and EIR/EIS. These webinars were developed to provide short, easy to understand summaries of key elements of the BDCP and EIR/EIS. Background documents, additional factsheets, and FAQs continue to be available on-line.</p> <p>For more information, please see Master Response 38 regarding the length and complexity of the document.</p> <p>The public comment period for the BDCP, EIR/EIS, and IA was extended to July 29, 2014. Please see Master Response 39 for more information about the public review period.</p>

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		<p>members of the public attempting to comprehend and comment on the BDCP documents would be overwhelmed. It is worthwhile noting that these documents represent 20% more pages than the 32 volumes of the last printed edition of the Encyclopedia Britannica.</p> <p>Therefore, the EWC and its 33 grassroots members respectfully request that the public review and comment period be extended for an additional 120 days, until August 15, 2014, based on the size of the actual documents you released on December 13. Without such additional time, the public's essential role in the NEPA process of commenting on the agencies' findings contained in the BDCP's environmental review documents will be severely constrained.</p>	
51	1	<p>I am 100% opposed to a Delta tunnel. We should not spend \$1, never mind billions, on this environmental disaster. In this day and age, does anyone really believe that we have the ability to control nature?! Think of the risks, think of the negative consequences, and think of what other uses this money could be better put.</p>	<p>No issues related to the adequacy of the environmental impact analysis in the EIR/EIS documentation were raised. The proposed project was developed to meet the rigorous standards of the federal and state ESAs, and as such the proposed project is intended to be environmentally beneficial. By establishing a point of water diversion in the north Delta and new operating criteria to improve water volume, timing, and salinity, the proposed project is designed to improve native fish migratory patterns and allow for greater operational flexibility.</p>
51	2	<p>We should focus on water conservation, especially that used by agriculture. Water fees for farmers should be increased and they should be encouraged to switch to less water intensive crops. Please work to change whatever water contracts are necessary to correct the current give-away of a valuable public commodity.</p>	<p>The issue of crops and water use is beyond the scope of the Proposed Project. For more information please refer to the updated draft 2013 California Water Plan's strategy for agricultural water use efficiency, which describes the use and application of scientific processes to control agricultural water delivery and use. Also, refer to Master Response 6 and Appendix 1C for further information on demand management measures, including increasing agricultural water use efficiency and conservation.</p> <p>The State Water Resources Control Board, not DWR, is responsible for decisions relating to water rights. DWR holds water rights approved by the State Water Resources Control Board but does not have the power or authority to issue water rights to others. Additionally, the proposed project does not seek any new water rights nor include any regulatory actions that would affect water rights holders other than DWR, Reclamation, and SWP and CVP contractors.</p> <p>Importantly, all water exported by the SWP and CVP is the subject of the existing water rights of those two agencies. Exports do not come at the expense of other water rights holders. The proposed project and its alternatives analyzed in the EIR/EIS only include the use of water from existing SWP and CVP water rights or voluntary water transfers from other water rights holders. The proposed project and its alternatives do not reduce the protections for other water right holders.</p> <p>The proposed project does not propose any changes to rules governing transactions between contractors and individual agricultural producers.</p> <p>For more information regarding beneficial use please see Master Response 34.</p>
53	1	<p>The Bay Delta Conservation Plan will destroy the Delta. It does not take an expert to see that taking huge amounts of water out of the Sacramento River between Clarksburg and Courtland will deprive the Delta of water and allow more salt water insulation and damage.</p>	<p>The project was developed to meet the rigorous standards of the federal and state ESAs, and as such the project is intended to be environmentally beneficial. By establishing a point of water diversion in the north Delta and new operating criteria to improve water volume, timing, and salinity, the project is designed to improve native fish migratory patterns and allow for greater operational flexibility. The plan does not increase the amount of water to which DWR holds water rights or for use as allowed under its contracts. Water deliveries from the federal and state water projects under a fully implemented project would be roughly about the same as the average annual amount diverted in the last 20 years. Refer to Master Responses: Master Response 45 (Purpose and Need), Master Response 19 (Water Quality), Master</p>

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			Response 43 (Beneficial Use of Water), and Master Response 44 (Changes in Delta Exports).
53	2	<p>The construction of this project will, inevitably, severely damage the vineyards, orchards, and historic towns of the Delta. It is difficult to see how the Delta can survive the enormous construction required for these tunnels.</p>	<p>The preferred alternative is now Alternative 4A (i.e., the California WaterFix Project) and no longer includes an HCP-- refer to Master Response 45 (Purpose and Need). The Lead Agencies acknowledge the discussion of community character in Chapter 16 of the FEIR/FEIS, which identifies the unique features of the Delta and describes the effects on Delta communities. Refer also to Master Response 24 (Delta as a Place). A Draft BDCP Statewide Economic Impact Report has been published, which indicates that the BDCP (or the California WaterFix Project) would result in a substantial economic net benefit to California. Impacts to agriculture are discussed in Chapter 14; project proponents have proposed measures that would support and protect agricultural production in the Delta by securing agricultural easements and/or by seeking opportunities to protect and enhance agriculture with a focus on maintaining economic activity on agricultural lands. Please see Master Response 18 for more information on agricultural mitigation.</p>
53	3	<p>The other detrimental impacts of this project include the billions of dollars of cost to the taxpayers, and jeopardizing Northern California water supply. The proponents of this project are willing to destroy the Delta, disregard the cost to taxpayers, and ignore the damage to Northern California water supply to send more of our water to Southern California.</p> <p>This project should be killed and Southern California given back to Mexico.</p>	<p>This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. Alternative 4 remains a viable alternative. For additional detail on the primary issues being raised with regard to the BDCP or Alternative 4, as well as a discussion of the current status of the draft BDCP Effects Analysis, please see Master Response 5.</p>
56	1	<p>I am a home owner living just 4 blocks from the Delta. When I read about the plan to divert water from the Delta from cleanwater.org, I was alarmed and disturbed. I feel that water recycling and conservation is more important than indirectly causing our beautiful Delta to be drained. The impact on wildlife, especially in this time of drought would be devastating.</p> <p>I urge you to please reconsider this plan of action. Surely something less harmful to scenery and wildlife can be found.</p>	<p>The BDCP(Alternative 4) has been developed based on sound science, data gathered from agencies and experts over many years, input from agencies, stakeholders and independent scientists, and more than 600 public meetings, working group meetings and stakeholder briefings. Fifteen alternatives and three new sub-alternatives were analyzed extensively in the Draft EIR/EIS and the RDEIR/SDEIS, respectively. The analyses included such topics as impacts to wildlife (Chapter 12) and to visual resources (Chapter 18). Other proposals by public and private individuals and organizations have also been evaluated and described in Chapter 3 of the Draft EIR/EIS and Appendix 3A of the RDEIR/SDEIS. For a description of the process the Lead Agencies followed to develop and screen alternatives, refer to the following Master Responses: Master Response 4(Alternatives Development, Tunnel Option), Master Response 6 (Demand Management in BDCP), Master Response 7 (Desalination), and Master Response 37 (Storage). Developed to meet the rigorous standards of the federal and state ESAs, the now preferred California WaterFix Project (Alternative 4A) is intended to be environmentally beneficial. By establishing a point of water diversion in the north Delta and new operating criteria to improve water volume, timing, and salinity, the proposed project is designed to improve native fish migratory patterns and allow for greater operational flexibility.</p>
58	1	<p>I see it is all about Brown's drive to build billion dollar diversions from our Delta.</p> <p>Isn't there anything we can do to make this huge mistake stop? The very last thing we need is to divert more fresh water from our SF Bay and Delta!</p> <p>Brown tried this years ago and now, again, he is determined to send more of our precious water south to big agriculture and the developers.</p> <p>Can't we sue to stop this insanity?</p>	<p>The Lead Agencies acknowledge your opposition to the proposed project.</p> <p>As a plan prepared to meet the rigorous standards of the federal and state Endangered Species Acts, the proposed project is intended to be environmentally beneficial, not detrimental. Existing water diversions, including the existing State Water Project/Central Valley Project diversions in the southern Delta, can impact water flows and quality. By establishing a point of water diversion in the north Delta and new operating criteria to improve water volume, timing, and salinity, the proposed project is designed to improve native fish migratory patterns and allow for greater operational flexibility.</p> <p>The project proposes to stabilize water supplies, and exports could only increase under certain circumstances in which ecological goals and objectives would be fully satisfied. Water deliveries from the federal and state water projects under a fully-implemented Alternative 4A are projected to be about the same as the average annual amount diverted in the last 20 years. Although the proposed project would not increase the overall volume of Delta water exported, it would make the deliveries more predictable and</p>

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59	1	<p>Today is December 23, 2013, and the water level in Folsom Reservoir -- which is sole water source for millions -- is said to be about 19%. I don't believe this. There are only two pathetic streams running through a huge granite bowl, and no precipitation is expected in the Sierra Mountains and the Central Valley.</p> <p>For pictorial proof, see the week-old videos posted at http://www.youtube.com/4sewerdogs channel.</p> <p>Destroying the Delta to transport imaginary water is near-insanity.</p> <p>Desalinization now!</p>	<p>reliable, while restoring an ecosystem in steep decline.</p> <p>Operation of the new north Delta facilities will be guided by strict regulations that are set by the SWRCB. Adaptive management and collaborative science will aid operators in managing the pumping schedule in the presence of sensitive species. Appendix B of the RDEIR/SDEIS shows supplemental modeling results for the new alternatives. In particular Section B.2.1 Alternative 4A the modeling demonstrates that under the preferred alternative (4A) reservoir levels (e.g., Trinity Lake, Shasta Lake, Folsom Lake, and Lake Oroville) would be similar to the No Action Alternative (ELT).</p> <p>Please see Master Response 4 for discussion of the scope of the proposed project and alternatives (such as desalination) that were not carried forward for analysis in this document due to the fact that required actions beyond the scope of the proposed project. However, nothing in the proposed project would prevent other entities from pursuing innovative approaches to desalination or other water supply solutions. As described in Appendix 3A, Section 3A.7, Results of Initial Screening of Conveyance Alternatives, EIR/EIS (2013), desalination was included as part of Alternative B7. Issues related to desalination include land use impacts, costs, and substantial energy use requirements. Advances in technology have improved feasibility of desalination and as a statewide water use planning component; it will be evaluated by water agencies on a local/regional level.</p> <p>Desalination, the process of removing salt and other minerals from seawater to make it suitable for drinking or irrigation, is being implemented in several California communities. However, it has not proven viable to secure adequate water supplies to meet California's needs due to high costs and energy demands.</p> <p>Today, desalination creates an estimated 84,000 acre-feet of potable water a year in the state, mostly through treatment of brackish groundwater, which is less salty and cheaper to treat than sea water. In comparison, the proposed project would secure an estimated 4.7 to 5.2 million acre-feet of water to supply more than 25 million people and 3 million acres of farmland.</p> <p>Although the proposed project would not increase the overall volume of Delta water exported, it would make the deliveries more predictable and reliable, while restoring an ecosystem in steep decline. Local water agencies will need to invest in additional strategies and technologies, including desalination, to meet future water demand.</p> <p>The proposed project is one part of a diverse portfolio of strategies needed to meet California's overall water management needs. It is not a substitute for increased commitments to other water supply solutions, including recycling, desalination, water conservation and storage.</p> <p>Please see Master Response 7 regarding desalination.</p>
60	1	<p>Where can I find the detailed engineering calculations of the carrying capacity of the proposed tunnels?</p>	<p>The following Hydraulic Parameters were used for Tunnel Sizing, in conjunction with the information provided in Sections 4 and 5 of the Conceptual Engineering Report dated October 1, 2013 (http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx):</p> <ul style="list-style-type: none"> • Manning's equation for friction head loss computations • Manning's n-value = 0.0145 for tunnels • Tunnel Length of approximately 30 miles

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			<ul style="list-style-type: none"> • Downstream Control is Clifton Court Forebay WS El. = 9 ft • Upstream Control is Intermediate Forebay WS El. = 20 ft • Assume additional minor losses are equivalent to friction losses based on 3% of Tunnel Length. (i.e. Minor Headloss = Hf for .03 * L), this does not include other minor losses due to Exit and Entrance losses which must be included. • Gravity fed tunnels • Design Flow = 9,000 cfs
62	1	Chapter 5 of the Draft EIR/EIS includes a reference to Table 5-7 through 5-9. I scanned through Chapter 5 and didn't find the referenced Tables. Where can I find the referenced Tables?	Tables 5-7 through 5-9 are located on the final pages of Chapter 5 in the 2013 Public Draft EIR/EIS, pages 164-166.
73	1	On the Table of Contents, pg. 36, Lines 8 and 9: Figure 3.2-14 is the Decision Matrix and Fig 3.2-15 is the Existing Conservation Lands, as they are labeled in the document.	The document has been revised to correct the error.
73	2	On the Table of Contents, pg. 36, fails to list Fig 3.2-16, Landscape Linkages that appears in the document.	The document has been revised to correct the error.
73	3	On the Table of Contents, pg. 36, Line 14, Fig 3.3.3 is really Annual Residual Values for Longfin smelt, which is not listed here. This puts the next four figures off by 1 in the Table of Contents, i.e. Line 14 is really Fig 3.3-4, Line 16 is really Fig 3.3-5 and similarly through Line 19.	The document has been revised to correct the error.
73	4	Figures 4-6 Schematic of the Intake Structure through Figure 4-11 are included in the chapter but not listed on the Table of Contents.	The document has been revised to correct the error.
73	5	On Table of Contents, page 38, Figure 5.2.6 General Procedure for Integration of BDCP Effects on Covered Species does not appear in the document. Line 5 Fig 5.2-7 appears in the document as 5.2-6, and Line 6, Fig 5.2-8 Process for Calculating Extent appears as 5.2-7.	The document has been revised to correct the error.
73	6	Table of Contents, page 29, lines 24 and 25: I could not find Figure 8-1 or Figure 8-2 in the document.	The document has been revised to correct the error.
78	1	<p>The undersigned request an extension to the existing 120-day review period for the BDCP documentation. The California Environmental Water Caucus has determined that there are 40,214 pages of the released documents included in the BDCP Draft Plan and EIR/EIS. Based on the preponderance of documentation necessary for an adequate review of the plan, we request that you extend the public review and comment period a minimum of 120 additional days.</p> <p>Considering the dictated 120-day review period, the public has been tasked to review 473 pages of technical and scientific material per day given the 85 working days available during the public review and comment period. The BDCP web site provides instructions that:</p>	<p>For a more concise summary of the impact conclusions made in the documents, the BDCP Executive Summary and the EIR/EIS Executive Summary are available on the project website. Additionally, lay-friendly Highlight documents for both the BDCP and the EIR/EIS were published to provide summary information about the documents and to help readers get acquainted with the documents. The BDCP Highlights and the EIR/EIS Highlights are posted online at http://baydeltaconservationplan.com/AboutBDCP/InformationalMaterials.aspx. Short one-page factsheets on the BDCP and EIR/EIS are also provided online and by request. In addition, 17 narrated informational webinar episodes have been posted to the website for both the BDCP and EIR/EIS. These webinars were developed to provide short, easy to understand summaries of key elements of the BDCP and EIR/EIS.</p>

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		<p>"Comments should identify the specific part of the document at issue and should include supporting evidence and facts." Additional time is necessary to appropriately understand, research, and prepare such comments.</p> <p>NEPA regulation 40 CFR 1502.7 declares that the text of an EIS for "proposals of unusual scope or complexity shall normally be less than 300 pages." It is impossible for organizations interested in thoughtfully responding to these BDCP documents to be staffed for a thorough NEPA/CEQA review based on the unreasonable size of the released documentation. Moreover, individual members of the public attempting to comprehend and comment on the BDCP documents would be overwhelmed. It is worthwhile noting that these documents represent 20% more pages than the 32 volumes of the last printed edition of the Encyclopedia Britannica.</p> <p>We respectfully request that the public review and comment period be extended for an additional 120 days, until August 15, 2014, based on the size of the actual documents released December 13. Without this minimum additional time, the public's essential role in the NEPA process - commenting on the agencies' findings contained in the BDCP's environmental review documents - will be severely constrained.</p>	<p>Background documents, additional factsheets, and FAQs continue to be available on-line.</p> <p>For more information, please see Master Response 6 regarding the length and complexity of the document.</p> <p>The public comment period for the BDCP, EIR/EIS, and IA was extended to July 29, 2014. Please see Master Response 57 for more information about the public review period.</p>
79	1	<p>You may recall that in a November 21 letter, prior to the December 13 release of the BDCP Draft Plan and EIR/EIS, the Environmental Water Caucus requested that the public review and comment period be extended beyond the planned 120 days, based on the anticipated 25,000 page estimate of the BDCP documents. We have now reviewed the 40,214 actual pages of the released documents and request that you extend the review and comment period for at least 120 additional days, due to the extraordinary size of the documents to be reviewed.</p>	<p>Please see Master Response 39.</p>
79	2	<p>Based on the dictated 120 day review time period, the public is being asked to review 473 pages per day during the 85 working days that are available during the comment period. These documents represent 20% more pages than the 32 volumes of the last printed edition of the Encyclopedia Britannica. As was pointed out in the previous request, NEPA regulation 40 CFR 1502.7 declares that the text of an EIS for "proposals of unusual scope or complexity shall normally be less than 300 pages." In addition, one of the overarching goals of CEQA is to ensure that the public is not deprived of a meaningful opportunity to provide input. (CA Pub. Res. Code [Section] 21003(b).) As was stated in that previous letter, it is impossible for organizations interested in thoughtfully responding to these BDCP documents to be staffed for a meaningful NEPA/CEQA review, based on the size and complexity of the documents to be reviewed, within the timeframe offered.</p> <p>Earth Law Center respectfully requests that the public review period be extended for an additional 120 days, until July 15, based on the size of the actual documents released on December 13, 2013. Thank you.</p>	<p>For a more concise summary of the impact conclusions made in the documents, the BDCP Executive Summary and the EIR/EIS Executive Summary are available on the project website. Additionally, lay-friendly Highlight documents for both the BDCP and the EIR/EIS were published to provide summary information about the documents and to help readers get acquainted with the documents. The BDCP Highlights and the EIR/EIS Highlights are posted online at http://baydeltaconservationplan.com/AboutBDCP/InformationalMaterials.aspx. Short one-page factsheets on the BDCP and EIR/EIS are also provided online and by request. In addition, 17 narrated informational webinar episodes have been posted to the website for both the BDCP and EIR/EIS. These webinars were developed to provide short, easy to understand summaries of key elements of the BDCP and EIR/EIS. Background documents, additional factsheets, and FAQs continue to be available on-line.</p> <p>For more information, please see Master Response 6 regarding the length and complexity of the document.</p> <p>The public comment period for the BDCP, EIR/EIS, and IA was extended to July 29, 2014. Please see Master Response 57 for more information about the public review period.</p>
82	1	<p>In a November 21 letter, prior to the December 13 release of the BDCP Draft Plan and EIR/EIS, the Environmental Water Caucus, of which the Foothill Conservancy is a member, requested that the public review and comment period be extended beyond the planned 120 days, based on the anticipated 25,000 page estimate of the BDCP documents. Having now counted the 40,214 actual pages of the released documents, our organization requests that you extend the review and comment period for at least 120 additional days, due to the extraordinary size and technical nature of the documents to be reviewed.</p>	<p>For a more concise summary of the impact conclusions made in the documents, the BDCP Executive Summary and the EIR/EIS Executive Summary are available on the project website. Additionally, lay-friendly Highlight documents for both the BDCP and the EIR/EIS were published to provide summary information about the documents and to help readers get acquainted with the documents. The BDCP Highlights and the EIR/EIS Highlights are posted online at http://baydeltaconservationplan.com/AboutBDCP/InformationalMaterials.aspx. Short one-page factsheets on the BDCP and EIR/EIS are also provided online and by request. In addition, 17 narrated informational webinar episodes have been posted to the website for both the BDCP and EIR/EIS. These webinars were</p>

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		<p>Based on the dictated 120 day review time period, the public is being asked to review 473 pages per day during the 85 working days that are available during the comment period. These documents represent 20% more pages than the 32 volumes of the last printed edition of the Encyclopedia Britannica. As was pointed out in the previous request, NEPA regulation 40 CFR 1502.7 declares that the text of an EIS for "proposals of unusual scope or complexity shall normally be less than 300 pages." As was also stated in that previous letter, it is impossible for organizations interested in thoughtfully responding to these BDCP documents to be staffed for a thorough NEPA/CEQA review based on the enormity of size and complexity of the documents to be reviewed.</p> <p>Our organization respectfully requests that the public review period be extended for an additional 120 days, until August 15, based on the size of the actual documents you released on December 13.</p>	<p>developed to provide short, easy to understand summaries of key elements of the BDCP and EIR/EIS. Background documents, additional factsheets, and FAQs continue to be available on-line.</p> <p>For more information, please see Master Response 38 regarding the length and complexity of the document.</p> <p>The public comment period for the BDCP, EIR/EIS, and IA was extended to July 29, 2014. Please see Master Response 39 for more information about the public review period.</p>
83	1	<p>I am writing on behalf of the Environmental Protection Information Center ("EPIC"), a nonprofit organization that works to protect human and natural communities in Northwest California. Consistent with this mission, and in representation of the staff, board of directors, and the 2000 individuals that make up the membership of EPIC, our organization submits the following comments in regards our request of an extension in the public comment review time currently provided for submitting informed comments on the Bay Delta Conservation Plan Draft EIR/EIS.</p> <p>In a letter from November 21, 2013 (prior to the December 13, 2013, release of the BDCP Draft Plan and EIR/EIS), the Environmental Water Caucus, of which EPIC is an active participating member, requested that the public review and comment period be extended beyond the planned 120 days, based on the anticipated 25,000 page estimated volume of the BDCP documents. Staff at our organization has now begun review of the 40,214 actual pages of the released documents, and we reiterate the request that you extend the review and comment period for at least 120 additional days, due to the extraordinary size of the documents to be reviewed.</p> <p>Based on the dictated 120 day review time period, the public is being asked to review 473 pages per day during the 85 working days that are available during the comment period. Though our cursory review of the documentation has already revealed glaring omissions, such as the lack of analysis of impacts of the proposed water conveyance structures of the BDCP on Coho Salmon in the Trinity River, our organization finds in-depth review of the BDCP Draft EIR/EIS to be nearly impossible in the short time frame defined within the current public comment period. As was pointed out in the previous request, NEPA regulation 40 CFR 1502.7 declares that the text of an EIS for "proposals of unusual scope or complexity shall normally be less than 300 pages." As was also stated in that previous letter, it is impossible for organizations interested in thoughtfully responding to these BDCP documents to be staffed for a thorough NEPA/CEQA review based on the outlandish size and complexity of the documents to be reviewed. Our public interest conservation organization is community supported and grassroots scale; it is imperative that the public be granted an appropriate opportunity to understand, assess, and provide comment on a proposed project that would transform the nature of water management in our state for generations to come, with potentially very harmful outcomes for natural and human communities in the Northwest corner of the state.</p> <p>In conclusion, our organization respectfully requests that the public review period be</p>	<p>The public comment period for the 2013 Public Draft BDCP and EIR/EIS was extended to July 29, 2014. Please see Master Response 39 for more information about the public review period.</p> <p>The Draft Implementing Agreement for the BDCP was made available for public review on May 30, 2014 and the public review period was extended by 46 days until July 29, 2014, in order to accommodate a 60-day review period consistent with the California Natural Community Conservation Planning Act.</p> <p>As described in the May 5 2014 posting to the BDCP website, the delayed publication of the draft Implementing Agreement was related to availability of key individuals whose drought response duties required significant time commitments, resulting in delays in finalizing the draft BDCP Implementing Agreement.</p> <p>Implementing agreements are a requirement under the California Natural Community Conservation Planning Act (NCCPA), and are routinely executed under the ESA Section 10 (HCP) permitting process. Since the current proposed project is no longer a NCCP or HCP, an implementing agreement was not released with the RDEIR/SDEIS or final EIR for the project.</p> <p>For more information regarding the document's length and complexity please see Master Response 38.</p>

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		<p>extended for an additional 120 days, until August 15, 2014, based on the size of the actual documents you released on December 13, 2013.</p>	
84	1	<p>This is our preliminary comment letter on the public draft Bay Delta Conservation Plan (BDCP) and public draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS) issued in December 2013. This letter focuses on the adverse modification of critical habitats for five threatened and endangered fish species that would be caused by the proposed BDCP water tunnels. Extinction is forever. The fish face an extinction crisis. The BDCP water tunnels would adversely modify designated critical habits and thus promote species extinction and preclude species recovery. The BDCP water tunnels project is not a permissible project under the Endangered Species Act (ESA) because it would adversely modify designated critical habitat for at least five endangered and threatened fish species.</p> <p>This letter follows up our earlier comment letters to you of June 4, August 13, September 25, and November 18, 2013 (all posted on the BDCP website) and our meeting with Bureau of Reclamation, National Marine Fisheries Service (NMFS), United States Fish and Wildlife Service (USFWS) and United States Environmental Protection Agency (EPA) representatives in Sacramento on November 7, 2013. Each of our earlier comment letters is attached hereto (pages showing cc.s deleted from the attachments) and incorporated herein by this reference. We will submit or join in one or more additional comment letters after we have completed review of as much of the 40,000 pages of BDCP documents as we are able to review.</p> <p>ESA violations and related NEPA and CEQA violations precluding informed public review:</p> <p>The water tunnels would divert enormous quantities of water from the Sacramento River near Clarksburg, California. The water would be shipped through two giant tunnels about 40 miles long to the south for diversion to the Central Valley and State Water Projects. As a result of this massive diversion, enormous quantities of water that presently flow through the Sacramento River and sloughs to and through the Sacramento-San Joaquin Delta would not reach the Delta, and flows would be reduced in the Sacramento River and sloughs. Also, there would be adverse cumulative effects ranging from rising sea levels and reduced snowpack and runoff due to climate change to changes in upstream reservoir operations and current preservation of flows for fishery purposes all the way upstream to the Shasta, Trinity, Oroville, and Folsom reservoirs. The water tunnels are identified as Alternative 4, the California Department of Water Resources' (DWR) Preferred Alternative. (BDCP Draft EIR/EIS, 3-3).</p> <p>As a result of the discussion at our November 7, 2013 meeting with the federal agency BDCP representatives, it was confirmed that the factual matters set forth in our September 25, 2013 comment letter are correct. First, it is correct that the Sacramento River winter-run Chinook salmon is listed as an endangered species under the ESA. Likewise, it is correct that the Central Valley spring-run Chinook salmon, Central Valley steelhead, Southern Distinct Population Segment of North American green sturgeon, and delta smelt, are listed as threatened species under the ESA. Second, it was confirmed that the reaches of the Sacramento River, sloughs, and the Delta that would lose significant quantities of freshwater and freshwater flows through operation of the proposed BDCP water tunnels are designated critical habitats for each of these five listed endangered and threatened fish species. Third, it was confirmed that no Biological Assessment has been prepared and issued by the Federal Bureau of Reclamation with respect to the BDCP water tunnels project. Fourth, it was</p>	<p>The comment is in part an introductory statement about the nature of the comment letter submitted, references other comments already submitted and notes that additional comments are forthcoming. Since this portion of the comment does not raise any issues related to the environmental analysis, no responses is necessary for that portion of the comment.</p> <p>The comment also broadly states that the project would have adverse effects but does not cite specific evidence in this portion of the letter therefore no specific response is provided.</p> <p>Please note that Alternative 4A, also known as California WaterFix, has been developed in response to public and agency input and is the new CEQA Preferred Alternative. Alternative 4A is also the NEPA Preferred Alternative, a designation that was not attached to any of the alternatives presented in the 2013 Public Draft BDCP Draft EIR/EIS. Alternative 4 (BDCP) remains a potentially viable alternative and was carried forward in the RDEIR/SDEIS and FEIR/EIS because it represents the original habitat conservation plan/natural community conservation plan (HCP/NCCP) alternative approach, and because it provides an important reference point from which the Alternative 4A, 2D, and 5A descriptions and analyses were developed. If the Lead Agencies ultimately choose the alternative implementation strategy and select an alternative presented in the RDEIR/SDEIS after completing the CEQA and NEPA processes, elements of the conservation plan contained in the alternatives in the 2013 BDCP Draft EIR/EIS may be utilized by other programs for implementation of the long-term conservation efforts.</p> <p>Numerous comments were received that focused on various elements of the BDCP. Where the comments focused on elements of the BDCP that overlap with the elements of Alternatives 2D, 4A, or 5A (e.g., CM1 as it comprises of the North Delta Diversions, tunnels, and supporting facilities), specific responses are presented. Where comments raised issues as to whether the BDCP and other HCP/NCCP alternatives in the 2013 Draft EIR/EIS were potentially feasible and could function as an alternative for purposes of meeting CEQA and NEPA's requirements to analyze a reasonable range of alternatives to the proposed project (e.g., issues regarding the BDCP Effects Analysis or financial feasibility), responses are presented generally in Master Response 5. Where comments submitted on the BDCP were focused on elements outside the scope of the environmental analysis or viability of the BDCP and other HCP/NCCP alternatives within the context of CEQA/NEPA (e.g., request of specific revisions to the BDCP related to mapping or references), no specific responses are provided and further consideration will be given to these comments, and any revisions to the Draft BDCP would only be made, if an HCP/NCCP alternative was ultimately approved at the conclusion of the CEQA/NEPA process.</p> <p>As described in the EIR/EIS, the proposed project will be submitted to numerous state and federal agencies for approval, including to USFWS and NMFS under the Endangered Species Act. The approvals and permits that will be issued by these agencies could result in changes to the proposed project that is presented in the EIR/EIS. However, implementation of the proposed project in accordance with these approvals and permits would be consistent with the related legislation referred to in this comment. Water deliveries from the federal and state water projects under a fully-implemented Alternative 4A are projected to be about the same as the average annual amount diverted in the last 20 years. Although the proposed project would not increase the overall volume of Delta water exported, it would make the deliveries more predictable and reliable, while restoring an ecosystem in steep decline. Refer to Master Response 26 (Area of Origin).</p> <p>The amount of water from the new north Delta facilities is set by Federal regulating agencies, ESA compliance and project design, and not by the water contractors. Operations for the proposed project would still be consistent with the criteria set by the FWS (2008) and NMFS (2009) BiOps and State Water</p>

