

DEIRS Ltr#	Cmt#	Comment	Response
1675	1	<p>Arbitrary expansion of Plan Area in Yolo County</p> <p>Yolo County notes the BDCP expanded the Plan Area include areas outside of the statutory Delta in Yolo County. These areas include the Yolo Bypass and land outside the statutory Delta suitable for giant garter snake habitat. Yolo County does not believe the BDCP should arbitrarily change the Plan Area boundary to include desirable habitat and requests further discussion about the Plan Area boundary as part of the County's ongoing discussions with the Resources Agency. If the BDCP expands the Plan Area to include desirable habitat, it should also consider expanding the Plan Area to encompass additional splittail spawning habitat to reduce the need to flood the Yolo Bypass during March, April, and May.</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>Please note that the BDCP is no longer the preferred alternative. The preferred alternative is now Alternative 4A/California WaterFix, which has been developed in response to public and agency input. Alternative 4A does not include an HCP or Conservation Measures, and does not propose any actions affecting the Yolo Bypass. However, the Yolo Bypass Improvements and habitat enhancements will still be implemented under Existing Conditions. The EIR/EIS analyzes all alternatives, including Alternative 4A.</p> <p>For detailed responses 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, and the role of CM2 in BDCP, please see Master Response 5.</p>
1675	2	<p>Existing Ecological Conditions</p> <p>Incomplete description of the Yolo Bypass and Yolo Wildlife Area</p> <p>The description of the Yolo Bypass in Chapter 2 (page 2-95, lines 14-30) does not adequately describe the multiple habitat benefits of the Yolo Bypass. The description focuses primarily on waterfowl (and not does not provide a sufficiently detailed description) and fish species. It does not mention the other terrestrial species that benefit from the current land uses in the Yolo Bypass, such as the giant garter snake, Swainson's hawk, Least Bell's vireo, tri-colored blackbird, and other terrestrial species. The importance of Yolo Bypass habitat to these species is described, however, in Chapter 5. The Chapter 2 description of the Yolo Bypass should provide equal attention to all species in the Yolo Bypass.</p>	<p>Please see the response to Comment 1.</p>
1675	3	<p>Inaccurate assertion that organic matter (e.g. phytoplankton and zooplankton) is exported as a result of Yolo Bypass inundation to other regions of the Delta.</p> <p>Chapter 2 (and other parts of the BDCP) asserts that seasonal floodplain inundation in the Yolo Bypass results in an export of organic matter to other regions of the Delta and therefore a potential source of food to fish species located in other regions of the Delta. The public draft further misquotes scientific studies to justify the assertion that seasonally inundated floodplain export organic matters to other regions of the Delta, including Jassby and Cloern 2000) and Moyle et al. 2007. (Specific corrections to Chapter 2 text and citations are provided in Exhibit B.) The University of California, Davis is currently seeking funds to study how the Yolo Bypass contributes production to downstream areas, but the limited evidence available suggests impacts are at best localized (pers. communication with P. Moyle). The final draft of the BDCP should remove the connection of Yolo Bypass</p>	<p>Please see the response to Comment 1.</p>

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		inundation to the export of organic matter to other regions of the Delta.	
1675	4	<p>Evidence also suggests tidal marsh restoration may not contribute to food production in the Delta. This research contributes further to doubts that Yolo Bypass inundation will result in an export of food to other regions of the Delta since this food must travel farther than food produced by tidal marsh restoration. Panel Review of the Draft Bay Delta Conservation Plan: Prepared for the Nature Conservancy and American Rivers (Mount et al. 2013) argues "the BDCP is overly optimistic about the likely benefits of tidal marsh restoration to the smelt species, particularly the extent of food production" (p.70) and "The literature does not support a confident assertion that marshes will subsidize zooplankton in open waters" (p. 73). Yolo County recognizes the BDCP organized a panel of agency biologists to discuss this issue, among other scientific issues, in August 2013 and the scientists expressed varying opinions on this issue. In addition, it was clear from this discussion there are insufficient studies to provide a clear picture of the potential relationship between tidal marsh restoration, Yolo Bypass inundation, and export of food to other regions of the Delta. As a result, the final draft of the BDCP should focus on the need for additional studies to research both the food production from tidal marsh restoration and the connection between Yolo Bypass flooding and exports of organic matter. The public draft should not express a conclusion on this matter or cite a contribution to achievement of the biological goals and objectives.</p>	Please see the response to Comment 1.
1675	5	<p>Remove specific flooding dates and acreage amounts associated with CM2</p> <p>Yolo County requests the removal of all references to specific flooding dates and acreages associated with CM2 from the final draft BDCP in favor of language agreed to by Yolo County and the Resources Agency related to achieving the sustainability principles currently under development. This includes removal of Table 3.4.2-1 "Potential Operations Pattern for Fremont Weir Gated Channel and Other Considerations." Yolo County believes removal of the table is consistent with text in Secretary Laird's February 25, 2014 letter to Yolo County indicating the programmatic CM2 will not dictate the outcome of the project-level planning process:</p> <p>"It is important to recall that the ranges of amount and timing of flooding in the Yolo Bypass presented in the programmatic CM2 are flexible and do not dictate the outcome of the project-level planning process that will follow. The Department of Water Resources (DWR) will work with the YBFEPT [Yolo Bypass Fishery Enhancement Planning Team] and Yolo County to define operational parameters based on the needs of covered species, seasonal hydrologic conditions, agricultural operations, and other variables yet to be defined; moreover, it is not DWR's intention to make operational parameters for the extent, duration, timing, and frequency of flooding events binding."</p> <p>As Yolo County has demonstrated with a series of technical studies, the potential impacts of extensive or late flooding in the Yolo Bypass to existing land uses is significant. It is therefore important to Yolo County that the text of BDCP reflect the opportunity expressed in Secretary Laird's letter to work cooperatively to develop operational parameters as part of the project-level planning process. Specific references to inundation dates and acreage amounts in the text that should be removed from BDCP, in addition to Table 3.4.2-1, are provided in Exhibit B. This list is not exhaustive.</p>	Please see the response to Comment 1. For more information regarding project versus program level analysis of the BDCP alternatives, please see Master Response 2.
1675	6	<p>Define "stressor reduction targets "to specify targets not mandatory</p> <p>Yolo County understands BDCP consultants are working on a definition of "stressor</p>	Please see the response to Comment 1.

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		<p>reduction targets" that indicates the targets are not required to implement the BDCP permit. Yolo County is specifically concerned about the language in the stressor reduction targets related to providing "access to 7,000 acres of inundated floodplain habitat within the Yolo Bypass and the Cache Slough Restoration Opportunity Area for at least 30 days in at least 70% of years" and "continuous area of floodplain habitat in Yolo Bypass of at least 7,000 acres annually between November 10 and March 23." (See pages 3.3-139, 3.3-151, 3.3-159, 3.3-179.) As per previous comments, Yolo County requests that all acreage amounts for CM2 be removed to allow for the collaborative development of operational parameters and acreage amounts during the project-level planning process. Yolo County also requests that BDCP clearly state that stressor reduction targets are not binding and are not required for permit implementation.</p>	
1675	7	<p>Do not rely on exports of Yolo Bypass organic matter (e.g. phytoplankton and zooplankton) to benefit fish in other regions of the Delta.</p> <p>More study is necessary to understand whether additional flooding in the Yolo Bypass will produce an increase in organic matter and therefore food for fish in other regions of the Delta. In fact, it is unlikely that organic matter will have a major impact on downstream ecosystems, except in wet years when the contribution to the food system is not as important because of relatively high food availability. Yolo County therefore requests the removal of CM2 as one of the measures contributing to BDCP biological goals and objectives related to enhancing export of organic matter to regions outside of the Yolo Bypass. Only measures that significantly contribute to achievement of this biological objective should be listed. It is also clear from the discussion in Chapter 5 that there is significant uncertainty associated with these benefits.</p> <p>BDCP specifically mentions that Yolo Bypass inundation will result in exports of organic matter on page 3.2-9, as follows:</p> <p>"CM2 Yolo Bypass Fisheries Enhancement contains provisions to modify Fremont Weir (lowering a portion of the weir and installing an operable gate facility), so that it can be actively managed to increase the inundation of the Yolo Bypass. Increasing the extent, duration, and frequency of floodplain inundation within the Yolo Bypass is expected to increase the extent of suitable spawning and rearing habitat available to Sacramento splittail and rearing habitat for juvenile Chinook salmon. Additionally, these changes are expected to increase the levels of phytoplankton, zooplankton, and other organic material transported from the Yolo Bypass floodplain to Cache Slough, the lower Sacramento River, the western Delta, and Suisun Bay, thereby increasing the food supply for Chinook salmon, Delta smelt, and longfin smelt in those areas."</p> <p>It appears from the text of the biological goals and objectives, such as Objective L2.9 "Increase the abundance and productivity of plankton and invertebrate species that provide food for covered fish species in the Delta waterways" that BDCP is in part relying on CM2 to meet the biological goals and objectives. The rationale for Objective L2.9 is as follows:</p> <p>"Objective L2.9 Rationale: Achieving this objective is intended to enhance the production and export of phytoplankton and zooplankton from tidal channels into adjacent Delta waterways in support of the aquatic foodweb. Loss of intertidal communities and riparian vegetation in the Delta has probably greatly reduced the production of food resources for fish leaving the system with only an open-water foodweb that is highly regulated by nonnative clams. Habitat restoration with effective tidal exchange (CM4 Tidal Natural</p>	Please see the response to Comment 1.

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		<p>Communities Restoration) is expected to enhance food production. Restoration of riparian vegetation along channel margins and in floodplains (CM6 Channel Margin Enhancement and CM5 Seasonally Inundated Floodplain Restoration) and seasonal inundation in the Yolo Bypass (CM2 Yolo Bypass Fisheries Enhancement) are expected to provide similar benefits on a seasonal basis."</p> <p>This reliance on CM2 to help achieve this objective is inappropriate and should be revisited. If future studies demonstrate benefits, the contribution of CM2 could be revisited through the adaptive management process.</p>	
1675	8	<p>Insufficient discussion of uncertainty associated with potential fish benefits of Yolo Bypass inundation</p> <p>The BDCP does not sufficiently discuss the uncertainty associated with the potential fish benefits of Yolo Bypass inundation, either in the species accounts or in Conservation Measure 2. There is some discussion of uncertainty in Chapter 5, but it should be improved. The BDCP includes only one sentence in the winter-run salmon species account, for example, describing this uncertainty.</p> <p>"Juvenile winter-run Chinook salmon likely inhabit Suisun Marsh for rearing and may inhabit the Yolo Bypass when flooded, although the use of these two areas are not well understood."(See page 2A.3-3)</p> <p>Please see Exhibit C, Draft Technical Memorandum: Potential Fish Benefits of Yolo Bypass Fish Habitat Proposals, for a discussion by University of California, Davis fish biologist Rebecca Quinones regarding additional uncertainty about the use of the Yolo Bypass by juvenile salmon and splittail. Areas of uncertainty that should be further described include: 1) the number of juvenile salmon that will access the Yolo Bypass through an operable gate in the Fremont Weir; 2) the importance of the Yolo Bypass for juvenile salmon and splittail habitat relative to other floodplain habitat outside the BDCP Plan Area; 3) the benefits to juvenile salmon of providing habitat late in the season, since high temperature or other habitat conditions can reduce benefits; 4) the potential for predation; and 5) the number of acres splittail need to spawn successfully. BDCP should also more fully integrate information about potential uncertainties from Panel Review of the Draft Bay Delta Conservation Plan: Prepared for the Nature Conservancy and American Rivers (Mount et al. 2013), especially the discussion on pages 38-41.</p> <p>Yolo County recognizes juvenile salmon grow significantly faster than their counterparts in the Sacramento River in a floodplain environment and there may be benefits to a limited increase in Yolo Bypass inundation. As discussed above, there are other elements of the use of the Yolo Bypass by juvenile salmon that are less well understood and could influence project design. These elements should be more fully described in the salmon species accounts, CM2, and Chapter 5. Exhibit B provides specific comments on text related to this issue.</p>	<p>Please see the response to Comment 1. Please see responses to comment letters BDCP 1448 and RECIRC 2546 for a comprehensive response to the comments raised by the Independent Scientific Review Panel.</p>
1675	9	<p>Steelhead should be removed as a species that benefits from CM2</p> <p>Yolo County appreciates the statement of scientific uncertainty about the benefits to steelhead of CM2 on page 3.3-17, specifically that "the extent to which steelhead smolts may benefit from inundation of the Yolo Bypass floodplain are uncertain," as well as the discussion in Chapter 5. Yolo County agrees and further argues the scientific literature does not support significant benefits from CM2 for steelhead. (See discussion in Exhibit</p>	<p>Please see the response to Comment 1.</p>

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		C.) Yolo County recommends removing steelhead as a species that benefits from CM2. If studies in the future demonstrate that steelhead benefit from Yolo Bypass inundation, changes to BDCP can be made through the adaptive management process.	
1675	10	<p>Strengthen managed wetlands biological objectives</p> <p>Yolo County is surprised the goals and objectives for managed wetlands in BDCP are weak and encourages BDCP to strengthen them. Yolo County appreciates the discussion on page 3.3-83 related to the small number of wetlands acres remaining in California, most of which are managed wetlands. The BDCP species accounts also document the importance of the combination of rice fields and wetlands to the giant garter snake and other covered species, as well as migratory waterfowl. The state and federal government further have, through the Central Valley Joint Venture and other efforts, spent millions of dollars creating wetlands over the past two decades in the Yolo Bypass. Yolo County identified the following goal and objective relevant to managed wetlands in Yolo County:</p> <p>--Goal MWNC1 -- Managed wetland that is managed and enhanced to provide suitable habitat conditions for covered species.</p> <p>--Objective MWNC 1.1 -- Protect and enhance 8,100 acres of managed wetlands, at least 1,500 of which are in the Grizzly Island Marsh Complex.</p> <p>This goal and objective are not clear as to whether the purpose is to protect and enhance "new" wetlands or "existing" wetlands. In Yolo County, there are 11,501 total acres of wetlands (page 12-3253 of the EIR/EIS). CM2 will impact between 931 and 2,612 acres of managed wetlands in the Yolo Bypass (page 12-2053 of the EIR/EIS). It is unclear whether the BDCP plans to put easements on existing managed wetlands owned by the California Department of Fish and Wildlife in the Yolo Wildlife Area, create new wetlands in the Yolo Bypass, or create managed wetlands outside of Yolo County to mitigate for this impact. [footnote 1: Yolo County notes that on page 3.4-72 of BDCP, the BDCP reserves the right to secure reserve system lands through a variety of mechanisms, including "change of federal- or state-owned lands to more protective land use designation."] Yolo County strongly advises against creating new managed wetlands in the Yolo Bypass because of the potential impact on terrestrial species habitat and agriculture. Yolo County is also opposed to changing state-owned lands in the Bypass to a more protective land use designation as mitigation for CM2 impacts. Overall, the goal to "protect and enhance 8,100 acres of managed wetlands" seems like a modest goal given the potential impacts of CM2 on managed wetlands. The meaning of this objective should be clarified in the final draft in coordination with Yolo County and the Yolo Basin Foundation.</p> <p>BDCP also should address uncertainties with the impact of CM2 on managed wetlands identified in the study 2012 Ducks Unlimited study Waterfowl Impacts of the Proposed Conservation Measure 2 for the Yolo Bypass: A Effects Analysis Tool (Exhibit D). BDCP should further implement drainage and water infrastructure improvements identified in Yolo County's 2014 study, Yolo Bypass Drainage and Water Infrastructure Improvement Study (Exhibit E), to provide greater management flexibility for the Yolo Wildlife Area.</p>	Please see the response to Comment 1.
1675	11	<p>Focus on splittail habitat outside the Yolo Bypass, as well as channel margins and floodplain terraces.</p> <p>Splittail migrate upstream to spawn in response to high flows and are unlikely to migrate upstream in dry years in which only a small amount of water is available to inundate the</p>	<p>Tidal Wetland Restoration (CM4), Seasonally Inundated Floodplain Restoration (CM5), and Channel Margin Enhancement (CM6) were included in Alternative 4 that benefited Splittail.</p> <p>Because BDCP is no longer included in the proposed action, there is no proposal to protect or enhance habitat solely on the basis of its importance to Sacramento splittail (although splittail would still benefit from</p>

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		<p>Yolo Bypass. Splittail also generally spawn in the lower Yolo Bypass, so there is no need to flood the upper Yolo Bypass for splittail habitat. It is also unknown how many acres splittail need to spawn in the lower Yolo Bypass, but it likely less than 10,000 acres (see Exhibit C).</p> <p>The Yolo Bypass should not be the sole focus for splittail spawning habitat simply because it is within the BDCP Plan Area. If the BDCP can arbitrarily expand the Plan Area to include areas of Yolo County suitable for giant garter snake habitat, the BDCP should also expand the Plan Area to include other areas suitable for splittail spawning habitat, such as the Consumnes River floodplain and the Sutter Bypass. The BDCP even acknowledges some of these additional spawning areas:</p> <p>"When floodplain inundation does not occur in the Yolo or Sutter Bypasses, adult splittail migrate farther upstream to suitable habitat along channel margins or flood terraces; spawning in such locations occurs in all water year types (Feyrer et al. 2005). Although spawning is typically greatest in wet years, CDFW surveys demonstrate spawning takes place every year along the river edges and backwaters created by small increases in flow. In the eastern Delta, the floodplain along the lower Cosumnes River appears to be important as spawning habitat. Ripe splittail have been observed in areas flooded by levee breaches, turbid water, and flooded terrestrial vegetation (page 2A.7-4)."</p> <p>The importance of improving channel margins and floodplain terraces relative to the need to flood the Yolo Bypass for splittail needs to be further explored. CM2 currently proposes splittail flooding in the Yolo Bypass once every five years if flooding does not occur naturally. This flooding, even if once every five years, could have a significant impact on agriculture and terrestrial species habitat in the Yolo Bypass. Given the already significant benefits from Yolo Bypass inundation without a proposed operable gate, the BDCP should focus on improving channel margin and flood terraces and expanding inundation in other floodplain areas. If Yolo Bypass flooding for splittail is necessary, flooding should focus on a small area in the lower Yolo Bypass and should not result in upper Bypass inundation unless flooding occurs naturally.</p>	<p>measures intended to benefit habitat for certain other fishes). Note that Alternative 4A does not include Conservation Measures and does not propose any actions in the Yolo Bypass. However, the Yolo Bypass Improvements and habitat enhancements will still be implemented under Existing Conditions.</p> <p>For more information regarding water operations effects on spawning and egg incubation habitat for Splittail please see Impact AQUA-112 in Chapter 11 of the FEIR/EIS.</p>
1675	12	<p>Ensure consistency with the Yolo HCP/NCCP</p> <p>The Yolo County HCP/NCCP Joint Powers Agency (JPA) is currently working on the second administrative draft of the Yolo HCP/NCCP, which covers 11 terrestrial species. The Yolo HCP/NCCP anticipates significant potential conflict with the BDCP for all conservation associated with cultivated lands, such as Swainson's hawk, giant garter snake, burrowing owl, and tri-colored blackbird conservation. Given the extent of the terrestrial species impacts from CM2 identified in the draft BDCP and the EIR/EIS, the County encourages close coordination between the BDCP and the Yolo HCP/NCCP in the months ahead to ensure the impacts to terrestrial species of CM2 are minimized. Yolo County also needs to ensure BDCP plans to acquire conservation easements in Yolo County do not negatively impact the ability of the JPA to meet permit requirements of the Yolo HCP/NCCP. The JPA will submit separate, more detailed comments, but Yolo County wanted to highlight the significant BDCP conservation proposals that could conflict with implementation of the Yolo HCP/NCCP:</p> <p>--The BDCP proposes to protect 43,325 acres of Swainson 's hawk foraging habitat with at least 50% in very high-value habitat in Conservation Zones 1, 2, 3, 4, 7, 8, 9, and 11. The majority of Conservation Zones 1, 2, and 3 are in Yolo County.</p>	<p>Please see the response to Comment 1. Please also see section 12.3.6 of the Final EIR/EIS for a discussion of impacts on other conservation plans.</p>

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		<p>--The BDCP proposes to create 600 acres of connected aquatic giant garter snake habitat and 200 acres of high-value upland habitat outside the Yolo Bypass in Conservation Zone 2. The BDCP also proposes to protect 700 acres of cultivated lands (500 acres of rice) for giant garter snake in Conservation Zone 2.</p> <p>--The BDCP proposes to protect, restore, or create at least 2,740 acres of rice land or equivalent value habitat for the giant garter snake in Conservation Zones 1, 2, 4, or 5.</p> <p>--There are many other terrestrial species conservation goals in BDCP that are documented in the Yolo County HCP/NCCP JPA's letter commenting on BDCP.</p>	
1675	13	<p>Furthermore, BDCP indicates that Yolo County is a target for conservation of cultivated lands as follows:</p> <p>"Conservation Zone 2, which hosts the majority of rice lands and other cultivated lands in the Plan Area, supports a sufficient amount of these lands to achieve of substantial proportion of the overall cultivated lands conservation target acreages (Table 3.3-2) established for the Plan Area."</p> <p>It is unclear whether there are sufficient cultivated lands in Yolo County to support both the conservation targets of the BDCP and the Yolo HCP/NCCP, since acquisition of easements is based on willing sellers.</p>	Please see the response to Comment 1. Please also see section 12.3.6 of the Final EIR/EIS for a discussion of impacts on other conservation plans.
1675	14	<p>The presence of significant habitat for terrestrial species covered by the Yolo HCP/NCCP supports the need to minimize giant garter snake and other terrestrial species impacts from CM2. The BDCP specifically states, for example, that giant garter snake conservation is intended as 1:1 mitigation for the impacts of covered activities, including "the loss of rice land in the Yolo Bypass as a result of prolonged flooding from CM2 Yolo Bypass Fisheries Enhancement." (See page 3.3-286.) Rice lands and wetlands in the Yolo Bypass (including the Yolo Wildlife Area) provide significant habitat for the giant garter snake (page 2A.28-5). For more information about the impacts on Yolo HCP/NCCP terrestrial species habitat, please refer to the JPA's comment letter. Yolo County supports the Yolo County HCP/NCCP JPA's request to develop a Memorandum of Understanding with the state and federal government to ensure BDCP does not prevent the successful implementation of the Yolo HCP/NCCP.</p>	Please see the response to Comment 1. Please also see section 12.3.6 of the Final EIR/EIS for a discussion of impacts on other conservation plans.
1675	15	<p>Yolo County needs a defined role in the adaptive management process</p> <p>Yolo County recognizes ongoing discussions between Yolo County and the state related to governance of CM2 will at some point expand to include the adaptive management process. From Yolo County's ongoing meetings with BDCP consultants and Resources Agency staff, Yolo County understands biological goals and objectives for juvenile salmon rely almost exclusively on CM2. Yolo County also understands these biological goals and objectives are based on the October 29, 2012 National Marine Fisheries Services draft tech memo (Appendix 3G) that has not been peer reviewed or otherwise shared widely with the scientific community. Combined with the uncertainty about potential fish benefits expressed in Dr. Quinones draft tech memo (Exhibit C), Yolo County anticipates significant potential for changes to the biological goals and objectives related to CM2 through the adaptive management process. As a result, Yolo County requests the establishment of a subcommittee of the Adaptive Management Team specific to CM2 in which Yolo County representatives have a significant role.</p>	Please see the response to Comment 1. Please also see Master Response 33 for more information about adaptive management and monitoring.

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		<p>Yolo County is especially interested in an ongoing adaptive management role because of continuing concern with biological objectives that reference flooding in greater than 70% of years, as discussed in Yolo County's September 2013 comments on the Administrative Draft of the BDCP (Exhibit H). Objective WRCS 1.2, for example, is "create a viable alternate migratory path through Yolo Bypass in >70% of years for outmigrating winter-run Chinook salmon juveniles by year 15." Other biological objectives contain the same language. We understand from BDCP consultants and resources agency staff that the BDCP biological goals and objectives will not change before the permits are issued. If flooding in the Yolo Bypass is constrained to the Toe Drain in some of these years and limited to before March 1 in other years, flooding in greater than 70% of years may not have an impact on terrestrial species habitat, agriculture or other existing land uses. If extensive flooding occurs in 70% of years, however, existing land uses may be significantly affected. Yolo County is heartened by the letter from Secretary John Laird to the Yolo County Board of Supervisors on February 25, 2014 (see Exhibit C) stating the following:</p> <p>"The biological objectives for the BDCP, for example, state "Create a viable alternate migratory path through Yolo Bypass in >70% of years for out-migrating fall-run/late fall-run Chinook salmon by year 15." Such language allows for flexibility in achieving the objective because the objective does not specify the number of acres or other criteria. Uncertainty will be addressed through the adaptive management and monitoring program of BDCP, a process in which we expect Yolo County will have a significant level of involvement."</p> <p>Yolo County requests that language that closely resembles the letter from Secretary John Laird on this and other issues be incorporated into BDCP. Yolo County understands the adaptive management process is the only process through which biological goals and objectives are revisited, so requests a significant role in adaptive management discussions related to the Yolo Bypass.</p>	
1675	16	<p>Covered Activities and Associated Federal Actions</p> <p>Replace existing covered activities language with sustainable balance language</p> <p>Yolo County requests the following language be replaced with text consistent with the sustainability principles currently under development as part of discussions between Yolo County and the Resources Agency.</p> <p>"The overall purpose is to allow water to inundate certain areas of the bypass to maximize biological benefits and reduce stranding of covered fish species in isolated ponds, minimize effects on terrestrial covered species (including giant garter snake), and accommodating other existing land uses (e.g., wildlife, public, recreation and agricultural use areas)."(See page 4-32.)</p>	Please see the response to Comment 1.
1675	17	<p>Update to hydraulic model necessary</p> <p>The effects analysis is based on a footprint generated by MIKE-21, which is no longer the best model available to estimate the Yolo Bypass inundation footprint resulting from the construction of an operable gate in the Fremont Weir. In particular, the assumptions related to west side tributary flows are deeply flawed, as insufficient gauge information exists to make precise estimates of flow into the Yolo Bypass. Yet, the effects analysis assumes significant existing flows from the westside tributaries or other existing flooding, therefore reducing the impacts of CM2. The west side tributary data weaknesses, as well</p>	Please see the response to Comment 1.

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		<p>as other model weaknesses, are captured in a 2012 report commissioned by Yolo County entitled Yolo Bypass MIKE-21 Model Review: Strengths, Limitations, and Recommendations for Refinement (Exhibit F) and are not repeated here. The U.S. Bureau of Reclamation is working with the California Department of Water Resources to create a new TU-FLOW Yolo Bypass model, in part to address the concerns in the 2012 report. Yolo County has hired UC Davis modeler William Fleenor to peer review the new TU-FLOW model and develop a publicly available HEC-RAS 2D model. Yolo County expects this work will be complete by September 2014. Once the TU-FLOW model is updated to address concerns identified by Mr. Fleenor, one or both of these models should be used for the BDCP effects analysis.</p>	
1675	18	<p>Revisit reliance on existing flooding in the effects analysis</p> <p>The effects analysis associated with CM2, as well as the EIR/EIS analysis of CM2, relies heavily on the statement "BDCP-associated inundation of areas that would not otherwise be inundated is expected to occur in no more than 30% of all years, since the Fremont Weir is expected to overtop the remaining 70% of all years, and during those years notch operations will not typically affect the maximum extent of inundation." As Yolo County has stated many times in the past, there are at least two problems with the use of the 70% statistic. First, the statistic is closer to 60% if you use recent data that is more reliable. (See footnote on page 3.4-43 of CM2 related to this issue. Yolo County appreciates the addition of this footnote in the public review draft, but would prefer an end to the use of the 70% statistic.) Second, even if accurate, the statistic does not define the extent of Bypass flooding. It likely includes very small overtopping events that caused only localized inundation within the Bypass. This statistic thus cannot be used to define current or "natural" conditions that have any significant bearing on the effects analysis. The use throughout the BDCP and the EIR/EIS of the 70% statistic and the correlating assumption that CM2 impacts will only occur in 30% of years is indefensible.</p>	Please see the response to Comment 1.
1675	19	<p>Need process for coordinating land and easement acquisition with local governments</p> <p>Yolo County has reviewed Chapter 6, including Table 6-1 related to the implementation schedule and is concerned about the over 50,000 acres of cultivated land acquisition required as part of the permit, including a significant amount in the first 10 years of the permit. Given other references in Chapter 8 and Chapter 3 to a significant amount of cultivated land acquisition in Yolo County (specifically, Conservation Zones 1, 2, and 3), the Board of Supervisors requests a better understanding of BDCP's plans regarding acquisition of cultivated land easements. Will BDCP coordinate with Yolo County regarding potential conflicts with the Yolo County General Plan? Will BDCP coordinate with the Yolo HCP/NCCP? Chapter 6 needs to include a discussion of BDCP coordination with local governments on land and easement acquisition. In addition, Yolo County requests inclusion of a process through which BDCP will coordinate with Yolo County on easement and fee title acquisition within the County in the proposed MOU, in addition to the separate MOU with the Yolo County HCP/NCCP JPA.</p>	Please see the response to Comment 1. Please also see section 12.3.6 of the Final EIR/EIS for a discussion of impacts on other conservation plans.
1675	20	<p>Yolo County role in CM2 development</p> <p>Yolo County notes that implementation of seasonal floodplain habitat as part of CM2 will be initiated in year 11 of the 50-year permit and operations will begin by year 13. Fish passage improvements will be implemented in the first 10 years of the permit. As part of the proposed governance structure currently under development for CM2, Yolo County</p>	<p>The 2013 public draft BDCP proposes that the Delta counties be involved in implementation through the Stakeholder Council, an advisory body to the Authorized Entity Group. An additional role in implementation for Delta counties was being considered by DWR (see public draft Implementing Agreement).</p> <p>An Implementation Agreement is no longer required under this new regulatory approach. Impacts on Delta counties have also been substantially reduced with the reduction in proposed tidal wetland restoration.</p>

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		<p>expects to play a significant role in development of the project during this 10-year period.</p> <p>Yolo County is cooperatively developing a governance structure to guide ongoing implementation of CM2 with the Resources Agency. The current proposal is a nine-member Executive Council, of which 4 members are appointed by Yolo County, 4 members are state/federal representatives or representatives of the state water contractors, and the ninth member is selected by consensus of the remaining eight. Yolo County is in the process of drafting the details of this governance structure and hopes to reach agreement with the Resources Agency by fall of 2014. Yolo County further hopes the U.S. Department of the Interior will also agree to this governance structure. Yolo County requests the inclusion of this governance structure in the final draft of BDCP.</p>	<p>However, DWR appreciates Yolo County's interest in a more substantial role in the decision-making associated with the BDCP. If an alternative is selected that includes BDCP or an HCP/NCCP, DWR would restart discussion with Delta counties, including Yolo County, regarding their special role in plan implementation as it relates to CM2 and the Yolo Bypass.</p>
1675	21	<p>Chapter 8-Implementation Costs and Funding Sources</p> <p>Inappropriate use of 2013 UC Davis agricultural impacts analysis (Exhibit G)</p> <p>The public draft cites Agricultural and Economic Impacts of Yolo Bypass Fish Habitat Proposals (Howitt et al. 2013), commissioned by Yolo County, as estimating that more frequent and longer duration bypass flooding "could result in loss of agricultural income of \$740,000/year." (See page 8-15.) The public draft is citing the 2012 draft of the study, since the final study was released in April 2013. The public draft further states the flood easement cost estimate (i.e. the cost of acquiring flood easements in the Yolo Bypass to implement CM2) is based on these estimates of farm income losses. The draft does not acknowledge, however, that the estimates in Howitt et al. 2013 for the "low-impact CM2 scenario" actually ranged from \$0.63 to \$1.5 million, assuming flows of 3,000 and 6,000 cfs, respectively. The study also explicitly stated it was impossible to accurately predict estimated economic losses because CM2 is not yet defined.</p> <p>In the absence of a proposed project, the authors created a "low-impact CM2 scenario" and assumed flooding only occurs as an extension of natural flooding. The scenario demonstrated CM2 impacts could be low if the project is designed to minimize impacts. The scenario did not include potential impacts of late flooding for splittail or other flooding that would occur in addition to the extension of natural flooding. The study further pointed out a number of additional studies that are necessary to accurately evaluate potential economic impacts, such as whether crop insurance will continue to be offered to Yolo Bypass farmers and whether banks will continue to loan to farmers in the presence of increased risk to crops from additional inundation. Therefore, the "low-impact CM2 scenario" from the study is not consistent with the CM2 footprint evaluated for the effects analysis. The estimate from this study should not be used to estimate the resulting loss of agricultural income.</p>	<p>Master Response 5 provides an overview of funding for the construction and cost of constructing and operating the BDCP including long term cost and debt financing.</p>
1675	22	<p>Insufficient funding allocated for implementation of CM2</p> <p>The public draft does not include a placeholder for compensation of ongoing economic losses, similar to the compensation paid to farmers in the Oroville Dam coldwater rice settlement or other mechanisms to which Yolo County and the Resources Agency might agree as a result of ongoing discussions by the fall of 2014. In addition, Yolo County believes the estimate of the cost of easement acquisition in the Yolo Bypass may be too low because it is based on an inapplicable estimate of farm income losses from Agricultural and Economic Impacts of Yolo Bypass Fish Habitat Proposals (Howitt et al. 2013). Given the importance of also managing Yolo Bypass lands for important terrestrial species, the public draft should base easement acquisition costs on the most recent</p>	<p>Please see the response to Comment 1.</p>