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		<p>confirmed that no final or even draft Biological Opinion has been prepared by NMFS or USFWS with respect to the impacts of the operation of the BDCP water tunnels on the five listed species of fish or their critical habitats.</p> <p>NMFS reiterated its previous red flag comment in 2013 that the water tunnels threaten the "potential extirpation of mainstem Sacramento River Populations of winter-run and spring-run Chinook salmon over the term of the permit. . . ." (NMFS Progress Assessment and Remaining Issues Regarding the Administrative Draft BDCP Document, Section 1.17, 12, April 4, 2013). In comments on the Administrative Drafts, the EPA explained that "many of these scenarios of the Preferred Alternative range appear to decrease Delta outflow (p. 5-82), despite the fact that several key scientific evaluations by federal and State agencies indicate that more outflow is necessary to protect aquatic resources and fish populations." (EPA Comments on Administrative Draft EIR/EIS, III Aquatic Species and Scientific Uncertainty, Federal agency Release, July 18, 2013).</p> <p>"The goal of the ESA is not just to ensure survival but to ensure that the species recover to the point it can be delisted." Alaska v. Lubchenko, 723 F.3d 1043, 1054 (9th Cir. 2013), citing Gifford Pinchot Task Force v. U.S. Fish and Wildlife Service, 378 F.3d 1059, 1070 (9th Cir. 2004). Pursuant to the commands of the ESA, each federal agency "shall . . . Insure that any action authorized, funded, or carried out by such agency . . . Is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of [critical] habitat of such species. . . ." 16 U.S.C. Section 1536(a)(2)(emphasis added). "[T]he purpose of establishing 'critical habitat' is for the government to carve out territory that is not only necessary to the species' survival but also essential for the species' recovery." Gifford Pinchot, 378 F.3d 1059, 1070. Also, "existing or potential conservation measures outside of the critical habitat cannot properly be a substitute for the maintenance of critical habitat that is required by Section 7 [of the ESA, 16 U.S.C Section 1536]." Gifford Pinchot, 378 F.3d 1059, 1076. The failure to prepare the ESA and National Environmental Policy Act (NEPA) required Biological Assessments and Opinions analyzing the threatened adverse modification of critical habitats renders the draft EIR/EIR essentially worthless as an environmental disclosure and informational document under NEPA. The draft EIR/EIS is also premature and unlawful under the ESA.</p>	<p>Resources Control Board Water Right Decision 1641 (D-1641), subject to adjustments made pursuant to the adaptive management process as described in the 2008 and 2009 BiOps (RDEIR/SDEIS Executive Summary ES.2.2). In addition to permitting constraints on daily operations of the SWP and CVP, DWR must maintain proper performance and bypass flows across fish screens when endangered and threatened fish species are present within the north Delta facilities area. The intake fish screens drive the overall size of the intake structure on the riverbank, and have been numbered and sized to permit water to flow through the screens within a predetermined flow regime set by California Department of Fish and Wildlife and NMFS fish screen criteria (BDCP Appendix 5B Section 3.B.3.3).</p> <p>Please also refer to comment 84-13 and 84-15.</p> <p>For more information regarding purpose and need please see Master Response 3.</p> <p>The Proposed Project has been developed with the goals of minimizing and avoiding incidental take of listed species to the maximum extent practicable. Chapter 11, Fish and Aquatic Resources, and Chapter 12, Terrestrial Biological Resources, EIR/EIS, describe effects of the Proposed Project and several alternatives on fish and wildlife species in the Plan Area.</p> <p>Section 7 requires that federal agencies, in consultation with the federal fish and wildlife agencies, ensure that their actions are not likely to jeopardize the continued existence of species or result in modification or destruction of critical habitat.</p> <p>Where the alternative does not include preparation of an HCP, ESA compliance for construction and operation of water intakes in the north Delta and associated conveyance facilities would be achieved solely through Section 7. For these alternatives, USFWS and NMFS would not issue a permit and would not act as a lead agency for NEPA compliance. Where Section 7 is the ESA compliance strategy, USFWS and NMFS will assume roles as cooperating agencies for purposes of the NEPA review.</p> <p>Reclamation would be the lead federal action agency for Section 7 compliance where a non-HCP alternative is selected. Reclamation's Section 7 compliance would be expected to also address the Section 7 compliance needs for the USACE permit actions. In cooperation with DWR, Reclamation would prepare a biological assessment (BA) for submission to USFWS and NMFS requesting formal consultation under ESA Section 7.</p> <p>A biological opinion is not required prior to the release of the Draft BDCP/CWF EIR/EIS. For the Proposed Action, the USFWS and NMFS will conduct an internal ESA section 7 consultation prior to issuance of an Section 10(a)(1)(B) permit for the Proposed Action. These federal agencies will coordinate the ESA consultation process and other environmental review processes, such as the National Environmental Policy Act (NEPA), consistent with federal regulations. In addition, the USFWS and NMFS will consult with the United States Bureau of Reclamation (Reclamation) to complete biological opinions or a joint biological opinion prior to federal action to carry out the BDCP.</p> <p>For more information please see 1.1.5.2 of Section 1 Introduction of the RDEIR/SDEIS.</p> <p>The combined environmental compliance processes for the Endangered Species Act (ESA) and the National Environmental Policy Act (NEPA) require that a Biological Assessment (BA) be completed and a Biological Opinion be issued prior to completing the NEPA Record of Decision. A completed BA is not required prior to issuing a Draft Environmental Impact Statement under NEPA.</p> <p>Under Section 7 of the Endangered Species Act (ESA), federal agencies whose actions may impact listed species are required to consult with the United States Fish and Wildlife Service (USFWS) and/or the National</p>

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			<p>Marine Fisheries Service (NMFS), as appropriate, prior to taking any such action to ensure the action is not likely to jeopardize species listed under the ESA or result in destruction or adverse modification of critical habitat. At the end of consultation, USFWS and/or NMFS will complete a biological opinion, setting forth an opinion detailing how the agency action affects the species or its critical habitat.</p>
84	2	<p>The ESA Regulations (50 C.F.R. Section 402.14(a)) require that "Each Federal agency shall review its actions at the earliest possible time to determine whether any action may affect listed species or critical habitat. If such a determination is made, formal consultation is required. . . ." <i>Karuk Tribe of California v. U.S. Forest Service</i>, 681 F.3d 1006, 1020 (9th Cir. 2012) (en banc)(emphasis added), cert. denied, 133 S.Ct. 1579 (2013). The Biological Assessments and Biological Opinions are the written documents that federal agencies must prepare during the ESA consultation process. The NEPA Regulations require that "To the fullest extent possible, agencies shall prepare draft environmental impact statements concurrently with and integrated with environmental impact analyses and related surveys and studies required by the . . . Endangered Species Act. . . ." 40 C.F.R. [[Section]] 1502.25(a). "ESA compliance is not optional," and "an agency may not take actions that will tip a species from a state of precarious survival into a state of likely extinction." <i>National Wildlife Federation v. National Marine Fisheries Service</i>, 524 F.3d 917, 929-30 (9th Cir. 2008).</p> <p>The Biological Opinion is to determine "whether the action, taken together with cumulative effects, is likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat." 50 C.F.R [Section] 402.14(g)(4).</p> <p>Consequently, against this threat of extinction, conducting the draft EIR/EIS public review and comment stage without Biological Opinions or even Biological Assessments and draft Biological Opinions, leaves the public in the dark and violates both the ESA and NEPA. Conducting the NEPA environmental draft process prior to and in a vacuum from the ESA consultation process violates the ESA command to carry out the ESA process "at the earliest possible time" and violates the NEPA command to conduct the NEPA and ESA processes "concurrently" and in an "integrated" manner.</p> <p>The public and the decision-makers now have what they do not need: 40,000 pages of advocacy from the consultants including self-serving speculation that the adverse effects of reducing flows in the Sacramento River, sloughs, and Delta will be offset. The public and the decision-makers do not have what they do need and are entitled to by law: the federal agency Biological Assessments and Biological Opinions required by the ESA and NEPA.</p> <p>This draft EIR/EIS circulated prior to preparation and circulation of federal agency prepared Biological Assessments and Biological Opinions is "so inadequate as to preclude meaningful analysis," 40 C.F.R. [Section] 1502.9(a), because the public and decision-makers do not have the basic federal agency analyses required by the ESA to determine whether DWR's preferred alternative-the BDCP water tunnels-is even a lawful alternative, let alone an environmentally acceptable alternative.</p> <p>Just as the inadequate draft EIR/EIS violates NEPA, the draft EIR/EIS is so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment are precluded which also violates the California Environmental Quality Act (CEQA). 14 Code Cal. Regs. [Section] 15088.5(a)(4). As the California Supreme Court said in <i>Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova</i>, 40 Cal.4th 412, 449 (2007), "Especially given the sensitivity and listed status of the resident salmon species, the County's</p>	<p>USFWS and NMFS have coordinated with this project at the earliest opportunity. A BA will be prepared once the alternative is selected. Otherwise, there would need to be a BA prepared for each and every alternative considered. The 2013 DEIR/S and the 2015 RDEIR/SDEIS had substantial information on the affected environmental and effects for the biological resources. This information contained within the EIR/S will form the foundation of the BA.</p> <p>Please see Master Response 45 (Permitting), Master Response 5 (Compliance with ESA), and Master Response 29 (BAs and BiOps not included in EIR/EIS).</p> <p>As state agencies, the Department of Water Resources and the California Natural Resources Agencies have an obligation and duty to provide the public with educational information that is rooted in fact, based on reasonable assumptions supported by facts and expert opinions substantiated by facts. Doing so for a project of large scale and complexity can be a challenge. The BDCP website, blog, Your Questions Answered, and social media platforms have been the primary vehicle for communicating important project information and correcting misinformation. Brochures, factsheets, webinars and videos are other tools the State has employed to educate the public about the proposed project and the EIR/EIS process. Representatives from the State have also held numerous meetings and briefings around the state to educate stakeholders and provide them with critical information about project developments and the EIR/EIS process. Brochures, factsheets, webinars, reports and other information is kept on the project website, www.BayDeltaConservationPlan.com and is available for review. Historical materials remain available for review and are labeled as achieved or superseded. For more information regarding public outreach adequacy please see Master Response 40.</p> <p>The documentation generated by this proposed project has undergone extensive public and scientific input, discussion, and transparency, including the posting of administrative draft chapters online and providing many more opportunities for public participation than is normally required by the CEQA/NEPA processes; refer to Master Response 41(Transparency) for more information.</p> <p>The proposed project is a joint RDEIR/SDEIS prepared in compliance with the requirements of CEQA and NEPA. Before the selection and approval of an alternative considered, the Lead Agencies must comply with the necessary state and federal environmental review requirements. This document, along with the BDCP Draft EIR/EIS, and expected Final EIR/EIS are intended to provide sufficient CEQA and NEPA support for approval of the proposed project or any of the action alternatives for either compliance strategy. As implementation of the proposed project or any of the action alternatives will require permits and approvals from public agencies other than the Lead Agencies, the CEQA and NEPA documents are prepared to support the various public agency permit approvals and other discretionary decisions. These other public agencies are referred to as responsible agencies and 20 trustee agencies under CEQA (State CEQA Guidelines Sections 15381 and 15386) and cooperating agencies under NEPA (e.g., USACE and EPA).</p> <p>The Lead Agencies acknowledge that uncertainty is inherent in any planning effort of this geographic and temporal scale. However, DWR strived to use the best available science throughout the effects analysis, consistent with the requirements of the ESA. Additionally, the official public review process for the proposed project provides an opportunity for formal public comment on the proposed project and project alternatives. Public and agency comments on the public draft have led to further refinement of the</p>

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		<p>failure to address loss of Cosumnes River stream flows in the Draft EIR 'deprived the public . . . Of meaningful participation' [citation] in the CEQA discussion. (See CEQA Guidelines, Cal. Code Regs., tit. 14, [Section] 15065, subd. (a)(1)[potential substantial impact on endangered, rare or threatened species is per se significant].)"</p> <p>In the absence of answers to basic questions including ESA questions about jeopardy of listed fish species and adverse modifications of designated critical habitats, the draft BDCP EIR/EIS is not sufficient for informed review by the public and the decision-makers. It will be necessary at minimum under the ESA, NEPA and CEQA for the federal and state agencies to prepare, issue, and circulate for public review a new draft EIR/EIS concurrently with and integrated with Biological Assessments and Biological Opinions. 40 C.F.R. [Section] 1502.9(a); 1502.25(a) (NEPA); 14 Code Cal. Regs. [Section] 15065(a)(1); 15088.5(a)(CEQA). Then, and only then, would the public and the decision-makers have the opportunity to engage in meaningful analysis of a preferred project alternative and informed comparison with other alternatives.</p>	<p>proposed project, as evidenced in the RDEIR/SDEIS.</p>
84	3	<p>The BDCP water tunnels project is in fact prohibited by the ESA because it would adversely modify designated critical habitat for at least five endangered and threatened fish species. The fact that the ESA required consultations would result in determinations in the Biological Assessments and Opinions that the preferred project alternative is prohibited by the ESA does not justify the unlawful evasion and postponement of the consultations.</p>	<p>Chapters 11 and 12 of the 2013 Public Draft BDCP EIR/EIS and Final EIR/EIS include in-depth, comprehensive analyses of potential effects on all endangered fish and wildlife known or expected to occur in the BDCP Plan Area. Please refer to comment 84-1 regarding ESA and the timing of the biological opinion.</p>
84	4	<p>[FROM ATT 1:] The tunnels, both of which would be 40 feet in diameter and 35 miles long, would have the capacity to take 15,000 cubic feet per second (cfs) (though only three intakes with a total capacity of 9000 cfs are now planned at the start it would be easy to add two additional intakes down the road to achieve the total capacity of 15,000 cfs.). It is time for some common sense. It is hard to imagine that the exporters would pay the additional billions of dollars to construct the 15000 cfs tunnels capacity unless the true plan and project is to operate at that level. That is an enormous quantity of fresh water approximately equal to the entire average summer flow of the Sacramento River at the location of the proposed new North intakes. Consequently, massive quantities of freshwater would be taken out of the Sacramento River upstream from the Delta near Clarksburg for the benefit of subsidized agricultural water interests south of the Delta.</p>	<p>For additional detail on the primary issues being raised with regard to the BDCP or Alternative 4, as well as discussion of the current status of the draft BDCP Effects Analysis, please see Master Response 5.</p> <p>The Draft and Final EIR/EIS, Appendix 5A, Section C, describes that the proposed project will:</p> <ul style="list-style-type: none"> • Increase Delta exports during wet and above normal years with the use of the North Delta intakes. • Increase flows and export volumes in wet, above normal, and below normal years between December and March as compared to the Existing Conditions and No Action Alternative. • Increase flows and export volumes in wet, above normal, and below normal years in June and July as compared to the Existing Conditions and No Action Alternative. • Maintain export rates and volumes in April and May. • Increase Delta outflow during the September through December period in all year types and in February and March in wet and above normal year types as compared to Existing Conditions. • <p>To the extent that analytical methods provide linkages to flow, including outflow, and specific species or habitats evaluated, those methods were used for evaluation in Chapter 11.</p>
84	5	<p>[FROM ATT 1:] Extinction is forever. Consequently, the Endangered Species Act (ESA) obligates federal agencies "to afford first priority to the declared national policy of saving endangered species." Tennessee Valley Authority v. Hill, 437 U.S. 153, 185 (1978); see also, Pacific Coast Federation of Fishermen's Associations v. U.S. Bureau of Reclamation, 426 F.3d</p>	<p>Analyses included in the RDEIR/SDEIS and FEIR/EIS were developed in coordination with the resource agencies whose comments the commenter notes. Please note that the preferred alternative is now Alternative 4A, and no longer includes an HCP. Alternative 4A, also known as California WaterFix, has been developed in response to public and agency input and is the new CEQA Preferred Alternative. Alternative</p>

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		<p>1082, 1084-5 (9th Cir. 2005).</p> <p>This is a comment letter to alert you to foundational violations of law and fundamental analytical deficiencies in the Bay Delta Conservation Plan (BDCP) process being carried out by the federal Bureau of Reclamation and California Department of Water Resources (DWR). Our concern is with the proposed Delta water tunnels and the devastating impact the diversions of freshwater for the tunnels would have on the Delta, the Sacramento River watershed, and endangered fish species which are in catastrophic decline in Northern California. As recently explained by the U.S. Fish and Wildlife Service (USFWS) "There is clear evidence that most of the covered fish species have been trending downward." (USFWS Staff BDCP Progress assessment, [Section] 1.2, p. 4, April 3, 2013). USFWS, National Marine Fisheries Service (NMFS), Environmental Protection Agency (EPA) and California Department of Fish and Wildlife (DFW) have submitted insightful and scientifically sound comments (also known as the red flag comments) on the Administrative Drafts of the BDCP. Your legitimate concerns have not been addressed by the BDCP lead agencies and have jeopardized your ability to complete your ESA obligations. The laws being violated or to be violated by the ongoing BDCP process include the ESA and National Environmental Policy Act (NEPA). The purpose of this letter is to summarize several of the most profound illegalities and deficiencies for you. We urge you to refrain from providing your stamp of approval on the BDCP and to keep pushing for an endangered species-centered approach towards Delta governance.</p> <p>The take of endangered species, which is prohibited by the ESA, includes "harm" as action constituting a take. 16 U.S.C. [Section] 1532(19). "Harm" includes "significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or shelter." 50 C.F.R. [Section] 17.3 (USFWS ESA Regulations). The NMFS ESA Regulations add "spawning, rearing, migrating" to the means by which habitat modification or degradation kills or injures wildlife. 50 C.F.R. Section 222.102.</p> <p>In addition to prohibiting federal agency actions unless determined not likely to jeopardize the continued existence of any endangered species, Section 7 of the ESA also prohibits actions unless determined to not likely "result in the destruction or adverse modification of [critical] habitat of such species. . . ." 16 U.S.C. Section 1536 (a)(2). (Emphasis added). "Actions" include "actions directly or indirectly causing modification to the land, water, or air." 50 C.F.R. 402.02 (Emphasis added).</p> <p>The massive diversions of freshwater for the Delta water tunnels would result in the destruction or adverse modification of critical habitat -- the freshwater -- for several endangered fish species including: winter-run Chinook salmon, 50 C.F.R. Section 226.204; Central Valley spring-run Chinook salmon, 50 C.F.R. Section 226. 211(a)(6), and 226.211(k)(5); and Central Valley steelhead 50 C.F.R. Section 226.211(a)(7), and Section 226.211(l)(5). The critical habitat areas designated for these species include the precise reaches of the Delta, the Sacramento River, and certain sloughs including Elkhorn, Georgianna, Miners, Steamboat, and Sutter sloughs that would be deprived of freshwater by reason of diversion upstream from the Delta for the Delta water tunnels.</p> <p>The National Marine Fisheries Service (NMFS) recently reiterated its previous red flag comment that the Delta water tunnels threaten the "potential extirpation of mainstem Sacramento River populations of winter-run and spring-run Chinook salmon over the term of the permit. . . ." (NMFS Progress Assessment and Remaining Issues Regarding the</p>	<p>4A is also the NEPA Preferred Alternative, a designation that was not attached to any of the alternatives presented in the 2013 Public Draft BDCP Draft EIR/EIS. Alternative 4 (also known as BDCP) remains a potentially viable alternative and is being carried forward in this RDEIR/SDEIS because it represents the original habitat conservation plan/natural community conservation plan (HCP/NCCP) alternative approach, and because it provides an important reference point from which the Alternative 4A, 2D, and 5A descriptions and analyses were developed. If the Lead Agencies ultimately choose the alternative implementation strategy and select an alternative presented in the RDEIR/SDEIS after completing the CEQA and NEPA processes, elements of the conservation plan contained in the alternatives in the 2013 BDCP Draft EIR/EIS may be utilized by other programs for implementation of the long-term conservation efforts. Alternative 4A, as the California WaterFix proposed action, will be subject to incidental take authorization under ESA Section 7 and CESA Section 2081(b), and as such will be consulted on by the USFWS, NMFS, and DFW. The analyses presented in Chapter 11, EIR/EIS, indicated impacts to state and federal listed species would be less than significant and not adverse.</p> <p>Please also refer to response to comment 84-1 and 84-2.</p>

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		<p>Administrative Draft BDCP Document, Section 1.17, 12, April 4, 2013). That is just one of many critical issues that have been flagged by NMFS and USFWS as to how the Delta water tunnels would threaten endangered fish species. Given that the BDCP's adverse modification to critical habitat will jeopardize the continued existence of various endangered and threatened species and the lack of effective mitigation or alternatives analysis for such adverse modification, the BDCP cannot serve as the legitimate basis for any Section 7 analysis or Section 10 permits.</p>	
84	6	<p>[FROM ATT 1:] The BDCP process is unlawfully preceding rather than following the setting of new flow objectives under the Clean Water Act (CWA) and public trust doctrine, which all responsible agencies admit are essential to informing planning decisions for the Delta and the watershed.</p>	<p>As noted in comment 84-1, the proposed project is no longer the BDCP (Alternative 4). As described in the EIR/EIS, if selected, Alternative 4 and the proposed project would be submitted to numerous state and federal agencies for approval, including to USFWS and NMFS under the Endangered Species Act, State Water Resources Control Board and U.S. Environmental Protection Agency under the Clean Water Act, and Delta Stewardship Council under the Delta Reform Act. The approvals and permits that will be issued by these agencies could result in changes to the selected project that is presented in the EIR/EIS. However, implementation of the selected project in accordance with these approvals and permits would be consistent with the related legislation referred to in this comment.</p>
84	7	<p>[FROM ATT 1:] The BDCP is not a legitimate HCP and the BDCP process violates the ESA by attempting to supplant ESA section 7 requirements with long-term regulatory assurances.</p> <p>The BDCP is not a legitimate Habitat Conservation Plan (HCP) because it does not actually ensure the continued existence of the relevant endangered species. 50 C.F.R. [Section] 17. The ESA only allows for incidental take when the overall purpose of the authorized action is to "enhance the propagation or survival of the affected species." 15 U.S.C. [Section] 1539 (a)(1)(A). The BDCP will not enhance the propagation or survival of threatened Delta species. The purpose of the BDCP is to ignore the dire Delta ecosystem challenges by building around it rather than improve it. This is a rerun of the old peripheral canal that was blocked in June 1982 by a referendum vote of about 63% to 37%. The only difference now is that the exporters and the State claim they want to do this for the fish in spite of overwhelming evidence that the tunnels will destroy fish populations.</p> <p>This entire process has up until recently been predicated on the untenable claim that taking more freshwater away from the Sacramento River upstream from the Delta and thus reducing flows would somehow be good for the endangered species of fish. We did not see any compelling evidence to support this unlikely conclusion. Now the process is predicated on the new claim that in the words of Jerry Meral, California Deputy Resources Secretary and lead State Official for the BDCP, "BDCP is not about, and has never been about saving the Delta. The Delta cannot be saved." (Sacramento Bee, p. A3, April 30, 2013). That statement is fully consistent with the April 11, 2013 response by the California Resources Agency to the reiterated Red Flag comment of the NMFS about the "potential extirpation of mainstem Sacramento River populations of winter-run and spring-run Chinook salmon over the term of the permit" referred to above. The Resources Agency response basically writes off the salmon, pointing fingers at other conditions-- "climate change is going to cause challenging conditions for winter-run that BDCP alone cannot address." (Resources Agency response, April 11, 2013). If the State has determined that the Delta ecosystem cannot be saved and this assumption pervades the BDCP analysis, the plausibility that the BDCP can constitute an adequate HCP has been seriously undermined.</p> <p>The state appears to have convinced itself that the future extirpation of the salmon is</p>	<p>Please refer to response to comment response 84-1, 84-2 and Master Response 5 regarding the role of the BDCP as an HCP and an NCCP.</p> <p>Commenter's other remarks pertain to the actions of agencies and authorities other than the BDCP permit applicant (DWR). Commenter's final statement is simply a quote from the text of the BDCP, and does not constitute a comment.</p>

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		<p>inevitable and blames other contributing, cumulative problems such as climate change. Fish and wildlife agencies cannot, however, merely resolve that the Delta ecosystem is ill-fated and throw up their hands; rather, they must implement feasible, effective mitigation measures and alternatives. The ESA does not allow such easy avoidance of its mandates. "[A]n agency may not take action that will tip a species from a state of precarious survival into a state of likely extinction. Likewise, even where baseline conditions already jeopardize a species, an agency may not take action, that deepens the jeopardy by causing additional harm." National Wildlife Federation v. National Marine Fisheries Service, 524 F.3d 917, 930 (9th Cir. 2007). Given that the BDCP is intended to serve as the basis for the issuance of Incidental Take Permits, the fish and wildlife agencies must demonstrate additional, more rigorous analysis in fulfilling their ESA duties.</p> <p>"On the basis of the BDCP, USFWS and NMFS are expected to issue Section 10 permits. An integrated Biological Opinion (BiOp) on coordinated long-term operation of the CVP and SWP will be completed, and will incorporate the conservation strategy as part of its proposed action." (Administrative Draft BDCP, p. 1-7 (March 2013).</p>	
84	8	<p>[FROM ATT 1:] ESA Section 7 consultation procedures are mandatory because the Bureau of Reclamation is a federal agency taking action with respect to the Delta water tunnels. The USFWS and NMFS must issue a Biological Opinion finding that the HCP does not jeopardize the continued existence of any endangered or threatened species. The BDCP process, however, is founded on the unlawful mixing, piecemealing, segmenting of the mandatory Section 7 consultation process with and from other Authorized Entities such as Westlands Water District ESA Section 10 processes.</p> <p>(Plan, 1-1). Other Authorized Entities such as Westlands are CVP water contractors through reclamation. Because the areas that will be affected by the BDCP involve designated critical habitat for several species, the Services must not only reach a no jeopardy conclusion, but must also find that the action does not adversely modify these critical habitat areas. "[I]f the areas ... [are] designated as critical habitat, any future section 7 consultation would be required to also determine whether the proposed action would destroy or adversely modify the critical habitat, an inquiry that is broader than the jeopardy analysis." Center for Biological Diversity v. Bureau of Land Management, 422, F.Supp.2d 1115, 1144-45 (N.D. Cal. 2006) (emphasis added). Removing freshwater deliveries from critical habitat areas and replacing it with dubious mitigation measures elsewhere will surely not satisfy ESA's mandates to refrain from adversely modifying critical habitat and avoiding jeopardy to the continued existence of endangered species.</p>	Please refer to response to comment response 84-1, 84-2 and Master Response 29 regarding the BDCP process for compliance with Endangered Species Act Section 7.
84	9	<p>[FROM ATT 1:] In Chapter 6, NMFS and USFWS would tie their ESA Section 7 hands behind their backs for fifty years by way of Regulatory Assurances including the no Surprises rule for the water contractors. (Plan, 6-28, 29). The problem is that the BDCP does not contain convincing evidence that it will actually recover the species at issue and there are no guaranteed protective actions if species populations begin to crash. This approach lacks legal validity given that the BDCP will ensure the demise of the Delta ecosystem without anyone taking accountability.</p> <p>This adulterated Section 7 consultation process, discussed below, coupled with a Section 10 Habitat Conservation Plan long-term Regulatory Assurances and the No Surprises rule for the</p>	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. Please refer to response to comment response 84-1 , 84-2 and Master Response 5 regarding the role of the BDCP as an HCP and an NCCP.