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		easement acquisition in the Yolo Bypass, which is the sale of giant garter snake, tri-colored blackbird, and agricultural conservation easements on the Conaway Ranch to Tri-Cities, LLC.	
1675	23	State and federal contractors should pay for a portion of CM2 Yolo County reiterates comments on the March 2013 administrative draft (Exhibit H) requesting the state and federal water contractors pay for a portion of CM2 implementation. The contractors are paying for a percentage of 11 out of the 22 conservation measures, according to Table 8-41, but not CM2. It is clear from the public draft that CM2 is at least in part mitigation for impacts to fish at the new North Delta intakes, so the contractors should be pay for a portion of its costs. Ongoing revenue from the state and federal water contractors is important to Yolo County because Yolo County does not want to rely on the state for ongoing payments for economic impacts from CM2, a topic currently under discussion with the Resources Agency.	Please see the response to Comment 1.
1675	24	Chapter 9 -Alternatives to Take Apply plan boundary criteria uniformly The BDCP expanded the Plan Area to include land outside the Yolo Bypass because of the potential to enhance or restore giant garter snake habitat. Yet Chapter 9 states the geographic scope of the BDCP is limited to the statutory Delta, Suisun Marsh, and the Yolo Bypass. It further states that take alternatives that include actions outside this geographic scope are not consistent with the goal of the BDCP. Yolo County requests that this rule be applied equally to land outside the BDCP Plan Area. If land for giant garter snake outside the Plan Area is included in the Plan, then spawning habitat for splittail outside the Plan Area should also be included or other habitat that helps to achieve the biological goals and objectives and spreads the fish benefits between jurisdictions.	The commenter correctly states that the BDCP plan area boundary was expanded slightly beyond the statutory Delta to incorporate areas immediately outside the statutory Delta that were important for the conservation of key covered species. This criteria was applied equally throughout the plan area and resulted in slight expansions of the boundary in Yolo, Solano, Contra Costa, and San Joaquin Counties. For example, the plan area boundary was expanded slightly in Contra Costa County to provide additional conservation opportunities for San Joaquin kit fox, California tiger salamander, and vernal pool fairy shrimp. These expansions were necessary to provide conservation opportunities not available in sufficient amounts within the statutory Delta. The applicants determined that sufficient conservation opportunities existed within the statutory Delta for the covered aquatic species, so plan area boundary adjustments for these species were unnecessary.
1675	25	Yolo County has enclosed all studies completed by Yolo County and its partners relative to CM2 (Exhibits D-G), as well as Yolo County's September 2013 comments on the Administrative Draft of the BDCP (Exhibit H). These materials provide important information about the potential to develop a CM2 proposal that achieves a sustainable balance between existing Yolo Bypass land uses and additional fish habitat. Again, Yolo County appreciates the opportunity to work through technical issues associated with CM2 with the Resources Agency, as well as development of governance and economic mitigation proposals. We appreciate the ongoing discussions and hope to reach an agreement this fall.	Please see the response to Comment 5.
1675	26	ATT1: Exhibit A. Letter from the California Natural Resources Agency - Dated February 25, 2014 to Yolo County Board of Supervisors - on topic of update on BDCP Conservation Measure 2	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1675	27	ATT2: Exhibit B - Yolo County Comments on Specific BDCP Text - Dated July 15, 2014	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1675	28	Chapter 2 -- Existing Conditions Page 2-10 -- The plan notes the use of the Yolo Natural Heritage Program Vegetation GIS	Please see the response to Comment 27.

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		dataset from 2008. The Yolo County HCP/NCCP Joint Powers Agency updated this dataset significantly in 2014.	
1675	29	<p>On page 2-13 -- Chapter 2 contains the following erroneous text.</p> <p>"Seasonally inundated floodplains such as those in the Yolo Bypass and adjacent to the Cosumnes River provide an allochthonous (export) subsidy of organic matter to other regions of the Delta. Some of this floodplain-generated organic carbon, such as phytoplankton, is especially labile (available to organisms) (Jassby and Cloern 2000; Moyle et al. 2007). Also, since these floodplains are shallower, have longer residence times, and are generally warmer than the mainstem river, they have greater rates of phytoplankton production than do the channels of the rivers (Sommer et al. 2001a)."</p> <p>Jassby and Cloern (2000) actually write:</p> <p>"Although primary production within the Yolo Bypass area may be highly significant for native species, organic matter exports from the Bypass to downstream habitats do not appear to be important."</p> <p>Jassby and Cloern (2000) also write:</p> <p>"Unless the level of organic matter in Bypass water is an order-of-magnitude greater than river water, Bypass effects on downstream ecosystems are probably small in winter and negligible in other seasons, except perhaps in very wet years. Furthermore, based on the (admittedly sparse) evidence to date (CDWR. 1999), DOC [Dissolved Organic Carbon] concentrations in the Bypass, although higher than in the Sacramento River, are not remarkably so. Even in the case of extremely wet winters, the impact of any organic matter subsidy from Bypass water will be damped: residence times will be shorter and organic matter availability lower."</p> <p>These quotes from the article directly contradict the text in Chapter 2 and elsewhere in BDCP, especially Chapter 3 -- Conservation Strategy. It is unlikely that organic matter will have a major impact on downstream ecosystems, except in wet years when the contribution to the food system is not as important because of relatively high food availability. In addition, the use of Moyle et al. 2007 is inappropriate (pers. Communication with P. Moyle). Moyle et al. 2007 is a study of Consumnes River floodplain fishes and does not deal with primary production.</p>	Please see the response to Comment 27.
1675	30	Page 2-26 -- Please cite the footnote developed for Conservation Measure 2 after the sentence "The Yolo Bypass flood seasonally in 70% of years."	Please see the response to Comment 27.
1675	31	<p>Page 2A.4-3 -- Please provide a reference for the following statement:</p> <p>"Adult Central Valley spring-run Chinook salmon migrate primarily along the western edge of the Sacramento--San Joaquin River Delta (Delta) through the Sacramento River corridor, and juvenile spring-run Chinook salmon use the Delta, Suisun Marsh, and Yolo Bypass for migration and rearing."</p>	Please see the response to Comment 27.
1675	32	<p>Page 2A.5-3 -- Please provide a reference for the following excerpt. Is this based on telemetry studies or screw trap studies?</p> <p>"Adult Central Valley fall- and late fall--run Chinook salmon migrating into the Sacramento</p>	Please see the response to Comment 27.

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		River and its tributaries primarily use the western and northern portions of the Delta, whereas adults entering the San Joaquin River system to spawn use the western, central, and southern Delta as a migration pathway."	
1675	33	<p>Page 2A.5-3 -- Please mention the differences in run timing of wild versus hatchery produced fall run Chinook juveniles here.</p> <p>"Fall- and late fall-run Chinook salmon must migrate through the Delta toward the Pacific Ocean and use the Delta, Suisun Marsh, and the Yolo Bypass for rearing to varying degrees, depending on their life stage (fry versus juvenile), size, river flows, and time of year."</p>	Please see the response to Comment 27.
1675	34	<p>Page 2A.5-4 -- The statement below is misleading -- fall and late fall-run Chinook salmon will rear wherever habitat is available regardless of habitat quality and floodplain connectivity. They will rear without access to floodplain habitat, but will not grow as fast.</p> <p>"Fall- and late fall-run Chinook salmon rear in streams and rivers with sufficient water flow and floodplain connectivity."</p>	Please see the response to Comment 27.
1675	35	<p>Page 2A.5-4 -- This statement does not make sense.</p> <p>"They rear in these areas to form and maintain physical habitat conditions that support growth."</p>	Please see the response to Comment 27.
1675	36	<p>Page 2A.3-5 -- The following statement is misleading. Juvenile growth, survival, and recruitment are dependent on many things, not just freshwater rearing habitat, e.g. ocean conditions, predation, and harvest pressure.</p> <p>"Freshwater rearing habitat has a high conservation value because the juvenile life stage of salmonids is dependent on the function of this habitat for successful growth, survival, and recruitment to the adult population."</p>	Please see the response to Comment 27.
1675	37	<p>Page 2A.5-9 -- Snider and Titus (cited below) only describes migration for the 1997- 98 year, a wet year. Need to clarify that some variability in run timing is expected.</p> <p>"Central Valley late fall-run Chinook salmon fry generally emerge from April through June. Late fall-run fry rear in fresh water from April through the following April and emigrate as smolts from October through February (Snider and Titus 2000)."</p> <p>Page 2A.7-3 -- Splittail have been found to spawn on other sites than the ones listed below, such as the Consumnes River. See Exhibit C for more details.</p> <p>"Evidence of splittail spawning on floodplains has been found on both the San Joaquin and Sacramento Rivers."</p>	Please see the response to Comment 27.
1675	38	<p>Chapter 3 -- Conservation Strategy</p> <p>Page 3.3-118: The BDCP should consider revisiting the studies and language supporting these additional statements related to benefits of Conservation Measure 2 to the export of organic matter to other regions of the Delta, consistent with the County's comment letter. On page 3.3-118, please revisit the highlighted portion of the following text:</p> <p>"The export of marsh production can help transfer the higher production of</p>	Please see the response to Comment 27.

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		shallow-water habitats to the less productive deepwater habitats preferred by pelagic fish species such as Delta smelt, but this process can be interfered with by nonnative clams (Lucas et al. 2002; Lopez et al. 2006; Lucas and Thompson 2012). Nonetheless, there are local examples of tidal marsh production being advected and/or tidally dispersed to adjacent habitats (Lehman et al. 2008, 2010). Production from the lower Yolo Bypass, including Liberty Slough and Cache Slough marshes, stays relatively intact as it moves down the estuary (Monsen 2003). This production may contribute significantly to the greater foodweb, ultimately benefitting open-water species such as Delta smelt (Brown 2004). Refer to Appendix 5.F, Biological Stressors on Covered Fish, for a detailed discussion of the foodweb."	
1675	39	<p>On Page 3.3-108:</p> <p>Please revisit the highlighted portion following text:</p> <p>"More specifically, the BDCP is expected to increase the density of zooplankton suitable for Delta smelt as follows.</p> <p>Increase timing, frequency and duration of floodplain inundation in Yolo Bypass (CM2 Yolo Bypass Fisheries Enhancement).</p> <p>Construct new tidal wetlands (CM4 Tidal Natural Communities Restoration).</p> <p>Provide for greater floodplain inundation (CM5 Seasonally Inundated Floodplain Restoration).</p> <p>Enhance channel margin along up to 20 miles of currently leveed channel by restoring riparian, marsh, and mudflat natural communities along levees (CM6 Channel Margin Enhancement).</p> <p>Improve water quality conditions within the Plan Area (CM12 Methylmercury Management and 7 CM19 Urban Stormwater Treatment)"</p>	Please see the response to Comment 27.
1675	40	<p>Page 3.3-143:</p> <p>Please revisit the citation for the following statement.</p> <p>"Other studies indicate that the relative survival of Chinook fall-run fry migrating through Yolo Bypass to Chipps Island was on average 50% higher than fish passing over the comparable section of the Sacramento River (Sommer, Harrell, et al. 2001)."</p> <p>It is Yolo County's understanding that the Sommer, Harrell et al. 2001 study demonstrates that growth of juvenile salmon was greater in the Yolo Bypass than the Sacramento River, but that survival results were inconclusive. It is further our understanding that this is the scientific questions that the researchers working on studies on the Knaggs Ranch in the Yolo Bypass are trying to answer.</p>	Please see the response to Comment 27.
1675	41	<p>Page 3.3-143-144:</p> <p>Remove the reference to inundation dates on the following excerpt, as well as other references in BDCP.</p> <p>"Once the modifications are implemented, overtopping of the Fremont Weir will be</p>	Please see the response to Comment 27.

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		initiated as early as November and will be allowed to overtop and inundate the Yolo Bypass floodplain as late as April and into May, as conditions allow."	
1675	42	<p>Page 3.3-160</p> <p>Please remove the reference to Yolo Bypass inundation dates.</p> <p>"As mentioned above, juvenile fall-run Chinook salmon downstream migration timing occurs from January through June, with peak migration occurring from February through May. Based on model results presented in the effect analysis, inundation of the Yolo Bypass is expected to occur relatively infrequently during the primary fall-run Chinook salmon emigration period, resulting in a relatively low proportion of emigrating smolts entering the Yolo Bypass. However, creating an alternative migratory pathway through the Yolo Bypass in >70% of years for emigrating juvenile fall-run Chinook salmon is expected to be achievable based upon the general timing of outmigrating juveniles (January through June, with the peak occurring February through May) and the timing of Yolo Bypass inundation (generally December to mid-April). The overtopping of the Fremont Weir and inundation of the Yolo Bypass will not cover the entire duration of the emigration period, but it will cover the majority of this period and most of the peak migration. While it is expected that modifications to the Fremont Weir will provide conditions conducive to Sacramento River flow to enter and inundate the Yolo Bypass in >70% of years, this is still being modeled, and thus the frequency, duration, and extent of inundation and the seasonal timing with respect to migrating juvenile fall-run and late fall-run Chinook salmon, as well as other runs of Chinook salmon (i.e., winter-run and spring-run) may change. Therefore, while it is currently anticipated that a viable migratory pathway through the Yolo Bypass will be achievable in >70% of years, the specific metric is not certain."</p>	Please see the response to Comment 27.
1675	43	ATT3: Exhibit C - Report on Draft Technical Memorandum Potential Fish Benefits of Yolo Bypass - Fish Habitat Proposals. Prepared by Rebecca M. Quinones, Ph.D. for Yolo County	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1675	44	This technical memorandum answers questions posed by Yolo County in response to state and federal proposals to increase the frequency and duration of Yolo Bypass inundation as part of Conservation Measure 2 within the Bay Delta Conservation Plan (BDCP) and Reasonable and Prudent Alternatives I.6 and I.7 in the federal National Marine Fisheries Service's (NMFS) Biological Opinion on the Coordinated Long Term Water Operations of the Central Valley Project and State Water Project for winter run Chinook salmon, spring run Chinook salmon, and Central Valley steelhead. The U.S. Bureau of Reclamation and the California Department of Water Resources are in charge of implementing both proposals. Special emphasis was placed on reviewing potential benefits of proposed actions to Central Valley salmonids (Chinook [<i>Oncorhynchus tshawytscha</i> and steelhead <i>O. mykiss</i>]) and Sacramento splittail (<i>Pogonichthys macrolepidotus</i>). Of the four runs of Chinook in the Central Valley, winter (endangered) and spring run (threatened) Chinook are listed under state and federal Endangered Species Acts and are the focus of the U.S. Bureau of Reclamation's Biological Opinion process along with Central Valley steelhead and southern green sturgeon (both threatened; Table 1). Neither fall nor late-fall run Chinook are formally listed. Winter, spring, fall and late-fall run Chinook, as well as Central Valley steelhead, Sacramento splittail, Pacific lamprey, river lamprey, southern green sturgeon, white sturgeon, longfin smelt and delta smelt are covered species in the	No issues related to the adequacy of the environmental impact analysis in the EIR/EIS were raised. Please see Chapter 11 of the Final EIR/EIS for information regarding fish and aquatic resources.