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		<p>exporters would be carried out in the face of declining water quality and declining populations of endangered fish species and admitted adverse impacts and scientific uncertainty with respect to taking additional massive quantities of freshwater out of critical habitat upstream from the Delta. Yet, the BDCP will free the contractors from any obligation to provide adequate water for fish, even if the BDCP fails to achieve recovery goals. This action would be astonishing in its scope and its trampling on the fundamental ESA federal agency obligation "to afford first priority to the declared national policy of saving endangered species." Tennessee Valley Authority v. Hill, 437 U.S. 153 (1978). This action if carried out would be so contrary to the language and purpose of the ESA as to raise the appearance of impropriety.</p>	
84	10	<p>[FROM ATT 1:] A function of ESA Section 10 HCP's is to allow private property owners to make economically viable use of their lands avoiding regulatory takings issues under the Fifth Amendment of the Constitution. Those issues could arise if such use would be prevented because of prohibitions against adversely affecting critical habitat for endangered species on the land owners' property. No such issues are present here. The contractors do not own the water in the Sacramento River and the Delta. The water is a public resource. Even the permits for use of the water are held by the Federal and State governments- not the contractors.</p>	<p>The commenter correctly notes that a Section 10 HCP could be a means for private property owners to make economically viable use of their lands while avoiding regulatory takings issues. Section 10 of the ESA is not limited to such factual scenarios, however. Section 10 is a regulatory mechanism to permit the incidental take of federally listed fish and wildlife species by private interests and non-Federal government agencies during lawful land, water, and ocean use activities. Congress intended this process to reduce conflicts between listed species and economic development activities, and to provide a framework that would encourage creative partnerships between the public and private sectors and state, municipal, and federal agencies in the interests of endangered and threatened species and habitat conservation. The process applies to a wide variety of projects and activities and, thus, the Services' policy is to promote flexibility and ingenuity in working with permit applicants and developing HCPs under the Section 10 process.</p>
84	11	<p>[FROM ATT 1:] The contractors have little to do with the HCP's mitigation funding; thus, the proposed mitigation is largely untied to the Delta water tunnels. According to the Plan, "Funding from a variety of state and federal sources will be available to pay for the majority of the conservation measures that will provide the substantial public benefits of the BDCP." (Plan, 1-2). The public - meaning the taxpayers - would pay for the conservation measures as well as for mitigating all effects resulting from the new upstream Delta water tunnels conveyance with the exception of the project footprint itself. More importantly, there is no convincing evidence that the proposed conservation measures will actually protect and restore endangered fish species. It is well-understood that healthy ecosystems require healthy river flows. California Water Solutions Now, "A Report from Member Organizations of the Environmental Water Caucus," Third Edition, 2011. Given this premise, habitat restoration on the ground is not a substitute for taking away crucial freshwater habitat. Consequently, there is no nexus between either the fish or the contractors and the BDCP mitigation and conservation measures.</p>	<p>This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. Please refer to response to comment response 84-1 , 84-2 and Master Response 5 regarding the role of the BDCP as an HCP and an NCCP.</p>
84	12	<p>[FROM ATT 1:] The mixing and segmenting of the mandatory Reclamation ESA Section 7 consultation process with and from the Endangered Species Act Section 10 Regulatory Assurances for the contractors would violate the ESA. Regulatory Assurances and the No Surprises Rule have no place here, most notably because the decline of Delta fish species is not an "unforeseen circumstance," 50 C.F.R. Section 17. -- it is all but assured with the passage of the BDCP. Likewise, the Delta water tunnels have no place in an HCP. The tunnels need to be removed from the HCP. Your agencies can approve the BDCP if you find that it "will not appreciably reduce the likelihood of the survival and recovery of the species in the wild." 16 U.S.C.A. [Section] 1539. (a)(2)(B)(iv). There is simply no evidence in the BDCP to support such a conclusion.</p>	<p>See Master Response 8 (Lead Agencies Analyzed the Project as a Whole) regarding allegations of segmenting in BDCP. There is nothing in ESA that prohibits a document from fulfilling the requirements of both ESA Section 7 and Section 10. The BDCP is the first example we know of in which this has been done, but this has happened because of a unique circumstance: the SWP and CVP are jointly operated, and thus each operational decision is both federal (on the CVP side) and non-federal (on the SWP side).</p> <p>See Master Response 5 for a detailed explanation of why CM1, including the tunnels, will contribute to species conservation and thus is a part of the conservation strategy.</p> <p>The USFWS and NMFS alone have the authority to determine whether BDCP fulfills ESA requirements, and they will make that determination before a Record of Decision can be issued for the proposed project.</p>

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84	13	<p>[FROM ATT 1:] The BDCP process violates the Endangered Species Act by substituting advocacy for reasoned environmental evaluations and by postponing the ESA section 7 consultation process until after the BDCP decision is made to construct the Delta water tunnels.</p> <p>The Supreme Court has explained that "The obvious purpose of the requirement [in ESA [Section] 7(a)(2)] that each agency 'use the best scientific and commercial evidence available' is to ensure that the ESA not be implemented haphazardly, on the basis of speculation or surmise." <i>Bennett v. Spear</i>, 520 U.S. 154, 176 (1997). The BDCP advocacy documents are riddled with speculation and surmise.</p> <p>The basic legal problem that the National Marine Fisheries Service and U.S. Fish and Wildlife Service face in attempting to review the BDCP Plan administrative draft documents is that the cart has unlawfully been placed before the horse. The Plan recites that it will "provide the basis for a biological assessment (BA) that supports new ESA Section 7 consultations between the U.S. Department of the Interior, Bureau of Reclamation (Reclamation), USFWS and NMFS. The parties seeking take authorizations pursuant to the BDCP and the associated biological assessments are referred to as the Authorized Entities." In addition to including seven federal and state water contractors such as Westlands Water District the authorized entities also include the Bureau of Reclamation and DWR.</p> <p>The consultations need to go before not after the BDCP process. The ESA Section 7(a)(2) prohibitions against jeopardy of continued existence of any endangered species and against "destruction or adverse modification of habitat of such species" is effectuated by consultation and assistance by the NMFS and USFWS with the subject federal action agency. 16 U.S.C. [Section] 1536(a)(2). Here, the federal action agency is Reclamation. Additionally, in fulfilling the requirements of Section 7(a)(2) "each agency shall use the best scientific and commercial data available." 16 U.S.C. [Section] 1536(a)(2). Biological assessments are required under 16 U.S.C. [Section] 1536@1. It is improper to rely entirely on the BDCP documents to fulfill your discrete and independent obligations to conduct a Biological Assessment, a Section 7 consultation, a Biological Opinion (including a Reasonable Prudent Alternatives Analysis), and an HCP.</p> <p>The joint NMFS and USFWS Regulations provide that "Section 7 and the requirements of this part apply to all actions in which there is discretionary Federal involvement or control." 50 C.F.R.[Section] 402.03. "Each Federal agency shall review its actions at the earliest possible time to determine whether any action may affect listed species or critical habitat. If such a determination is made, formal consultation is required ..." <i>Karuk Tribe of California v. U.S. Forest Service</i>, 681 F.3d 1006, 1020 (9th Cir. 2012)(en banc)(first emphasis added, second emphasis in opinion), cert. den., 133 S.Ct. 1579 (2013), quoting 50 C.F.R. 402.14(a). The term "agency action" under the ESA is to be construed broadly. <i>Karuk Tribe</i>, 681 F.3d at 1021. "Agency Action" includes programmatic plans. <i>Pacific Rivers v. Thomas</i>, 30 F.3d 1050, 1053-4 (9th Cir. 1994); <i>Center for Biological Diversity v. U.S. Fish and Wildlife Service</i>, 623 F.Supp.2d 1044, 1052, 1054 (N.D. Cal. 2009). In addition to consultation and preparation of a biological assessment, formal consultation including preparation of a Biological Opinion beyond that contained in the BDCP are plainly required here.</p> <p>The starting point for analysis under the ESA formal consultation process is data and</p>	<p>With regards the timing of an ESA consultation and environmental review of Project Alternatives, please response to comment response 84-1 and Master Response 29.</p> <p>The Lead Agencies acknowledge that uncertainty is inherent in any planning effort of this geographic and temporal scale. However, DWR and project proponents strived to use the best available science throughout the effects analysis, consistent with the requirements of the ESA.</p> <p>The use of specific scientific data and findings was often vetted with fisheries managers to ensure it was the best available. A variety of data were obtained for the proposed project process: quantitative data from peer-reviewed published literature on topics specific to the Plan Area; peer-reviewed published literature outside the Plan Area but on topics relevant to the proposed project; unpublished quantitative data from within the Plan Area and from outside of the Plan Area; qualitative data or personal communication with topical experts; and expert opinion if no other sources were available.</p> <p>A full description of the methodology of the Net Effects analysis, including justification for the qualitative approach, can be found in Chapter 5, Section 5.2.7.10, Approach for Determining Net Effects on Covered Fish Species, and Section 5.5, Effects on Covered Fish. As indicated in Section 5.2.7.10, "The [BDCP net effects] conclusions represent qualitative judgments of the effects of the BDCP that are grounded in the detailed quantitative and qualitative analyses in the appendices ... BDCP net effects conclusions are necessarily qualitative and synthesize results from the more detailed (and often quantitative) analyses found in the appendices to this chapter. While qualitative, the net effects conclusions are derived from a transparent and structured approach. This approach is based on conceptual models that describe the logic and assumptions embedded within the effects analysis."</p> <p>The alternatives included in the Draft EIR/EIS and Final EIR/EIS represent a legally adequate reasonable range of alternatives and the scope of the analysis of alternatives fully complies with both CEQA and NEPA. The Lead Agencies carefully considered all potential alternatives that were proposed during the scoping process and during time of preparation of the EIR/EIS. In fact, as a direct result of the extensive public comments and agency input, the water facility and conveyance options proposed as part of the project changed significantly during the planning process in ways that reduce impacts in the Delta communities. Additional unique Alternatives that were proposed during review of Administrative Drafts of the BDCP and EIR/S were also considered and described, See Appendix 3A of the EIR/EIS and Section 4 of the RDEIR/SDEIS.</p> <p>15 alternatives and 3 new sub-alternatives were analyzed in the EIR/S and the RDEIR/SDEIS respectively. Four major alignments have been included in the EIR/S: Through-Delta, East of the Sacramento River, West of the Sacramento River, and a Tunnel under the Delta. Many additional proposals by public and private individuals and organizations have also been evaluated and described in Chapter 3 of the EIR/S and Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1.</p> <p>Please refer to Master Response 4 (Alternatives) for additional information regarding CEQA guidelines during the development of alternatives. For more information on Purpose and Need or the Project Objectives, please see Master Response 3 (Purpose and Need) and Chapter 2 of the FEIR/FEIS (Alternative 4A).</p> <p>Please see response to comment 84-16 regarding the project description.</p>

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		<p>information supplied by the federal agency followed by NMFS and USFWS evaluations of the status of listed species and critical habitat and the effects of the action and cumulative effects on the listed species and the critical habitat. The Biological Opinion is to determine "whether the action, taken together with cumulative effects, is likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat." 50 C.F.R. [Section] 402.14(g)(4).</p> <p>In this setting of taking away massive quantities of freshwater from the critical habitat for the fish coupled with cumulative effects ranging from rising sea levels to changes in upstream reservoir operations to reducing flushing of the Delta, the Delta water tunnels would be the final nail in the coffin for endangered species of fish ranging all the way from where the Delta meets the Bay, upstream through the Sacramento River and sloughs to the Shasta, Trinity, Oroville, and Folsom reservoirs. This extinction crisis cries out for additional ESA Section 7 consultations, biological assessment, formal consultation and the Biological Opinions that go beyond the information provided in the BDCP.</p> <p>To proceed in a manner required by law, Reclamation, NMFS and USFWS need to withdraw from or suspend participation in the BDCP process. The next step would be to carry out the ESA Section 7 process including consultation, biological assessment, formal consultation and a Biological Opinion by NMFS and USFWS. This process should, at the very least, include a new alternatives analysis that analyzes options that would actually help sustain and recover endangered species. Then, and only then, would there be an adequate informational and analytical basis for a BDCP evaluation of which alternative to choose ranging from the Environmental Water Caucus (EWC) and Friends of the River reduced exports and no new conveyance alternative up to the massive 15,000 cfs Delta water tunnels alternative. It should be noted that both the EWC and Portfolio alternatives are 21st Century alternatives calling for increased water conservation and recycling to meet future water supply needs. The BDCP process postponing legitimate habitat and endangered species evaluation until after the horse is out of the barn violates both the spirit and the language of the ESA.</p>	
84	14	<p>[FROM ATT 1:] BDCP process violations of law include failures to perform Clean Water Act and public trust doctrine analysis and to set flow objectives.</p> <p>The BDCP process is upside down under the Clean Water Act (CWA) and California state law as well as under the ESA. The decision whether to select the Delta water tunnels alternative needs to await California State Water Resources Control Board (SWRCB) performance of Clean Water Act and public trust doctrine analysis including the setting of flow objectives necessary to preserve the Delta, the rivers, and the endangered fish species. That needs to be done before, not after, a tragic, foundational decision is made choosing the alternative of developing massive new upstream conveyance -- the Delta water tunnels. As explained by Environmental Protection Agency in its recent letter to the SWRCB, "The State Board. . .has recognized that increasing freshwater flows is essential for protecting resident and migratory fish populations." (EPA letter to SWRCB re: EPA's comments on the Bay-Delta Water Quality Control Plan; Phase 1; SED, pp. 1-2, March 28, 2013)</p> <p>The Delta Reform Act requires in pertinent part that "For the purpose of informing planning decisions for the Delta Plan and the Bay Delta Conservation Plan, the board [SWRCB] shall, pursuant to its public trust obligations, develop flow criteria for the Delta ecosystem necessary to protect public trust resources. In carrying out this section, the board shall review existing water quality objectives and use the best available scientific information. The flow</p>	<p>Regarding the applicability of Section 401 certification, the comment is not correct in stating that a project cannot change water quality conditions and obtain authorization under Section 401. Section 401 is a permit process that may (and typically does) include terms and conditions for the project in question to promote or require avoidance, reduction, and minimization of potential adverse water quality effects.</p> <p>As described in Appendix 3A, Section 3A.9.3, of the 2013 Public Draft EIR/EIS the State Water Resources Control Board prepared a Delta Flow Criteria Report in accordance with the requirements of the Sacramento-San Joaquin Delta Reform Act of 2009. Information from that report included "determinations of flow criteria for the Delta ecosystem to protect public trust resources. The report makes clear, however, that the flow criteria do not consider the balancing of public trust resource protection with public interest needs for water. The flow criteria also did not consider other public trust resource needs such as the need to manage cold-water resources in reservoirs tributary to the Delta. Nonetheless, the flow determinations contained in the Delta Flow Criteria Report, together with recent scientific conclusions of other State and federal agencies, including the Department of Fish and Wildlife, National Marine Fisheries Service, and the Interagency Ecological Program provide a useful guide to establish one side of a reasonable range of alternatives" (State Water Resources Board letter dated April 19, 2011). The information in the flow criteria report was used to inform the development of the proposed project.</p> <p>Please also see Appendix C of the RDEIR/SDEIS Supplemental Modeling Requested by State Water</p>

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		<p>criteria for the Delta ecosystem shall include the volume, quality, and timing of water necessary for the Delta ecosystem under different conditions." California Water Code [Section] 85086(c)(1) (emphasis added).</p> <p>The determination of flow criteria by the SWRCB has not been done. The federal agencies participate in the SWRCB processes. The SWRCB process is the correct one to set flow objectives as opposed to the BDCP Delta water tunnels process. Moreover, SWRCB determined water quality standards are then subject to EPA review for approval or disapproval under section 309 of the Clean Water Act. The BDCP process is simply a DWR effort to make a premature and unlawful decision to develop the massive Delta water tunnels before rather than after determining whether updated flow objectives would even allow such quantities of water to be diverted upstream away from the Delta. Selection of the tunnels alternative is a planning decision. By law, BDCP planning decisions must be informed by SWRCB determinations. The most important BDCP planning decision to ever be made -- whether or not to construct new upstream conveyance -- cannot be made lawfully until the SWRCB determinations have been made.</p> <p>Because the BDCP process is trying to push forward with the Delta water tunnels before rather than after SWRCB Clean Water Act and public trust doctrine analysis and setting of new, stricter flow objectives, and EPA review thereof, the BDCP process has, consequently, also failed to conduct the water supply availability analysis, quantification, and analysis of the environmental impacts of supplying specific quantities of water required under the California Environmental Quality Act (CEQA) according to the California Supreme Court's decision in Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova, 40 Cal.4th 412, 429, 430, 434, 440-441 (2007).</p> <p>In the absence of completion of SWRCB proceedings and EPA review regarding water availability, public trust doctrine analysis, and determination of new, stricter flow objectives, there is not the informational and scientific basis to sustain selection of the Delta water tunnels alternative under NEPA, CEQA or the ESA.</p>	<p>Resources Control Board Related to Increased Delta Outflows.</p> <p>More than two-thirds of the residents of the state and more than two million acres of highly productive farm land receive water exported from the Delta watershed. The proposed project aims to provide a more reliable water supply, in a way more protective of fish. However, the lead agencies have no authority to designate what water is used for.</p> <p>One of the State Water Resources Control Board's (State Water Board's) charges is to ensure that the State's water is put to the best possible use and that this use is in the best interest of the California public. This charge is reflected in part by the designation of beneficial uses established through the State Water Board's planning process. These beneficial uses are identified in each Water Quality Control Plan (Basin Plan) issued by the State Water Board.</p> <p>The Lead Agencies have no power to impose penalties on individual water users. DWR and Reclamation have contracts with various entities, some of which sell water to water retailers, who have individual policies and programs to motivate ratepayers to conserve water. Different districts have the right to take different approaches depending on their individual circumstances.</p> <p>For additional information regarding beneficial use of water, please see master response 34.</p> <p>The amount of water from the new north Delta facilities is set by Federal regulating agencies, ESA compliance and project design, and not by the water contractors. Operations for the proposed project would still be consistent with the criteria set by the FWS (2008) and NMFS (2009) BiOps and State Water Resources Control Board Water Right Decision 1641 (D-1641), subject to adjustments made pursuant to the adaptive management process as described in the 2008 and 2009 BiOps (RDEIR/SDEIS Executive Summary ES.2.2). In addition to permitting constraints on daily operations of the SWP and CVP, DWR must maintain proper performance and bypass flows across fish screens when endangered and threatened fish species are present within the north Delta facilities area. The intake fish screens drive the overall size of the intake structure on the riverbank, and have been numbered and sized to permit water to flow through the screens within a predetermined flow regime set by California Department of Fish and Wildlife and NMFS fish screen criteria (BDCP Appendix 5B Section 3.B.3.3).</p> <p>Operation of the new north Delta facilities will be guided by regulations that are set by the SWRCB. Adaptive management and collaborative science will aid operators in managing the pumping schedule in the presence of sensitive species. Appendix B of the RDEIR/SDEIS shows supplemental modeling results for the new alternatives. In particular Section B.2.1 Alternative 4A the modeling demonstrates that under the preferred alternative (4A) reservoir levels (e.g., Trinity Lake, Shasta Lake, Folsom Lake, and Lake Oroville) would be similar to the No Action Alternative (ELT).</p> <p>Please also refer to responses 84-1 and 84-6 and Master Response 13 regarding public trust resources.</p>
84	15	<p>[FROM ATT 1:] The BDCP process is fatally flawed with foundational illegalities that will not be subject to dismissal or evasion by way of responses to comments on a future draft EIS/EIR. In the absence of the required ESA Biological Assessment, Formal Consultations and Biological Opinions and in the absence of completed State Water Resources Control Board proceedings and EPA review thereof a draft BDCP EIS/EIR would not be sufficient for informed review by the public and the decision-makers. It is time now for the federal agencies to withdraw from the unlawful BDCP process and follow ESA Section 7 and federal Clean Water Act and California CEQA and public trust doctrine procedures.</p>	<p>Please refer to responses to comments 84-1 and 84-14.</p>

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84	16	<p>[FROM ATT 2:] The Environmental Protection Agency (EPA), National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), and Bureau of Reclamation submitted many excellent and scientifically sound comments on the Bay Delta Conservation Plan (BDCP) Administrative Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS) on July 18, 2013. There is, however, a fundamental BDCP inaccuracy that is accepted at face value in the July 18, 2013 Release for your comments that is so profound that early correction is necessary. The Release states in pertinent part: "The Admin Draft reflects the significant downsizing of the proposed conveyance project that occurred in 2012 in direct response to federal and state wildlife agency comments. That downsizing includes a reduction in the number of intakes from 5 to 3, a reduction in the maximum diversion capacity from 15,000 to 9000 cubic feet per second (cfs), and a change to gravity-flow tunnels that would not require pressurization and additional pumping plants to move water." (Release, p.1, July 18, 2013).</p> <p>The reduction in the number of intakes is an obvious subterfuge intended to make the proposed project look smaller in response to federal agency concerns even though the ultimate 15,000 cfs carrying capacity of the tunnels is preserved. In fact, the two tunnels have actually been increased in diameter from 33 feet to 40 feet. Consequently, the Delta water tunnels project has not been downsized at all. Instead, the Administrative Draft fails to provide the "accurate, stable, and finite project description" required by the California Environmental Quality Act (CEQA) and the accurate project description required by the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA). By this same subterfuge, the BDCP process unlawfully segments, piecemeals and chops up the project into different phases by seeking approval now based on intake capacity when the intent is to actually operate in the future at the capacity of the tunnels. That also violates the ESA, NEPA, and CEQA.</p>	<p>The size of each tunnel reach is dictated by the required hydraulic capacity and flow velocities to suspend sediment and minimize sediment buildup in the downstream end of the tunnels (DWR Conceptual Engineering Report 2015 Section 11.1.1). Each of the three intake facilities is sized to divert up to 3,000 cfs. As a complete system, the water conveyance facilities are designed to move up to 9,000 cfs and cannot be operated at higher levels without significant changes to the physical facilities, and modifications to the operational permits.</p> <p>The following Hydraulic Parameters were used for Tunnel Sizing, in conjunction with the information provided in Sections 4 and 5 of the Conceptual Engineering Report dated October 1, 2013 (http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx):</p> <ul style="list-style-type: none"> • Manning's equation for friction head loss computations • Manning's n-value = 0.0145 for tunnels • Tunnel Length of approximately 30 miles • Downstream Control is Clifton Court Forebay WS El. = 9 ft • Upstream Control is Intermediate Forebay WS El. = 20 ft • Assume additional minor losses are equivalent to friction losses based on 3% of Tunnel Length. (i.e. Minor Headloss = Hf for .03 * L), this does not include other minor losses due to Exit and Entrance losses which must be included. • Gravity fed tunnels • Design Flow = 9,000 cfs <p>As stated in response to comment 84-14, the proposed project would be operated according to strict criteria. Also see responses to 84-2.</p> <p>Please see Master Response 2 regarding the mixing of project and program level analysis, and Master Response 8 regarding how the lead agencies analyzed the project as a whole.</p> <p>Although the commenter has quoted from case law the general principle that a legally adequate Project Description is key to an adequate EIR, the Lead Agencies do not agree that the Project Description in the EIR/EIS is legally inadequate. Although the commenter's specific contentions of inadequacy are addressed in separate responses, it is worth noting that "[t]he description of the project ... should not supply extensive detail beyond that needed for evaluation and review of the environmental impact[.]" (State CEQA Guidelines, § 15124.) "A general description of a project element can be provided earlier in the process than a detailed engineering plan and is more amenable to modification to reflect environmental concerns." (Dry Creek Citizens Coalition v. County of Tulare (1999) 70 Cal.App.4th 20, 28.) "The 'general description' requirement for the technical attributes of a project is consistent with the other CEQA mandates to make the EIR a user-friendly document." (Ibid.) "The EIR must achieve a balance between technical accuracy and public understanding." (Ibid.)</p> <p>The only mandatory components of a Project Description in an EIR are the following:</p> <p>(a) The precise location and boundaries of the proposed project shall be shown on a detailed map,</p>

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			<p>preferably topographic. The location of the project shall also appear on a regional map.</p> <p>b) A statement of the objectives sought by the proposed project. A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement of overriding considerations, if necessary. The statement of objectives should include the underlying purpose of the project.</p> <p>(c) A general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities.</p> <p>(d) A statement briefly describing the intended uses of the EIR.</p> <p>(1) This statement shall include, to the extent that the information is known to the Lead Agency,</p> <p>(A) A list of the agencies that are expected to use the EIR in their decision making, and</p> <p>(B) A list of permits and other approvals required to implement the project.</p> <p>(C) A list of related environmental review and consultation requirements required by federal, state, or local laws, regulations, or policies. To the fullest extent possible, the lead agency should integrate CEQA review with these related environmental review and consultation requirements.</p> <p>The commenter has not claimed that the descriptions of the various alternatives in the EIR/EIS fail to include these required items of information. Additionally, the comment does not evidence any legal inadequacy in the Project Description.</p>
84	17	<p>[FROM ATT 2:] The intakes, though massive in size, are a comparatively small part of the proposed enormous water conveyance facilities. The two Tunnels have actually increased in size from a proposed diameter of 33 feet in 2012 to what is now the Preferred Alternative, Alternative 4. Under Alternative 4, the two tunnels would be about 35 miles long, 150 feet underground, with an internal diameter of 40 feet and an external diameter of 44 feet. (Administrative Draft EIR/EIS, pp. 3-54, 3C-17, March 2013).</p> <p>Because of the greater size of the tunnels, the quantity of total "Tunnel muck" to be removed, treated, and disposed of would increase by about 41%. (Id., p. 3C-17, 18). "Tunnel muck generated by the boring process is a plastic mix consisting of soil cuttings and soil conditioning agents (water, air, bentonite, foaming agents, and/or polymers/biopolymers). Before the muck, or elements of the muck, can be reused or returned to the environment, the muck must be managed and at a minimum, go through a drying-water solids separation process and a possible physical or chemical treatment. The daily volume of muck withdrawn from the tunneling operations is estimated at approximately 7000 cubic yards per day." (BDCP Administrative Draft Chapter 4, Covered Activities and Associated Federal Actions, p. 4-9). Moreover, "Because of the high groundwater level throughout the proposed Tunnel alignment area, extensive dewatering. . .and groundwater control in the tunneling operation and shaft construction would likely be required." (Administrative Draft EIR/EIS, p. 3C-18).</p> <p>Under Alternative 4, there would be a combined enormous dual-conveyance diversion capacity. "The total diversion capacity for the south Delta export facilities would remain constant at 15,000 cfs. . . ." (Id., p. 3-54).</p> <p>We are informed and believe and on that basis contend to you that the capacity of the</p>	<p>Please see response to comment 84-16 above and Master Response 12 regarding reusable tunnel material.</p>

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		<p>tunnels in the Preferred Alternative either remains at 15,000 cfs, or is now greater than that. To fulfill your responsibilities under the ESA, NEPA and CEQA you must ensure that the next draft BDCP EIR/EIS and Plan completely and comprehensively describe and disclose the true capacity of the tunnels. Environmental impacts and impacts on endangered species and critical habitat must be evaluated at true capacity operating levels. As the Bureau of Reclamation comments point out, "The current BDCP analysis assumes no operational impacts to upstream reservoir operations." (Reclamation clarification added July 16, 2013 p. 1). That astonishing and incredible assumption given a capacity of 9000 cfs becomes an even more glaring violation of ESA and NEPA analytical duties given a capacity of 15,000 cfs.</p>	
84	18	<p>[FROM ATT 2:] The estimates of dollar costs to implement the BDCP are set forth in Chapter 8 of the Administrative Draft Plan entitled "Implementation Costs and Funding Sources". Chapter 8 sets forth that 50 year permit term total estimated costs for the intakes and pumping plants would amount to only about \$1 billion in contrast to over \$7 billion for the tunnels, and \$9.7 billion for the tunnels adding in the "tunneling contingency." (Administrative Draft BDCP Plan, Chapter 8, Table 8-7, p. 8-14, April 2013). Of course, given the current exceeding of the estimates for the cost of the Oakland-San Francisco Bay Bridge reconstruction by a factor of 4, it would be consistent with recent California large project public works engineering and construction experience if the tunnels wind up actually costing far more than \$9.7 billion. As columnist Dan Walters recently explained (Sacramento Bee, p. A3, July 29, 2013) Oxford University professor Bent Flyvbjerg has published a paper entitled "Delusion and Deception in Large Infrastructure Projects," 51 California Management Review 170 (Winter 2009). The professor explains that "across the globe, large infrastructure projects almost invariably arrive late, over-budget and fail to perform up to expectations." The underlying reasons are "delusions born of ignorance, deceptions to make projects sound more feasible than they truly are, and bad luck." Dan Walters explains that the Delta water tunnels are "based on assumptions of need and utility that are questionable and may be, to use Flyvbjerg's words, delusions or perhaps deceptions.</p>	<p>Please see Master Response 5 regarding the estimated cost, including the risk of cost overruns. Please also see Master Response 5 regarding the adequacy of the proposed project funding strategy for the purposes of the state and federal endangered species authorizations. Please note that BDCP and large-scale habitat restoration is no longer included in the preferred alternative, Alternative 4A.</p>
84	19	<p>[FROM ATT 2:] In physical size, complexity, and cost, the tunnels greatly exceed the intakes in magnitude. Given the massive size and length of the tunnels, construction process of many years, massive costs in comparison to cost for the intakes, and complexities including disposal and treatment of the tunnel muck and dewatering for tunnel construction, the only reasonable conclusion is that the intent of the contractors who would pay for the construction of the tunnels, is to operate the project at the capacity of the tunnels. Enormous additional costs result from building tunnels to a greater size than would be used. Thus accepting the subterfuge that the project has been significantly downsized as a basis for ESA, NEPA, and CEQA analysis would constitute a clear failure to proceed in the manner required by law. Making the project look smaller is quite different from actually making the project smaller.</p>	<p>Please see response to comment 84-16 above and Master Response 12 regarding reusable tunnel material.</p>
84	20	<p>[FROM ATT 2:] Misleading project description and project segmentation. Though the BDCP EIR/EIS is intended to be a programmatic level analysis of some aspects of the "Habitat Conservation Plan", it is intended to be "a site-specific analysis of the proposed tunnel export facility" including "direct project-level impacts from facilities operations. . ." (EPA comments pp. 1-2). EPA has already explained that "The level of engineering detail provided for the tunnels, however, is not commensurate with the level of site-specific information typically provided in an EIS for a project that will require federal permits." (EPA comments, V). EPA recommended "that the DEIS provide a level of detail that supports meaningful calculations</p>	<p>For more information regarding project and program level analysis please see Master Response 2.</p> <p>Discussion of the main environmental attributes affecting individual covered species are provided in Appendix 2.A of the 2013 Public Draft. Effects of the proposed water conveyance and associated restoration activities on general resource areas are discussed in Ch. 4 of the RDEIR/SDEIS. Resource areas are addressed separately under sections for each of the new project Alternatives, including surface water, groundwater, water quality, fish and aquatic resources, terrestrial biological resources, agricultural resources, air quality and greenhouse gases, public health, and others. Where impacts are determined to be significant,</p>

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		of anticipated direct and indirect effects of the project-level elements, and clarify whether this EIS is meant to support a permit decision for CM1." (Id.). In the words of USFWS, the DEIS "will need a clear and concise project-level description of the water conveyance facilities (CM1-Proposed Action and 15 alternatives), including a description of the physical, chemical, and biological changes resulting from CM1." (USFWS comments "2.3 Incomplete Project Description", p.5).	environmental commitments will be implemented to avoid and/or offset these effects, where possible. The Cumulative Impact Analyses that were written for the 2013 Public Draft EIR/EIS has been revised to include the impacts associated with the new proposed project alternatives and also updates past analyses. Environmental Commitments are to minimize effects to the Delta and its inhabitants and mitigate for loss of habitat to the ecosystem and its species. For more information please see Section 5 Revisions to Cumulative Impact Analyses, Appendix A Chapter 11 Fish and Aquatic Resources, Appendix A Chapter 12 Terrestrial Biological Resources, and Appendix 3B Environmental Commitments, AMMs, and CMs of the RDEIR/SDEIS.
84	21	[FROM ATT 2:] The Environmental Protection Agency recognized that the tunnels would be part of the problem not the solution. "Compared to the No Action alternative and existing conditions, many of the scenarios of the Preferred Alternative range appear to decrease Delta outflow (p. 5-82), despite the fact that several key scientific evaluations by federal and State agencies indicate that more outflow is necessary to protect aquatic resources and fish populations." (EPA Comments on Administrative Draft EIR/EIS, III. Aquatic Species and the Scientific Uncertainty).	The range of alternatives included in the Draft EIR/EIS would result in a wide range of changes in Delta outflow as compared to the Existing Conditions and the No Action Alternative. The No Action Alternative and Alternatives 2A, 2B, 2C; 4H2, 4H3, 4H4; 5; 6A, 6B, 6C; 7; 8; and 9 would result in greater average annual Delta outflow than under Existing Conditions (shown in Tables 5-5 and 5-8 and Figure 5-4). Similarly, Alternatives 6A, 6B, 6C; 7; 8; and 9 would result in greater average annual Delta outflow than under the No Action Alternative (shown in Tables 5-6 and 5-9 and Figure 5-4). Please note that the BDCP is no longer the preferred alternative. See Alternative 4A instead. For more information on water supply for 4A see Chapter 5, EIR/EIS.
84	22	[FROM ATT 2:] The Bureau of Reclamation, NMFS and USFWS have all recognized that the BDCP EIR/EIS advocates for the project and/or is biased. (Bureau Comments p. 1) (NMFS Comments p. 2)(USFWS Comments p. 1). The consultant prepared BDCP Administrative Draft Plan chapters and Draft EIR/EIS are indeed biased advocacy documents. The consultants are getting paid enormous sums of money to advocate for the Delta water tunnels. That is one reason why we pointed out in our June 4, 2013 Comment Letter that the federal agencies need to withdraw from the unlawful BDCP process and instead proceed under ESA [Section] 7 federal agency Biological Assessment, consultation, and Biological Opinion processes. By starting with the biased advocacy documents instead of agency ESA and Clean Water Act work product the water contractors have cleverly seized direction and control of the process from the federal agencies as well as bogged down the federal scientific and expert personnel with assessing and attempting to cope with reams of advocacy, bias, surmise, and speculation. Making the project look smaller by way of a subterfuge is part of the bias and advocacy the federal agencies are confronted with in the BDCP process.	The Federal and State Lead Agencies have done their best to make the EIR/EIS for the proposed project as fair, objective, and complete as possible. The Lead Agencies are following the appropriate legal process and are complying with CEQA and NEPA in preparing the EIR/EIS for the proposed project. Although the RDEIR/SDEIS, EIR/EIS and much of the proposed project has been drafted by scientists working for a private consulting firm (ICF) working for the Lead Agencies, the Agencies' scientists have been intimately involved, and their judgments are reflected throughout the EIR/EIS and the proposed project itself. The State is most interested in putting forth the best project that meets the goals of ecosystem improvement and water supply reliability. To the degree that the current Plan is endorsed by some environmental organizations serves as confirmation that the proposed plan protects species, habitats and the Delta ecosystem in a way that is compatible with their goals. The website includes correspondence from agencies and NGOs received prior to the start of the formal comment period. Comments received during the comment period are to be included in the Final EIR/EIS. For more information on public outreach efforts, please see Master Response 40. Please see response to 84-1 and Master Response 29 regarding ESA compliance and the Biological Opinion.
84	23	[FROM ATT 2:] The courts have stated over and over that "An accurate, stable and finite project description is the sine qua non [absolutely indispensable requirement] of an informative and legally sufficient EIR. [citation deleted]. However, a curtailed, and enigmatic or unstable project description draws a red herring across the path of public input. [citation deleted]. Only through an accurate view of the project may the public and interested parties and public agencies balance the proposed project's benefits against its environmental cost, consider appropriate mitigation measures, assess the advantages of terminating the proposal and properly weigh other alternatives." E.g., San Joaquin Raptor Rescue Center v. County of Merced, 149 Cal.App.4th 645, 654 (2007) (project description held unstable and misleading) (internal quotation marks deleted). "The entirety of the project must be described, and not some smaller portion of it." Id. "The Guidelines specify that every EIR must set forth a project description that is sufficient to allow an adequate evaluation and review of the	These comments were written before the release of the Draft EIR/EIS in December 2013, and thus reflect input based on publicly-posted earlier, administrative draft versions of that document. The comments appeared as an attachment to a letter submitted just a few weeks into the public review period for the Draft EIR/EIS (i.e., mid-January 2014). After citing CEQA case law dealing with Project Description issues, the commenter argues that, as a matter of law, the EIR/EIS should assume "that the operating capacity of the water tunnels will be used." The commenter apparently means to suggest that, despite the various operations attributed to the various action alternatives addressed in the DEIR/EIS (see pp. 3-31 – 3-38), and despite the limitations on the participating agencies' lawful discretion created by the Endangered Species Act, the Clean Water Act, and the decisions of the State Water Resources Control Board, the Lead Agencies should have assumed that DWR will eventually operate any new physical facilities to the maximum extent possible in light of their

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		<p>environmental impact. (Guidelines, [Section] 15124.)." Id. "The description must also include 'a general description of the project's technical, economic and environmental characteristics, considering the principal engineering proposals if any and supporting public-service facilities.' (Guidelines, [Section] 15124, subd. (c))" Id.at 654-5.</p> <p>Just as the EIR in San Joaquin Raptor Rescue Center, 149 Cal.App.4th 645, 660 needed to include analysis of impacts that would result from peak levels of operation, the same is true of the BDCP EIR/EIS for the Delta water tunnels. Under CEQA, where it is reasonably foreseeable that an entire facility will be used in the future or there will be future expansion, and that will change the scope or nature of the project or its environmental effects, analysis of that future use or expansion must be included in the EIR. Laurel Heights Improvement Assn. v. Regents of University of California, 47 Cal.3d 376, 396 (1988). Under CEQA, environmental impact analysis for a project cannot be limited to water supply for the first stage or first few years. The EIR "must assume that all phases of the project will eventually be built and will need water, and must analyze, to the extent reasonably possible, the impacts of providing water to the entire proposed project." Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova, 40 Cal.4th 412, 431 (2007). Also, "the future water supplies identified and analyzed must bear a likelihood of actually proving available; speculative sources and unrealistic allocations ('paper water') are insufficient bases for decision-making under CEQA." Id. At 432.</p> <p>Consequently, it must be presumed that the operating capacity of the water tunnels will be used. Just as it made no sense to build a facility of a certain size in the University of California case and not ultimately use the entire facility, it likewise makes no sense that the contractors would not ultimately use the full capacity of the water tunnels.</p>	<p>physical capacity. This is a variation of other comments, both in writing and in the popular press, that the BDCP tunnels will be so big that they will eventually carry the entire flow of the Sacramento River, leaving only a trickle in the riverbed, or leaving the riverbed entirely dry.</p> <p>This is not reasonably foreseeable and such an outcome is extremely unlikely to ever occur (if not simply impossible), as it would involve violations of numerous Federal and State environmental laws, contracts, water rights, and other legal obligations with which DWR and Reclamation must comply.</p> <p>Nothing in the San Joaquin Raptor, Laurel Heights, and Vineyard decisions cited by the commenter supports the commenter's position. In those cases, the foreseeable events at issue had to deal with outcomes that would have been perfectly lawful (mining operations consistent with high rates of permitted extraction in San Joaquin Raptor, the occupation of vacant office space in Laurel Heights, and the development of future phases of land use plan in Vineyard).</p>
84	24	<p>[FROM ATT 2:] Under NEPA an agency may not divide a project into multiple actions to avoid producing a single EIS on the overall project. Great Basin Mine Watch v. Hankins, 456 F.3d 955, 969 (9th Cir. 2006). The scope of the required EIS is set forth in the NEPA regulation at 40 C.F.R. 1508.25. Great Basin Mine Watch, 456 F.3d at 968-9. "Connected actions" that should be discussed in the same EIS include actions that automatically trigger other actions that may require an EIS, actions that cannot or will not proceed unless other actions are taken previously or simultaneously, and actions that are interdependent parts of a larger action and depend on the larger action for their justification. 40 C.F.R. 1508.25 (a)(1). The Tunnels and intakes are, obviously, connected actions. The operating capacity of the Tunnels must be disclosed and accurately described and evaluated in the EIS.</p>	<p>Operation of the conveyance facility and tunnels is fully described in Chapter 3, Alternatives Description, Section 3.5 of this Final EIR/EIS. Analysis of conveyance facility operations for some of the resource chapters (i.e., water supply, surface water, groundwater, water quality and fish and aquatic resources) use CALSIM, DSM2 and other models to estimate the potential effect on the environment from diverting Sacramento River water at a number of locations and operating scenarios. The operational assumptions and analysis fully captures the capacity of the new intakes and tunnels, including current and proposed restrictions on water supply diversions. The capacity issue has been addressed in responses to comments 16 and 23. Also refer to Master Response 8 regarding how the lead agencies analyzed the proposed project as a whole.</p>
84	25	<p>[FROM ATT 2:] Applicants seeking an incidental take permit must provide "a complete description of the activity sought to be authorized." 50 CFR [Section] 17.22(b)(1)(i); [Section] 222.307(b)(4)("detailed description"). Hiding the true carrying capacity of the Delta water tunnels by conflating the intake capacity of the proposed project with the actual carrying capacity of the Tunnels, composing the lion's share of the project, violates this requirement.</p> <p>Furthermore, describing a project by an intentional, and largely pretextual, bottleneck does not provide a complete description for agency findings or the ESA Section 10(c) notice and review. Section 10(c), "protects the informational interest of those who participate in that process," and "a denial of the ability to participate meaningfully in the [Section] 10 permit process is an injury that is procedural or informational in nature." Cary v. Hall, 2006 WL 6198320, *11 (C.D. Cal., September 30, 2006) (internal quotations omitted). Completing the</p>	<p>Please see responses to comments 16, 23 and 24 of this letter. For more information regarding alternatives to the proposed project please see Master Response 4.</p>

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		project description by stating the actual carrying capacity of the Delta water tunnels and basing ESA analysis on that capacity would be the starting point for scrutiny of the impacts of the project on endangered species and critical habitat.	
84	26	<p>[FROM ATT 2:] Projects may not be inaccurately described or chopped up for piecemeal review under the ESA. The ESA requires evaluation of the entire agency action. Connor v. Burford, 848 F.2d 1441, 1452-1454 (9th Cir. 1988). The Bureau of Reclamation, NMFS and the USFWS are all federal agencies. All federal agencies have a substantive duty to ensure that their authorization of a project will not jeopardize the survival of listed fish or adversely modify the species' critical habitat. Center for Biological Diversity v. U.S. Bureau of Land Management, 698 F.3d 1101, 1127-8 (9th Cir. 2012). The starting point for beginning to comply with that statutory duty is to accurately describe and evaluate the full scope and capacity of the entire project.</p> <p>The largest and most expensive part of the overall project includes the Delta water tunnels and their carrying capacity of 15,000 cfs or more of water away from designated critical habitat for endangered species of fish. Unless and until the Tunnels themselves are downsized, the true carrying capacity of the Tunnels must be disclosed and the environmental and endangered species and habitat impacts of operations at capacity must be the basis for analysis under CEQA, NEPA, and the ESA. The conveyance project has not been downsized.</p>	Please refer to responses to comments 1, 2, 6, 14, 16, 23 and 24 of this letter.
84	27	<p>[FROM ATT 2:] The BDCP process and the consultant-prepared Plan and EIR/EIS chapters are permeated throughout by bias, advocacy, speculation and surmise. That is true from the very foundation, starting with the claim that simply taking two intakes out of the project accomplishes downsizing. The biggest parts of the conveyance facilities are the water tunnels. The capacity of the project is the capacity of the Tunnels and all future EIR/EIS work must be based on that reality.</p>	Please see responses to comments 16 and 23 of this letter.
84	28	<p>[FROM ATT 2:] The BDCP process remains fatally flawed with foundational illegalities set forth in our June 4, 2013 Comment Letter. As we said then, ESA Section 7, federal Clean Water Act, and California CEQA and public trust doctrine procedures must precede rather than follow the BDCP process.</p>	Please see responses to Comment 84-1 and 84-2.
84	29	<p>[FROM ATT 3:] This is a comment letter to focus on the adverse modification of critical habitat for five threatened and endangered fish species, which would occur under the Bay Delta Conservation Plan (BDCP). This letter supplements our earlier comment letter to you of June 4, 2013. Under the BDCP, vast amounts of water will be diverted from the Sacramento River near Clarksburg, California. The water will be shipped through two tunnels roughly 35 miles south for the Central Valley and State Water Projects. As a result of this massive diversion, countless acre feet of water which would normally flow to the Sacramento-San Joaquin Delta (Delta) will now never reach the Delta. The BDCP Delta water tunnels project is not a permissible project under the Endangered Species Act (ESA) because it would adversely modify critical habitat for five endangered and threatened fish species.</p> <p>With respect to the ESA, the water will never reach the designated critical habitat for five endangered and threatened fish species: the Sacramento River winter-run Chinook salmon, the Central Valley spring-run Chinook salmon, the Central Valley steelhead, the Southern Distinct Population Segment of the North American green sturgeon, and the delta smelt.</p>	Please see response to comment 84-1.

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		<p>The Sacramento River winter-run Chinook salmon is listed as an endangered species under the ESA. 50 CFR [Section] 17.11. Critical habitat for the species was designated to include the Sacramento River extending from River Mile 0 near the Delta to River Mile 302, which is far north of the proposed BDCP diversion near Clarksburg. 50 CFR [Section] 226.204. The BDCP identifies reduced habitat due to water storage and water conveyance systems as a stressor and threat to the species. BDCP EIR/EIS Administrative Draft, 11A-47 (March 2013). Nevertheless, the BDCP proposes to divert massive amounts of water from the winter-run Chinook salmon's critical habitat.</p> <p>The Central Valley spring-run Chinook salmon is listed as a threatened species under the ESA. 50 CFR [Section] 17.11. Critical habitat for the species was designated to include the Sacramento River from Lat 38.0612, Long -121.7948, near Mile 0, upstream to Elk Slough (38.4140, -121.5212) in Clarksburg, California. 50 CFR [Section] 226.211(k)(5)(i). The BDCP identifies several threats and stressors to the Central Valley spring-run Chinook salmon, which include flow reductions causing increased water temperature and habitat elimination or degradation due to water conveyance systems. BDCP EIR/EIS Administrative Draft, 11A-83, 11A-76 (March 2013). In disregard of these threats and stressors, the BDCP proposes to worsen these effects by diverting water away from the spring-run Chinook salmon's critical habitat.</p> <p>The Central Valley steelhead is listed as threatened under the ESA. 50 CFR [Section] 17.11. Critical habitat for the species was designated to include the Sacramento River from Lat 38.0653, Long -121.8418, near Mile 0, upstream to Elk Slough in Clarksburg. 50 CFR [Section] 226.211(l)(5). The BDCP states that threats and stressors to the steelhead include water storage and conveyance systems as well as flow reductions contributing to increased water temperatures. BDCP EIR/EIS Administrative Draft, 11A-129, 11A-133 (March 2013).</p> <p>The Southern Distinct Population Segment of North American green sturgeon is listed as threatened under the ESA. 50 CFR [Section] 17.11. Critical habitat for this species is designated to include the Sacramento-San Joaquin Delta including all waterways up to the elevation of mean higher high water within the area defined in California Water Code Section 12220. 50 CFR [Section] 226.219(a)(3). The National Marine Fisheries Service's website provides a map displaying green sturgeon critical habitat:</p> <p><http://www.nmfs.noaa.gov/pr/pdfs/criticalhabitat/greensturgeon.pdf>. The map indicates that the critical habitat includes the Sacramento River from Mile 0 near the Delta to upstream beyond the proposed intake site near Clarksburg. The BDCP identifies increased water temperatures and habitat loss as threats and stressors to the green sturgeon. BDCP EIR/EIS Administrative Draft, 11A-162 - 65 (March 2013).</p> <p>The delta smelt is listed as threatened under the ESA. 50 CFR [Section] 17.11. Critical habitat for the species was designated to include "all contiguous waters of the legal Delta." 50 CFR [Section] 17.95-e-Fishes-Part 2. The US Fish and Wildlife Service's website provided a map displaying some of the delta smelt's critical habitat:</p> <p><http://www.fws.gov/sfbaydelta/maps/delta_smelt_critical_habitat_map.pdf>. The map indicates that the delta smelt's critical habitat includes the Sacramento River near Mile 0 upstream to the proposed BDCP intake site near Clarksburg. The BDCP identifies several threats and stressors to the species, including water exports and increased water</p>	

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		<p>temperature. BDCP EIR/EIS Administrative Draft, 11A-8 - 11 (March 2013).</p> <p>Pursuant to the commands of the ESA, each Federal agency "shall. . . insure that any action authorized, funded, or carried out by such agency. . . is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of [critical] habitat of such species. . . ." 16 U.S.C. [Section] 1536(a)(2). "Actions" include "actions directly or indirectly causing modification to the land, water, or air." 50 C.F.R. [Section] 402.02 (Emphasis added). As listed species, the Sacramento River winter-run Chinook salmon, the Central Valley spring-run Chinook salmon, the Central Valley steelhead, the Southern Distinct Population Segment of the North American green sturgeon, and the delta smelt each receive protection under the ESA. Further, their designated critical habitat also receives ESA protection.</p> <p>As mentioned above, the BDCP itself identifies stressors and threats to each of the five species. Common threats and stressors to the five species include habitat loss due to water conveyance systems and increasing water temperatures. The BDCP water tunnels will worsen these threats and stressors in each species' critical habitat. By diverting massive amounts of water from the Sacramento River, the BDCP will literally reduce the amount of habitat available to these five species in their critical habitats. Additionally, the massive diversion will reduce flow in the critical habitat and contribute to a further increase in water temperature.</p> <p>"The goal of the ESA is not just to ensure survival but to ensure that the species recover to the point it can be delisted." Alaska v. Lubchenko, 723 F.3d 1043, 1054 (9th Cir. 2013), citing Gifford Pinchot Task Force v. U.S. Fish and Wildlife Service, 378 F.3d 1059, 1070 (9th Cir. 2004). "[T]he purpose of establishing 'critical habitat' is for the government to carve out territory that is not only necessary to the species' survival but also essential for the species' recovery." Gifford Pinchot, 378 F.3d 1059, 1070. Moreover, "existing or potential conservation measures outside of the critical habitat cannot properly be a substitute for the maintenance of critical habitat that is required by Section 7 [of the ESA, 16 U.S.C. [Section] 1536]." Gifford Pinchot, 378 F.3d 1059, 1076.</p> <p>Taking the water and flows away from the endangered and threatened fish species would not insure their survival let alone insure their recovery and delisting. On-the-ground habitat restoration is not a lawful substitute under the ESA for maintaining the critical habitat of and in the waters of the Sacramento River, sloughs, and Delta.</p> <p>The reduction of water and flows and increase in water temperature are adverse modifications of critical habitat. The BDCP ignores all the conservation measures, including critical habitat designations, NMFS and USFWS have taken to protect five federally listed species. If approved, the BDCP will undo years of conservation efforts, adversely modify critical habitat, and further jeopardize the continued existence of five listed species. Approval of the BDCP would violate the ESA. Consequently, the BDCP water tunnels are not a permissible project under the ESA.</p>	
84	30	<p>[FROM ATT 4:] As a result of the discussion at our meeting, it is now confirmed that the factual matters set forth in our September 25, 2013 comment letter are correct. First, it is correct that the Sacramento River Winter-Run Chinook Salmon is listed as an endangered species under the Endangered Species Act (ESA), 16 U.S.C. [Section] 1531 et seq. Likewise, it is correct that the Central Valley Spring-Run Chinook Salmon, Central Valley Steelhead, Southern Distinct Population Segment of North American Green Sturgeon, and Delta Smelt,</p>	See response to comment 84-1.

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		<p>are listed as threatened species under the ESA. Second, it is confirmed that the reaches of the Sacramento River, sloughs, and the Delta that would lose significant quantities of freshwater and freshwater flows through operation of the proposed BDCP water tunnels are designated critical habitats for each of these five listed endangered and threatened fish species. Third, it is confirmed that no Biological Assessment (BA) has been prepared and issued by the federal Bureau of Reclamation with respect to the BDCP water tunnels project. Fourth, it is confirmed that no final or even draft Biological Opinion (BO) has been prepared by NMFS or USFWS with respect to the impacts of the operation of the BDCP water tunnels on the five listed species of fish or their critical habitats.</p> <p>In a nutshell, commencing the public review period on a Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) in the absence of the Biological Assessments and Biological Opinions will violate the ESA requirement that each federal agency review its actions at the earliest possible time to determine whether any action may affect listed species or critical habitat, and enter into formal consultation if that is the case. 50 C.F.R. [Section] 402.14(a). Such premature review will also violate the National Environmental Policy Act (NEPA) requirement that agencies prepare a draft EIS "concurrently with and integrated with environmental impact analyses and related surveys and studies required" by the ESA. 40 C.F.R. [Section] 1502.25(a). Yet this premature and unlawful draft EIS/EIR public review process "confronting the public with biased advocacy documents depriving the public of the essential ESA required analyses prepared by the federal agencies" is exactly what is now intended with a planned release date for the draft EIS/EIR of December 13, 2013. Further, diversions of large quantities of water from the Sacramento River will certainly impair the critical habitat areas mentioned above to the extent that they will adversely modify critical habitat in violation of Section 7 of the ESA.</p> <p>This year, National Marine Fisheries Service reiterated its previous red flag comment that the water tunnels threaten the "potential extirpation of mainstem Sacramento River Populations of winter-run and spring-run Chinook salmon over the term of the permit ... " (NMFS Progress Assessment and Remaining Issues Regarding the Administrative Draft BDCP Document, Section 1.17, 12, April 4, 2013). In comments on the Administrative Drafts, the EPA explained that "many of these scenarios of the Preferred Alternative range appear to decrease Delta outflow (p. 5-82), despite the fact that several key scientific evaluations by federal and State agencies indicate that more outflow is necessary to protect aquatic resources and fish populations." (EPA Comments On Administrative Draft EIR/EIS, III Aquatic Species and Scientific Uncertainty, Federal agency Release, July 18, 2013). Even the BDCP Administrative Drafts prepared by the project proponents' consultants admit that the operation of the water tunnels would have adverse effects on the designated critical habitats for each of the five listed fish species. (BDCP Appendix 5.1, March 2013, winter-run Chinook salmon p. 5.1-21; spring-run Chinook salmon p. 5.1-29; steelhead p. 5.1-37; green sturgeon p. 5.1-40; and delta smelt p. 5.1-12). The public will have what it does not need: unsupported advocacy from the consultants speculating that the adverse effects will be offset. The public will not have what it does need: the federal agency Biological Assessments and Biological Opinions required by the ESA.</p> <p>Despite the fact that extinction is forever and that the ESA obligates federal agencies "to afford first priority to the declared national policy of saving endangered species, "Tennessee Valley Authority v. Hill, 437 U.S. 153, 185 (1978), Reclamation, NMFS and USFWS are joining with the California Department of Water Resources (DWR) in allowing the release of a draft</p>	

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		<p>EIS/EIR for a 120 day public comment period commencing December 13, 2013. However, the public draft EIS/EIR will be "so inadequate as to preclude meaningful analysis," requiring circulation of a revised draft down the road pursuant to the command of NEPA Regulation 40 C.F.R. [Section] 1502.9(a). (All Regulation citations will be to the NEPA Regulations at 40 C.F.R. [Section] 1500.1 et seq. unless otherwise indicated). We urge your agencies to take this last opportunity to withhold your approval of these documents until the ESA required analysis has been conducted.</p>	
84	31	<p>[FROM ATT 4:] The Draft EIS/EIR alternative analysis will be inadequate unless it includes a true analysis of an alternative that does not include new conveyance. "[T]he alternatives analysis section is the 'heart of the environmental impact statement.'" 40 C.F.R. [Section] 1502.14. Friends of Southeast's Future v. Morrison, 153 F.3d 1059, 1065 (9th Cir. 1998). The purpose of the EIS process is to allow the public to weigh in on which feasible alternative is best for the environment and to afford the decision-makers the ability to make an informed choice among alternatives. Instead, this Draft EIS/EIR process avoids furnishing critical information required by the ESA: the Biological Assessments from Reclamation and the Biological Opinions, or at least Draft Biological Opinions, from NMFS and USFWS.</p> <p>We urge you to review the "Responsible Exports Plan" proposed by the Environmental Water Caucus (EWC) as an alternative to the preferred tunnel project. This Plan calls for reducing exports from the Delta, implementing stringent conservation measures but no new upstream conveyance. This Plan additionally prioritizes the need for a water availability analysis and protection of public trust resources rather than a mere continuation of the status quo that has led the Delta into these dire circumstances. The Responsible Exports Plan can be found on the Friends of River website here:</p> <p>http://www.ewccalifornia.org/reports/responsibleexportsplanmay2013.pdf</p> <p>Only that alternative is consistent with the EPA</p> <p>statements indicating that more outflow is needed to protect aquatic resources and fish populations. The EWC Responsible Exports Plan is feasible and accomplishes project objectives and therefore should be fully analyzed in a Draft EIS/EIR.</p>	<p>The alternatives included in the Draft EIR/EIS and Final EIR/EIS represent a legally adequate reasonable range of alternatives and the scope of the analysis of alternatives fully complies with both CEQA and NEPA. The Lead Agencies carefully considered all potential alternatives that were proposed during the scoping process and during time of preparation of the EIR/EIS. In fact, as a direct result of the extensive public comments and agency input, the water facility and conveyance options proposed as part of the project changed significantly during the planning process in ways that reduce impacts in the Delta communities. Additional unique Alternatives that were proposed during review of Administrative Drafts of the BDCP and EIR/S were also considered and described, See Appendix 3A of the EIR/EIS and Section 4 of the RDEIR/SDEIS.</p> <p>This process included numerous public workshops and scoping meetings, extensive input from agencies, stakeholders, and the public, and an extensive multi-level screening process to refine the alternatives to be carried forward for full analysis in the EIR/EIS. As explained in Final EIR/EIS Appendix 3A "Identification of Water Conveyance Alternatives", the alternative development process for the EIR/EIS was based upon a number of legal considerations including: (1) the legal requirements for adequate discussions of alternatives in an EIR and EIS, as set forth in CEQA and NEPA respectively, and the regulations and case law interpreting those statutory schemes; (2) the concepts of "potential feasibility" under CEQA and "reasonableness" under NEPA; and (3) the requirements of Water Code Section 85320 from the 2009 Delta Reform Act. The results of a multi-level screening process reflecting these considerations were further compared to the requirements of the Delta Reform Act and scoping comments related to the definition of potential EIR/EIS alternatives as identified by responsible and cooperating agencies under CEQA and NEPA, respectively.</p> <p>Please refer to Master Response 4 (Alternatives) for additional information regarding the development of alternatives. For more information on Purpose and Need or the Project Objectives, please see Master Response 3 (Purpose and Need) and Chapter 2 of the Final EIR/FEIS (Alternative 4A).</p>
84	32	<p>[FROM ATT 4:] The Draft EIS/EIR will be so inadequate as to preclude meaningful analysis because of the absence and essential information required by the ESA and NEPA.</p> <p>The Draft EIS/EIR cannot pass muster under NEPA or ESA because it does not have adequate information to contribute to a "meaningful analysis."</p> <p>"The goal of the ESA is not just to ensure survival but to ensure that the species recover to the point it can be delisted." Alaska v. Lubchenko, 723 F.3d 1043, 1054 (9th Cir. 2013), citing Gifford Pinchot Task Force v. U.S. Fish and Wildlife Service, 378 F.3d 1059, 1070 (9th Cir. 2004). Pursuant to the commands of the ESA, each Federal agency "shall. . .insure that any action authorized, funded, or carried out by such agency. . . Is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of [critical] habitat of such species. . . ." 16 U.S.C. [Section] 1536(a)(2)(emphasis added). "[T]he purpose of establishing 'critical habitat' is for the government to carve out territory that is not only necessary to the species' survival but also essential for the species' recovery." Gifford Pinchot, 378 F.3d 1059, 1070. Also, "existing or</p>	<p>These comments were written before the release of the Draft EIR/EIS in December 2013, and thus reflect input based on publicly-posted, earlier, administrative draft versions of that document. The comments appeared as an attachment to a letter submitted just a few weeks into the public review period for the Draft EIR/EIS (i.e., mid-January 2014).</p> <p>The commenter's interpretation of the Endangered Species Act (ESA), as viewed together with NEPA, is incorrect. The Lead Agencies are unaware of any instance in the United States in which the US Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) have conducted an ESA consultation process using the chronology favored by the commenter.</p> <p>Nothing in the laws cited by the commenter requires that a biological assessments or biological opinion must be completed prior to the release of a Draft EIS for a proposed project involving effects on federally listed species. Under Section 7 of ESA, federal agencies are required to consult with USFWS and/or NMFS, as appropriate, prior to taking any agency actions to ensure such actions are not likely to jeopardize species covered under the ESA or result in destruction or adverse modification of critical habitat. At the end of consultation, USFWS and/or NMFS must complete the biological opinion detailing how the agency action</p>