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1675	45	ATT3:ATT1: Table 1. List of species considered in the NMFS Biological Opinion and Bay Delta Conservation Plan (BDCP).	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1675	46	Floodplains are areas of the river channel that seasonally flood during high water events. Floodplains support high biodiversity and yet are among the most altered and threatened habitats in the world (Opperman et al. 2010). In the Central Valley, the Yolo Bypass is the largest (57,000 acres; Howitt et al. 2013) contiguous floodplain left in the Sacramento River basin. Fishes that evolved to use floodplains benefit from their relatively high productivity (e.g., chlorophyll a concentration) as compared to habitat in the river proper (Sommer et al. 2004). High productivity can result in higher prey availability to fishes using the floodplain or located just downstream (Sommer et al. 2001a). Increased prey availability leads to faster growth rates for juvenile salmon rearing in Yolo Bypass, which may enhance survival at older life stages, although existing data is inconclusive (Sommer et al. 2001c, Sommer et al. 2005). The structure of floodplains (i.e., density of aquatic vegetation, low water velocity) can also provide refuge to juvenile fishes from predators and fast flows. Adults of some species (e.g., splittail, longfin smelt) may benefit from floodplain habitats as suitable spawning habitat; for example, both splittail and longfin smelt can spawn over aquatic vegetation in the wettest sections of the floodplain. However, much uncertainty exists about the specific magnitude, duration, and timing of benefits afforded to specific species. For example, most surveys (e.g., Sommer et al. 2001c) sampled fishes from January through April over a couple or few years (e.g., 1998 and 1999 in Sommer et al. 2001c). Due to the dynamic nature of rivers in Mediterranean climate regions (Gasith and Resh 1999), as in California, habitat conditions for fishes using floodplains are expected to vary by week, month, season, and year. Consequently, benefits to fishes are likely to vary with changing conditions at different time scales.	No issues related to the adequacy of the environmental impact analysis in the EIR/EIS were raised. Please see Chapter 11 of the Final EIR/EIS for information regarding fish and aquatic resources.
1675	47	Benefits to fishes (e.g., growth) on floodplains may not increase at a constant rate over time due to bioenergetic trade-offs as conditions change on the floodplain, especially increasing temperatures and decreasing dissolved oxygen concentration. Bioenergetic trade-offs can occur when temperatures are sufficiently high, or dissolved oxygen concentrations are sufficiently low, as to slow or reverse growth rates. Katz et al. (2013) concluded that increases in temperatures may exceed juvenile Chinook temperature tolerances in the spring (late March) and result in the exodus of fish from the floodplain. The quality of water (e.g., water temperature) inundating the floodplain may affect the duration of floodplain use by fishes. A parameter closely related to water temperature is dissolved oxygen concentration; lower dissolved oxygen concentrations are associated with warmer water. Optimal dissolved oxygen concentrations for juvenile Chinook are greater than 13 mg/L in temperatures above 10°C (reviewed in USBOR and CDWR 2012). Low dissolved oxygen concentration may reduce fitness of juvenile salmon using the floodplain and trigger emigration from floodplain habitat. In the Chehalis River floodplain, the duration of floodplain use by juvenile salmon was negatively correlated to low dissolved oxygen concentrations (Henning et al. 2006). To date, no studies have documented annual temperature or dissolved oxygen patterns throughout the Yolo Bypass.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS. Please see Chapter 11 of the Final EIR/EIS for information regarding fish and aquatic resources.
1675	48	QUESTIONS 1. How many juvenile salmon are in the Sacramento River at different times of the year?	Please see the response to Comment 1 regarding Yolo Bypass restoration. If an action alternative were chosen that includes CM2, implementation of this measure would be informed through compliance and effectiveness monitoring, research actions, and adaptive management, as described in Adaptive

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		<p>Of these fish, how many juvenile salmon can be reasonably expected to access floodplain habitat in the Yolo Bypass under different proposed alternatives? What are the factors that influence their ability to access the floodplain? What is the level of certainty associated with these estimates and what additional research would be necessary to improve that level of certainty?</p> <p>2. How many of the fish expected to access the Yolo Bypass floodplain habitat are of hatchery origin? What is the likelihood that these hatchery fish will reproduce in the wild?</p> <p>3. Is the Yolo Bypass the only floodplain habitat important to fish species of interest in the lower Sacramento River watershed? If not, what other areas are important to the fish species of interest (e.g., Sutter Bypass)?</p> <p>4. Is floodplain habitat along the Toe Drain in the Yolo Bypass higher or lower quality than other floodplain in the Yolo Bypass, such as the western portion of Knaggs Ranch?</p> <p>5. What are the benefits of providing floodplain habitat before March 1st for each species of interest? After March 1st? What are the factors that influence level of benefit to fish species of interest, such as temperature? What does the scientific community know about these factors and what information is not available? How will climate change affect these benefits?</p> <p>6. What are the different mechanisms through which splittail spawning success in the Yolo Bypass can be measured, taking into consideration that different organizations will define spawning success differently? Do splittail need 10,000 acres of floodplain habitat to spawn "successfully" in the Yolo Bypass? Would "success" be possible if splittail floodplain habitat is limited to the lower Yolo Bypass, such as areas in Cache Slough? Are there other opportunities for creation of successful splittail spawning habitat outside of the Yolo Bypass?</p> <p>7. How long do juvenile salmonids and splittail need to stay on the Bypass floodplain to realize significant benefits?</p>	<p>Management and Monitoring Program. These monitoring and research programs would help fill knowledge gaps and provide a scientific foundation to enhance benefits to covered fish species utilizing the Yolo Bypass. Research and monitoring activities are intended to measure the effectiveness of various CM2 elements and identify opportunities to increase benefits and reduce negative impacts to covered fish species. Site-specific evaluations would be conducted to determine the optimal restoration/enhancement design, including the timing, magnitude, and duration of inundation, for species such as Chinook salmon, splittail, and sturgeon. See Chapter 3, BDCP, for a description of compliance/effectiveness monitoring and adaptive management.</p>
1675	49	<p>Topic #1: How many juvenile salmon are in the Sacramento River at different times of year?</p> <p>Exact abundance numbers for juvenile salmon found throughout the Sacramento River do not exist, except for the number released from hatcheries, but relative abundance can be estimated from trap data. The California Department of Fish and Wildlife provided Yolo County with Knights Landing rotary screw trap data for September 1997 to June 1998. This data describe the relative number of juveniles of different runs (based on size criteria) caught at the trap by Julian week. The estimate of juvenile salmon abundance in the Sacramento River near the Yolo Bypass is based on this data, but can be updated if the Department provides Yolo County with additional years of data. Yolo County may also consider development of a model in the future to estimate Sacramento River abundance, including development of ranges of potential abundance given the significant limitations of the existing data and other uncertainties. This analysis should be viewed only as an initial effort to estimate abundance during a wet year.</p> <p>Based on rotary screw trap data from Knights Landing (1997-2007), juvenile salmon (all runs) can be found in the Sacramento River at Knights Landing from October through July (J. Roberts, unpublished data). Trap catches suggest that abundances in general peak</p>	<p>The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.</p>

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		<p>from November through January, are lowest from mid-February through the beginning of April, and exhibit a smaller peak in April/May across all years. Abundance peaks and valleys differ by year, however.</p> <p>Migration of juvenile salmon past Knights Landing likely occurs in three phases (as in Snider and Titus 2000). In 1997-1998, late-fall and winter run Chinook juveniles produced in the wild and spring run Chinook dominated Phase 1 (November 16-January 3). Fall-run Chinook dominated Phase 2 (December 28 - March 7), while fall run Chinook released from Coleman National Fish Hatchery principally comprised Phase 3 (March 8 - June 21). The exact timing of migration phases differs by year as influenced by river flow and temperature. Changes in river flow and temperature are cues for juvenile salmon to initiate seaward migration and are subject to climatic and hydrologic conditions (Groot and Margolis 1991).</p> <p>Bearing in mind the uncertainties associated with estimating relative abundance from one year of trap data, the estimated number of juvenile salmon passing Knights Landing in the Sacramento River in 1997- 1998 was roughly 9.35 million, with no measure of variance around this estimate. This estimate was derived by combining estimates of number of fishes caught at Knights Landing (from Snider and Titus 2000) with proportions caught by Julian week (Roberts et al. 2013, unpublished data). Detailed methods used are described in Table S1 at the end of this report. This translates to approximately 1.8 million juveniles from November to the end of December, 2.7 million juveniles end of December to March, and 4.7 million juveniles from March to June (Table S1), again, keeping in mind that these are inexact, unvalidated estimates. The 1997-1998 year was classified as a wet year and abundance estimates discussed here should be viewed as relatively high. Only five of 15 years from 1997 to 2011 (from Roberts et al. 2013) were classified as wet; all other years have been drier.</p> <p>As mentioned previously, estimating abundance from rotary screw trap data provides only initial information for further discussion because of significant uncertainties. Trap data should be used to understand the relative number of fishes in the system rather than as a predictive estimate of total abundance. The efficiency of traps to catch fish, for example, is influenced by flow (Gaines and Martin 2002) and turbidity (McKibbin 2012) with fewer fish caught in high flow or decreasingly turbid (high water clarity) conditions. In addition, the number of juveniles trapped varies greatly among years (J. Roberts, unpublished data). Likewise, juvenile abundance in the Sacramento River is expected to vary greatly because abundances reflect the survival of previous life stages (i.e. incubating eggs, younger juvenile salmon). Survival of each life stage can be affected by a unique suite of factors (e.g., water temperature, predation) depending on location and migration timing so estimates of abundance can be difficult to predict. Finally, abundance estimates at the trap could be affected if water is diverted through the Sutter Bypass (upstream of Knights Landing) when flows are high, providing another migration route to juvenile salmon. In 1998, flows were sufficiently high to warrant use of Sutter Bypass in January (Snider and Titus 2000).</p>	
1675	50	<p>How many juvenile salmon can be reasonably expected to access floodplain habitat in the Yolo Bypass under different proposed alternatives? What are the factors that influence their ability to access the floodplain? What is the level of certainty associated with these estimates and what additional research would be necessary to improve that level of certainty?</p>	<p>The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.</p> <p>See response to Comment 48. Please also see Chapter 11 of the Final EIR/EIS for information regarding fish and aquatic resources.</p>

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		<p>The level of certainty associated with estimates of the number of juvenile salmon expected to access floodplain habitat in the Yolo Bypass in any given year, also known as "entrainment," is low due to high variability in juvenile production and survival each year. Roberts et al. (2013) is the first good attempt to answer this question, but it is a Fisheries Branch Administrative Report and not a peer-reviewed scientific article. Standardized use of rotary screw trap data can continue to provide measures of relative abundances among sites and years, however, including entrainment. Abundance and entrainment estimates are highly uncertain because they do not currently consider the significant impacts to flow and temperature from climate change which can alter juvenile migration patterns (as in Crozier et al. 2008; Moyle et al. 2013). The level of certainty would be increased by tracking of fish movements as juvenile salmon migrate downstream, monitoring of the number of fish migrating past Fremont Weir under different flow conditions, and analysis of the effects of temperature and flow on run-timing and migration route selection. Such monitoring could allow for better "real-time" operation of a gate in the Fremont Weir.</p> <p>The number of juvenile salmon accessing the Yolo Bypass in any given year will depend on the synchrony between migration timing and flow events sufficiently high to overtop Fremont Weir at a river stage of 32.8 ft (under existing condition) or pass through a notch with a proposed elevation of 17.5 ft (225 wide with 2:1 slopes; proposed alternative). Basically, fish need to be at or near-upstream Fremont Weir during high flow events to gain access into the Bypass. The pattern and timing of flow events will depend on hydrologic and climatic conditions specific to year, including monthly precipitation.</p> <p>Roberts et al. (2013) concluded that an operable gate in the Fremont Weir would increase the number of juvenile salmon accessing the Yolo Bypass by 185%, although it was not possible to understand the exact methodology for this estimate from the report. To arrive at this estimate, Roberts et al. (2013) evaluated existing conditions for water years 1997-2011 and compared the proportion of fish that passed the Fremont Weir under annual existing conditions to the proposed operable gate in the Fremont Weir for the entire migration period. The authors assumed juvenile salmon would be evenly distributed throughout the water column and estimated the number of juvenile salmon entering the Yolo Bypass as proportional to the amount of Sacramento River flow either overtopping the Weir or moving through the operable gate. This assumption is reasonable to make until empirical data is available to better document migration behavior, but it does not accurately represent fish behavior because most migrating juvenile salmon will congregate along stream banks during the day and disperse throughout the water column at night (P. Moyle, personal observations; R. Quiñones, personal observations). This means that entrainment may be over- or underestimated depending on the location of fishes and the timing (day vs. night) of high-flow events. Entrainment may be overestimated during the day, for examples, if fishes don't access the operable gate (e.g., because they are congregating on the stream bank opposite of the notch during the day) or underestimated if most fishes do (e.g., because they congregate on the bank with the operable gate).</p> <p>Based on proportion estimates in Roberts et al. (2013) and abundance estimates discussed under Topic #1, the number of juvenile salmon expected to have entered the Yolo Bypass in Water Year 1998 is about 1.5 million juveniles between November 1997 and June 1998 (Table S1). Based on percentages reported in Roberts et al. (2013), an additional 200,000 juveniles may have accessed the Bypass had Fremont Weir been notched as proposed. (This number is specific to the 1997-98 data.) These numbers are</p>	

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		<p>hypothetical and only provide a starting point for discussion. The state and federal government will need to develop better estimates if an operable gate in the Fremont Weir is constructed.</p> <p>The position and size of fishes prior to reaching the weir may influence choice in migration route and affect use of the operable gate to access the Yolo Bypass. Tracking of juvenile Chinook salmon near the Delta Cross Channel suggests that river position and size of individual fishes can influence migration route selection even while mostly influenced by river flow (Steel et al. 2013). Yearling juveniles may, for example, have different entrainment rates than younger fishes because their larger size makes them better swimmers (Groot and Margolis 1991). Consequently, yearling juveniles may be able to maneuver through the operable gate more efficiently than subyearling fishes. Differences of entrainment rates between yearling and subyearling juvenile salmon, however, has not been evaluated.</p>	
1675	51	<p>HATCHERY FISHES</p> <p>Topic #3: How many juvenile salmon expected to access he Yolo Bypass floodplain habitat are of hatchery origin?</p> <p>In 1997-1998, about 97% of the unmarked salmon and 67% of the marked salmon caught at the Knights Landing rotary screw trap were fall run Chinook salmon (Snider and Titus 2000). The Central Valley fall run Chinook population as a whole is now dominated (> 90%) by hatchery produced salmon (Barnett- Johnson 2007, Johnson et al. 2013) and naturally produced fall run Chinook are likely extirpated (Moyle et al. 2008). If the proportion of juvenile salmon accessing the Yolo Bypass is likewise dominated by fall run Chinook, then we can estimate that the large majority (> 90%) of fishes using the Bypass are of hatchery origin. Based on past hatchery release dates, most fall run Chinook juveniles would migrate through the Bypass from March through June.</p>	<p>The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS. See response to Comment 48. Please see Chapter 11 of the Final EIR/EIS for information regarding fish and aquatic resources.</p>
1675	52	<p>Topic #4: What is the likelihood that these hatchery fish will reproduce in the wild?</p> <p>Reproduction of hatchery-produced adult salmon in the wild (due to straying) appears to differ by run type. Such spawning occurs mainly in rivers below hatcheries. While salmon of hatchery origin that spawn below hatcheries often produce large numbers of young, survival of these young appears to be low due to adaptations to the hatchery environment, competition from larger hatchery fish released into the river, and manipulations of river flows for benefits other than salmon production (P. Moyle, personal communication).</p> <p>Straying occurs when adult salmon return to spawn in watersheds other than the one where they were raised. Straying is a natural part of salmon behavior but is usually less than 10% in wild populations (Groot and Margolis 1991). Releases in locations away from the hatchery promote higher rates of adult straying (reviewed in California HSRG 2012) and can have detrimental effects on the ability of a species to cope with changing environmental conditions if hatchery-adapted genes are introduced into wild populations. Straying is thought to be the principal cause of genetic homogenization of Central Valley fall run Chinook (Williamson and May 2005), making the entire run more susceptible to collapse (Lindley et al. 2009).</p> <p>Reproduction in the wild of fall run Chinook in the Mokelumne River has been recently studied (Johnson et al. 2013). Upon evaluating the chemical signature of ear bones,</p>	<p>The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS. See response to Comment 48. Please also see Chapter 11 of the Final EIR/EIS for information regarding fish and aquatic resources.</p>

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		<p>Johnson et al. (2013) proposed that about 90-99% of wild spawners were hatchery-produced fish. Similarly, about 86% of spring run Chinook reared in the Feather River Hatchery between 2004 and 2007 that were released in San Pablo Bay strayed (California HSRG 2012b). Of the groups of Chinook likely to use the Yolo Bypass (Table 1), we can infer that straying into the wild is most likely for juveniles from Coleman National Fish Hatchery when these are released away from the hatchery in San Pablo Bay. However, it is currently impossible to estimate how many of these juveniles will use the Yolo Bypass and then return to spawn in rivers. Pit- tagging and individual tracking of fishes through their entire life cycle, from hatchery rearing, through seaward migration, to adult spawning, could provide estimates of hatchery fishes that reared in the Bypass and then strayed.</p>	
1675	53	<p>ATT3: ATT2: Table 2. Run type, percentage marked, and release target, location and month of Central Valley Chinook salmon reared in hatcheries. Two asterisks (**) marks groups most likely to use the Yolo Bypass for rearing, one asterisk marks groups likely to use Yolo Bypass as a migration corridor. Source: California HSRG 2012a.</p>	<p>The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.</p>
1675	54	<p>OTHER FLOODPLAINS</p> <p>Topic #5: Is the Yolo Bypass the only floodplain habitat important to fish species of interest in the lower Sacramento River watershed? If not, what other areas are important to the fish species of interest (e.g., Sutter Bypass)?</p> <p>While the Yolo Bypass is potentially the largest floodplain habitat available to fish species in the lower Sacramento River watershed, fishes also successfully use other areas to complete their life cycle. For instance, Chinook salmon have successfully reared in the Consumes River floodplain (Jeffres et al. 2008), Natomas East Main Drainage Canal (Jones and Stokes Assoc. 1999) and Sutter Bypass (Hill and Webber 1999, Ward et al. 2004). Splittail have successfully spawned in floodplain habitats in the lower Consumnes River, American River, Sutter Bypass, Sacramento River, and lower Tuolumne River (San Joaquin basin; Moyle et al., unpublished report; Moyle et al. 2004). Outside of the Central Valley, splittail are also present in the Napa and Petaluma Rivers (Baerswald et al. 2007). One study (Sommer et al. 1997) found that larval densities were not statistically different in the Sutter and Yolo Bypasses, suggesting that reproductive success is similar between these sites. Furthermore, splittail can successfully spawn along stream banks and in backwaters during small increases in flow (reviewed in Moyle et al. 2004) when the Bypasses may not be flooded.</p>	<p>The fish species evaluated in the EIR/EIS are use a range of habitat types throughout their lifecycles, including floodplains, riparian habitats, open water, and the ocean. Any effects to these habitats caused by the alternatives are described in Chapter 11 of the Final EIR/EIS.</p> <p>Please see the response to Comment 48. Please also see the response to Comment 43.</p>
1675	55	<p>TOE DRAIN VERSUS FLOODPLAIN HABITAT</p> <p>Topic #6: Is the floodplain habitat along the Toe Drain in the Yolo Bypass higher or lower quality than other floodplain habitat in the Yolo Bypass, such as the western portion of Knaggs Ranch?</p> <p>The floodplain habitat along the Toe Drain should be of equal quality to other floodplain habitat in the Yolo Bypass, assuming these areas are also seasonally flooded and have similar depth and velocity characteristics. Floodplain habitat near the Toe Drain may be more suitable for some species (e.g., splittail) since they are expected to be flooded for longer periods of time because this area would be the first to inundate and last to drain. The only major concern to native fishes regarding floodplain habitat along the Toe Drain is that they would be in closer proximity to predators (e.g., striped bass <i>Morone saxatilis</i>) so mortality due to predation may be higher but the certainty of this is low. The Toe Drain is</p>	<p>Please see the response to Comment 48. Please also see the response to Comment 43.</p>

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		<p>also tidally influenced from near Lisbon Weir to Liberty Island (NHI et al. 2002) so rapid changes in depth may lead to desiccation of splittail eggs and may lead to significant amounts of mortality during high flow events.</p>	
1675	56	<p>BENEFITS OF FLOOD TIMING</p> <p>Topic #7: What are the benefits of providing floodplain habitat before March 1st for each species of interest? After March 1st? What are the factors that influence level of benefit to fish species of interest, such as temperature? What does the scientific community know about these factors and what information is not available?</p> <p>Most species of interest will benefit the most from use of the Yolo Bypass in the fall and winter (before March 1st) but juvenile salmon, splittail, sturgeon and lamprey may still benefit from additional use of floodplain habitat after March 1st. However, the magnitude of benefits and how they differ by run timing, size and age of fish has not been evaluated. Further, inundation of the entirety of the floodplain is not necessary to realize at least some benefits to the species of interest (refer to discussion below).</p> <p>Duration of beneficial conditions for growth and survival of individual fish are expected to last only as long as favorable habitat exists (e.g., cool temperatures). Favorable habitat is expected to be readily available before March 1st because flooding is more likely and air temperatures are still cool. However, the duration of benefits after March 1st is difficult to determine. Benefits to fish using floodplain habitat will be governed by parameters including temperature, dissolved oxygen concentration, prey availability and predation pressure. For instance, Jeffres et al. (2008) documented that conditions on the floodplain could result in mortality of salmon in pens, likely due to low dissolved oxygen conditions. Although unpened fish likely leave unsuitable areas before experiencing mortality, their study indicates that some floodplain habitats can become unsuitable for juvenile salmon rearing.</p> <p>The magnitude of potential benefits are dependent on habitat conditions, particularly temperature, with diminishing benefits to adults and juveniles as temperatures increase beyond 18-20°C. Katz et al. (2012) found that temperatures in their sites in 2011 increased beyond 20°C by the end of March. Although high prey availability sustained growth rates at high temperatures at Knaggs Ranch, growth rates began to decrease at temperatures above 20°C (Katz et al. 2013). However, their sites were fed by agricultural return water which may exhibit different temperature patterns than Sacramento River floodwaters. This issue remains uncertain, however, as Sommer et al. (2005) documented temperatures above 20°C in April (1998) and May (2000) during years of Sacramento River floodwaters inundated Yolo Bypass.</p> <p>Temperature, dissolved oxygen concentration, and predation pressure are likely to become increasingly more stressful to fishes using the floodplain after March 1st as air temperatures increase and flooding depths decrease. Dissolved oxygen concentrations decrease with increasing water temperatures, although wind at the water's surface in some instances can counteract these effects; temperature generally also increases with decreasing depth (Allan and Castillo 2007). Temperature, dissolved oxygen, and predation pressure have not been extensively monitored for different water years or seasons in the Yolo Bypass. Consequently, it is difficult to determine exactly when suitable conditions will end after March 1st.</p> <p>Weekly monitoring of growth and survival of fishes on the floodplain concomitant with</p>	<p>Please see response to Comment 48. Also, 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>The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.</p>

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		<p>environmental conditions, such as temperature, dissolved oxygen, and prey availability, is needed to establish the duration of benefits of Yolo Bypass use. Monitoring should take place at multiple locations, during multiple water years, in the Yolo Bypass in order to capture potential heterogeneity of habitat conditions (as in Jeffres et al. 2008).</p> <p>Sommer et al. (2005) estimated salmon densities of Chinook juveniles in the Yolo Bypass to range from 126 to 890 fish per hectare. This density converts (1 hectare = 2.47 acres) to a range of about 51 to 360 fish per acre. Based on a density of 300 fish per acre and the abundance estimates from Snider and Titus 2000 (see Topic #1), approximately 6,000 acres of Yolo Bypass floodplain habitat could house all 1.8 million fishes estimated to be present in the Sacramento River at Knights Landing. This equates to essentially all of the late-fall, winter, and spring Chinook migrating from November to December 1997. In comparison, approximately 9,000 and 16,000 acres could house all 2.7 million fishes (wild fall Chinook) migrating December to March and 4.7 million fishes (hatchery fall Chinook) migrating March to June, respectively, in that same water year. If the fish can survive at even higher densities, which is suggested by Katz et al. (2013), then the fish would need even less acreage in the Yolo Bypass. Obviously, not all of these fish could be diverted into the Bypass through an operable gate in the Fremont Weir because the large majority of the flows and the associated fish would remain in the Sacramento River. Roberts et al. (2013) estimate that up to 38% (late fall run Chinook in 2006) of some runs may enter the Bypass via an altered Fremont Weir. However, based on 1997-2011 averages, the proportion of fishes entering the Bypass via a notch or operable gate in any given year will more likely range from 13-18% (Roberts et al. 2013). These estimates are highly speculative because they are based on the proportion of flow moving past Fremont Weir rather than observed numbers. As discussed under Topic #1, these estimates are simply to demonstrate the potential that only a small portion of the Yolo Bypass is needed for significant fish benefits. Additional data and analysis is needed to further this discussion. The actual number that would access the Bypass or benefit from its use are unknown (Katz et al. 2012).</p> <p>Delta smelt are expected to only benefit indirectly from Yolo Bypass flooding if carbon inputs are sufficient to substantially enhance prey availability in their habitats (as in Schemel et al. 1996 in NHI et al. 2002). However, studies suggest that bivalve grazing (i.e. from invasive non-native clams) under some conditions may reverse benefits from increased primary productivity (Greene et al. 2011, Lucas and Thompson 2012) that would otherwise increase delta smelt prey. It is unknown if inundation of Yolo Bypass will increase primary production sufficiently to benefit delta smelt.</p> <p>Juveniles of the species of interest are expected to benefit more from floodplain habitat use than any of their adult counterparts. Juveniles are better adapted to use shallower, denser (due to aquatic plants) habitats and grow at faster rates than adults when prey are easily available.</p> <p>In general, benefits to adults will be as an alternate upstream route during upstream (salmon, steelhead, lamprey) migration if the Bypass provides refuge from high water velocities and predators. Sturgeon adult prefer to migrate in deeper parts of river channels but may be attracted into the Bypass during high flows. Splittail and longfin smelt adults may benefit from spawning over aquatic vegetation in the Bypass, although longfin smelt are much more prone to use deeper, more open areas (Moyle 2002) and evidence of longfin smelt using the Bypass is very limited (P. Moyle, personal</p>	

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		communication).	
1675	57	Winter run Chinook adults begin spawning migrations from January through May, peaking in mid- March. Juveniles migrate downstream of spawning areas from October to June, with peak numbers at the end April, generally staying upstream Red Bluff Diversion Dam, (Williams 2006, Moyle et al. 2008). Juveniles will rear another 5-10 months before moving towards San Francisco Estuary. Most juveniles will reach the Delta in early winter (Moyle et al. 2008). Juveniles historically likely benefitted from winter flooding in the Sacramento basin which provided floodplain habitat for rearing (Moyle et al. 2008). Most juveniles are expected to migrate through and rear in the Yolo Bypass (if accessed) before March 1st but juvenile salmonid outmigration may continue through to June.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS. Please see Chapter 11 of the Final EIR/EIS for information regarding fish and aquatic resources.
1675	58	Spring run Chinook adults begin upstream spawning migrations from February to early July. Peak adult numbers reach upper Sacramento River tributaries (Butte, Deer, Mill Creeks) in mid-April to mid-May (Moyle et al. 2008). Adults reside in streams for several months before spawning in the fall. Juveniles will hatch and subsequently rear in streams through at least the following spring. Rotary screw trap catches at Knights Landing catch juveniles from March to July (J. Roberts, unpublished data; based on length criteria) but hatchery releases of juveniles dominate trap catches in April or May (California HRSR 2013). The relative size of juveniles seems to determine how quickly they migrate to the ocean. Larger juveniles rearing in Sutter Bypass migrate quickly into ocean (Hill and Webber 1999). Consequently, larger (juveniles older than 1 year) juveniles that usually migrate after March 1 are not expected to benefit from Yolo Bypass rearing as much as younger juveniles. Young of year (YOY; juveniles less than one year old) are more likely to rear for extended periods of time in the Bypass. Most wild YOY are expected to migrate through and or rear in the Bypass before March 1st while hatchery-produced YOY are expected to migrate through the Bypass after March 1st.	No issues related to the adequacy of the environmental impact analysis in the EIR/EIS were raised. Please see Chapter 11 of the Final EIR/EIS for information regarding fish and aquatic resources.
1675	59	Fall run Chinook adults spawn October to December. Juveniles migrate as fry and smolts in winter and spring. Historically, fall run Chinook juveniles are thought to have reared in floodplains extensively, benefitting from accelerated growth in these areas due to warmer temperatures and higher prey densities (Sommer et al. 2001c, Jeffres et al. 2008). More than 90% of fall run adults are considered to be hatchery produced. Naturally-produced (wild) fall run Chinook have very low survival rates and are the progeny of hatchery-reared adults (Moyle et al. unpublished report). Most wild YOY are expected to migrate through the Bypass before March 1st while hatchery-produced YOY are expected to migrate through the Bypass after March 1st.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS. Please see Chapter 11 of the Final EIR/EIS for information regarding fish and aquatic resources.
1675	60	Late-fall run Chinook adult migration peaks in December and January (Moyle et al. 2008), but occur from November through April (William 2006). Size criteria suggest that late-fall Chinook juveniles migrate most of the year (Williams 2006) but migration usually peaks in October (Moyle et al. 2008). Most juvenile late-fall run Chinook should migrate through the Yolo Bypass before March 1st.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS. Please see Chapter 11 of the Final EIR/EIS for information regarding fish and aquatic resources.
1675	61	Central Valley steelhead juveniles migrate from the Sacramento-San Joaquin River system from late December to the beginning of May, peaking in mid-March, with a smaller peak in fall. There is no evidence that steelhead need floodplain rearing to do well (P. Moyle, personal communication), although a few individuals were caught by Sommer et al. (2001b). Flooding of the Yolo Bypass is expected to only negligibly benefit Central Valley steelhead juveniles and may only benefit adult steelhead as an alternate migration route	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS. Please see Chapter 11 of the Final EIR/EIS for information regarding fish and aquatic resources.

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		before March 1st.	
1675	62	<p>Splittail adults migrate upstream from brackish water (low saline waters) in response to stream flow pulses from November to February (Moyle et al. unpublished report). Adults will usually spawn from March through April over annual vegetation, although earlier spawning has been observed (Moyle et al. 2004). Juveniles will rear in shallower floodplain habitats from March through April and will migrate off the floodplain during April and May, as high flows recede. Both adult and juvenile splittail would benefit the most from flooding of the Yolo Bypass after March 1st. Adult splittail likely do not need a large inundation footprint to successfully spawn as long as a "high flow" cue initiates migration onto the floodplain and submerged vegetation is present. Floodplain habitat along the Toe Drain should provide sufficient spawning and incubating habitat during some wet years (P. Moyle personal communication). Yolo Bypass is expected to flood in years when other areas would also be flooded due to high flows, making spawning habitat available in other parts of the Project Area (Sacramento-San Joaquin Delta, Suisun Marsh, Suisun Bay, and Yolo Bypass; see Question #5). Consequently, spawning habitat is readily available elsewhere in years when the Bypass is flooded. In low water years, flow through an altered Fremont Weir may not be sufficient to cue spawning migration onto the floodplain. Consequently, it is uncertain how much splittail will benefit from an operable gate at Fremont Weir. A larger inundation (beyond just the Toe Drain) footprint could provide important rearing habitat to splittail juveniles that incubated in Yolo Bypass. The exact number of acres needed for successful spawning and rearing is unknown.</p>	<p>Please see the response to Comment 1 regarding the new proposed project, which no longer includes an HCP or CM2, Yolo Bypass Enhancement. Yolo bypass enhancement activities, including increasing the duration, frequency, and magnitude of inundation (outside of the toe drain), would be expected to improve conditions for splittail spawning, egg incubation, and larval life stages. Longer inundation events (more than 30 days) would be particularly beneficial to splittail spawning and juvenile production, given the increase in food web production and habitat available for larval and juvenile growth during these events. Generally, benefits of Yolo Bypass enhancements to splittail would be highest during higher flow events, where a greater portion of the bypass is inundated and the duration of inundation is the longest. However, modifications of the Fremont Weir would increase the range of flows conducive to Yolo Bypass inundation. It is expected migratory cues would be sufficient for splittail spawning migrations during most of these inundation events.</p>
1675	63	<p>Little is known about white sturgeon <i>Acipenser transmontanus</i> habitat use in the Central Valley. In the Columbia River, adults move upstream in fall to spawn and back to the ocean in spring (Moyle et al. unpublished report). Prior to spawning, adults move into lower parts of rivers in winter and move upstream with increased flows. Spawning occurs in response to increases in flow in late February to early June. Spawning in the Sacramento River takes place between Knights Landing and Colusa, although adults also used to enter the Feather River. No recent spawning activity has been reported in the Feather River. Spawning takes place in deep water over gravel/rocky substrate. Upon hatching, larvae swim near the river bottom, preferring deep areas. Juveniles in the Fraser River use deep areas (> 5m) with soft sediments and lots of prey (including dipteran flies). Adult white sturgeon would benefit from Yolo Bypass flooding if Conservation Measures provide a viable (i.e. deep areas), alternate migration route for adults that stray into the Bypass. Juvenile white sturgeon may benefit from feeding opportunities on the floodplain after March 1st but juveniles generally prefer deeper habitats and specific floodplain use of juveniles in the Central Valley (including Yolo Bypass) is unknown.</p>	<p>The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS. Please see Chapter 11 of the Final EIR/EIS for information regarding fish and aquatic resources.</p>
1675	64	<p>Green sturgeon <i>Acipenser medirostris</i> migrate into the Sacramento River to spawn in March to May, with peaks in May-June (Adams et al. 2002, Heublein et al. 2009). Adults prefer to migrate in deep parts of the channel and will hold in deep pools while migrating between fresh and salt water so the Yolo Bypass is not considered suitable habitat for adults. However, adults can get trapped behind the Fremont Weir so passage at the Weir should be addressed (Thomas et al. 2013). Adults need rocky stream bottoms for spawning in deep pools with high velocity. Larval green sturgeon have lethal temperature tolerances near summer temperatures in the Sacramento River. Age 0-1 year olds do best (bioenergetic performance) in temperatures between 15-19°C (reviewed in Beamesderfer et al. 2007). Larvae (20-60 mm) migrate downstream May-August. Juveniles can spend</p>	<p>The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS. Please see Chapter 11 of the Final EIR/EIS for information regarding fish and aquatic resources.</p>