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		<p>potential conservation measures outside of the critical habitat cannot properly be a substitute for the maintenance of critical habitat that is required by Section 7 [of the ESA, 16 U.S.C [Section] 1536]." Gifford Pinchot, 378 F.3d 1059, 1076. The failure to have the ESA required Biological Opinions analyzing the threatened adverse modification of critical habitats renders the Draft EIS/EIR essentially worthless as an environmental disclosure and informational document.</p> <p>The ESA Regulations (40 C.F.R. [Section] 402.14(a)) require that "Each Federal agency shall review its actions at the earliest possible time to determine whether any action may affect listed species or critical habitat. If such a determination is made, formal consultation is required. . . ." Karuk Tribe of California v. U.S. Forest Service, 681 F.3d 1006, 1020 (9th Cir. 2012) (en banc)(emphasis added), cert. denied, 133 S.Ct. 1579 (2013). The NEPA Regulations require that "To the fullest extent possible, agencies shall prepare draft environmental impact statements concurrently with and integrated with environmental impact analyses and related surveys and studies required by the. . . Endangered Species Act. . . ." 40 C.F.R. [Section] 1502.25(a). "ESA compliance is not optional," and "an agency may not take actions that will tip a species from a state of precarious survival into a state of likely extinction." National Wildlife Federation v. National Marine Fisheries Service, 524 F.3d 917, 929-30 (9th Cir. 2008). Consequently, against this threat of extinction, conducting the draft EIS public review and comment stage without Biological Assessments or Biological Opinions leaves the public in the dark and violates both the ESA and NEPA. In the absence of the ESA required analyses, the draft EIS/EIR will be "so inadequate as to preclude meaningful analysis" in violation of NEPA. 40 C.F.R. [Section] 1502.9(a).</p> <p>The impact analysis of the preferred project - the BDCP water tunnels - is cursory and inadequate.</p> <p>NEPA requires that "Impacts shall be discussed in proportion to their significance." 40 C.F.R. [Section] 1502.2(b). NEPA specifically includes as factors in evaluating significance impacts on "ecologically critical areas"; effects that are likely to be highly controversial; the "degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical"; and whether "the action threatens a violation of federal, state, or local law or requirements imposed for the protection of the environment." 40 C.F.R. [Section] 1508.27(b)(3), (4), (9) and (10). The BDCP water tunnels alternative easily satisfies these categories, as the Tunnels threaten the extinction of fish species listed as endangered or threatened and will adversely modify designated critical habitats by substantially reducing water and flows in the critical habitats.</p> <p>All federal agencies are required by NEPA to "make every effort to disclose and discuss at appropriate points in the draft [environmental impact] statement all major points of view on the environmental impacts of the alternatives including the proposed action." 40 C.F.R. [Section] 1502.9(a). Consequently, Reclamation, NMFS and USFWS are required to disclose and discuss in the Draft EIS the point of view that DWR's preferred project -the BDCP water tunnels- threatens the extinction of the five listed fish species and would threaten to adversely modify the designated critical habitat for these listed fish species. Moreover, the agencies are required to disclose and discuss in the Draft EIS that, if the formal ESA consultations including Biological Assessments and Biological Opinions fail to demonstrate that the water tunnels would not be likely to jeopardize the continued existence of any of the listed fish species or result in the destruction or adverse modification of the designated</p>	<p>affects the species or its critical habitat.</p> <p>As of the date of the issuance of the Draft EIR/EIS for the BDCP, the Federal Lead Agencies had not identified a preferred Alternative (though DWR, as the State Lead Agency, had identified Alternative 4 as the CEQA preferred alternative, reflecting the fact that the proposed BDCP embodied Alternative 4). Thus, as of late 2013 and throughout the public review period on the Draft EIR/EIS in the first half of 2014, the Federal Agencies were faced with a total of approximately 15 alternatives (see DEIR/EIS, pp. 3-14 – 3-16). Three new sub-alternatives (2D, 4A, and 5A) were added in the Partially Recirculated Draft EIR/Supplement to Draft EIS (RDEIR/SDEIS), bringing the total number to 18. Because conducting Section 7 analyses on all of these 18 alternatives would not be practical, the federal Lead Agencies were required to wait until the NEPA and CEQA processes had reached a point where a single alternative (perhaps with additional refinements) had emerged as the likely final version of the project for which a single Section 7 consultation can be conducted. Such a single alternative emerged in the RDEIR/SDEIS with the designation of Alternative 4A as the CEQA and NEPA Preferred Alternative.</p> <p>From the standpoint of the Federal Lead Agencies, conducting a Section 7 consultation for the original version of Alternative 4 prior to release of the Draft EIR/EIS would have signaled a premature acceptance of that proposal, given that such a process would have preceded the public input received through comments on the Draft EIR/EIS. In contrast, the chronology of actions suggested by the commenter would require either an unwieldy consultation based on 15 alternatives or what the federal Lead Agencies believe would be a premature consultation based solely on Alternative 4. The federal Lead Agencies preferred a chronology that allowed them the benefit of public input on the Draft EIR/EIS prior to focusing on a single alternative for consultation purposes. Historic practices everywhere in the nation reflect this preference, which the federal Lead Agencies believe is what Congress, in enacting ESA, intended.</p> <p>For the BDCP and any action alternative including an HCP component (i.e., all of the action alternatives in the DEIR/EIS but none of the sub-alternatives in the RDEIR/SDEIS), the USFWS and NMFS would have to conduct an internal ESA Section 7 consultation prior to issuance of a Section 10(a)(1)(B) permit, following completion of the formal environmental review process. These Federal Agencies are currently coordinating their activities, and will continue to do so through the ESA consultation process, consistent with Federal Statutes and regulations. In addition, the USFWS and NMFS will consult with Reclamation to complete Biological Opinions prior to the issuance of any federal incidental take statement or federal action to carry out the BDCP. See also Master Response 29 regarding the timing of the Biological Opinion.</p> <p>The Lead Agencies devoted an enormous amount of effort, and produced an enormous amount of analysis, for the proposed BDCP. In fact, many other commenters have complained of the sheer amount of analysis found in the DEIR/EIS text and appendices. This commenter has not attempted to describe the analysis that does exist and to explain why it is purportedly inadequate. Instead, the commenter simply assumes that the outcome of an ESA consultation under Section 7 would be to show that the proposed BDCP would result in extinctions and adverse modifications of designated critical habitats, but offers no actual evidence or scientific analysis to support such dire predictions. In short, the commenter attacks the EIR/EIS for failing to reach factual conclusions in line with the commenter's preconceptions about the effects of the BDCP.</p> <p>Please see the detailed scientific analyses of the effects of the various action alternatives in the DEIR/EIS for conclusions regarding the extent to which some alternatives are more beneficial, or less harmful, to listed species than others.</p> <p>The "red flag" comments to which the commenter refers are not part of the Draft EIR/EIS, but instead relate to comments from some of the permitting agencies with respect to an earlier version of what became Alternative 4. Those comments were addressed in the process of refining an earlier version of Alternative 4</p>

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		<p>critical habitats of such species, the water tunnels would not be a permissible or permissible project under the ESA.</p> <p>Additionally, given the absence of Biological Opinions, or even Draft Biological Opinions and Biological Assessments, there is no lawful basis for the federal agencies to downplay or minimize the extinctions and adverse modifications of designated critical habitats threatened by the BDCP water tunnels. Under the ESA, the only way for federal agencies to reach conclusions as to jeopardy of species existence or adverse modification of critical habitats is through ESA consultation including preparation of Biological Assessments and Biological Opinions. In the absence of these required steps there is no basis for federal agencies to attempt to join with the exporters and DWR in their biased advocacy for the BDCP water tunnels.</p> <p>Regardless of whether these three federal agencies agree now with us that approval of the water tunnels would violate the ESA, their red flag comments and the Record so far have made it clear that there is at minimum significant uncertainty about whether the BDCP water tunnels project is permissible under the ESA that will not be resolved until the Biological Assessments and Opinions have been prepared.</p> <p>A Draft EIS/EIR circulated prior to preparation and circulation of federal agency prepared Biological Assessments and Biological Opinions or at least Draft Biological Opinions will be "so inadequate as to preclude meaningful analysis," 40 C.F.R. [Section] 1502.9(a), because the public and decision-makers will not have the basic federal agency analyses required by the ESA to determine whether DWR's preferred alternative -the BDCP water tunnels- is even a lawful alternative, let alone an environmentally acceptable alternative.</p>	<p>into what ultimately became Alternative 4 as described in the 2013 Draft EIR/EIS.</p>
84	33	<p>[FROM ATT 4:] The Draft EIS/EIR will be so inadequate as to preclude meaningful analysis because of absence of essential water quantity and quality information.</p> <p>Like the absent analyses required by the ESA, the Draft EIS/EIR at this stage will also lack required water quantity and water quality analyses. The Delta Reform Act requires that "For the purpose of informing planning decisions for the Delta Plan and the Bay Delta Conservation Plan, the board [California State Water Resources Control Board (SWRCB)] shall, pursuant to its public trust obligations, develop flow criteria for the Delta ecosystem necessary to protect public trust resources. In carrying out this section, the board shall review existing water quality objectives and use the best available scientific information. The flow criteria for the Delta ecosystem shall include the volume, quality, and timing of water necessary for the Delta ecosystem under different conditions." California Water Code [Section] 85086(c)(1). The SWRCB did develop Flow Criteria, published at: www.swrcb.ca.gov/waterrights/water_issues/bay_delta/deltaflow on August 3, 2010, p. 5. The criteria include:</p> <p>75% of unimpaired Delta outflow from January through June;</p> <p>75% of unimpaired Sacramento River inflow from November through June; and</p> <p>60% of unimpaired San Joaquin River inflow from February through June.</p> <p>Those recommendations have not been the basis for the BDCP water tunnels Administrative Drafts and would preclude development of the water tunnels making that alternative</p>	<p>he FEIR/EIS includes updated water quality modeling in the Delta that demonstrates several water quality impacts presented in the Draft EIR/EIS were a result of modeling assumptions and limitations, specifically relating to the use of monthly time steps in CALSIM, the location of the D1641 water quality compliance points assumed in the Draft EIR/EIS alternatives, and restoration assumptions, among others. See Chapter 8 and appendices for more details. In addition, the FEIR/EIS includes analyses on impacts downstream of the BDCP/CWF Plan Area, including impacts to sediment loading, salinity, and flows. Chapter 11 in the FEIR/EIS includes an updated description of the fish analysis methodology and the logic used in making impact determinates (important to note that all NEPA analyses now include a conclusion, contrary to the several analyses in the Draft EIR/EIS, in addition to discussion on the science and uncertainty behind several of the methods used in the analysis (i.e. flow-abundance/habitat relationships). The new proposed project, Alternative 4A, incorporates the H3+ operational scenario that includes Fall X2 requirements consistent with the 2008 USFWS BiOP, and spring outflow criteria to avoid project impacts to longfin smelt. See Chapter 3, FEIR/EIS, for more information on Alternative 4A operations.</p> <p>The proposed project would not affect upstream water rights. It aims to allow the federal and state water projects to deliver more reliable water supplies, in a way less harmful to fish. The project does not increase the amount of water to which DWR holds water rights or for use as allowed under its contracts. The CALSIM II modeling performed for conveyance facility operations takes into account projected future demand for water supply in areas upstream of the Delta (as part of the future No Action baseline) prior to calculating Proposed Project diversion estimates to ensure that no area-of-origin protections or upstream water rights are affected by project conveyance facilities. Please see Appendix 5A of the FEIR/FEIS for additional modeling details. Please see Master Response 26 regarding area of origin. For additional information regarding water rights, please see Master Response 32.</p>

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		<p>infeasible pursuant to water quantity and quality considerations.</p> <p>On the one hand, the BDCP process fails to base the preferred alternative on the SWRCB flow recommendations made pursuant to the Delta Reform Act. On the other hand, the BDCP process does not await completion of the pending SWRCB proceedings developing updated flow objectives. Once the SWRCB concludes that process, EPA will review and approve or disapprove any new or revised water quality standards pursuant to Clean Water Act [Section] 303(c). (EPA letter, EPA's comments on the Bay-Delta Water Quality Control Plan; Phase 1; SED, March 28, 2013). As the EPA has noted, "[t]he benefits of increasing freshwater flows can be realized quickly and help struggling fish populations recover." (Id. At 1). By proceeding before the SWRCB has completed its Water Quality Control Plan Update, BDCP will not benefit from the analysis disclosed in this process.</p> <p>Consequently, the BDCP process has failed to conduct the water supply availability analysis, quantification, and analysis of the environmental impacts of supplying specific quantities of water for the water tunnels required under the California Environmental Quality Act (CEQA) as determined by the California Supreme Court's decision in <i>Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova</i>, 40 Cal.4th 412, 429, 430, 434, 440-441 (2007). Again, as in the case of the absent ESA analyses, basic analyses will be absent essential to determine whether the BDCP water tunnels, DWR's preferred project is even feasible, let alone environmentally acceptable. Just as an inadequate draft EIS violates NEPA, a draft EIR so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment are precluded violates CEQA. 14 Code Cal. Regs. [Section] 15088.5(a)(4).</p>	<p>Impacts to the San Francisco Bay have been analyzed for pertinent resources areas. Specifically, water quality. As described in the 2013 Public Draft BDCP EIR/EIS Chapter 8, Section 8.2.3.15, selenium criteria were promulgated by the State Water Resources Control Board and San Francisco Bay Regional Water Quality Control Board for all of San Francisco Bay and the portions of the Delta waters in North San Francisco Bay, including portions of the Delta, and Suisun Bay, Carquinez Strait, San Pablo Bay, and the Central San Francisco Bay. The U.S. Environmental Protection Agency Action Plan for Water Quality Challenges in the San Francisco Bay/Sacramento-San Joaquin Estuary requires development of a new site-specific numeric selenium criteria to protect aquatic and terrestrial species dependent on the aquatic habitats of the Bay Delta Estuary. The new criteria being developed by the State Water Resources Control Board and San Francisco Bay Regional Water Quality Control Board could be more stringent than the existing selenium water quality criteria and require actions that would decrease allowable concentrations of selenium in surface waters of the Bay Delta Estuary and may set allowable levels of selenium in the tissue of fish and wildlife.</p> <p>Applicable selenium objectives for water in the affected environment are summarized in Table 8-54, and selected benchmarks for assessment of selenium in whole-body fish, bird eggs, and fish fillets are presented in Table 8-55 in Appendix A Chapter 8 Water Quality of the RDEIR/SDEIS</p> <p>For more information regarding updated selenium analysis please see Section 8.3.1.7 Constituent-Specific Considerations Use in the Assessment in Appendix A Chapter 8 of the RDEIR/SDEIS.</p> <p>As described in Section 3A.9.4.2 of Appendix 3A, Identification of Water Conveyance Alternatives Conservation Measure 1, a potential alternative based upon the State Water Resources Control Board 2010 Development of Flow Criteria for the Sacramento-San Joaquin Delta Ecosystem was considered during development of the range of alternatives to be evaluated in detail in the EIR/EIS. This potential alternative was not evaluated in detail because the flow recommendations in the 2010 report could not be achieved without adverse impacts to cold water management for fisheries in the Sacramento, Feather, and American rivers, and without reductions in non-SWP and non-CVP water rights diversions. The purpose and need of this EIR/EIS would not allow changes to these water rights users.</p> <p>In addition, the 2010 report stated that "Any process with regulatory or adjudicative effects must take place through the State Water Board's water quality control planning, water rights processes, or public trust proceedings in conformance with applicable law. In the State Water Board's development of Delta flow objectives with regulatory effect, it must ensure the reasonable protection of beneficial uses, which may entail balancing of competing beneficial uses of water, including municipal and industrial uses, agricultural uses, and other environmental uses."</p> <p>Results from this report were considered in the development of Alternative 8 which is evaluated in the Draft EIR/EIS.</p> <p>The action alternatives could only change the amount of water diverted under the existing SWP and CVP water rights and the existing and future related regulatory requirements, as described in Chapter 5, Water Supply. No changes would occur to other water rights holders (see Section 5.3.1 of Chapter 5 of the EIR/EIS).</p> <p>Following completion of the updated Bay-Delta Water Quality Control Plan, SWP and CVP operations would need to be reviewed to determine if the operations continued to comply with the new regulations.</p>
84	34	[FROM ATT 4:] The Draft EIS/EIR will be so inadequate as to preclude meaningful analysis	Please refer to Master Response 5 regarding the BDCP and the Implementing Agreement.

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		<p>because of absence of other essential information.</p> <p>At our November 7, 2013 meeting it was also confirmed that the Implementing Agreement (IA) will not be released with the draft EIS/EIR. The terms of the IA will be critical to informed public review of the preferred alternative. Consequently, the time for the public review period should not commence to run prior to release of the IA.</p> <p>Dr. Peter Gleick, President of the Pacific Institute, and member of the U.S. National Academy of Sciences summarized several of the unanswered questions about the BDCP in his viewpoint published in the Sacramento Bee (November 6, 2013) entitled "Delta project has many unanswered questions." The unanswered questions include: how much water would the new system take out of the Delta, what would the infrastructure or the water it provides cost, who is going to pay for it, there is no cost-benefit study including an evaluation of alternatives showing that the benefits of the water tunnels would exceed the cost, whether proposed ecosystem repairs and restoration would actually happen, what rules would govern the operation of the water tunnels and who would strictly monitor and enforce those rules, and what provisions would be put in place to change the operating rules as climate change increasingly alters water conditions. As Dr. Gleick says, "most scientists agree that a key to fixing the ecological problems of the Delta is to take less water out, not more."</p> <p>A critical example of absent BDCP analysis was pointed out by Reclamation: "The current BDCP analysis assumes no operational impacts to upstream reservoir operations." (Reclamation clarification added to federal agency comments July 16, 2013 p.1). In addition to being in the dark upstream, the BDCP process is also in the dark at the downstream end. "The BDCP omits any analysis of possible effects on San Francisco Bay. . . As noted by the National Research Council review of BDCP in 2011: since BDCP aims to address management and restoration of the San Francisco Bay-Delta, this is a significant omission that must be rectified." (Letter p.2, From Barbara Salzman, President, Friends of the San Francisco Estuary to Felecia Marcus, Chair, State Water Resources Control Board, October 30, 2013, http://friendsofestyuary.weebly.com/comment-letters-from-friends.html). Indeed, by reducing outflows from the Delta, the BDCP water tunnels would thereby reduce inflows into the Bay.</p> <p>To sum it all up, the BDCP is at best ready for scoping. The public will not have adequate information to understand what this project is or would do to the environment, and the agencies will not have the analysis to support approval of such an expensive and dangerous to fish habitat and population project. There are more unanswered than answered questions about DWR's preferred project, the water tunnels.</p> <p>In the absence of answers to basic questions including ESA questions about jeopardy of listed fish species and adverse modifications of designated critical habitats, as well as the other missing analyses set forth above, the planned draft BDCP EIS/EIR will not be sufficient for informed review by the public and the decision-makers. It will be necessary at minimum under the ESA, NEPA and CEQA for the federal and state agencies to issue and circulate for public review a new draft EIS/EIR based on Biological Assessments and Biological Opinions. 40 C.F.R. [Section] 1502.9(a) (NEPA); 14 Code Cal. Regs. [Section] 15088.5(a)(CEQA). Then, and only then, would the public have the opportunity to engage in meaningful analysis of the preferred project alternative and informed comparison with other alternatives.</p>	<p>With regards to the analysis to upstream impacts, please review Master Response 25 and for the operational criteria for the proposed project, Master Response 28.</p> <p>In addition, the Biological Assessment (BA) was submitted to the federal fish agencies and is under review. The draft was posted and available for public review outside the scope of this environmental review process.</p>

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86	1	<p>The public draft BDCP Plan and draft EIR/EIS were issued for public review and comment in December 2013 even though no Biological Assessments or Biological Opinions were prepared on the effects of diversion of flows for the water tunnels on endangered and threatened fish species.</p>	<p>The public draft BDCP EIR/EIS is a document addressing CEQA and NEPA environmental compliance requirements. A biological assessment is a separate document prepared to support ESA compliance for a single alternative. The Biological Opinion is the conclusion of the effect of the project on listed species subject to the ESA. The ESA compliance process is currently underway. The EIR/EIS had substantial information regarding effects on terrestrial and aquatic resources, including the endangered and threatened species. See Master Response 45 regarding the timing of the Biological Assessment/Biological Opinion.</p>
86	2	<p>This is our preliminary comment letter on the public draft Bay Delta Conservation Plan (BDCP) and public draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS) issued in December 2013. This letter focuses on the adverse modification of critical habitats for five threatened and endangered fish species that would be caused by the proposed BDCP water tunnels. Extinction is forever. The fish face an extinction crisis. The BDCP water tunnels would adversely modify designated critical habits and thus promote species extinction and preclude species recovery. The BDCP water tunnels project is not a permissible project under the Endangered Species Act (ESA) because it would adversely modify designated critical habitat for at least five endangered and threatened fish species.</p> <p>This letter follows up our earlier comment letters to you of June 4, August 13, September 25, and November 18, 2013 (all posted on the BDCP website) and our meeting with Bureau of Reclamation, National Marine Fisheries Service (NMFS), United States Fish and Wildlife Service (USFWS) and United States Environmental Protection Agency (EPA) representatives in Sacramento on November 7, 2013. Each of our earlier comment letters is attached hereto (pages showing cc.s deleted from the attachments) and incorporated herein by this reference. We will submit or join in one or more additional comment letters after we have completed review of as much of the 40,000 pages of BDCP documents as we are able to review.</p> <p>ESA violations and related NEPA and CEQA violations precluding informed public review:</p> <p>The water tunnels would divert enormous quantities of water from the Sacramento River near Clarksburg, California. The water would be shipped through two giant tunnels about 40 miles long to the south for diversion to the Central Valley and State Water Projects. As a result of this massive diversion, enormous quantities of water that presently flow through the Sacramento River and sloughs to and through the Sacramento-San Joaquin Delta would not reach the Delta, and flows would be reduced in the Sacramento River and sloughs. Also, there would be adverse cumulative effects ranging from rising sea levels and reduced snowpack and runoff due to climate change to changes in upstream reservoir operations and current preservation of flows for fishery purposes all the way upstream to the Shasta, Trinity, Oroville, and Folsom reservoirs. The water tunnels are identified as Alternative 4, the California Department of Water Resources' (DWR) Preferred Alternative. (BDCP Draft EIR/EIS, 3-3).</p> <p>As a result of the discussion at our November 7, 2013 meeting with the federal agency BDCP representatives, it was confirmed that the factual matters set forth in our September 25, 2013 comment letter are correct. First, it is correct that the Sacramento River winter-run Chinook salmon is listed as an endangered species under the ESA. Likewise, it is correct that the Central Valley spring-run Chinook salmon, Central Valley steelhead, Southern Distinct Population Segment of North American green sturgeon, and delta smelt, are listed as threatened species under the ESA. Second, it was confirmed that the reaches of the</p>	<p>The comment identifies the status of the fish under the ESA, critical habitat designations and that neither the BA nor BO has been prepared at that time. See the previous response regarding the status of the BA/BO and the process</p> <p>Neither USFWS nor NMFS can authorize an action that jeopardizes the continued existence of the species. The EIR/EIS process is an integral process to inform the agencies, other regulatory decision makers and the public of the adverse and beneficial effects of a project or action. The agencies cannot make decisions on an action until all of the review processes have been completed. The agencies must make those decisions based upon the findings in the record.</p> <p>The proposed project was developed to meet the standards of the Clean Water Act and federal and state Endangered Species Acts, the proposed project is intended to be environmentally beneficial, not detrimental. By establishing a point of water diversion in the north Delta and new operating criteria to improve water operations and , timing designed to improve native fish migratory patterns and allow for greater operational flexibility.</p> <p>DWR's fundamental purpose of the proposed project is to make physical and operational improvements to the SWP system in the Delta necessary to restore and protect ecosystem health, water supplies of the SWP and CVP south of the Delta, and water quality within a stable regulatory framework, consistent with statutory and contractual obligations. Alternative 4 remains a viable alternative. Alternative 4A reflects the State's proposal to separate the conveyance facility and habitat restoration measures into two separate efforts: California WaterFix and California EcoRestore. The Proposed Action includes habitat restoration as necessary to mitigate significant environmental effects and satisfy applicable ESA and CESA standards.</p> <p>Comments received on the draft environmental documents were considered and when appropriate incorporated into the subsequent version. Please reference the final EIR/EIS for any suggested changes for the resolution to that earlier comment.</p>

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		<p>Sacramento River, sloughs, and the Delta that would lose significant quantities of freshwater and freshwater flows through operation of the proposed BDCP water tunnels are designated critical habitats for each of these five listed endangered and threatened fish species. Third, it was confirmed that no Biological Assessment has been prepared and issued by the Federal Bureau of Reclamation with respect to the BDCP water tunnels project. Fourth, it was confirmed that no final or even draft Biological Opinion has been prepared by NMFS or USFWS with respect to the impacts of the operation of the BDCP water tunnels on the five listed species of fish or their critical habitats.</p> <p>NMFS reiterated its previous red flag comment in 2013 that the water tunnels threaten the "potential extirpation of mainstem Sacramento River Populations of winter-run and spring-run Chinook salmon over the term of the permit. . . ." (NMFS Progress Assessment and Remaining Issues Regarding the Administrative Draft BDCP Document, Section 1.17, 12, April 4, 2013). In comments on the Administrative Drafts, the EPA explained that "many of these scenarios of the Preferred Alternative range appear to decrease Delta outflow (p. 5-82), despite the fact that several key scientific evaluations by federal and State agencies indicate that more outflow is necessary to protect aquatic resources and fish populations." (EPA Comments on Administrative Draft EIR/EIS, III Aquatic Species and Scientific Uncertainty, Federal agency Release, July 18, 2013).</p> <p>"The goal of the ESA is not just to ensure survival but to ensure that the species recover to the point it can be delisted." Alaska v. Lubchenko, 723 F.3d 1043, 1054 (9th Cir. 2013), citing Gifford Pinchot Task Force v. U.S. Fish and Wildlife Service, 378 F.3d 1059, 1070 (9th Cir. 2004). Pursuant to the commands of the ESA, each federal agency "shall . . . insure that any action authorized, funded, or carried out by such agency . . . is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of [critical] habitat of such species. . . ." 16 U.S.C. Section 1536(a)(2)(emphasis added). "[T]he purpose of establishing 'critical habitat' is for the government to carve out territory that is not only necessary to the species' survival but also essential for the species' recovery." Gifford Pinchot, 378 F.3d 1059, 1070. Also, "existing or potential conservation measures outside of the critical habitat cannot properly be a substitute for the maintenance of critical habitat that is required by Section 7 [of the ESA, 16 U.S.C Section 1536]." Gifford Pinchot, 378 F.3d 1059, 1076.</p>	
86	3	<p>The failure to prepare the ESA and National Environmental Policy Act (NEPA) required Biological Assessments and Opinions analyzing the threatened adverse modification of critical habitats renders the draft EIR/EIR essentially worthless as an environmental disclosure and informational document under NEPA. The draft EIR/EIS is also premature and unlawful under the ESA.</p> <p>The ESA Regulations (50 C.F.R. [Section] 402.14(a)) require that "Each Federal agency shall review its actions at the earliest possible time to determine whether any action may affect listed species or critical habitat. If such a determination is made, formal consultation is required. . . ." Karuk Tribe of California v. U.S. Forest Service, 681 F.3d 1006, 1020 (9th Cir. 2012) (en banc)(emphasis added), cert. denied, 133 S.Ct. 1579 (2013). The Biological Assessments and Biological Opinions are the written documents that federal agencies must prepare during the ESA consultation process. The NEPA Regulations require that "To the fullest extent possible, agencies shall prepare draft environmental impact statements concurrently with and integrated with environmental impact analyses and related surveys</p>	<p>The Proposed Project has been developed with the goals of minimizing and avoiding incidental take of listed species to the maximum extent practicable. Chapter 11, Fish and Aquatic Resources, and Chapter 12, Terrestrial Biological Resources, EIR/EIS, describe effects of the Proposed Project and several alternatives on fish and wildlife species in the Plan Area.</p> <p>Section 7 requires that federal agencies, in consultation with the federal fish and wildlife agencies, ensure that their actions are not likely to jeopardize the continued existence of species or result in modification or destruction of critical habitat.</p> <p>Where the alternative does not include preparation of an HCP, ESA compliance for construction and operation of water intakes in the north Delta and associated conveyance facilities would be achieved solely through Section 7. For these alternatives, USFWS and NMFS would not issue a permit and would not act as a lead agency for NEPA compliance. Where Section 7 is the ESA compliance strategy, USFWS and NMFS will assume roles as cooperating agencies for purposes of the NEPA review.</p> <p>Reclamation would be the lead federal action agency for Section 7 compliance where a non-HCP alternative</p>