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		<p>1-4 years in freshwater.</p> <p>Adult green sturgeon would benefit from Yolo Bypass flooding if Conservation Measure 2 provides a viable and alternate migration route to adults that stray into the Bypass. Green sturgeon juveniles are unlikely to benefit from feeding opportunities on the floodplain before and after March 1st; the best evidence suggests that they rear mainly in large river channels (Moyle et al., unpublished report). There is no evidence of deliberate systematic use of the Yolo Bypass by green sturgeon (P. Moyle, personal communication).</p>	
1675	65	<p>Little is known about river lamprey <i>Lampetra ayresi</i>. They have not been studied in California so information from British Columbia is used here, which may or may not reflect the habitat use of populations in California (Moyle et al., unpublished report). Adults migrate into freshwater in fall and spawn in tributaries in winter or spring. Upon hatching, larval lamprey (ammocoetes) burrow into silt- sand deposits in backwaters that are within the wetted channel. Ammocoetes transform in summer; metamorphosis takes 9-10 months. Newly transformed juveniles aggregate just upstream of salt water and enter the ocean in late spring. Juveniles spend 3-4 months in saltwater. The Yolo Bypass is not thought suitable for ammocoetes because they need perennial water with soft (easily burrowed; no large root masses) sediments. Adults migrating to spawn (before March 1st) and transformers (after March 1st) may benefit from Yolo Bypass flooding if Conservation Measures provide a viable alternate migration route.</p>	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS. Please see Chapter 11 of the Final EIR/EIS for information regarding fish and aquatic resources.
1675	66	<p>Pacific lamprey <i>Entosphenus tridentatus</i> adult spawning migrations begin from early March to late June but migration has also been seen in January, February and July (Moyle et al. unpublished report). Adults use gravel substrates in rivers to build nests and deposit eggs. Embryos hatch in 19 days in 15°C. Ammocoetes burrow into soft sediments in perennial water. Juvenile metamorphosis and downstream migration is associated with increases in flow in winter and spring. The Yolo Bypass is not thought suitable for ammocoetes because they need perennial water with soft (easily burrowed; no large root masses) sediments. Adults migrating to spawn (before March 1st) and transformers (after March 1st) may benefit from Yolo Bypass flooding if Conservation Measures provide a viable alternate migration route.</p>	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS. Please see Chapter 11 of the Final EIR/EIS for information regarding fish and aquatic resources.
1675	67	<p>Delta smelt <i>Hypomesus transpacificus</i> are mainly found downstream of the Yolo Bypass (P. Moyle, personal communication). Spawning success is highest at temperatures 15-20°C (Moyle 2002). Increased mortality is thought associated with pesticides, and predation by alien species (along with other factors). Delta smelt distribution is confined to freshwater and low salinity areas of the San Francisco Estuary. Temperatures over 25°C are lethal to adults but temperatures above 20°C increase mortality of newly spawned larvae. Actual spawning locations are unknown. However, spawning seems to take place from late February to June, with larvae being most abundant from mid-April through May (but can be seen from February to mid-July). Spawning in the wild takes place in temperatures between 7-15°C. Adults often spawn below low water margin in tidal areas, over substrate rather than vegetation. Delta smelt preferred prey are copepods. No information is available on factors that affect spatial distribution, or initiate spawning or first feeding. Delta smelt may benefit indirectly from Yolo Bypass flooding if carbon exports off the floodplain are sufficiently high to significantly increase prey availability in downstream habitats. However, the amount of carbon export necessary to significantly offset grazing by invasive clams and increase prey density in delta smelt habitats is unknown.</p>	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS. Please see Chapter 11 of the Final EIR/EIS for information regarding fish and aquatic resources.

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1675	68	<p>Longfin smelt <i>Spirinchus thaleichthys</i> live in open water bays and channels (Moyle 2002), including areas in the San Francisco Estuary and Delta (CDFG 2009). However, a few adult longfin smelt have been collected from the Yolo Bypass, most commonly in the winter and spring when flows are low (CDFG 2009). But overall, longfin smelt are rare upstream Georgiana Slough (CDFG 2009) even if found as far upstream as Rio Vista (Moyle 2002). Adults prefer open water with temperatures < 18°C (Moyle 2002) and then move upstream to spawn over stream substrates or aquatic plants. Most spawning occurs February to April at temperatures <14.5°C. Larvae are most abundant January-March but can be common also in April-July (as in 1989-1990). Juvenile numbers peak in June and July (CDFG 2009). Juveniles move further downstream than larvae. Larvae and juveniles seem to tolerate slightly warmer water but water temperatures still have to be less than 22°C (CDFG 2009). Use of the Bypass (and other floodplains) by longfin smelt adult and juveniles is minimal (P. Moyle, personal communication).</p> <p>Other factors, besides temperature, that influence habitat use by adults and juveniles of the species of interest include type and density of prey, presence of predators (including birds and other fishes), dissolved oxygen concentrations, and levels of aquatic toxins (including pesticides). None of these have been adequately addressed by existing reports.</p>	<p>The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS. Please see Chapter 11 of the Final EIR/EIS for information regarding fish and aquatic resources.</p>
1675	69	<p>Topic #8: How will climate change affect these benefits?</p> <p>The following is a modified excerpt from Moyle et al., unpublished report.</p> <p>Climate change is already altering fish habitats in California and will continue to do so at an accelerating pace if trends do not change. In general, conditions are worsening for native fishes and improving for many alien fishes. For most species of native fish, the predicted outcomes of climate change are likely to accelerate current declines, potentially leading to extinction in the next 50-100 years if nothing is done to offset climatic impacts (Moyle et al. 2013). This section is focused on two major aspects of climate change that affect fish distribution and abundance in California rivers: temperature and precipitation.</p>	<p>Please see response to Comment 48. Please also see Chapter 11 of the Final EIR/EIS for information regarding fish and aquatic resources and Master Response 19 for more information regarding climate change.</p> <p>The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.</p>
1675	70	<p>Temperature. Temperatures have been rising in streams for some time and are continuing to rise (Kaushal et al. 2010). In California, there are diverse climate change models to predict future temperatures, but the more conservative models generally converge on scenarios that assume that within 50-100 years, temperatures will increase between 1°C-4°C (1.8°F-7.2°F) and 1.5°C-6°C (2.7°F-10.8°F) (Miller et al. 2003, Cayan et al. 2009). Further, annual snowpack in the Sierra Nevada and Cascade ranges is expected to diminish greatly, so stream flows will be increasingly driven by rainfall events. An increase in the ratio of rain to snow will result in more peak flows during winter, increased frequency of high flow events (floods), diminished spring pulses, and protracted periods of low (base) flow. In addition, there will be more extended droughts. These conditions will translate into warmer water temperatures at most elevations, reflecting both increases in air temperatures and reduced summer flows. From a fish perspective, the impacts of climate change are likely to be most severe on species requiring cold water (<18°C-20°C, or 64°F-68°F) for persistence, especially salmon and trout (Katz et al. 2013). Warming (more days with maximum temperatures > 20°C or > 68°F) of the more freshwater regions of the San Francisco Estuary is regarded as an additional threat to declining endemic species such as delta smelt (<i>Hypomesus transpacificus</i>) (Wagner et al. 2011).</p>	<p>The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS. Please see Master Response 19 for more information about climate change.</p>
1675	71	<p>Precipitation. Models for precipitation indicate that precipitation in California will become</p>	<p>The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.</p>

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		<p>more variable, with more falling as rain and less as snow (Cayan et al. 2009). Generally, the total amount of precipitation by 2100 is projected to be less, although the extent of loss is highly uncertain (Cayan et al. 2009). From a fish perspective, present rain flow-dependent streams will respond somewhat differently than snowmelt-dependent streams, although, as temperatures rise, the hydrologic character of snowmelt streams will become more like those of rain flow-driven streams.</p> <p>Earlier snowmelt has already moved the timing of high flows forward by 10 to 30 days, on average (Stewart et al. 2005), with annual peak discharges, in particular, occurring earlier (Cayan et al. 2009). These changes dramatically affect flows in low-elevation rivers in the Central Valley and are leading to modified operation of reservoirs (dam releases), which further affect flows. Overall, the amount of water carried by streams in California (and the rest of the western United States), if present trends continue, will decrease by 10 to 50 percent during drier months (e.g., Cayan et al. 2001).</p> <p>In the Yolo Bypass increased temperatures, changes in flow patterns, and potentially diminished fog (Johnstone and Dawson 2010), will likely result in (1) shorter periods of habitat suitability during all but extreme flood events, (2) decreased frequency of natural flood events suitable for spawning of splittail and rearing of salmon, (3) more (if still infrequent) extreme ("100 yr") flood events, and (4) increased demand for water to create artificial flooding from mid-January through mid-March.</p>	<p>The potential effects of climate change have been factored into the analyses included in the FEIR/EIS.</p>
1675	72	<p>Topic #9: What are the different mechanisms through which splittail spawning success in the Yolo Bypass can be measured, taking into consideration that different organizations will define spawning success differently?</p> <p>Successful spawning could be measured as the number of adults spawning on the floodplain or the number of eggs deposited per acre. However, successful spawning is measured here as the number of juveniles that move from the floodplain, into larger stream and slough channels, as flood waters recede. This measure would also evaluate benefits of splittail juveniles rearing on the floodplain.</p>	<p>Please see response to Comment 48.</p> <p>The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS.</p>
1675	73	<p>Topic #10: Do splittail need 10,000 acres of floodplain habitat to spawn successfully in the Yolo Bypass? Would success be possible if splittail floodplain habitat is limited to the lower Yolo Bypass, such as areas in Cache Slough? Are there other opportunities for creation of successful splittail spawning habitat outside of the Yolo Bypass?</p> <p>Splittail need two things for successful spawning: 1. attraction flows that initiate upstream spawning migrations into freshwater, and 2. submerged annual vegetation on which to deposit eggs (reviewed in Moyle et al., unpublished report). Aquatic vegetation also needs to stay submerged long enough for incubation to take place. Consequently, the best splittail spawning habitat is likely close to the Toe Drain, but upstream of Lisbon Weir, to minimize the risk of egg desiccation. It is fairly certain that splittail will not need 10,000 acres to spawn because spatial extent is not as necessary as the presence of spawning substrate (i.e., submerged vegetation) for successful spawning and abundant food for larval and juvenile splittail (P. Moyle, personal communication). Furthermore, successful spawning occurs in other parts of the systems (e.g., Sutter Bypass, Cache Slough, Napa River) and so is not solely reliant on the Yolo Bypass. Consequently, splittail are expected to successfully spawn even if habitat is limited to lower Yolo Bypass (e.g., areas in Cache Slough). However, the relationship between spawning success (as defined above) and size of flooded area has not been evaluated. Presumably, there is an optimal</p>	<p>Please see response to Comment 48. Please also see response to Comment 43.</p>

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		size of flooding based on numbers of adults available for spawning, size and fecundity of spawning adults, access to habitat by migrating fish, amount of suitable spawning and larval habitat (annual vegetation), production of food for juveniles and larvae, and 'escape routes' for juveniles to move off the floodplain and downstream to rearing habitats in places such as Suisun Marsh (P. Moyle, personal communication). The latter may depend on sufficient production of juveniles to compensate for predation during the outmigration period. Please refer to Questions # 5, 6 and 7, above, for more details.	
1675	74	<p>Topic #11: How long do juvenile salmon and splittail need to stay on the Bypass floodplain to realize significant benefits?</p> <p>The general consensus is that splittail and juvenile salmon, the species most reliant on floodplain use, need 3-4 weeks of inundation to realize significant benefits. Year class strength of juvenile splittail that stayed on the floodplain for more than 3 weeks (March to May) was 10 fold higher, as measured by abundance, than for groups that used the floodplain for less than 3 weeks (Sommer et al. 2001b). Juvenile salmon on the other hand may require a bit more time, around 4 weeks (fall-spring), to realize significant benefits. The time required is related to a time lag between when initial flooding and when prey (e.g., zooplankton, dipteran flies) are readily available to juvenile salmon (inoculation period; C. Jeffres, personal communication). Sommer et al. (2005) determined Yolo Bypass resident times of planted, tagged Chinook juveniles (from Feather River Fish Hatchery) to range from 30-56 days from 1998-2000. Presumably residence time of fish entering the floodplain naturally would be similar, although this is not known. The assumption is that almost any time spent on a food-rich floodplain would benefit wild salmon (P. Moyle, personal communication).</p>	Please see response to Comment 48. Please also see the response to Comment 1 regarding the new proposed project, Alternative 4A/California WaterFix, which no longer includes CM2, Yolo Bypass Enhancement. It is expected that the greatest benefits to splittail would occur when inundation persists for at least 30 days, the estimated time needed for development to the juvenile stage that emigrates from the floodplain. For Chinook salmon, the greatest benefits would be realized at 3 weeks or more to provide sufficient time for salmon to take advantage of prey availability.
1675	75	ATT4: Exhibit D - Article entitled "Waterfowl Impacts of the Proposed Conservation Measure 2 for the Yolo Bypass - An Effects Analysis Tool" - dated July 16, 2012. Prepared for the BDCP-Yolo Bypass Fisheries Enhancement Planning Team	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1675	76	ATT5: Exhibit E - Title page of Report "Yolo Bypass Drainage and Water Infrastructure Improvement Study" Dated April 2014	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1675	77	ATT6: Exhibit F - Title page of Report "Yolo Bypass MIKE-21 Model Review: Strengths, Limitations, and Recommendations" by Northwest Hydraulic Consultants - Dated September 20, 2012	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1675	78	ATT7: Exhibit G - Title page of Final Report - Agricultural and Economic Impacts of Yolo Bypass Fish Habitat Proposals. Prepared for Yolo County - April 2013	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1675	79	ATT8: Letter - dated September 5, 2013 from Duane Chamberlain, Chair - Yolo County Board of Supervisors to Secretary Jewell of the Bureau of Reclamation and Secretary John Laird - California Natural Resources Agency - dated September 5, 2013 - on Comments on the Revised Administrative Draft of the BDCP	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1675	80	<p>The BDCP Conservation Measure 2 ("CM2") Biological Objectives Undermine Existing Collaboration and Limit Adaptive Management.</p> <p>CM2 still does not include a balanced approach to habitat restoration that places adequate weight on existing land uses, including agriculture, recreation, and waterfowl</p>	<p>Please see the response to Comment 1.</p> <p>For more information regarding alternatives development please see Master Response 4.</p>

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		<p>habitat. While CM2 has changed in some respects over time, it continues to entail flooding a large area of the Yolo Bypass on a frequent basis for an amount of time that may significantly impact agriculture and other existing land uses, all without a sound scientific basis for concluding that the hypothesized fish benefits will ever materialize. The County has long offered alternative approaches that would minimize or avoid adverse effects while restoring substantial floodplain habitat in the Yolo Bypass, but the administrative draft does not yet reflect Yolo County's efforts.</p>	
1675	81	<p>Specifically, Yolo County strongly objects to the use of the criteria that flooding should be achieved in 70% of all years, as well as the specific acreage criteria, in the CM2 biological objectives. Based on the County's understanding of biological objectives, including such specific criteria in the biological objectives will limit options to minimize impacts of the proposal. The biological objectives are especially egregious considering it is the County's understanding that the fish benefits associated with such broad objectives are still uncertain. The BDCP should start with biological objectives that minimize impacts, as well as take into account the scientific uncertainty associated with fish benefits, and then use adaptive management to increase the percent of years inundation occurs and acreage of inundation, if necessary. The biological objectives, as currently written, will undermine the ongoing collaborative process between the County and the BDCP because they lock in critical parameters of the proposed project.</p>	Please see the response to Comment 1.
1675	82	<p>In addition to creating specific acreage targets in the CM2 biological objectives, the County believes a fundamental problem with the BDCP and EIR/EIS is that both rely on a published paper (Sommer et al. 2007) to state the Yolo Bypass floods in 70 percent of all years. The statistic is used as the basis for at least three biological objectives in Chapter 3 of the BDCP (Objectives FRCS1.2, STHD1.2, and WRCS1.2) that are central to certain actions proposed in CM2. There are at least two problems with this statistic, however, which are problems also described in the County's comments on the EIR/EIS. First, this statistic is potentially inaccurate. Before it is used as the basis for a biological objective or the EIR/EIS baseline, this statistic must be thoroughly evaluated for accuracy. Second, even if accurate, the statistic does not define the extent of Bypass flooding. It likely includes very small overtopping events that caused only localized inundation within the Bypass. This statistic thus cannot be used to define current or "natural" conditions that have any significant bearing on appropriate restoration strategies. Its use in CM2 and the above-referenced objectives is scientifically questionable in the absence of any apparent connection to research regarding the appropriate frequency of inundation for covered aquatic species.</p> <p>The County urges the state and federal government to revise the biological objectives to allow the state and federal government to incorporate the results of the ongoing collaborative process in the BDCP, rather than predetermining the outcome by adopting restrictive biological objectives. The County further urges the BDCP to create a Yolo Bypass governance structure, as discussed by Yolo County with Deputy Secretary Jerry Meral and other parties that will apply to the planning, as well as the implementation process for CM2.</p>	Please see the response to Comment 1.
1675	83	<p>CM2 is Mitigation for Adverse Effects, but Taxpayers are Paying for CM2.</p> <p>The state and federal government have already identified increased inundation of the Yolo Bypass floodplain as mitigation for operation of the existing water supply system as part of the Bureau of Reclamation's Yolo Bypass Salmonid and Habitat Restoration</p>	Please see the response to Comment 1.

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		<p>Project, proposed to comply with a federal Biological Opinion. In addition, CM2 is referenced as sufficient to avoid the need to mitigate for CM1 Water Facilities and Operation ("CM1") impacts throughout the BDCP administrative draft. Yolo Bypass inundation is, consequently, documented as mitigation for both CM1 and existing water supply operations. The state and federal water contractors are paying for construction of CM1 (including mitigation), but the taxpayers are paying for CM2. There is no funding, for example, allocated to the contractors in the draft BDCP, as indicated in Table 8.50 (Ch8, p94-96). This is of utmost importance to Yolo County because the costs of the project include compensation for impacts to Yolo County from CM2. As Yolo County has demonstrated through multiple studies, CM2 could potentially have significant impacts on agriculture, waterfowl habitat, and other existing land uses. In addition, there are potentially significant local economic impacts from CM2. The beneficiaries of CM1 must fully pay for CM2 if BDCP uses CM2 to avoid mitigation for CM1 impacts, including compensation for local economic impacts. Yolo County, as well as the taxpayers at large, should not be shouldering the financial burden for a project that benefits other parts of the state.</p>	
1675	84	<p>It is clear from language in the BDCP draft that BDCP uses benefits of CM2 as a means to avoid implementing specific mitigation measures (and associated costs) for the impacts of CM1. Chapter 5 of the BDCP administrative draft describes in detail the anticipated benefits of CM2 to covered fish species. Specifically, CM2 "will improve passage and habitat conditions for Sacramento splittail, Chinook salmon, green and white sturgeon, lamprey, and possibly steelhead (Ch5, p19, lines 16-17)... CM2 Yolo Bypass Fisheries Enhancement is expected to improve spawning, substrate, rearing habitat, and food production benefits to covered fish species" (Ch5, p115, lines 21-22).</p>	Please see the response to Comment 1.
1675	85	<p>The following are examples of using CM2 for "mitigation avoidance":</p> <p>Juvenile winter-run Chinook salmon impacts. The north Delta intakes may have near-field (screen contact/impingement and predation) and far-field (reduced flow-related survival) effects on juvenile winter-run Chinook salmon. "The CM2 Yolo Bypass Fisheries Enhancement will enhance conditions in the Yolo Bypass, which has been shown to be a highly beneficial habitat for juvenile salmonids (Sommer et al. 2001a)" (Ch 5, p256, lines 13-15). These positive effects outweigh the negative effects for a net result of a "low beneficial effect" (Ch 5, p256, line 16).</p> <p>Spring-run Chinook salmon impacts. The adverse effects for Chinook salmon, Central Valley spring-run evolutionarily significant unit (ESU) include the north Delta intakes may have near-field (screen contact/impingement and predation) and far-field (reduced flow-related survival) effects on juvenile winter-run Chinook salmon, and exposure to increased contaminants. These adverse effects are outweighed by CM2 enhanced conditions in the Yolo Bypass, "which has been shown to be a highly beneficial habitat for juvenile salmonids (Sommer et al. 2001a)" (Ch 5, p278, lines 15-16). for a net result of a "modest beneficial effect" (Ch 5, p278, lines 17).</p> <p>Steelhead impacts. The same adverse effects are posed for steelhead, Central Valley distinct population segment (DPS). The adverse effects are again, outweighed by CM2 by increasing food resources and providing a greater use of an alternative, relatively high-survival migration pathway. The BDCP calculates a net result as a "beneficial effect" (Ch 5, p342, lines 35).</p>	Please see the response to Comment 1.

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		<p>Splittail impacts. The adverse effects for Sacramento splittail are the greater exposure to contaminants and In-Water and Maintenance Activities. CM2 will have a "large positive effect" (Ch 5, p358, line 19) on splittail spawning and rearing habitat availability. "CM2 Yolo Bypass Fisheries Enhancement is also expected to reduce the per capita risk of stranding in the Yolo Bypass" (Ch 5, p358, lines 25-26). The BDCP concludes "the overall effect of the BDCP on splittail will be to increase the abundance, productivity, and diversity of the species and improve the species' chances for survival. The BDCP will adequately mitigate the impacts of the covered activities and conserve the species in the Plan Area." (Ch 5, p369, lines 18-21).</p> <p>White and green sturgeon impacts. The adverse effects to white and green sturgeon include the increased exposure to contaminants and reduced transport or migration flows. The beneficial effects provided by CM2 are expected to reduce the illegal harvest of green and white sturgeon, improve passage, and provide food that contributes to increased productivity and higher abundance. The BDCP concludes "the positive effects of the BDCP are expected to outweigh the adverse effects." (Ch 5, p382, line 35).</p> <p>Pacific and river lamprey impacts. The adverse effects for Pacific and river lamprey are increased predation and take. The beneficial effects of CM2 are expected to reduce impediments to passage and stranding. Due to this offset, it is found that BDCP will provide a small net benefit to both Pacific and river lamprey.</p>	
1675	86	<p>The state and federal government need to ensure the BDCP financing chapter includes strategies that ensure the beneficiaries of the BDCP pay for its implementation, rather than state taxpayers and Yolo County.</p>	Please see the response to Comment 1.
1675	87	<p>Insufficient Budget for Necessary Methylmercury and other Contaminant Monitoring and Mitigation.</p> <p>The BDCP needs to state clearly how it intends to measure and mitigate for the increased loading, concentrations, and bioavailability of methylmercury in the aquatic system in the Yolo Bypass and areas downstream, as well as other contaminants. The BDCP also need to assure that the state and federal contractors will fully fund such mitigation. The current BDCP draft does not meet either of these goals for methylmercury or other contaminants.</p> <p>Based on Table 8.50, the state and federal contractors have budgeted no funding for CM12- Methylmercury Management. Appendix 5.D, Section 5D.4, however, states the covered activities for the Yolo Bypass have the potential to increase the loading, concentrations, and bioavailability of methylmercury in the aquatic system in the Yolo Bypass. "Currently, the methylmercury in water discharging from the Yolo Bypass to the Sacramento River is 0.27 ng/L (annual average) (Foe et al. 2008). This concentration likely will increase under the BDCP, but may be mitigated to some extent by CM12 (Ch8, p36, lines 15-18). Chapter 8 states "more detailed mercury surveys may be required for designing specific restoration plans...project design surveys for mercury will be conducted for approximately 40,400 acres of restoration area at one sample per 50 acres and will include collection and analysis of composite samples representing the 0- to 12-inch depth interval and, on a more limited basis, the 12-inch to 14- or 16-inch depth interval."(Ch8, p45, lines11-13) The "estimated cost for methylmercury site characterization and project design surveys is \$1.7 million in undiscounted 2012 dollars [REF FOR FOOTNOTE 1, BUT NO FOOTNOTE IN LETTER]." (Ch8, p45, lines14-15) Given the Central Valley Regional Water Quality Control Board's Delta Total Maximum Daily Load for methylmercury and</p>	Please see the response to Comment 1.

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		<p>the unknown impacts of CM2 on Yolo Bypass and Delta methylmercury levels, providing funding for monitoring of methylmercury is essential. [footnote 1: To collect, analyze, and provide a report for 808 sites (40,400 acres/ one sample per 50 acres) and to sample at surface and depth at each site is a total of 1,616 samples. These calculations use a conservative estimate of \$500/sample (see values stated on Ch8, p45, lines 5-6). The \$1.7 million budget will cover baseline sampling and only one sampling effort during the fifty years post construction.]</p> <p>With regard to other contaminants, the BDCP draft states in multiple places that CM2 could increase the loading of contaminants in important waterways and affect fish species. In Chapter 5, for example, the draft states "The BDCP could adversely affect winter-run Chinook salmon life stages occurring in the Plan through changes in contaminants as a result of changes in water operations (CM1 Water Facilities and Operation, CM2 Yolo Bypass Fisheries Enhancement) and habitat restoration (principally, CM4 Tidal Natural Communities Restoration)." (CH5, p248, lines10-13). Yet it dose not appear that the BDCP budgeted sufficient funding budgeted to monitoring changes in contaminants resulting from these changes in water operations. The BDCP should provide adequate funding for this monitoring in the financing chapter.</p>	
1675	88	<p>Adaptive Management Process' Nine-Step Plan Does Not State Goals Clearly or Ensure Mitigation for Impacts.</p> <p>Before adaptive management can be instated, the methodology for collecting baseline and post construction measurements needs to be clearly outlined with an appropriate timeline. Additionally, BDCP must state, for each of the potentially adverse actions, what the acceptable variance is between pre and post construction measurements and how significant differences will be calculated.</p> <p>Figure 3.6-1 illustrates the adaptive management process through the "Nine-Step Plan." This circular diagram returns to Step 1, 2, 3 or 4 after Step 9, implying that adaptive management will be a constant process. Generally, the adverse effects described in the BDCP have quantitative outcomes (e.g. population counts, entrainment numbers, Methylmercury (MeHg) concentrations). This general, non-scientific Nine-Step Plan does not specify the statistical difference at which mitigation is necessary or how BDCP will mitigate for identified significant adverse effects. It is imperative the BDCP details the acceptable variation from baseline data, what methodology they will use for creating the baseline and measuring significant differences, and which management techniques will be implemented to ameliorate any problems that arise. Without such information, it is impossible to evaluate the BDCP's adaptive management approach whether it could lead to additional environmental, economic, or other impacts during the term of BDCP. The state and federal government must address these critical issues prior to BDCP approval.</p>	<p>Please see the response to Comment 1. Please also see Master Response 33 for more information about adaptive management and monitoring, Master Response 1 for information about environmental baselines, and Master Response 22 for information regarding mitigation.</p>
1675	89	<p>The BDCP needs to improve coordination with the Yolo Natural Heritage Program.</p> <p>Yolo County recognizes the Yolo County HCP/NCCP Joint Powers Agency (JPA) released the first administrative draft of the Yolo Natural Heritage Program after the BDCP draft was released. The JPA is currently working on the second administrative draft. Given the extent of the terrestrial species impacts identified in the draft plan and the EIR/EIS, the County encourages close coordination with the BDCP in the months ahead to ensure accurate information is included in the public draft of the BDCP and implementation of the BDCP does not affect implementation of the Yolo Natural Heritage Program.</p>	<p>Regarding environmental baselines, please see the response to Comment 1. Please also see section 12.3.6 of the Final EIR/EIS for a discussion of impacts on other conservation plans.</p>

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		<p>The BDCP plan section 1.5.5 also incorrectly states that the Yolo Natural Heritage Program provides habitat for 28 sensitive species and 21 of these species are in common with the BDCP. The Yolo Natural Heritage Program provides habitat for 32 sensitive species and 20 of these species are in common with the BDCP. The Yolo Natural Heritage Program does not cover the California red-legged frog (<i>Rana draytonii</i>).</p>	
1676	1	<p>The Draft EIR/EIS incorrectly defers the analysis of many issues by misapplying programmatic environmental review standards.</p> <p>In preparing these comments, Yolo County fully considered the "programmatic" nature of the Draft EIR/EIS with respect to Conservation Measures ("CM") 2 through 22 of the BDCP. Just like a project-level EIR, however, a programmatic EIR must "give the public and government agencies the information needed to make informed decisions, thus protecting not only the environment but also informed self-government." [Footnote 1: In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings, 43 Cal.4th 1143, 1162 (2008).] In short, the "degree of specificity required in an [EIR] will correspond to the degree of specificity involved in the underlying activity which is described in the [EIR]." [Footnote 2: In re Bay-Delta, 43 Cal.4th at 1176, citing CEQA Guidelines [Section] 15146.] The level of detail in the Draft EIR/EIS must therefore reflect -- at a minimum -- the level of detail in the BDCP. Similarly, both project-level and programmatic environmental analyses must include "accurate, stable, and finite" project descriptions. [Footnote 3: <i>Rio Vista Farm Bureau Center v. County of Solano</i>, 5 Cal. App. 4th 351, 370 (1992).] The Draft EIR/EIS for the BDCP, accordingly, must identify and consider foreseeable significant environmental impacts that will result from the actions authorized by its adoption.</p> <p>As the County asserted in its July 12, 2013 comment letter [see ATT3] addressing a preliminary version of the Draft EIR/EIS, projects necessary to implement the BDCP and related environmental effects should receive full environmental review at the outset, as part of the EIR/EIS on the BDCP, rather than in separate documents that may follow years (and in some cases, decades) later. The County previously explained as follows:</p> <p>In particular, the County believes the EIR/EIS must specifically analyze the impacts of CM2 given the defined nature of certain biological objectives in the BDCP.... CM2 presents a "plan of action" for realizing these objectives within the Yolo Bypass. More than enough information exists for the EIR/EIS to include specific information about potential impacts using the acreage data, modeling, and other presently available information regarding the seasonal floodplain restoration element of CM2. Indeed, the draft EIR/EIS includes some specific information on such impacts based on a UC Davis study ... Commissioned by Yolo County. This approach illustrates that it is presently possible -- and thus, required as a matter of law -- to include a much more detailed analysis of potential environmental impacts of CM2 in the draft EIR/EIS. (See discussion at p. 3 of Attachment 3 hereto [ATT 3]).</p> <p>These comments apply equally to the Public Review Draft EIR/EIS for the BDCP with respect to CM2.</p> <p>Even beyond the context of CM2, the Draft EIR/EIS relies far too heavily on programmatic standards as justification for truncating the scope of environmental review. In a report to the Delta Stewardship Council entitled "How the Bay Delta Conservation Plan Addresses the Delta Reform Act's Goals and Objectives" (May 2014) (the "Arcadis Report"), the consulting firm Arcadis advised the Council that "[t]he programmatic nature of</p>	<p>Please note that the BDCP is no longer the preferred alternative. The preferred alternative is now Alternative 4A and 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>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. Please see Master Responses 4 and 5 for additional detail on the BDCP and the alternatives involving an HCP component.</p> <p>For more information regarding project-level and program-level analysis, please see Master Response 2.</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>

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		<p>conservation measures inhibits fully understanding and better mitigating impacts to agriculture, recreation, community character, and historical and archaeological resources in the Delta." (Arcadis Report at p. 4.) In its "Key Recommendations for Consideration," the Arcadis Report says "[t]he BDCP should more thoroughly identify impacts to agriculture, recreation, community character, and historical and archaeological resources in the Delta, and offer specific, feasible, and enforceable mitigation measures."</p> <p>These comments by an impartial, highly experienced consulting firm underscore the validity of the County's concerns with the programmatic approach in the Draft EIR/EIS. Throughout the document, detailed consideration of the potential impacts of CM2-22 on agriculture and other resources is improperly deferred to later documents.</p>	
1676	2	<p>The EIR/EIS Baseline is unclear, outdated, and otherwise flawed.</p> <p>Yolo County has previously objected to the use of an outdated "existing conditions" baseline for the Draft EIR/EIS that is tied to the February 13, 2009 publication of a Notice of Preparation (NOP) for the EIR/EIS. The County's basic assertion was expressed in its July 2013 comment letter, as follows:</p> <p>CEQA Guidelines Section 15125(a) provides that the appropriate baseline for environmental review is "normally" the conditions existing at the time the NOP is published. Presumably on this basis, the draft EIR/EIS states that it generally uses a baseline tied to the 2009 date of publication of the NOP. This approach is not reasonable for a project like BDCP given its lengthy and tremendously complex planning and environmental review process, as well as the overall timeframe for implementation. Among other flaws resulting from application of the outdated baseline, the EIR/EIS does not appear to consider the Central Valley Flood Protection Plan (adopted in mid-2012) (CVFPP). Coordinating the implementation of BDCP and CVFPP, however, will be a very real issue for many years to come, and it deserves consideration in the EIR/EIS. The County thus urges consideration of an updated baseline as work on the EIR/EIS proceeds. (See discussion at p. 3 of Attachment 3 [ATT3] hereto.)</p>	Please see Master Response 1 regarding the environmental baseline.
1676	3	<p>The Draft EIR/EIS demonstrates that the BDCP fails to comply with the Delta Reform Act. Of relevance to the BDCP, the Delta Reform Act dictates that the "coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place." (Public Resources Code [Section] 29702(a); Water Code [Section] 85054.) This concept is not merely an afterthought. Rather, it appears repeatedly throughout the Delta Reform Act and shapes the basic responsibilities of the Delta Stewardship Council, Delta Conservancy, and the Delta Protection Commission. [Footnote 5: In addition to Public Resources Code [Section] 29702(a) and Water Code [Section] 85054, language reflecting this concept also appears at (among other places) Public Resources Code [Sections] 32320(i) and 32322(a), as well as Water Code [Sections] 85020(b) and 85301.] As a matter of law, an overarching strategy for achieving the coequal goals -- which the BDCP certainly is -- must therefore assure the protection and enhancement of these fundamental values and other objectives "inherent in the coequal goals" in the course of its implementation. (Water Code [Section] 85020.)</p> <p>The Draft EIR/EIS offers no such assurances. Appendix 3.1 to the Draft EIR/EIS simply notes the requirements set forth above, asserts that the BDCP will contribute to the coequal goals, and says nothing substantive about how it "protects and enhances the</p>	See Master Response 24 for information on impacts on the Delta as a place, and Master Response 9 for information on the analysis of cumulative impacts to Delta residents, and Master Response 31 regarding compliance with the Delta Reform Act.