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		<p>and studies required by the . . . Endangered Species Act. . . ." 40 C.F.R. [Section] 1502.25(a). "ESA compliance is not optional," and "an agency may not take actions that will tip a species from a state of precarious survival into a state of likely extinction." National Wildlife Federation v. National Marine Fisheries Service, 524 F.3d 917, 929-30 (9th Cir. 2008).</p> <p>The Biological Opinion is to determine "whether the action, taken together with cumulative effects, is likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat." 50 C.F.R [Section] 402.14(g)(4).</p> <p>Consequently, against this threat of extinction, conducting the draft EIR/EIS public review and comment stage without Biological Opinions or even Biological Assessments and draft Biological Opinions, leaves the public in the dark and violates both the ESA and NEPA. Conducting the NEPA environmental draft process prior to and in a vacuum from the ESA consultation process violates the ESA command to carry out the ESA process "at the earliest possible time" and violates the NEPA command to conduct the NEPA and ESA processes "concurrently" and in an "integrated" manner.</p> <p>The public and the decision-makers now have what they do not need: 40,000 pages of advocacy from the consultants including self-serving speculation that the adverse effects of reducing flows in the Sacramento River, sloughs, and Delta will be offset. The public and the decision-makers do not have what they do need and are entitled to by law: the federal agency Biological Assessments and Biological Opinions required by the ESA and NEPA.</p> <p>This draft EIR/EIS circulated prior to preparation and circulation of federal agency prepared Biological Assessments and Biological Opinions is "so inadequate as to preclude meaningful analysis," 40 C.F.R. [Section] 1502.9(a), because the public and decision-makers do not have the basic federal agency analyses required by the ESA to determine whether DWR's preferred alternative "the BDCP water tunnels" is even a lawful alternative, let alone an environmentally acceptable alternative.</p> <p>Just as the inadequate draft EIR/EIS violates NEPA, the draft EIR/EIS is so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment are precluded which also violates the California Environmental Quality Act (CEQA). 14 Code Cal. Regs. [Section] 15088.5(a)(4). As the California Supreme Court said in Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova, 40 Cal.4th 412, 449 (2007), "Especially given the sensitivity and listed status of the resident salmon species, the County's failure to address loss of Cosumnes River stream flows in the Draft EIR 'deprived the public . . . of meaningful participation' [citation] in the CEQA discussion. (See CEQA Guidelines, Cal. Code Regs., tit. 14, [Section] 15065, subd. (a)(1)[potential substantial impact on endangered, rare or threatened species is per se significant].)"</p> <p>In the absence of answers to basic questions including ESA questions about jeopardy of listed fish species and adverse modifications of designated critical habitats, the draft BDCP EIR/EIS is not sufficient for informed review by the public and the decision-makers. It will be necessary at minimum under the ESA, NEPA and CEQA for the federal and state agencies to prepare, issue, and circulate for public review a new draft EIR/EIS concurrently with and integrated with Biological Assessments and Biological Opinions. 40 C.F.R. [Sections] 1502.9(a); 1502.25(a) (NEPA); 14 Code Cal. Regs. [Sections] 15065(a)(1); 15088.5(a)(CEQA). Then, and only then, would the public and the decision-makers have the opportunity to engage in meaningful analysis of a preferred project alternative and informed comparison with other</p>	<p>is selected. Reclamation's Section 7 compliance would be expected to also address the Section 7 compliance needs for the USACE permit actions. In cooperation with DWR, Reclamation would prepare a biological assessment (BA) for submission to USFWS and NMFS requesting formal consultation under ESA Section 7.</p> <p>A biological opinion is not required prior to the release of the Draft BDCP/CWF EIR/EIS. For the Proposed Action, the USFWS and NMFS will conduct an internal ESA section 7 consultation prior to issuance of an Section 10(a)(1)(B) permit for the Proposed Action. These federal agencies will coordinate the ESA consultation process and other environmental review processes, such as the National Environmental Policy Act (NEPA), consistent with federal regulations. In addition, the USFWS and NMFS will consult with the United States Bureau of Reclamation (Reclamation) to complete biological opinions or a joint biological opinion prior to federal action to carry out the BDCP.</p> <p>For more information please see 1.1.5.2 of Section 1 Introduction of the RDEIR/SDEIS.</p> <p>The proposed project is a joint RDEIR/SDEIS prepared in compliance with the requirements of CEQA and NEPA. Before the selection and approval of an alternative considered, the Lead Agencies must comply with the necessary state and federal environmental review requirements. This document, along with the BDCP Draft EIR/EIS, and expected Final EIR/EIS are intended to provide sufficient CEQA and NEPA support for approval of the proposed project or any of the action alternatives for either compliance strategy. As implementation of the proposed project or any of the action alternatives will require permits and approvals from public agencies other than the Lead Agencies, the CEQA and NEPA documents are prepared to support the various public agency permit approvals and other discretionary decisions. These other public agencies are referred to as responsible agencies and 20 trustee agencies under CEQA (State CEQA Guidelines Sections 15381 and 15386) and cooperating agencies under NEPA (e.g., USACE and EPA).</p> <p>For more information please see 1.1.5 of Section 1 Introduction of the RDERI/SDEIS, and Master Response 29 regarding timing of ESA compliance and Master Response 45 regarding permitting.</p>

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		alternatives.	
86	4	Finally, we reiterate that the BDCP water tunnels project is in fact prohibited by the ESA because it would adversely modify designated critical habitat for at least five endangered and threatened fish species. The fact that the ESA required consultations would result in determinations in the Biological Assessments and Opinions that the preferred project alternative is prohibited by the ESA does not justify the unlawful evasion and postponement of the consultations.	See Responses to Comments 86-1 through 3.
88	1	Stop the madness. Kill this plan. California borders the Pacific Ocean. Put money into desalination!	The issue raised by the commenter addresses the merits of the project and does not raise any issues with the environmental analysis provided in the EIR/EIS documentation. Appendix 1B of the Draft EIR/EIS describes the potential for additional water storage and Appendix 1C describes conservation, water use efficiency, and other sources of water supply including desalination.
89	1	Here in Alameda County, we have a very small area that lies within the boundaries of the BDCP, the far northeast corner of Alameda County, perhaps on the order of 10 square miles; it is difficult to tell at the map scales provided in the documents precisely how large an area of the County is included. Our area contains some very modest frontage on wetlands and sloughs, but it is mostly farmlands, with some nonnative grasslands and possibly some woodlands. That area of the County contains some utility uses, and has been eyed recently by industrial-scale solar developers.	<p>Approximately 4,700 acres of Alameda County overlap with the Plan Area. The Mapbook (Volume M-3) published as part of the Draft EIR/EIS may provide the level of detail that the commenter is seeking. The maps throughout the EIR/EIS have been designed to provide the level of detail appropriate to depict the effects of conveyance facilities on the resource areas. Accordingly, not all maps are at the same scale; rather, the scale was selected on the basis of the nature of the effects for a given resource area. There are approximately 25 acres of permanent cultivated land loss just south of Clifton Court Forebay in Alameda County. This loss is due to the proposed expansion of the Clifton Court Forebay to the south. There is also a temporary transmission line impact that runs northeast from the Jones Pumping Plant, on the south side of the canal. The region may also receive protection, enhancement, and management of grassland, vernal pool, and alkali seasonal wetland natural communities as mitigation for project activities.</p> <p>Please note that Alternative 4A, also known as California WaterFix, has been developed in response to public and agency input and is the new CEQA Preferred Alternative. Alternative 4A is also the NEPA Preferred Alternative, a designation that was not attached to any of the alternatives presented in the 2013 Public Draft EIR/EIS. Alternative 4 remains a potentially viable alternative and is being carried forward in this RDEIR/SDEIS because it represents the original habitat conservation plan/natural community conservation plan (HCP/NCCP) alternative approach, and because it provides an important reference point from which the Alternative 4A, 2D, and 5A descriptions and analyses were developed. If the Lead Agencies ultimately choose the alternative implementation strategy and select an alternative presented in the RDEIR/SDEIS after completing the CEQA and NEPA processes, elements of the conservation plan contained in the alternatives in the 2013 Public Draft EIR/EIS may be utilized by other programs for implementation of the long term conservation efforts.</p>
89	2	It is also difficult to tell whether or not any of the proposed actions of the plan -- construction, habitat acquisition or restoration, or restrictions on land use -- would apply within Alameda County. I was hoping to speak with someone who could provide some guidance to us on this matter.	Please see Response to Comment 89-2. Current information about the project is available online at: https://www.californiawaterfix.com/ .
90	1	It is clear that we need to do a lot of work to preserve the Delta ecosystem, mainly shoring up the levees. This work could be done for \$6 billion. The construction of the twin tunnels, at a cost exceed \$30 billion, to export huge amounts of Sacramento River flow to Central Valley agribusiness is economically and environmentally unjustified.	<p>Please refer to Master Response 5 regarding funding for the proposed project. The proposed project does not propose any changes to existing water rate structures.</p> <p>The proposed project was developed to meet the rigorous standards of the federal and state Endangered Species Acts, as such it is intended to be environmentally beneficial, not detrimental. By establishing a point of water diversion in the north Delta and new operating criteria to improve water volume, timing, and salinity the proposed project is designed to improve native fish migratory patterns and allow for greater</p>

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			<p>operational flexibility.</p> <p>Further, please note that the preferred alternative is now Alternative 4A, which does not include a HCP. The lead agencies are currently undergoing ESA Section 7 and CESA Section 2081(b) consultation with the fish and wildlife agencies.</p>
90	2	<p>Agriculture uses 85% of the state's water and should expect to pay the true cost of delivering that water. Agribusiness, demands cheap water. This no longer exists in California and our farmers need to adjust their practices to recognize this fact rather than to continue to destroy the ecosystem, principally fish, plants and wildlife, to perpetuate this myth.</p>	<p>Please refer to Master Response 5 regarding funding for the BDCP. As a habitat conservation plan and natural community conservation plan prepared under the federal Endangered Species Act and the state Natural Community Conservation Planning Act, the BDCP would improve habitat for fish, other species and terrestrial plants and wildlife through conservation measures that include habitat restoration and other stressor reductions. The proposed project does not propose any changes to existing water rate structures.</p> <p>Further, please note that the preferred alternative is now Alternative 4A, which does not include a HCP. The lead agencies are currently undergoing ESA Section 7 and CESA Section 2081(b) consultation with the fish and wildlife agencies.</p>
90	3	<p>Cities can meet their water demand by conservation and re-use of waste water and possibly by desalination. These methods are all justified by the high value that cities place on their water.</p>	<p>The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.</p> <p>Although conservation components and demand management measures have merit from a statewide water policy standpoint, and are being implemented or considered independently through the state, they are beyond the scope of the BDCP or California WaterFix. It is important to note that the proposed project is not intended to serve as a state-wide solution to all of California's water problems, and it is not an attempt to address directly the need for continued investment by the State and other public agencies in conservation, water recycling, etc. For more information regarding water demand management and desalination please see Master Response 6 and 7, respectively.</p>
91	1	<p>This is a very bad idea when the technology to use desalination plants that are providing water to many other countries at this very moment work very well. Also I lived in Europe for eight years, and recycled water was used then and is used today. That was at least 30 plus years ago. Why build tunnels to transport water at great expense when building desalination plants is a much more long term viable solution?</p>	<p>Although conservation components and demand management measures have merit from a statewide water policy standpoint, and are being implemented or considered independently through the state, they are beyond the scope of the BDCP or California WaterFix. It is important to note that the proposed project is not intended to serve as a state-wide solution to all of California's water problems, and it is not an attempt to address directly the need for continued investment by the State and other public agencies in conservation, water recycling, etc. For more information regarding water demand management and desalination please see Master Response 6 and 63, respectively.</p> <p>For more information regarding purpose and need please see Master Response 3.</p>
91	2	<p>It is very suspicious that this is just another pork project for some politicians and/or their cronyism actions. Not a viable use of taxpayers' dollars and not a good project when you look at today's drought situation and promised water allocations would fall apart if there was no water to send. This BDCP will destroy the Delta and the economy in the area. The water secured from the Owens Valley destroyed the opportunity for that area of California to flourish and provide jobs and produce for the world. Do not relive history and take water from Northern California to supplement Southern California when they are sitting next to the Pacific Ocean. If the decisions to do this was made by any graduates of any college in the USA then we truly are graduating a bunch of book smart, dirt stupid students with no common sense!</p>	<p>The Lead Agencies acknowledge your opposition to the proposed project. Since 2006, the proposed has been developed based on sound science, data gathered from various agencies and experts over many years, input from agencies, stakeholders and independent scientists, and more than 600 public meetings, working group meetings and stakeholder briefings.</p> <p>DWR's fundamental purpose of the proposed project is to make physical and operational improvements to the SWP system in the Delta necessary to restore and protect ecosystem health, water supplies of the SWP and CVP south of the Delta, and water quality within a stable regulatory framework, consistent with statutory and contractual obligations. Existing water diversions, including the existing State Water Project/Central Valley Project diversions in the southern Delta, can impact water flows and quality. By establishing a point of water diversion in the north Delta and new operating criteria with the goal of</p>

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		The only other reason besides the above is that somebody's rice bowl needs filling or will get broken if it does not go through. More government plodding on itself!	<p>improving water volume, timing, and salinity, the proposed project is designed to establish a more natural east-west flow for migratory fish, improve habitat conditions, and allow for greater operational flexibility. Please see Master Response 3 for additional information regarding the purpose and need behind the proposed project.</p> <p>Socioeconomic effects of the various alternatives are described and assessed in Chapter 16, Socioeconomics, of the 2013 Public Draft BDCP EIR/EIS. A Draft BDCP Statewide Economic Impact Report has also been published, which indicates that the BDCP would result in a substantial economic net benefit to the State of California. Please see Master Response 5 for more information on costs and funding.</p>
92	1	The twin tunnels part of the BDCP makes no sense. Billions of tax payer dollars for a plan that makes no new water is a joke. I would love to hear the answers to my questions. I am sure there are many folks that have the same questions and would appreciate direct answers.	The preferred alternative is now Alternative 4A (i.e., the California WaterFix Project) and no longer includes an HCP. The issue raised by the commenter addresses the merits of the project and does not raise any issues with the environmental analysis provided in the EIR/EIS documentation. See Master Response 3 (Purpose and Need) and Master Response 5 (Costs of Implementation, Funding).
92	2	What about shoring up the delta levees if you want to secure Delta water from earthquake or flooding? This is a lot less expensive than tunnels. By the way, independent geologists science experts give that threat little or close to no weight.	<p>BDCP/CWF EIR/EIS Alternative 9 is based on a through-delta water conveyance concept that includes enhancing levees. Notably, although Alternative 9 would shore up levees at risk of failure following a major earthquake, Alternative 9 does not include a new set of points of diversion in the north Delta, and thus would not provide the operational flexibility, with attendant ecological benefits for Delta smelt and other species, that would exist with alternatives that do include north Delta diversions.</p> <p>Also, see Chapter 2, FEIR/EIS, for the BDCP/CWF purpose and need, and Appendix 6A Sections 6A.2 and 6A.3 for discussion on existing levee improvement programs and funding mechanisms, which would not be affected by the BDCP/CWF.</p> <p>For more information regarding floods and levees please see Master Response 18. For more information on levee stability and seismic risk please see Master Response 20.</p>
92	3	What about water recycling and cleaning up underground water? Actually make more water, like what Orange Co is doing, so we are prepared for droughts when they come again. Isn't reliability one of your goals?	<p>The Natural Resources Agency and DWR staff will continue seeking improvements and refinements to the current proposal in order to enhance species benefits and to avoid, reduce or mitigate for negative impacts to people, communities, sensitive species and habitats.</p> <p>The California Water Action Plan recognizes that all Californians have a stake in the future of our state's water resources, and that a series of actions are needed to comprehensively address the water issues before us. The five-year agenda spells out a suite of actions in California to improve the reliability and resiliency of water resources and to restore habitat and species — all amid the uncertainty of drought and climate change. For more information regarding future developments of the California Action Water Plan please follow http://resources.ca.gov/docs/Final_Water_Action_Plan_Press_Release_1-27-14.pdf. Future committees for the Proposed Project implementation may provide future opportunities for innovative input as well.</p> <p>The California Water Plan evaluates different combinations of regional and statewide resources management strategies to reduce water demand, increase water supply, reduce flood risk, improve water quality, and enhance environmental and resource stewardship. Follow the California Water Plan here: http://www.waterplan.water.ca.gov/.</p> <p>Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1, EIR/EIS, describes the range of conveyance alternatives considered in the development of the EIR/EIS. Appendix 1B, Water Storage, EIR/EIS, describes the potential for additional water storage and Appendix 1C, Demand Management Measures, EIR/EIS, describes conservation, water use efficiency, and other sources of water</p>

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			<p>supply including desalination. While these elements are not proposed as part of the proposed project, the Lead Agencies recognize that they are important tools in managing California’s water resources.</p> <p>Please see Master Response 4 regarding the selection of alternatives analyzed, Master Response 7 regarding desalination, Master Response 6 regarding demand management and Master Response 37 regarding water storage.</p>
92	4	<p>What about using solar power for desalinization plants for Southern CA cities? Lots of sun and ocean water in Southern CA.</p> <p>It might not cover the total need, however, maybe we can use natural resources of the region to provide a part of a clean reliable water supply that is actually made, usable water.</p>	<p>The Natural Resources Agency and DWR staff will continue seeking improvements and refinements to the current proposal in order to enhance species benefits and to avoid, reduce or mitigate for negative impacts to people, communities, sensitive species and habitats.</p> <p>The California Water Action Plan recognizes that all Californians have a stake in the future of our state’s water resources, and that a series of actions are needed to comprehensively address the water issues before us. The five-year agenda spells out a suite of actions in California to improve the reliability and resiliency of water resources and to restore habitat and species — all amid the uncertainty of drought and climate change. For more information regarding future developments of the California Action Water Plan please follow http://resources.ca.gov/docs/Final_Water_Action_Plan_Press_Release_1-27-14.pdf. Future committees for the Proposed Project implementation may provide future opportunities for innovative input as well.</p> <p>The California Water Plan evaluates different combinations of regional and statewide resources management strategies to reduce water demand, increase water supply, reduce flood risk, improve water quality, and enhance environmental and resource stewardship. Follow the California Water Plan here: http://www.waterplan.water.ca.gov/.</p> <p>Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1, EIR/EIS, describes the range of conveyance alternatives considered in the development of the EIR/EIS. Appendix 1B, Water Storage, EIR/EIS, describes the potential for additional water storage and Appendix 1C, Demand Management Measures, EIR/EIS, describes conservation, water use efficiency, and other sources of water supply including desalination. While these elements are not proposed as part of the proposed project, the Lead Agencies recognize that they are important tools in managing California’s water resources.</p> <p>Please see Master Response 4 regarding the selection of alternatives analyzed, Master Response 7 regarding desalination, Master Response 6 regarding demand management and Master Response 37 regarding water storage.</p>
92	5	<p>Why do farmers plant their crops on poisoned lands? That makes no sense. The runoff washes toxic salts, boron and selenium into our Delta and bays. Water should be priced right or penalties in place so that type of destructive business practice is not practical. Reduction in poisoning our water is a good thing for the public.</p>	<p>More than two-thirds of the residents of the state and more than two million acres of highly productive farm land receive water exported from the Delta watershed. The proposed project aims to provide a more reliable water supply, in a way more protective of fish. However, the project proponents have no authority to designate what water is used for.</p> <p>One of the State Water Resources Control Board’s (State Water Board’s) charges is to ensure that the State’s water is put to the best possible use and that this use is in the best interest of the California public. This charge is reflected in part by the designation of beneficial uses established through the State Water Board’s planning process. These beneficial uses are identified in each Water Quality Control Plan (Basin Plan) issued by the State Water Board.</p> <p>The proposed project Lead Agencies have no power to impose penalties on individual water users. DWR and Reclamation have contracts with various entities, some of which sell water to water retailers, who have individual policies and programs to motivate ratepayers to conserve water. Different districts have the right</p>

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			<p>to take different approaches depending on their individual circumstances.</p> <p>The issue of crops and water use is beyond the scope of the Proposed Project. For more information please refer to the updated draft 2013 California Water Plan’s strategy for agricultural water use efficiency, which describes the use and application of scientific processes to control agricultural water delivery and use. Also, refer to Master Response 6 and Appendix 1C for further information on demand management measures, including increasing agricultural water use efficiency and conservation.</p>
92	6	<p>What about the independent scientific data that supports too much water is being taken out of the Delta? Shouldn't we increase flows like the scientific data suggests?</p>	<p>The Proposed Project proposes to stabilize water supplies, and exports could only increase under certain circumstances in which hydrological conditions result in availability of sufficient water and ecological objectives are fully satisfied. It is projected that water deliveries from the federal and state water projects under the Proposed Project would be roughly 10 percent more or equal to the average annual amount of water that would be diverted under the No Action Alternative (i.e. 2025 conditions without the Proposed Project). It is projected that Delta exports from the federal and state water projects would either remain similar or increase in wetter years and decrease in drier years under Alternative 4A as compared to exports under No Action Alternative (ELT) depending on the capability to divert water at the north Delta intakes during winter and spring months. The estimated changes in deliveries for 4A are provided in the RDEIR/SDEIS 4.3.1 and Appendix A Chapter 5 Water Supply. Although exports under the Proposed Project would be similar to the amount water exported in recent history, it would make the deliveries more predictable and reliable, while reducing other stressors on the ecological functions of the Delta.</p> <p>The amount of water DWR can pump from the new north Delta facilities is set by Federal regulating agencies, ESA compliance and project design, and not by the water contractors. Operations for the proposed project would still be consistent with the criteria set by the FWS (2008) and NMFS (2009) BiOps and State Water Resources Control Board Water Right Decision 1641 (D-1641), subject to adjustments made pursuant to the adaptive management process as described in the 2008 and 2009 BiOps (RDEIR/SDEIS Executive Summary ES.2.2). In addition to permitting constraints on daily operations of the SWP and CVP, DWR must maintain proper performance and bypass flows across fish screens when endangered and threatened fish species are present within the north Delta facilities area. The intake fish screens drive the overall size of the intake structure on the riverbank, and have been numbered and sized to permit water to flow through the screens within a predetermined flow regime set by California Department of Fish and Wildlife and NMFS fish screen criteria (BCDP Appendix 5B Section 3.B.3.3).</p> <p>As described in Appendix 3A, Section 3A.9.3, of the 2013 Public Draft BDCP EIR/EIS the State Water Resources Control Board prepared a Delta Flow Criteria Report in accordance with the requirements of the Sacramento-San Joaquin Delta Reform Act of 2009. Information from that report included “determinations of flow criteria for the Delta ecosystem to protect public trust resources. The report makes clear, however, that the flow criteria do not consider the balancing of public trust resource protection with public interest needs for water. The flow criteria also did not consider other public trust resource needs such as the need to manage cold-water resources in reservoirs tributary to the Delta. Nonetheless, the flow determinations contained in the Delta Flow Criteria Report, together with recent scientific conclusions of other State and federal agencies, including the Department of Fish and WildlifeGame, National Marine Fisheries Service, and the Interagency Ecological Program provide a useful guide to establish one side of a reasonable range of alternatives” (State Water Resources Board letter dated April 19, 2011). The information in the flow criteria report was used to inform the development of the BDCP and Alternatives 7 and 8.</p> <p>Please also see Appendix C of the RDEIR/SDEIS Supplemental Modeling Requested by State Water Resources Control Board Related to Increased Delta Outflows.</p>

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92	7	What about water leaks in the cities? Is some infrastructure outdated and leaking? If not a problem, great. I would like to know of potential water in that area that could be made.	<p>In general, cities and other local government entities supplying water to customers control their own delivery infrastructure, and are responsible for dealing with maintenance issues such as leaks. Such repairs are beyond the scope of the BDCP, and are not the responsibility of the State and Federal Governments.</p> <p>The Natural Resources Agency and DWR staff will continue seeking improvements and refinements to the current proposal in order to enhance species benefits and to avoid, reduce or mitigate for negative impacts to people, communities, sensitive species and habitats.</p> <p>The California Water Action Plan recognizes that all Californians have a stake in the future of our state's water resources, and that a series of actions are needed to comprehensively address the water issues before us. The five-year agenda spells out a suite of actions in California to improve the reliability and resiliency of water resources and to restore habitat and species — all amid the uncertainty of drought and climate change. For more information regarding future developments of the California Action Water Plan please follow http://resources.ca.gov/docs/Final_Water_Action_Plan_Press_Release_1-27-14.pdf. Future committees for the Proposed Project implementation may provide future opportunities for innovative input as well.</p> <p>The California Water Plan evaluates different combinations of regional and statewide resources management strategies to reduce water demand, increase water supply, reduce flood risk, improve water quality, and enhance environmental and resource stewardship. Follow the California Water Plan here: http://www.waterplan.water.ca.gov/.</p> <p>Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1, EIR/EIS, describes the range of conveyance alternatives considered in the development of the EIR/EIS. Appendix 1B, Water Storage, EIR/EIS, describes the potential for additional water storage and Appendix 1C, Demand Management Measures, EIR/EIS, describes conservation, water use efficiency, and other sources of water supply including desalination. While these elements are not proposed as part of the proposed project, the Lead Agencies recognize that they are important tools in managing California's water resources.</p> <p>Please see Master Response 4 regarding the selection of alternatives analyzed, Master Response 7 regarding desalination, Master Response 6 regarding demand management and Master Response 37 regarding water storage.</p>
92	8	What about gathering support for a plan from the folks that live in the areas that are directly affected? Did you get support from the folks in Northern California or Native Americans? Did you reach out and ask for their input during the planning stages? Why were planning meetings held in private?	Please refer to Chapter 32 in the EIR/EIS and Master Responses 40 and 65 for information related to outreach, transparency of the planning process and stakeholder engagement.
92	9	Is there surplus water? How much surplus do you think? Give us Taxpayers a ball park figure. Why would we agree to pay for something when you do not tell us how much water you plan to take out?	The Proposed Project proposes to stabilize water supplies, and exports could only increase under certain circumstances in which hydrological conditions result in availability of sufficient water and ecological objectives are fully satisfied. It is projected that water deliveries from the federal and state water projects under the Proposed Project would be roughly 10 percent more or equal to the average annual amount of water that would be diverted under the No Action Alternative (i.e. 2025 conditions without the Proposed Project). It is projected that Delta exports from the federal and state water projects would either remain similar or increase in wetter years and decrease in drier years under Alternative 4A as compared to exports under No Action Alternative (ELT) depending on the capability to divert water at the north Delta intakes during winter and spring months. The estimated changes in deliveries for 4A are provided in the RDEIR/SDEIS 4.3.1 and Appendix A Chapter 5 Water Supply. Although exports under the Proposed Project would be similar to the amount water exported in recent history, it would make the deliveries more

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92	10	<p>Doesn't the water in the rivers belong to all of us? Why do water districts get to broker water for a profit? Isn't that the public's money that gets transferred to private hands when water is brokered?</p> <p>If agriculture uses 80% of the water, do they pay 80% of the construction and maintenance costs? Does it make financial sense for agriculture to pay 80% of the cost, every year?</p> <p>In a dry year if/when agriculture does not get enough water, how will they pay their part of the construction and maintenance costs of twin tunnels? What assurance do we have that taxpayers are not stuck with that bill?</p> <p>Why would the BDCP build huge tunnels if they were not going to be used?</p>	<p>predictable and reliable, while reducing other stressors on the ecological functions of the Delta.</p> <p>The proposed project is costly, but proponents have assessed the benefits as described in the BDCP funding sources. Notably, the water contractors benefitting from the proposed project and their constituents will bear all costs associated with constructing new conveyance facilities and mitigating for the impacts of those facilities. Expenditures of public money from other sources would be limited to restoration activities beyond those needed to mitigate the impacts of facility construction. BDCP Chapter 8, which deals with cost issues, and cost-benefit analysis information are available on the BDCP website. Please see Master Response 5 for more information on project costs and funding.</p> <p>The Proposed Project proposes to stabilize water supplies, and exports could only increase under certain circumstances in which hydrological conditions result in availability of sufficient water and ecological objectives are fully satisfied. It is projected that water deliveries from the federal and state water projects under the Proposed Project would be roughly 10 percent more or equal to the average annual amount of water that would be diverted under the No Action Alternative (i.e. 2025 conditions without the Proposed Project). It is projected that Delta exports from the federal and state water projects would either remain similar or increase in wetter years and decrease in drier years under Alternative 4A as compared to exports under No Action Alternative (ELT) depending on the capability to divert water at the north Delta intakes during winter and spring months. The estimated changes in deliveries for 4A are provided in the RDEIR/SDEIS 4.3.1 and Appendix A Chapter 5 Water Supply. Although exports under the Proposed Project would be similar to the amount water exported in recent history, it would make the deliveries more predictable and reliable, while reducing other stressors on the ecological functions of the Delta.</p>
92	11	<p>There is enough water for farms and cities and for the river to be healthy. The reason we are at where we are is because we are out of balance with nature. The amount of "surplus water" exported south has increased dramatically over the last 14 yrs and that has seriously affected our ecosystem. Fresh water needs to flow through the Delta or it will surely collapse and change into a stagnant foul pool of mud. Water is a limited resource and is no longer cheap. We, the people of California, must value it and speak up for a plan that makes sense; one that actually makes more water and makes economic sense. The twin tunnels move water around the delta and benefit agriculture and put the cost on tax payers and our Delta ecosystem. Current delta flows are unsustainable. Working towards regional sufficiency has got to be the goal of the plan for the plan to work.</p>	<p>As a plan prepared to meet the rigorous standards of the federal and state Endangered Species Acts, the proposed project is intended to be environmentally beneficial, not detrimental. Existing water diversions, including the existing State Water Project/Central Valley Project diversions in the southern Delta, can impact water flows and quality. By establishing a point of water diversion in the north Delta and new operating criteria to improve water volume, timing, and salinity, the proposed project is designed to improve native fish migratory patterns and allow for greater operational flexibility.</p> <p>The project proposes to stabilize water supplies, and exports could only increase under certain circumstances. Water deliveries from the federal and state water projects under a fully-implemented Alternative 4A are projected to be roughly about the same as the average annual amount diverted in the last 20 years. Although the proposed project would not increase the overall volume of Delta water exported, it would make the deliveries more predictable and reliable, while restoring an ecosystem in steep decline.</p> <p>For more information regarding purpose and need of the proposed project please see Master Response 3.</p> <p>The Natural Resources Agency and DWR staff will continue seeking improvements and refinements to the current proposal in order to enhance species benefits and to avoid, reduce or mitigate for negative impacts to people, communities, sensitive species and habitats.</p> <p>The California Water Action Plan recognizes that all Californians have a stake in the future of our state's water resources, and that a series of actions are needed to comprehensively address the water issues before us. The five-year agenda spells out a suite of actions in California to improve the reliability and resiliency of water resources and to restore habitat and species — all amid the uncertainty of drought and climate change. For more information regarding future developments of the California Action Water Plan please follow http://resources.ca.gov/docs/Final_Water_Action_Plan_Press_Release_1-27-14.pdf. Future committees for the Proposed Project implementation may provide future opportunities for innovative input</p>

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			<p>as well.</p> <p>The California Water Plan evaluates different combinations of regional and statewide resources management strategies to reduce water demand, increase water supply, reduce flood risk, improve water quality, and enhance environmental and resource stewardship. Follow the California Water Plan here: http://www.waterplan.water.ca.gov/.</p> <p>Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1, EIR/EIS, describes the range of conveyance alternatives considered in the development of the EIR/EIS. Appendix 1B, Water Storage, EIR/EIS, describes the potential for additional water storage and Appendix 1C, Demand Management Measures, EIR/EIS, describes conservation, water use efficiency, and other sources of water supply including desalination. While these elements are not proposed as part of the proposed project, the Lead Agencies recognize that they are important tools in managing California's water resources.</p> <p>Please see Master Response 4 regarding the selection of alternatives analyzed, Master Response 7 regarding desalination, Master Response 6 regarding demand management and Master Response 37 regarding water storage.</p> <p>The proposed project is costly, but proponents have assessed the benefits as described in the BDCP funding sources. Notably, the water contractors benefitting from the proposed project and their constituents will bear all costs associated with constructing new conveyance facilities and mitigating for the impacts of those facilities. Expenditures of public money from other sources would be limited to restoration activities beyond those needed to mitigate the impacts of facility construction. BDCP Chapter 8, which deals with cost issues, and cost-benefit analysis information are available on the BDCP website. Please see Master Response 5 for more information on project costs and funding.</p>
93	1	I would like to obtain a larger, more readable copy of an exhibit in the draft plan. It is Figure 214 of Chapter 2, Existing Ecological Conditions. The figure is a map of the Distribution of Natural Communities and Urban Land Cover. The online version is too small to be able to identify the property I am researching.	Commenter was notified that a more detailed map was not available.
94	1	I am a dentist and resident of Stockton, California. I am most concerned about the water situation in California. If you look at the history of California you will see that much of it is desert. We have brought water projects along to inhabit and farm the desert. Our population has grown and the demands on fresh water are beyond what we can handle and still keep Sacramento-San Joaquin water ways healthy or even alive. There is a limit on growth and use and we have already reached this limit. It will be a disaster to send water down into the areas that are no longer sustainable and lose the quality and health of the Sacramento-San Joaquin Valley. We will, in short time, be an irreversible estuary if we are not already. These areas need this fresh water flush. It may be time to close up communities and farmlands and become sustainable.	<p>As a plan prepared to meet the rigorous standards of the federal and state Endangered Species Acts, the proposed project is intended to be environmentally beneficial, not detrimental. Existing water diversions, including the existing State Water Project/Central Valley Project diversions in the southern Delta, can impact water flows and quality. By establishing a point of water diversion in the north Delta and new operating criteria to improve water volume, timing, and salinity, the proposed project is designed to improve native fish migratory patterns and allow for greater operational flexibility.</p> <p>For more information regarding purpose and need of the proposed project please see Master Response 3.</p>
95	1	The Bay Delta Conservation Plan Statewide Economic Impact Report (Report, hereinafter) was released in August 2013. The Report is an economic evaluation of the \$25 billion (2012\$) BDCP proposal to build water conveyance tunnels under the Delta and habitat restoration projects. The Report was produced for the California Department of Water Resources by ICF International and The Brattle Group, consultants who have worked extensively on the development of the BDCP. Although the Report is an economic analysis prepared for the Department of Water Resources, it deviates significantly from the Department of Water	<p>Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS and the socioeconomic impacts reported in EIR/EIS Chapter 16 Socioeconomics was not based on information presented in the Statewide Economic Report. The scope of the socioeconomic analysis is described in EIR/EIS Chapter 16 Socioeconomics at Section 16.3.1 Methods for Analysis.</p> <p>It should also be noted that the Statewide Economic Report was specifically prepared as part of the requirements of an HCP/NCCP and the BDCP is no longer the preferred alternative. See Alternative 4A which no longer includes an HCP and therefore, a Statewide Economic Analysis is not required for</p>

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		<p>Resources' Economic Analysis Guidelines in ways that bias the analysis in favor of the tunnels.</p> <p>The Report includes two distinct economic analyses of the BDCP proposal: 1) an economic welfare or benefit-cost analysis, and 2) an economic impact analysis on statewide employment and income. Combining these two distinct studies into the Report results in some confusion and inconsistency since some costs that are included in the economic impact analysis are incorrectly omitted from the economic welfare or benefit-cost analysis. Overall, both analyses suffer from high-level structural errors in how the issue is framed, as well as significant errors and biased assumptions in the details of the calculations.</p>	<p>CEQA/NEPA compliance related to Alternative 4A and there is no intent to update this economic report, unless an HCP alternative is selected. Although an economic report is not needed to support the Final EIR/EIS or the Lead Agency decisions associated with CEQA or NEPA compliance, revisions to the Statewide Economic Report may occur outside the CEQA/NEPA process.</p> <p>This response should be considered as part of each of the responses to comments contained in the letter (designated as "BDCP 95").</p>
95	2	<p>The twin tunnels are not analyzed independently. The Bay Delta Conservation Plan Statewide Economic Impact Report violates accepted benefit-cost and policy analysis principles by presenting the tunnels and habitat projects as a single package, and creates a false choice that habitat restoration can only occur with the tunnels.</p>	<p>Habitat restoration proposals, in general, need not require an associated element for water conveyance; however, the proposed project must address both habitat and water supply issues in order to comply with the Sacramento-San Joaquin Delta Reform Act, which made it state policy to manage the Delta in support of the coequal goals of water supply reliability and ecosystem restoration. Please see Master Response 31 and 3 for more information regarding consistency with the Delta Reform Act and purpose and need, respectively.</p>
95	3	<p>Within the Statewide Economic Impact Report, The BDCP is compared to a weak and unrealistic no-BDCP alternative that assumes water agencies do nothing. This assumption conflicts with the Metropolitan Water District's and other export water agencies' management plans, and incorrectly assumes that water agencies take no actions to comply with the 2009 Delta Reform Act in the absence of BDCP.</p>	<p>Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS. It should also be noted that the Statewide Economic Report was specifically prepared as part of the requirements of an HCP/NCCP. Please see Master Response 31 for information regarding proposed project's compliance with the Delta Reform Act. The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.</p>
95	4	<p>Some of the specific problems with the Statewide Economic Impact Report include:</p> <p>The Statewide Economic Impact Report assumes water agencies make no additional investments in alternative water supplies in California for the next sixty years, even if Delta water exports further diminish in the future. Thus, the Report makes exaggerated and alarmist claims about the extent and impact of water shortages that directly contradict the export water agencies' planning documents.</p>	<p>The project is just one element of the state's long-range strategy to meet anticipated future water needs of Californians in the face of expanding population and the expected effects of climate change. The project is not a comprehensive, statewide water plan, but is instead aimed at addressing many complex and long-standing issues related to the operations of the SWP and CVP in the Delta, including reliability of exported supplies. It is important to note that the project is not intended to serve as a state-wide solution to all of California's water problems, and it is not an attempt to address directly the need for continued investment by the State and other public agencies in conservation, storage, recycling, desalination, treatment of contaminated aquifers, or other measures to expand supply and storage (as described in Section 1.C.3 of Appendix 1C, Demand Management Measures). Some of these future water supply actions are included in the No Action Alternative and all of the alternatives, as described in Appendix 3D, Defining Existing Conditions, No Action Alternative, No Project Alternative, and Cumulative Impact Conditions, of the EIR/EIS. Please also see response to comment 3 above.</p>
95	5	<p>The Statewide Economic Impact Report invalidly changes the baseline level of water exports for the valuation of water supply and environmental benefits. A scientifically valid report would measure all impacts from a consistent baseline, but the Report varies the no-tunnel baseline for water exports by over 1 million acre feet per year in ways that severely bias the assessment in favor of the BDCP tunnels.</p>	<p>A revised economic report is being prepared for the current proposed project (Alternative 4A) and to support project financing and implementation. In contrast to the former Statewide Economic Impact Report, the new analysis will be limited to the economic benefits to water supply, water quality, and water supply reliability. The economic benefits of the habitat restoration will not be included in the new cost-benefit analysis because the amount of habitat restoration required for mitigation is substantially less than the restoration that was originally proposed under Alternative 4. This updated economic analysis is not needed to support the final EIR/EIS or the Lead Agency decisions associated with CEQA or NEPA compliance but it is expected to be released prior to the final decisions on the project.</p>
95	6	<p>The Statewide Economic Impact Report grossly overstates future urban water demand by utilizing aggressive and outdated population forecasts and ignoring conservation</p>	<p>Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS. The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.</p>

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		improvements.	
95	7	Within the Statewide Economic Impact, over \$7 billion in costs paid by taxpayers primarily for habitat are omitted from the Statewide economic welfare analysis, even though benefits from these investments are included.	The BDCP is no longer the preferred alternative. See Alternative 4A, which no longer includes an HCP or the large scale habitat restoration proposed for the BDCP. Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS. Therefore, project beneficiaries would only bear the costs of restoration necessary to mitigate project impacts from construction and operations.
95	8	Many of the errors and omissions within the Statewide Economic Impact Report are directly related to the BDCP's San Joaquin County impacts. The economic costs from the loss of approximately 100,000 acres of Delta farmland to BDCP habitat and tunnel construction are omitted from the Report.	The BDCP is no longer the preferred alternative. See Alternative 4A, which longer includes an HCP or the large scale habitat restoration proposed for the BDCP. Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS.
95	9	The Statewide Economic Impact Report ignores the impact of the tunnels on in-Delta municipal and industrial water diversions.	The BDCP is no longer the preferred alternative. See Alternative 4A which no longer includes an HCP or the large scale habitat restoration proposed for the BDCP. Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS. Please refer to Chapter 5, Water Supply, for an assessment of impacts on other water diverters.
95	10	The Statewide Economic Impact Report ignores the impact of tunnel construction on existing Delta recreation.	Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS. Please refer to Chapter 15, Recreation, for impacts to recreation from the project.
95	11	Many more errors and omissions in the Report are discussed in the detailed review that follows. Overall, the Statewide Economic Impact Report exaggerates the benefits of the Delta tunnels by comparing it to an invalid, unrealistic, ineffective and inconsistent description of conditions without the tunnel-based BDCP. Without these extreme assumptions and omissions, the BDCP would not be able to claim that it economically benefits California. It is highly unlikely that a valid and unbiased benefit-cost analysis following the Department of Water Resources' Economic Analysis Guidelines or other broadly accepted frameworks for benefit-cost analysis would find the twin tunnels to be economically justified for California.	The BDCP is no longer the preferred alternative. See Alternative 4A which no longer includes an HCP or the large scale habitat restoration proposed for the BDCP. Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS.
95	12	The economic impact results are greatly distorted by the assumption of no alternative water supply investment in the no-tunnel BDCP scenario as well as errors in the agricultural jobs analysis. Simply correcting these two errors in the water supply reliability analysis would reduce the estimated employment gains from BDCP by over 900,000 job years, a nearly 90% reduction in the claimed 1.1 million job years the Report estimates from BDCP. If BDCP were compared to a strong no-BDCP alternative, the BDCP would be unlikely to result in any net gain to California employment.	Section 16.3.3.1 of EIR/EIS Chapter 16, Socioeconomics, explains the assumptions made in the No Action Alternative scenario. It is unclear to which specific errors the commenter refers. However, the No Action Alternative was conducted using the best available data and reasonably foreseeable assumptions. As described in Section 16.3.3.1, the No Action Alternative includes continued SWP/CVP operations, maintenance, enforcement, and protection programs by federal, state, and local agencies, as well as projects that are already permitted or under construction. It should also be noted that the study area for the EIR/EIS socioeconomics assessment was the Plan Area.
95	13	The Statewide Economic Impact Report has two main components. The majority of the Report is an "economic welfare" analysis that attempts to satisfy the many requests for a statewide benefit-cost analysis. The second part is an economic impact analysis that attempts to estimate the effect of the BDCP on Statewide employment and income. While there are pieces of useful information and analysis within each part of the Report, the overall effort is fatally flawed by inconsistencies, biased assumptions, and other errors and oversights that inflate the benefits of BDCP relative to an inaccurate and inconsistent portrayal of conditions without the BDCP.	The BDCP is no longer the preferred alternative. See Alternative 4A which no longer includes an HCP or the large scale habitat restoration proposed for the BDCP. Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS. Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS.

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95	14	<p>The No-BDCP Alternative is incorrect and inconsistent</p> <p>The economics of the BDCP can only be measured by comparing it to no-BDCP conditions. Thus, correctly defining the no-project conditions is essential. Any project can be justified if it is compared to a bad enough alternative. The Statewide Economic Impact Report does not have a section which clearly describes a non-BDCP alternative that is utilized consistently throughout the Report. Instead, the scenario to which BDCP is compared varies from section to section of the Report which creates large errors that bias the analysis in favor of the BDCP.</p>	<p>The BDCP is no longer the preferred alternative. See Alternative 4A which no longer includes an HCP or the large scale habitat restoration proposed for the BDCP. Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS.</p> <p>For more information regarding the No Action Alternative please refer to Chapter 3, Alternatives, of the FEIR/EIS.</p>
95	15	<p>There are three important parts to defining the no-BDCP scenario: a) Delta water exports; b) the level of habitat investment; and c) the level of investment in BDCP alternatives. The Statewide Economic Impact Report makes critical errors in all these areas, and in each case the error exaggerates the benefits of BDCP.</p>	<p>The BDCP is no longer the preferred alternative. See Alternative 4A which no longer includes an HCP or the large scale habitat restoration proposed for the BDCP. Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS.</p>
95	16	<p>Shifting baselines for Delta water exports: The Statewide Economic Impact Report shifts back and forth between Delta water export scenarios that differ by more than one million acre feet per year. The inconsistent baseline is scientifically invalid. It results in extreme overstatements of the water supply and environmental benefits of BDCP. The poorly justified shift away from the EIR/EIS baseline increases the estimate of water supply benefits by over \$10 billion.</p> <p>The BDCP EIR/EIS defines the scenario without the BDCP as full implementation of the existing Biological Opinions. Estimates of average annual water exports would be 4.7 maf in 2025 if the tunnels were not built. This EIR/EIS no-tunnel baseline has been used by BDCP for many years. All the environmental analysis done for BDCP impacts has been conducted relative to this baseline. Thus, the economic analysis of the environmental benefits in the Report utilizes this EIR/EIS baseline.</p> <p>In May 2013, BDCP chapter 9 introduced a new no-BDCP baseline that dramatically lowered the assumed water deliveries from the Delta without the BDCP. This new scenario, called the "existing conveyance scenario," imposes the BDCP restrictions on the south Delta pumps without introducing the new north Delta intakes and tunnels. The scenario reduces Delta water exports to an average of 3.4 maf to 3.9 maf, an average decrease of more than 1 maf of water exports compared to the EIR/EIS baseline. The valuation of water supply benefits in the Statewide Economic Impact Report uses the existing conveyance scenario. Thus, the Report estimates the water supply increase from BDCP is over 1 maf per year larger than if the Report had utilized the EIR/EIS baseline.</p> <p>Because it does not include the environmental damage of the north Delta intakes while including the beneficial restrictions on south Delta pumping, the existing conveyance scenario has been said by many to be significantly more protective of fish than the BDCP preferred tunnels project. The Report does not include any environmental analysis for the existing conveyance scenario. Thus, it is invalid to use it as the baseline of a statewide analysis of benefits and costs that assesses both water supply and environmental benefits of BDCP.</p> <p>If the EIR/EIS baseline was used for the water supply analysis, the BDCP consultants have stated that the economic benefits to the water contractors would be significantly lower than their costs, and the analysis detailed in the BDCP chapter 9 Appendix suggest that the change in baseline would decrease benefits by over \$10 billion. In contrast, if the existing conveyance scenario was used for the environmental analysis, the estimated environmental benefits of</p>	<p>The baseline scenarios used in the 2013 BDCP, 2014 Statewide Economic Impact Report and the DEIR/EIS can be different because the purposes of each document are different and the definitions of "baseline" are different for each law governing each document.</p> <p>Please also see Master Response 1 for a discussion of the environmental baselines used in the EIR/EIS. As noted and explained more fully in the Master Response, in preparing the EIR portion of the EIR/EIS, DWR, as CEQA Lead Agency, took care to make the document's CEQA impact conclusions as realistic and accurate as possible, consistent with applicable legal principles.</p>

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		<p>BDCP to the state would drop substantially and possibly be negative since the significantly lower levels of water exports in the existing conveyance scenario are likely to be better for fish and will have lower greenhouse gas emissions than the BDCP proposal.</p> <p>The failure to use a consistent no-BDCP baseline for water exports across all components of the analysis is a fatal flaw that makes all policy conclusions from the Report scientifically invalid.</p>	
95	17	<p>No-BDCP habitat assumption: The Statewide Economic Impact Report inaccurately assumes that none of the habitat projects included in the BDCP would be implemented in the absence of the BDCP. This assumption is contradicted by the funding plan for BDCP, the Delta Stewardship Council's Delta Plan, and the 2009 Delta Reform Act which requires significant actions to improve water supply reliability and ecosystem restoration with or without the twin tunnels and BDCP.</p> <p>Both the welfare analysis and the economic impact analysis quantify significant economic benefits that stem from the construction of restored habitats envisioned in the BDCP. Since these analyses are relative to the no-BDCP baseline, the implicit assumption is that none of these habitat projects would be implemented without the BDCP. The funding plan for BDCP suggests otherwise, as all the habitat investments (except for the mitigation requirements for the tunnels) are funded by existing sources or anticipated water bonds that are separate from BDCP. Every dollar utilized for these habitat investments would still be available for these habitat investments without BDCP, and in most cases the projects would still go forward without BDCP because they are included in the Delta Stewardship Council's Delta Plan and the 2009 Delta Reform Act requires actions to achieve the co-equal goals.</p> <p>The economic analysis must define the habitat projects that would be likely to move forward without BDCP. Given the funding plan for BDCP, where the water contractors only pay for the tunnels and mitigation and public funds pay for BDCP habitat, it is hard to argue that BDCP will result in any net increase in statewide conservation investments over the duration of the project. In fact, it is possible that BDCP could cause conservation funds to be diverted from projects with higher conservation values outside the Delta to implement the BDCP, and thus result in a net statewide loss. Since BDCP does not provide any new resources to statewide conservation investments compared to a no-BDCP scenario, it is invalid for the report to assume that BDCP results in an increase in statewide habitat investments relative to the no-BDCP scenario.</p>	<p>The BDCP is no longer the preferred alternative. See Alternative 4A which no longer includes an HCP or the large scale habitat restoration proposed for the BDCP. Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS.</p> <p>The originally proposed habitat restoration measures and related Conservation Measures (CMs) (i.e., CM2 through CM21) would not be included as part of the Proposed Action, except to the extent required to mitigate significant environmental effects under CEQA and meet the regulatory standards of ESA Section 7 and California Endangered Species Act (CESA) Section 2081(b). However, restoration actions that are independent of Proposed Action will continue to be pursued as part of existing projects and programs. Examples of these include the 2008 and 2009 USFWS and NMFS BiOps (e.g., Yolo Bypass improvements and habitat enhancements, 8,000 acres of tidal habitat restoration), (2) California EcoRestore, and (3) the 2014 California Water Action Plan.</p> <p>Please also see Master Response 31 for more description of the proposed project's compliance with the Delta Reform Act.</p> <p>For more information regarding cost and funding sources please see Master Response 5, beginning under the BDCP Chapter 8 discussion addressing project implementation.</p>
95	18	<p>Investment in tunnel alternatives: The Statewide Economic Impact Report incorrectly assumes that the level of investment in conservation and alternative water supplies is the same in the BDCP and no-BDCP scenario.</p> <p>As discussed later in this review, the baseline urban water supply and demand projections in the Report are founded on an overly pessimistic view of future conservation and development of alternative water supplies. The Report assumes conservation gains slow dramatically compared to the past twenty years, totaling only 250,000 acre feet by 2035, and assumes that less than 200,000 acre feet of water recycling and desalination projects would be completed, for a total of only 450,000 af of new conservation and alternative water supplies. In contrast, the San Diego County Water Authority has identified up to 1,300,000 acre feet of alternative water supplies that are already in the plans of southern California urban water agencies. In addition, this assumption conflicts with integrated resource</p>	<p>Please note that the 2013 BDCP is no longer the preferred alternative. See Alternative 4A which no longer includes an HCP. Alternative 4A has been developed in response to public and agency input.</p> <p>The proposed project is not intended to serve as a state-wide solution to all of California's water problems and it is not an attempt to address directly the need for continued investment by the State and other public agencies in conservation, recycling, desalination, treatment of contaminated aquifers, or other measures to expand supply and storage. Nor is the proposed project intended to solve all environmental challenges facing the Delta.</p> <p>For more information regarding purpose and need please see Master Response 3.</p>

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		<p>management plan of the Metropolitan Water District (MWD).² The MWD regional plan includes nearly 700,000 acre feet of new conservation and alternative water supplies in the Core Resource Strategy that MWD plans to implement under any future scenario, and an additional 500,000 acre feet of uncertainty buffer water supplies that MWD would develop if necessary.</p> <p>Given the pessimistic baseline for conservation and recycling, it is invalid for the Report to assume that there would not be any additional water supply development stimulated by the extreme water shortages the Report forecasts in the no-BDCP existing conveyance scenario. The MWD Integrated Regional Plan describes the uncertainty buffer as a strategy that calls for additional local resource development that would be triggered by the type of action envisioned in the No-BDCP alternative. This strategy would result in an additional 500,000 acre feet buffer above the Core Resource Strategy that would only be developed if needed. Thus, the Report's assumption that there would be no difference in conservation and local water resource development with or without BDCP is invalid.</p> <p>"For example, the imposition of additional and unforeseen environmental and regulatory restrictions could cause significant impacts to water supplies. Under additional restrictions, Metropolitan would need to significantly adapt in order to meet anticipated water demands...</p> <p>Through the IRP Technical Workgroups, Metropolitan's member agencies have also identified various local supply projects that could be implemented and added to the regional supply portfolio if necessary. For the purposes of the rate discussion in Section 4, this additional local supply development is assumed to be up to 300,000 AF regionally. Combined with the 200,000 AF of regional water-use efficiency buffer, the total regional buffer could be as much as 500,000 AF. These local supply projects would be developed as needed, based on an evaluation of risk, cost and regional benefit." (MWD Integrated Regional Plan 2010, page 3-18)</p> <p>Rather than follow the largest urban water agency's official plan for how it would respond to a no-BDCP alternative with reduced water exports, the Report paints an unrealistic, do-nothing alternative. The result is an alarmist prediction of economic losses without the BDCP.</p>	
95	19	<p>Outline of a correct No-BDCP or No-Tunnels Alternative</p> <p>The co-equal goals of the 2009 Delta Reform Act remain the law of California even without BDCP, and non-tunnel conservation measures in the BDCP rely on funding sources that will exist in the absence of the BDCP. A better and more realistic no-BDCP, no-tunnels, alternative would have the following four elements:</p> <ol style="list-style-type: none"> 1. Delta water exports that match the BDCP EIR/EIS no-action alternative and are consistently applied throughout all sections of the Statewide Economic Impact Report's analysis. 2. Implementation of most, if not all, of the non-tunnel conservation measures included in the BDCP. 3. Significantly higher investments in conservation and alternative water supplies financed by the tens of billions of dollars saved by not constructing the tunnels. 	<p>The reasons for selecting the alternatives evaluated in this Final EIR/EIS are summarized in Chapter 3, Description of Alternatives and discussed fully in the screening analysis presented in Appendix 3A. Comments regarding the economic analysis are not related to the content of the EIR/EIS and are not addressed further. Please see Master Response 31 for more information regarding consistency with the Delta Reform Act.</p>

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		<p>4. An assumption of higher level of levee investment, and flood protection from seismic and catastrophic events, for both the BDCP and no-BDCP alternatives.</p> <p>This no-BDCP alternative is not only more accurate and realistic, it also would greatly simplify and clarify the economic study. Since the level of habitat investments and recovery prospects for endangered and threatened fish would be similar in the BDCP and no-BDCP alternatives, the costs and benefits of these actions would mostly cancel each other out when the BDCP and no-BDCP alternative are compared. The resulting economic analysis would then be properly focused on the main decision facing the State with respect to the BDCP: whether or not to build the twin tunnels.</p>	
95	20	<p>The tunnels must be analyzed and justified separately from the habitat investments according to standard benefit-cost principles, including those published by the State Department of Water Resources.</p> <p>The Statewide Economic Impact Report co-mingles effects of the tunnels with habitat repeatedly. Benefit-cost guidelines are clear that conveyance and habitat elements are separable and should be justified independently. If the no- BDCP alternative were defined, this issue would be less important since there would be little difference in the habitat enhancement in the BDCP and no-BDCP alternative. In addition, many of the criticisms below would not be relevant if the benefit-cost calculations were focused solely on the tunnels.</p>	<p>The BDCP is no longer the preferred alternative. See Alternative 4A which no longer includes an HCP or the large scale habitat restoration proposed for the BDCP. Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS.</p>
95	21	<p>The Statewide Economic Impact Report analysis ignores BDCP costs that are not paid by the water contractors. Thus, over \$7 billion in costs paid by taxpayers primarily for habitat are omitted from the calculation of statewide net benefits.</p> <p>The absence of non-contractor BDCP costs from the economic welfare analysis portion of the Report is a glaring omission. Table ES-2 of the Report summarizes the statewide welfare changes from implementing does not include over \$7 billion in BDCP costs that would be paid by State and Federal taxpayers. Simply including this important cost would substantially change the result of \$5 billion present value of net benefits. The Report provides no explanation for this important omission.</p> <p>During the public meeting on the Report, the consultants reportedly stated that they intentionally omitted this cost because they had not quantified all the non-market values of BDCP habitat restoration. This is an invalid excuse since the Report did calculate many non-market benefits from restoration, but omitted all of the costs. In addition, as discussed below, there are many non-market benefits and costs from implementing BDCP that are left out of the Report's analysis and it is not clear that BDCP is even a net positive for these non-market values. This is another issue that would be less important if the no- BDCP alternative were defined, or would be irrelevant if the benefit-cost analysis was properly focused on the tunnels alone.</p>	<p>The BDCP is no longer the preferred alternative. See Alternative 4A which no longer includes an HCP or the large scale habitat restoration proposed for the BDCP. Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS.</p>
95	22	<p>The economic costs from the loss of approximately 100,000 acres of Delta farmland to BDCP are omitted from the calculation of statewide net benefits.</p> <p>It is surprising that this cost is omitted from the Statewide Economic Impact Report's welfare analysis since most of it is included in the economic impact analysis (see Table 5.1-8 which includes agricultural land loss from all the conservation measures except the tunnels). The loss in producer welfare from the estimated \$89 million loss in Delta agricultural production</p>	<p>The BDCP is no longer the preferred alternative. See Alternative 4A which no longer includes an HCP or the large scale habitat restoration proposed for the BDCP. Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS.</p>

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		would likely result in a present value loss of economic welfare between \$500 million and \$1 billion that should be included as a cost in the Report's welfare analysis. This is another issue that would be irrelevant if the benefit-cost analysis was properly focused on the tunnels alone.	
95	23	<p>The Statewide Economic Impact Report uses an aggressive, outdated population growth scenario for the State that overstates the number of future water consumers by several million.</p> <p>The excessive population forecast in the Report results in a large overstatement of future growth in water demand, and subsequently overstates future water shortages and the value of water supply reliability. The California Department of Finance has updated population growth projections based on the 2010 Census, as well as updated data on fertility, mortality and migration. As a State planning document, the BDCP should be consistent with CA DOF projections. It appears that BDCP study has 5 million too many urban residents in 2050 compared to current projections, which suggests urban water demand and the resulting shortages are overstated by at least 500,000 af per year. The information about the forecast of future water demand is in BDCP chapter 9, appendix A, and is incorporated by reference into the Report.</p>	The BDCP is no longer the preferred alternative. See Alternative 4A which no longer includes an HCP. Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS.
95	24	<p>The Statewide Economic Impact Report's analysis contains an unrealistically pessimistic view of future water conservation.</p> <p>The Report's water demand forecast assumes that very little new water conservation is adopted in urban areas that receive exported water from the Delta. The information about the effect of conservation on the forecast of future water demand is in BDCP chapter 9, appendix A, and is incorporated by reference into the Report.</p>	The BDCP is no longer the preferred alternative. See Alternative 4A instead. Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS.
95	25	<p>The Statewide Economic Impact Report's analysis pessimistically assumes no technological improvements in alternative water supplies and conservation.</p> <p>The Report's calculation of future water supply reliability benefits assumes fixed technology for alternatives and conservation through 2075. In reality, technological improvements are already underway and more can be reasonably expected to result in significantly lower costs for alternative water supplies in the future. This assumption is embedded into the forecast of future water demand and valuation of future water supply reliability in BDCP chapter 9, appendix A, and is incorporated by reference into the Report.</p>	The BDCP is no longer the preferred alternative. See Alternative 4A instead. Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS.
95	26	<p>The valuation of reduced seismic risk to export water supply is a strong point of the Statewide Economic Impact Report, but may still be an overstatement when compared to an equally strong BDCP alternative.</p> <p>Compared to the incorrect scare tactics of the BDCP public relations campaign, the relatively modest estimate of \$470 million in seismic reduction benefits is an important point of the report. It correctly accounts for the fact that, even with the tunnels, water exports would still be significantly curtailed by a massive earthquake and flood event that disabled the south Delta pumps. The largest amount of seismic protection for water exports is achieved by a strategy that invests in a seismically resilient levee system. Such an investment would make sense not just to protect water exports, but also to protect</p>	The BDCP is no longer the preferred alternative. See Alternative 4A instead. Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS.

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		<p>public safety, tens of billions of dollars in other critical transportation, energy and water infrastructure in the Delta, private property, farmland, and to protect against environmental damage from levee failures.</p> <p>It could be argued that the BDCP provides zero or negative seismic risk reduction benefits for two reasons. First, if seismic levee improvements are made to the Delta to protect other infrastructure and water supply, then the incremental seismic protection benefits of the tunnels are near zero. Second, building the tunnels reduces the probability of investment in a seismically-resilient levee system because politically-influential water exporters will be less willing to support this investment. Thus, if the tunnels result in a lower overall level of seismic protection in the Delta, the construction of the tunnels result in a net decrease in seismic flood protection in the Delta on a statewide basis. Finally, it should be noted that the seismic failure probabilities in BDCP study are based on the DRMS report, which is thought by many engineers to be exaggerated and which utilizes outdated historical information on Delta levees that does not account for significant improvements that have been made in recent decades.</p>	
95	27	<p>The Statewide Economic Impact Report’s finding that Delta salinity will be little changed by BDCP is unsubstantiated and inconsistent with policy actions of the Department of Water Resources and commitments in the draft BDCP.</p> <p>The Report uses a sound economic model to relate changes in Delta salinity to changes in Delta crop production. The finding in the Report of minimal salinity effects does not stem from the economic model, but from DSM-II modeling results provided by the Department of Water Resources that supposedly find that implementing the BDCP will have little effect on Delta salinity. The Report provides no references to a document with the modeling results or the results themselves. Thus, the Report offers little explanation and no scientific substantiation for the controversial and counter-intuitive result that diverting an additional 3 million acre feet of fresh water from the Sacramento River has little to no effect on Delta salinity. On page 3.1-11, the Report states that salinity in the south Delta is actually expected to decrease because of implementing the BDCP, in part due to increased freshwater flows from the San Joaquin River. This is a plausible explanation for how Delta water quality might be maintained if the north Delta intakes and tunnels are built, but it should be noted that the existing conveyance scenario used as the baseline in the Report includes a substantial reduction in exports from the South Delta compared to current conditions or the EIR no-action alternative. The average baseline salinity level reported in the Report looks like current conditions, which adds further confusion as to which baseline is being used. This may be another case where the Report is plagued by the shifting baseline, and is another reason why the DSM-II results need to be clearly displayed for the existing conveyance scenarios, the BDCP scenarios, EIR no-action scenario and existing conditions. The Report needs to provide the detailed modeling results that are the basis of this controversial claim.</p> <p>Furthermore, the Department of Water Resources should stand behind the modeling results by putting Delta water quality assurances within the BDCP that match their modeling. Without such documentation or policy assurances, the approach in the BDPC Economic Sustainability Plan, based on water quality degradation consistent with the state’s policy proposals, is more valid. In the absence of such assurances, Delta agricultural users face increased uncertainty about water quality if the BDCP is implemented. Undocumented computer modeling results, upon which the Report relies, do nothing to alleviate that</p>	<p>This comment is on Statewide Economic Impact Report, which is not a part of the EIR/S. Please refer to Chapter 8, Water Quality, Impacts WQ-7, 8, and 11 in the FEIR/EIS for details regarding salinity. The salinity analysis has been updated based on revised hydrologic and water quality modeling conducted for Alternative 4A. Significant impacts under Alternative 4A were only identified for EC at Emmaton and Prisoners Point, and are to be mitigated through real-time operations that could not be completely represented in the modeling on which the EC assessment is based.</p>

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		uncertainty in the absence of enforceable Delta water quality commitments within the BDCP itself.	
95	28	<p>The Statewide Economic Impact Report is unbalanced in its consideration of regulatory uncertainty. The value of reducing uncertainty to water exporters is considered, whereas increased uncertainty in other regions of the State is ignored.</p> <p>BDCP documents note how climate change could reduce freshwater availability and reservoir levels in the future. Upstream water interests are concerned that the assurances BDCP provides to water deliveries outside the area of origin could destabilize future water availability in their regions. This increase in uncertainty has an economic cost that is ignored in the Report. Furthermore, the BDCP increases uncertainty for in-Delta interests, including water quality issues and the large Restoration Opportunity Areas that create uncertainty over land use and property values. The Report is unbalanced in that it values the uncertainty-reducing benefits of BDCP to some interests, but ignores the uncertainty-increasing effects of BDCP on other interests. On a statewide basis, many aspects of BDCP are properly seen as transferring risks rather than reducing risks.</p>	The BDCP is no longer the preferred alternative. See Alternative 4A instead. Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS.
95	29	<p>The Statewide Economic Impact Report's discussion of recreation impacts is unbalanced and uses an incorrect no-BDCP baseline. It does not quantify large negative impacts associated with the tunnels, while crediting significant speculative recreation benefits to BDCP that may also occur in the no-BDCP scenario.</p> <p>This section of the Report is poorly documented and explained. The Report only presents qualitative discussion of important negative impacts of the tunnels even those these impacts that physically disrupt recreation sites and water levels with historical usage levels are the easiest to estimate with real data. Instead, the researchers use a benefit transfer toolkit to make speculative assessments of increased recreation from increased conservation acres. The Report ignores other research on Delta recreation and fails to compare its baseline estimates of visitor counts to known data to validate the modeling. The Report ignores dozens of negative comments from Delta recreationists about BDCP, and makes no effort to collect quantitative and qualitative data from local recreation providers. While there are lots of numbers in this section of the Report, the most important numbers are missing. For example, the Report shows the estimated change in visitor levels, but does not provide the estimated visitation levels with and without BDCP, so that the results can be tested for reasonableness. The Report is unclear whether the increased visitation is driven by non-BDCP factor such as population or income growth. Most importantly, the Report's modeling appears to increase estimated recreational visits for substantial amount of acreage while the Report acknowledges that recreational access may not be significantly changed. For example, much of the conserved acres are conservation easements, not fee simple acquisition, and the Report states that visitor access may be restricted in many conservation areas. The BDCP makes no provision for increasing recreational facilities that would be needed to support the increased visits. The Report downplays the disruptive effects on boat navigation and the loss of existing recreational facilities from BDCP. Overall, this section of the Report simply has an unacceptable bias from not quantifying substantial and important negative impacts, while overstating and quantifying benefits from BDCP that may also occur in the no-BDCP scenario. Since the main difference between the BDCP and a reasonable no-BDCP scenario is the water conveyance tunnels proposal, the recreation impacts of the tunnel construction and operation should be prioritized and quantified. It is highly unlikely that BDCP would result in</p>	<p>Operations of Alternative 4 and the new preferred alternative, 4A, are not expected to result in a substantial decrease or increase in Delta surface water levels. Please refer to Appendix 5A, Section C, CALSIM II and DSM2 Modeling Results, EIR/EIS, for more information. Section C.29 reports changes in the monthly averaged daily minimum elevation of the Sacramento River at Freeport (see tables beginning on page 5A-C1106). Results for each alternative are presented by month, probability of exceedance, and by water year type. Results are also presented in comparison to Existing Conditions and the No Action Alternative. The modeling results for the future No Action Alternative indicate that water levels may continue to change as climate change occurs within the Delta.</p> <p>For the full modeling simulation period, the Alternative 4 would result in one month during which average daily minimum water elevation would be lower when compared to Existing Conditions. Depending on the operational scenario selected, results indicate that daily minimum water surface elevations would be 0.3 feet or 0.4 feet lower on average during the month of March. However, during other months, the average daily minimum water surface elevation would increase when compared with Existing Conditions. For example, average daily minimum water elevations in September would increase by 0.9 to 1.3 feet under the proposed project, depending on which operational scenario was selected.</p> <p>EIR/EIS Chapter 15, Recreation, provides the results of the assessment of potential impacts on recreation occurring within the Delta as a result of constructing and operating the alternatives.</p>

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		recreation benefits and could result in net losses to recreation benefits.	
95	30	<p>Significant negative groundwater impacts in the Delta are ignored in the Statewide Economic Impact Report.</p> <p>Delta communities will be negatively impacted by dewatering required for construction of the tunnels, and some habitat development could also negatively affect groundwater resources in the Delta. These significant in-Delta economic impacts are discussed in the BDCP's EIR/EIS, but are ignored in the Report.</p>	<p>FEIR/EIS Chapter 7 Groundwater provides an assessment of the impacts of construction dewatering on groundwater levels. As noted in Chapter 7, impacts would be avoided through the use of slurry walls at all construction sites.</p>
95	31	<p>The Statewide Economic Impact Report's in-Delta urban water quality losses are not quantified, utilize an incorrect baseline, and do not discuss several important contaminants such as methyl mercury and organic carbon.</p> <p>The Urban Water Treatment section of the Report appears to be taken from the EIR/EIS, and does not appear to be consistently using the Existing Conveyance Scenario as the baseline. Since the Existing Conveyance Scenario has substantially lower exports than the EIR/EIS no-action scenario or existing conditions, it is likely to result in lower salinity in several in-Delta locations. In addition, this section of the Report discusses water quality changes at the Banks and Jones pumping plants, and these water quality benefits are already quantified in an earlier section of the Report that values the benefits of BDCP to water exports. In addition to double counting water quality benefits to export water agencies in two sections of the Report, this section of the Report ignores the potential impacts on the City of Stockton's new in-Delta water supply intakes.</p> <p>The section of the Report does not discuss concerns of urban agencies about methyl mercury and organic carbon contamination from the BDCP. Overall, the biggest problem with this section of the Report is that it uses an incorrect baseline and offers only a qualitative discussion of benefits. The lack of economic valuation of these effects is inexcusable since the Report researchers went to great effort to quantify water quality benefits to the export agencies but did not bother to quantify water quality costs to other urban water agencies.</p>	<p>Please refer to Chapter 8, Water Quality, in the Final EIR/EIS for a complete analysis of project effects on organic carbon, and methylmercury, as well as Chapter 4, regarding the approach to the environmental analysis.</p>
95	32	<p>The Statewide Economic Impact Report's commercial fisheries analysis is invalid and biased, because it does not use the same no-tunnel baseline scenario as the water supply analysis.</p> <p>The assessment in this section of the Report uses the EIR/EIS baseline instead of the Existing Conveyance Scenario that imposes BDCP pumping constraints on the south Delta and has far lower water exports than the EIR/EIS baseline. The Report provides no environmental analysis of the Existing Conveyance Scenario, but it is thought by some experts to be more beneficial to salmon than the BDCP since it includes the benefits of BDCP pumping reduction in the south Delta without imposing the harmful effects of the new North Delta intakes. Thus, if compared to a consistent baseline as the water supply analysis, the commercial fishery effect of BDCP would be a cost, not a benefit. In addition to the wrong water export baseline, the Report's assessment takes credit for salmon improvements from habitat projects - like the Yolo bypass enhancement - that are likely to be implemented without BDCP. Finally, the Report's discussion of Chinook salmon benefits is taken from the EIR/EIS which has been challenged by fishery experts, so the Report may be overstating BDCP benefits to salmon even without the problem of the invalid baseline.</p>	<p>The commenter's opinion about the merits of the 2014 draft Statewide Economic Impact Report and its use of particular baseline scenarios are acknowledged. The baseline scenarios used in the 2013 BDCP, 2014 Statewide Economic Impact Report, and the EIR/EIS can be different because the purposes of each document are different and the definitions of "baseline" are different for each law governing each document.</p> <p>Please see Master Response 1 for a discussion of the environmental baselines used in the EIR/EIS.</p>

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95	33	<p>The Statewide Economic Impact Report's air quality and greenhouse gas emissions analysis are incorrect because they do not use the same no-tunnel baseline scenario as the Report's water supply analysis.</p> <p>The Existing Conveyance Scenario used in the Report's water supply analysis has much lower water exports and water pumping south of the Delta. Thus, the Report's analysis grossly understates the increase in electricity consumption from implementing the BDCP, and also greatly underestimates the greenhouse gas and air quality costs of implementing the BDCP. If the Existing Conveyance Scenario baseline were used, the incremental amount of water exports resulting from BDCP would more than double, and the incremental greenhouse gas cost from the additional water pumping would double as well. Based on the results in the Report, the cost of BDCP would increase by roughly \$100m to \$250m if a consistent baseline were utilized.</p>	<p>The Socioeconomics chapter of the EIR/EIS provides a discussion of the socioeconomic impacts of the proposed action (Alternative 4A) and alternatives as required by CEQA and NEPA.</p> <p>For more information regarding BDCP costs, please see Master Response 5.</p>
95	34	<p>The Statewide Economic Impact Report's flood risk section assumes that there will be no difference in levee investment between the tunnel and no-tunnel scenarios.</p> <p>A more realistic and correctly specified no-BDCP scenario would include a higher level of levee investment than the BDCP. The Delta Stewardship Council Delta Plan calls on the State to create a levee assessment district that will assess levee beneficiaries to generate resources for flood protection and emergency response. BDCP would reduce the benefits of the levee system to water agencies and would result in a lower assessment and thus fewer funds to invest in the levee system. In addition, it would also reduce the incentive of the Department of Water Resources to allocate public funds to these projects because the levees would be of less value to the State Water Project. Finally, the Report's qualitative discussion of BDCP flood control takes credit for flood bypasses and other conservation measures that reduce flood risk, are part of the Delta Stewardship Council's Delta Plan, and are likely to be implemented with or without the BDCP.</p>	<p>The new proposed project, Alternative 4A, substantially reduces the habitat restoration footprint and does not include Conservation Measure 2 (Yolo Bypass Enhancements) and Conservation Measure 5 (Seasonally Inundated Floodplain Restoration). Instead, the proposed project includes habitat restoration necessary to mitigate significant environmental effects under CEQA and meet the regulatory standards of ESA Section 7 and California Endangered Species Act (CESA) Section 2081(b). Yolo Bypass Enhancements would be assumed to occur as part of the No Action Alternative because they are required by the existing BiOps.</p> <p>Please see Chapter 3 FEIR/EIS, for the BDCP/CWF purpose and need, and Appendix 6A Sections 6A.2 and 6A.3 for discussion on existing levee improvement programs and funding mechanisms, which would not be affected by the BDCP/CWF.</p> <p>Under a dual conveyance system as proposed under the California Water Fix (BDCP/CWF), SWP and CVP operations will still be vulnerable to levee failure events, since approximately 50% of CVP and SWP Delta exports will continue to be pumped from the south Delta export facilities. As such, levee improvements and flood management opportunities will continue to be pursued, regardless of BDCP/CWF implementation. In addition, it is recognized that levee maintenance and safety in the Delta is an important issue for the residents of the Delta and for statewide interests.</p>
95	35	<p>Property value benefits from BDCP open-space habitat are overstated in the Statewide Economic Impact Report. Development of farmland open space is already severely restricted in the Delta such that the BDCP will not increase open space.</p> <p>Between the land use restrictions of the Delta Protection Commission, the Delta Stewardship Council, floodplain designation, and restrictive agricultural zoning from Delta Counties, Delta agricultural lands already have some of the strongest development restrictions to be found anywhere. As a result, it is unlikely that Delta property owners will experience significant benefits from additional open space protection from BDCP. In fact, there could be conflict between agriculture and endangered species habitat on adjacent properties that increase regulatory risk and lower the value of Delta farmland. Finally, it should be noted that the north Delta area where the negative construction and operations impacts of the tunnel intakes will occur is the most populated portion of the Delta and has the highest value real estate in the Delta Primary Zone.</p>	<p>The BDCP is no longer the preferred alternative. See Alternative 4A instead. Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS.</p>
95	36	<p>Including non-market values for endangered species protection in the Statewide Economic Impact Report could result in additional costs from implementing BDCP.</p>	<p>The Recirculated Draft EIR/Supplemental Draft EIS released in 2015 introduced a new preferred alternative, 4A, which does not include a HCP or conservation measures. The alternative implementation strategy allows for other state and federal programs to address the long term conservation efforts for species</p>

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		<p>The Report should account for the non-market value associated with the protection of endangered and threatened species. Since the low-export Existing Conveyance Scenario is likely to be more protective of fish than the BDCP, there would be a non-market cost associated with BDCP. Due to the use of the Existing Conveyance Scenario as the baseline, the Report is omitting non-market costs to endangered species resulting from not implementing the enhanced flows in this scenario. These values could be considerable.</p> <p>Instead of focusing on the more important non-market valuation of improving fish populations, the Report's consultants have stated that they may provide non-market values for habitat restoration to increase BDCP benefits in a future revision of this Report. As discussed above, there may not be a meaningful difference in habitat restoration if the BDCP and no-BDCP alternatives are defined correctly. However, if the Report's consultants do estimate non-market values for habitat development, it should also be noted that this development eliminates existing non-market values for the preservation of prime farmland. Prime farmland, as found throughout the Delta, provides non-use societal values similar to habitat. The public value placed on the preservation of prime farmland is manifested through a variety of policies that subsidize the preservation of or otherwise work to preserve farmland for public benefits. The BDCP would convert large amounts of farmland to habitat, and it is not clear at all whether the non-market values of prime farmland that is eliminated is higher or lower than that of habitat restoration. Any non-market valuations of restoration must be net of the lost non-market values of farmland. This is another controversial issue that could be largely avoided if the no-BDCP alternative were properly specified as discussed in Section 1.</p>	<p>recovery in programs separate from the proposed project. Alternative 4A would implement substantially less habitat restoration than Alternative 4. Please refer to Chapter 3, Description of Alternatives, for more detail.</p>
95	37	<p>Income and employment impacts comments:</p> <p>The Statewide Economic Impact Report's economic impact analysis is separate from the economic welfare analysis. Some issues, like loss of agricultural land to habitat projects and taxpayer costs, are included in the Report's economic impact analysis but are excluded from the economic welfare analysis. The combination of two analyses into one report and the inconsistent treatment of impacts between the two analyses creates confusion. For example, including taxpayer costs in the Report's economic impact analysis does not minimize the error from excluding these impacts from the Report's welfare analysis.</p> <p>The incorrect no-BDCP scenario described in section 1 of the Report is a source of major errors in the Report's economic impact analysis. In fact, the Report's incorrect assumption that there are no additional alternative water supplies developed in urban areas drives most of the results in the Report's economic impact analysis. It is worth noting that there are well-known problems with applying a static input-output model such as IMPLAN to the types of long-run macroeconomic effects considered in this section of the Report, and those weaknesses and the possible overstatement of impacts from the modeling approach should also be acknowledged.</p>	<p>Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS. Please see the Socioeconomics chapter of the EIR/EIS for a discussion of the socioeconomic impacts of the proposed action (Alternative 4A) and alternatives as required by CEQA and NEPA.</p>
95	38	<p>Urban water supply reliability impacts are grossly overstated in the Statewide Economic Impact Report. If Metropolitan Water District and other agencies follow their own plans for investment in alternative water supplies and conservation, there will be no water shortages for commercial and industrial activity if the tunnels are not built and thus no economic impact.</p>	

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95	39	<p>Employment impacts from agricultural water supply reliability are grossly overstated in the report. The Statewide Economic Impact Report includes an incorrect and biased estimate that a million dollars of crops produced by water exporters creates 48 jobs, whereas a million dollar of crops in the Delta only creates 13 jobs.</p> <p>The discrepancy is because the Report uses a different methodology for agricultural water exporters and Delta agriculture. The Report’s methodology for agricultural water exporters incorrectly double counts agricultural support services jobs (i.e. labor contractors) and uses multipliers that includes food processing jobs that are excluded from the Delta region analysis. A consistent estimate for the San Joaquin Valley agriculture region would have entered the change in agricultural revenue into the IMPLAN model in the same manner that was done for Delta agriculture region. Instead, the Report’s analysis uses an econometric estimate of how water deliveries effect both direct farm employment and indirect agricultural services employment. Then, the Report’s analysis incorrectly applies an employment multiplier derived from IMPLAN that includes both food processing and agricultural production. There are two large errors in this portion of the Report. First, the econometric model already includes indirect agricultural employment in its estimates, so applying an IMPLAN multiplier to these results double counts indirect jobs. Second, the multiplier is not for agricultural production but an aggregate industry that includes food processing and has a larger multiplier than just agricultural production. This is inconsistent with the treatment of Delta agriculture, and creates the nonsensical finding that a dollar of agricultural revenue in the Westlands Water District creates nearly four times the employment of a dollar of agricultural revenue in the Delta.</p> <p>The bottom line is that there should be no significant difference in the employment multiplier between two agricultural regions in the Central Valley. Dr. Sunding, the lead Report consultant, used this econometric model in two other studies (a declaration he submitted on behalf of the water exporters in 2011 for a Federal court case regarding the Delta Smelt and Salmon Biological Opinions and an article in the UC ARE Update newsletter) but he did not apply a multiplier to his estimates of agricultural employment change in these other studies.</p>	Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS.
95	40	Correcting the Statewide Economic Impact Report’s errors in the urban and agricultural water supply reliability analysis would reduce the estimated employment gains from BDCP by over 900,000 job years, a nearly 90% reduction in the claimed 1.1 million job years the Report estimates from BDCP.	The BDCP is no longer the preferred alternative. See Alternative 4A instead. Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS.
95	41	The Statewide Economic Impact Report’s calculations of employment impacts of building the tunnels are very small relative to the enormous public expenditure, generating only 7.8 years of employment per \$1 million in public spending. This part of the Report’s analysis is actually quite good, and generates a low employment number because of heavy spending on imported components and equipment, as well as concrete and other materials, that generate few jobs. Investing in alternative water supplies will generate far more employment per dollar spent, and thus a correct no-BDCP scenario with alternative investments could create more jobs than BDCP.	As the commenter notes, the analysis conducted for the Bay Delta Conservation Plan Statewide Economic Impact Report estimates that construction of the 2013 BDCP water conveyance facilities would generate 110,596 full-time equivalent jobs (Table 5.2-1), with construction costs totaling about \$14.2 billion (Table 5.1-3), resulting in 7.8 full-time equivalent jobs per \$1 million in construction spending. Investing in alternative water supply facilities may or may not generate more jobs per \$1 million in expenditures. Evaluating the economic effects of alternative approaches to the BDCP was not the purpose of the Statewide Economic Impact Report.
95	42	Agricultural land acquisition is a conversion of wealth from one form to another, and is incorrectly modeled in the Statewide Economic Impact Report as an increase in income in the Delta. There is no reason why such a wealth shift would increase consumption over the 50 year BDCP period, especially since alternative investments with that wealth could be less	The BDCP is no longer the preferred alternative. See Alternative 4A instead. Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS.

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		<p>profitable than farming. In addition, there could be debt against the acquired property that would have to be paid off with the compensation and which would reduce the net proceeds. Furthermore, the recipients of the proceeds of the property acquisition in many cases would have lost their homes and their jobs and are very likely to relocate from the area, which could reduce local spending. The Report's statement of positive impact that simply purchasing the land creates 7,000 jobs from increased household spending is incorrect and should be eliminated.</p>	
95	43	<p>The Statewide Economic Impact Report's statement of losses from increased water rates and taxpayer contributions to BDCP are underestimated due to an incorrect treatment in IMPLAN. BDCP does not include a tax increase to fund public costs. It is a redirection of government spending from other areas to pay water bonds. For households, rate increases are a change to after-tax income, not pre-tax income.</p> <p>Correctly modeling the state contribution as a decrease in state government spending on General Fund- supported programs, such as education, corrections, and healthcare, will result in much larger in-state losses to employment and income than the Report's approach of only including induced impacts and treating it is a pre-tax income change. For households, correctly treating the change as a post-tax income change will increase the induced effect and losses from BDCP.</p>	<p>The BDCP is no longer the preferred alternative. See Alternative 4A instead. Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS. Please see Master Response 5 regarding the estimated costs of the 2013 public draft BDCP and their adequacy for the purposes of the regulatory authorizations by the state and federal wildlife agencies.</p>
95	44	<p>The Statewide Economic Impact Report's economic impact analysis excludes the loss of agricultural land from production from the construction of the tunnels. Although fewer acres than habitat, this loss of agricultural production occurs before construction even starts, and thus it is very important because it has impacts over the entire analysis period covered by the Report.</p>	<p>Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS.</p>
95	45	<p>The Statewide Economic Impact Report's rate increase impacts do not account for financing costs. Even though a finance plan remains in development, reasonable estimates of the costs of issuing bonds and maintaining appropriate bond coverage and reserves should be included in the Report because ratepayers will bear these costs.</p>	<p>Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS.</p> <p>For additional information regarding funding, please refer to Master Response 5.</p>
95	46	<p>The reliability impacts of the BDCP would start very small and grow over time. They would not be fully felt in 2025 even if the impacts really were as large as the Statewide Economic Impact Report inaccurately suggests. Properly accounting for the timing of these impacts would reduce the overall economic impact of water supply reliability from the BDCP.</p>	<p>Please note that the Statewide Economic Impact Report is not a part of this EIR/EIS.</p>
95	47	<p>I think the biggest gap in the BDCP is a biological assessment of the existing conveyance scenario. I know chapter 9 sidesteps this by comparing alternatives to each other, but the economic welfare analysis in this report cannot do that. I have asked a lot of biologists' opinions on this. None said BDCP was better for fish, and many said the existing conveyance scenario seems more protective of fish than the BDCP.</p>	<p>The commenter's opinion about the 2013 BDCP and its impacts on fish is acknowledged. Each resource chapter of the EIR/EIS compares each alternative to Existing Conditions and No Action baseline conditions.</p> <p>The Proposed Project would enable DWR to construct and operate new conveyance facilities that improve conditions for endangered and threatened aquatic species in the Delta while at the same time improving water supply reliability, consistent with California law (see, e.g., Cal.Wat. Code, § 85001[c]). Implementing the conveyance facilities would help resolve many of the concerns with the current south Delta conveyance system, and would help reduce threats to endangered and threatened species in the Delta, including entrainment at the south Delta export facilities. For instance, implementing a dual conveyance system would align water operations, and their location, to better reflect natural seasonal flow patterns by creating new water diversions in the north Delta equipped with State-of-the-art fish screens, thus reducing reliance on south Delta exports during times of the year when listed aquatic species are present and most vulnerable. For more information on mitigation measures to minimize contraction and operational-related</p>

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98	1	<p>The recent release of the Bay-Delta Conservation Plan (BDCP) and the associated Environmental Impact Report and Environmental Impact Statement (EIR/EIS) marks the first time the public can truly review the Plan. Prior to the release of the Public Review Draft EIR/EIS, residents of the greater Sacramento-San Joaquin Bay-Delta region have not been provided with a complete and detailed description of the project, an accurate assessment and characterization of the potential impacts, and the specific elements of a comprehensive mitigation strategy to compensate for the impacts of this massive project. We hope that this latest iteration of the BDCP will provide these necessary details, but an extensive and detailed analysis is required in order to make that determination.</p> <p>The spirit of both the California Environmental Quality Act and the National Environmental Policy Act is grounded in fully disclosing the impacts of project actions so that we as a society can make decisions knowing full well the consequences of these actions to our communities, our livelihoods, and the environment in which we live and work. The BDCP and the Public Review Draft EIR/EIS amount to an unprecedented amount of paper, nearly 40,000 pages.</p> <p>Given the size and complexity of the document, the 120-day public comment period is woefully inadequate.</p> <p>The Delta counties, cities and towns are among the communities most affected by the proposed actions of the BDCP, and it seems apparent that additional time will be needed to thoroughly review and comment on the BDCP documents. On behalf of the Delta Counties Coalition and all who live in the Delta, we respectfully request that the public comment period for the BDCP EIR/EIS be extended by a minimum of 120-days beyond the current 120-day comment period.</p>	<p>impacts to fish species, including Delta and longfin smelt, please see Chapter 11, RDEIR/SDEIS.</p> <p>For a more concise summary of the impact conclusions made in the documents, the BDCP Executive Summary and the EIR/EIS Executive Summary are available on the project website. Additionally, lay-friendly Highlight documents for both the BDCP and the EIR/EIS were published to provide summary information about the documents and to help readers get acquainted with the documents. The BDCP Highlights and the EIR/EIS Highlights are posted online at http://baydeltaconservationplan.com/AboutBDCP/InformationalMaterials.aspx. Short one-page factsheets on the BDCP and EIR/EIS are also provided online and by request. In addition, 17 narrated informational webinar episodes have been posted to the website for both the BDCP and EIR/EIS. These webinars were developed to provide short, easy to understand summaries of key elements of the BDCP and EIR/EIS. Background documents, additional factsheets, and FAQs continue to be available on-line.</p> <p>For more information, please see Master Response 6 regarding the length and complexity of the document.</p> <p>The public comment period for the BDCP, EIR/EIS, and IA was extended to July 29, 2014. Please see Master Response 57 for more information about the public review period.</p>
99	1	<p>You may recall that in a November 21 letter, prior to the December 13 release of the BDCP Draft Plan and EIR/EIS, the Environmental Water Caucus requested that the public review and comment period be extended beyond the planned 120 days, based on the anticipated 25,000 page estimate of the BDCP documents. There are actually 40,214 pages in the released documents and request that you extend the review and comment period for at least 120 additional days, due to the extraordinary size of the documents to be reviewed.</p> <p>Based on the dictated 120 day review time period, the public is being asked to review 473 pages per day during the 85 working days that are available during the comment period. These documents represent 20% more pages than the 32 volumes of the last printed edition of the Encyclopedia Britannica. As was pointed out in the previous request, NEPA regulation 40 CFR 1502.7 declares that the text of an EIS for "proposals of unusual scope or complexity shall normally be less than 300 pages." As was also stated in that previous letter, it is impossible for organizations interested in thoughtfully responding to these BDCP documents to be staffed for a thorough NEPA/CEQA review based on the outlandish size and complexity of the documents to be reviewed.</p> <p>Sierra Club California respectfully requests that the public review period be extended for an additional 120 days, until August 15, based on the size of the actual documents you released on December 13.</p>	<p>For a more concise summary of the impact conclusions made in the documents, the BDCP Executive Summary and the EIR/EIS Executive Summary are available on the project website. Additionally, lay-friendly Highlight documents for both the BDCP and the EIR/EIS were published to provide summary information about the documents and to help readers get acquainted with the documents. The BDCP Highlights and the EIR/EIS Highlights are posted online at http://baydeltaconservationplan.com/AboutBDCP/InformationalMaterials.aspx. Short one-page factsheets on the BDCP and EIR/EIS are also provided online and by request. In addition, 17 narrated informational webinar episodes have been posted to the website for both the BDCP and EIR/EIS. These webinars were developed to provide short, easy to understand summaries of key elements of the BDCP and EIR/EIS. Background documents, additional factsheets, and FAQs continue to be available on-line.</p> <p>For more information, please see Master Response 6 regarding the length and complexity of the document.</p> <p>The public comment period for the BDCP, EIR/EIS, and IA was extended to July 29, 2014. Please see Master Response 57 for more information about the public review period.</p>