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		unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place." The balance of the Draft EIR/EIS similarly fails to fully analyze related issues of concern, often dismissing the need for meaningful analysis on the basis that the level of review is "programmatic" (for Conservation Measures 2-22) or because mitigation measures (often legally deficient themselves) might purportedly reduce or eliminate certain impacts.	
1676	4	Yolo County is compelled to address certain land use issues described in Chapter 13 of the Draft EIR/EIS in connection with the west alignment alternatives (Alternatives 1C, 2C, and 6C). As shown in Table 13.4 of the Draft EIR/EIS, the west alignment alternatives conflict with -- and will likely require the removal of -- far more homes and structures than Alternative 4 or any of the other east alignment alternatives. For instance, each of the west alignment alternatives conflicts with an estimated 194 homes and 726 structures overall. By comparison, the east alignment included in Alternative 4 (the "preferred alternative") will conflict with only 19 homes and 81 structures overall. While even these figures are significant, they make clear that the west alignments will affect nearly 10 times more homes and other structures than Alternative 4. Other east alignments have the potential to affect considerably more homes and structures than Alternative 4, but even the worst of these (Alternatives 1B, 2B, and 6B) impacts only about 50-60 percent of the number of homes and structures that would be affected by the west alignments.	<p>15 alternatives and 3 new subalternatives were analyzed in the EIR/S and the RDEIR/RSEIS 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>Regarding development of alternatives for the EIR/EIS, a description of the process the Lead Agencies followed to develop and screen alternatives are provided in Master Response 4. Please also see Chapter 13 of the Final EIR/EIS for further information regarding land use impacts.</p>
1676	5	The temporary and permanent conversion of farmland is considerably greater under the west alignments than under Alternative 4 and some of the other east alignments. For example, under Alternative 1C, an estimated 3,170 acres of farmland in Yolo County will be temporarily converted due to construction impacts and an additional estimated 13,014 acres of farmland will be permanently converted due to conveyance infrastructure and related facilities. Much of this land is prime farmland, and about half of it is currently subject to Williamson Act contracts. As shown in Table 14-8 of the Draft EIR/EIS, however, Alternative 4 will convert only an estimated 1,315 and 4,975 acres of farmland temporarily and permanently -- about 1/3 of the amount that would be affected by any of the west alignments.	Please see response to Comment 4. Please also see Master Response 18 for more information regarding agricultural impact mitigation.
1676	6	The west alignments should be dismissed from consideration. That said, even if Alternative 4 or another east alignment is chosen, community impacts within Clarksburg and West Sacramento (traffic/roads) will be significant.	<p>The commenter does not offer any evidence on how the project would result in traffic and road impacts.</p> <p>For analysis and discussion on traffic and road impacts see Chapter 19, Transportation, in the EIR/EIS.</p>
1676	7	<p>Community noise impacts are not properly characterized.</p> <p>Under Alternative 4 (the preferred alternative), the Draft EIR/EIS indicates that BDCP intake construction is expected to have significant noise impacts on 110 parcels (including 9 residential parcels) during daytime hours, and 179 parcels (including 70 residential parcels and the Clarksburg Middle School) during nighttime hours. Yet even these figures may underestimate actual noise impacts. As explained in the Ascent Environmental memorandum enclosed herewith, the noise standards employed in the Draft EIR/EIS do not appear to be entirely appropriate for characterizing noise impacts on sensitive receptors such as small rural communities. The accuracy of noise attenuation calculations and assumptions (e.g., the use of "soft ground" in calculating attenuation, rather than attenuation rates based on actual physical conditions) also appears to understate the level of noise impact and the number of residential parcels and other sensitive receptors that may be impacted. Further, the mitigation measures proposed to address</p>	<p>As stated in Chapter 23, construction noise impacts are considered to be "Significant and unavoidable." This statement is based on an analysis that considers worst-case conditions. For example, six pieces of construction equipment operating simultaneously and continuously in one location. These conditions would not necessarily occur on a routine basis. Although alternative haul routes for truck traffic may be an effective measure in some cases, significant impacts are still likely after mitigation.</p> <p>From Appendix 3B, Section 3B.5.5: DWR and contractors hired to construct any conveyance components of the project will implement a site-specific noise abatement plan to avoid or reduce potential construction-, maintenance-, and operation-related noise impacts. This section also includes environmental commitments to reduce noise levels where exceedances are anticipated to occur.</p>

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		<p>traffic-related noise are insufficient and may not lead to any reduction in noise impacts.</p>	
1676	8	<p>Community and agricultural groundwater impacts require further analysis and enhanced mitigation.</p> <p>The Draft EIR/EIS describes groundwater impacts resulting from construction and operation of the new conveyance facilities (i.e., intakes, pipelines/tunnels, forebays), primarily due to dewatering activities that facilitate construction. Groundwater impacts resulting from construction are a potential issue in the Clarksburg area, though to a considerably lesser extent (under Alternative 4 and other eastern alignment alternatives) than in Sacramento County. The Draft EIR/EIS notes that in some instances, well yields may be affected substantially and shallow agricultural or domestic wells "may not be able to support existing land uses" while dewatering is occurring.</p> <p>The Draft EIR/EIS does not appear to fully account for the highly variable nature of groundwater aquifers. It instead assumes effects will be distributed uniformly outward from the dewatering operation. In reality, the effects will likely vary greatly across affected aquifers and potential effects in Clarksburg could be more (or less) significant than described in the Draft EIR/EIS. This factor is an important limitation on the accuracy of the analysis in the Draft EIR/EIS and should be explained clearly and fully. Much more local involvement in developing and implementing related monitoring and mitigation is also necessary and appropriate.</p>	<p>The regional groundwater modeling presented in the EIR/EIS is used to compare alternatives. As described in Chapter 7, Groundwater, and Chapter 14, Agricultural Resources, in the Final EIR/EIS, DWR would conduct site-specific groundwater analysis to determine the extent of the dewatering activities along the conveyance route and potential impacts on wells in the vicinity. DWR would consult with local agencies.</p>
1676	9	<p>Local traffic and road mitigation measures are inadequate.</p> <p>The Draft EIR/EIS devotes considerable attention to traffic impacts-including increased vehicle trips and reduced pavement integrity-during the construction phase of BDCP. Construction traffic impacts will be significant in West Sacramento and on some roads near the town of Clarksburg. In some instances, road segments will operate at "unacceptable" levels of service for 9-13 hours each day during construction (e.g., Industrial Blvd./Lake Washington Blvd., from Harbor Blvd. to Jefferson Blvd., and Jefferson Blvd. at West Sacramento City Limits to Courtland Road). Several local road segments will also experience significant levels of pavement deterioration due to construction traffic, requiring repairs or reconstruction.</p> <p>The mitigation measures proposed to offset these impacts are merely run of the mill "fair share" provisions that purport to obligate the BDCP proponents to pay for part of related road improvement, repair, and reconstruction costs, with local governments expected to contribute the remainder. Needless to say, in many instances this will prove infeasible.</p>	<p>The lead agencies acknowledge your concerns about adequate mitigation of all adverse effects. The traffic analysis was based on a reasonable worst-case scenario in which all construction trips are assigned to the roadway network for each analysis hour as discussed on Draft EIR/EIS Chapter 19, Transportation, pages 19-35. Not all segments are expected to operate under worst-case conditions and, thus, be subject to unacceptable levels of service for 9 to 13 hours per day.</p>
1676	10	<p>Agriculture and agricultural economic impacts.</p> <p>Yolo County has previously expressed a wide range of concerns with the agricultural and agricultural economic impacts of BDCP and the treatment of those issues in earlier versions of the Draft EIR/EIS. (See Attachment 2 [ATT2] at p. 3, and Attachment 3 (Attachment 1 thereof [ATT4]).) Similarly, County staff has commented on a draft discussion paper on "BDCP and Delta Farmland." (Attachment 6 hereto [ATT12]). These concerns remain applicable to the current Draft EIR/EIS.</p> <p>With regard to agricultural impacts, the Draft EIR/EIS continues to sidestep virtually all analysis of CM2-22 by referencing its "programmatic" treatment of those components of the BDCP. The following statement is typical of the analysis in Chapter 14 (Agricultural</p>	<p>Please see response to Comment 1. Conservation Measures 2, 5, 13, 20, and 21 would not be implemented as part of the proposed project (Alternative 4A) and, thus, the magnitude of effects under Alternative 4A likely would be substantially smaller than those associated with Alternative 4.</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</p>

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		<p>Resources):</p> <p>The new inundation schedule [for CM2] could substantially prevent agricultural use of these lands. The amount of agricultural land potentially affected by these and related activities (up to 17,000 acres) suggests the potential for an adverse effect on agricultural resources; however, the extent of these effects is unknown at this point and will be analyzed in forthcoming documents (Draft EIR/EIS, Ch. 14, p. 14-55.)</p> <p>Certainly, the potential for adverse effects is more than a mere "suggestion" that can properly be deferred for future analysis. As explained in the County's discussion of programmatic environmental review, above, CEQA Guidelines [Section] 15146 states that the "degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR." The specificity required for the environmental analysis of CM2, accordingly, must correspond to the very specific description of CM2 in the BDCP itself.</p> <p>The County certainly recognizes that CM2 may evolve substantially from its current description in the BDCP during project-level planning. That does not, however, legally excuse a complete analysis of the measure in the Draft EIR/EIS. An appropriate analysis would include consideration of its estimated conversion of farmland -- both directly and indirectly as a result of the decline in economic viability in agriculture on affected lands -- and assess related environmental and socioeconomic effects. Put simply, that analysis can and should proceed now rather than years later.</p> <p>This basic point also appears in the comments of the Delta Independent Science Board ("ISB"), created by the Delta Reform Act of 2009 to support the work of the Delta Stewardship Council. In a May 15, 2014 report to the Delta Stewardship Council, the ISB critiqued Chapter 14 of the Draft EIR/EIS as follows:</p> <p>This is mostly an acreage analysis, and omits most relevant economic analysis. Quite a bit of economic Analysis capability is available for agricultural land and economic issues in the Delta, Yolo Bypass, and the Central -- very little of it has been used in the DEIR/DEIS.... For crop inundation in the Yolo Bypass, there is a nice study led by Dr. Howitt quantifying these effects in general. This study is cited, but its results are not employed to give more precise economic impacts.... Even though specific locations for habitat restoration have not been specified, it is still possible to come up with a reasonable range of likely agricultural and agricultural economic impacts. Several reasonable estimation methods are readily available. (ISB Report at p. B-60, emphasis added [available at http://deltacouncil.ca.gov/science-board/delta-isb-products].)</p> <p>While it is legally important to perform further work on these issues, such work is also essential to the credibility of the BDCP. Farming, as the ISB report notes at p. B-59, is the primary economic activity in the Delta. As such, the analysis of CM2 and other measures with the potential to affect agriculture deserve a straightforward and detailed assessment in the EIR/EIS rather than deferral for consideration at some uncertain point in the future. The County reiterates the suggestions for additional study and analysis set forth in its April 16, 2012 letter [see ATT2] addressing certain preliminary draft chapters of the Draft EIR/EIS.</p>	<p>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>See Master Response 2 for further discussion of project-level and program-level analysis.</p> <p>Please see BDCP EIR/EIS Chapter 16, Socioeconomics, for analysis of effects on agricultural economics in the Delta Region.</p> <p>For responses to comments related to the Delta Independent Science Board's letters, please refer to comment letters BDCP 1448 and/or RECIRC 2546.</p>
1676	11	<p>Recreation and the Yolo Bypass Wildlife Area.</p> <p>In its July 12, 2013 letter commenting on an earlier draft version of the Draft EIR/EIS, Yolo</p>	<p>Please see response to Comment 1.</p> <p>Alternatives 1A through 8 presented in this Final EIR/EIS include Yolo Bypass improvements as Conservation</p>

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		<p>County expressed a number of concerns with the impact analyses relating to the Yolo Bypass Wildlife Area ("YBWA"). (See Attachment 3 at p. 4. [ATT3]) Those comments remain fully applicable to the current Draft EIR/EIS, including but not limited to Chapter 15 (Recreation).</p> <p>In particular, as with impacts on agriculture, the EIR/EIS should specifically evaluate the impacts of CM2 on the Yolo Bypass Wildlife Area ("YBWA") and its recreational amenities. The Draft EIR largely neglects these issues and provides a number of mitigation measures that are vague, uncertain, and otherwise flawed both analytically and legally. A good example is the following statement in Chapter 15:</p> <p>BDCP proponents and agencies will work with CDFW to provide alternate public hunting opportunities and access and address additional management costs resulting from increased inundation of the Yolo Wildlife Area resulting from CM2. Additionally, environmental commitments are available to reduce the effects of inundation on upland recreational opportunities. (Draft EIR, Ch. 15, p. 106.)</p> <p>The balance of the text, however, does not explain what it may mean for BDCP proponents to "work with" CDFW to address access and increased costs. Nor does it offer any "environmental commitments" aside from a single statement in an appendix indicating that the YBWA could compete with a host of other recreational areas for an as-yet undetermined amount of recreational funding. Yet on the basis of this statement (and other equally dubious grounds), the Draft EIR/EIS somehow concludes that impacts on "upland recreational opportunities" within the YBWA will be less than significant. Certainly, more is required to support this conclusion.</p> <p>Altogether, the content of Chapter 15 is legally inadequate with respect to the YBWA and otherwise. In revising Chapter 15, in addition to providing additional substantive analysis of potential impacts, the County encourages the BDCP proponents to develop additional, specific mitigation measures to address potential recreational impacts consistent with recommendations provided in the Arcadis Report (see pp. 17-18.)</p>	<p>Measure 2 of the BDCP conservation strategy. The Lead agencies acknowledge the commenter's opinion about the potential effects of CM 2 on recreation. Additional Alternatives 4A, 2D, and 5A do not include Yolo Bypass as a project component. These improvements are assumed instead under the No Action Alternative.</p>
1676	12	<p>Clarksburg Fire Protection District.</p> <p>Yolo County incorporates herein by reference the comments of the Clarksburg Fire Protection District on the Draft EIR/EIS (provided by the District under separate cover). As the District asserts in its comments, the Draft EIR/EIS fails in numerous respects to adequately characterize emergency response issues and inform the public of the potentially significant effects of the BDCP -- particularly Conservation Measure 1 -- on the District and other emergency service providers. The District also provides comments on a range of other issues, including community cohesion, socioeconomics, and transportation facilities, which are equally relevant. The County supports and shares the District's concerns and urges the BDCP proponents to respond thoroughly to the issues raised in the District's comment letter.</p>	<p>See Chapter 20, Public Service Utilities, for impacts to emergency services; Chapter 19, Transportation, for impacts to transportation; Chapter 16, Socioeconomics, for impacts to socioeconomics.</p> <p>Please also refer to the index of commenters to find and review the letter submitted by the Clarksburg Fire Protection District on the 2013 Draft EIR/EIS and the response therein.</p>
1676	13	<p>Recirculation is required.</p> <p>CEQA Guidelines [Section] 15088.5 (a) requires recirculation of a Draft EIR when "significant new information is added" The Draft EIR/EIS's truncated review of Conservation Measures (CMs) 2-22, its failure to incorporate an updated baseline, and many of the other issues noted in this letter (and other accompanying documents) necessarily require substantial edits and recirculation. Additionally, the entire document</p>	<p>The RDEIR/SDEIS was recirculated in 2015 to introduce the new preferred alternative, Alternative 4A/California WaterFix, which no longer includes an HCP or Conservation Measures. Alternative 4A has been developed in response to public and agency input. The Final EIR/EIS analyzes all alternatives, including Alternative 4A. Restoration would still occur under Alternative 4A in the form of environmental commitments, but on a more limited scope than the conservation measures. No further changes to the document are necessary.</p>

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		<p>should be revised for the sake of clarity and simplicity. Particularly in an EIR/EIS of such unusual complexity, a county-by-county summary of anticipated project features and environmental effects is both necessary and appropriate (as suggested in Yolo County's July 12, 2013 letter at p. 7 [see ATT3]).</p> <p>Recirculation of the Draft EIR/EIS should include a public review period that is commensurate with the scope of the changes. To the extent feasible, the revised document should identify specific changes made in response to public comments to ease the burden on reviewing agencies and the public generally.</p>	<p>For more information regarding document length and complexity, please see Master Response 38.</p>
1676	14	<p>Misapplication of Habitat Conservation Plan and Natural Community Conservation Plan laws.</p> <p>The BDCP misrepresents the nature of the new conveyance facilities and related physical and operational features by casting them as "Conservation Measure 1." As made clear in the Draft EIR/EIS, the "effects analysis," and other elements of the public review draft BDCP, CM1 will have a broad range of adverse environmental effects and it is in no sense appropriately included in an HCP/NCCP. At best, it is environmentally beneficial only in comparison with the "status quo" operation of the existing Central Valley Project and State Water Project facilities, and its hypothesized benefits extend only to aquatic species. There is no question that, by comparison to the status quo, many terrestrial species will be worse off as a consequence of CM1.</p> <p>The Federal Endangered Species Act provides, in part, that if incidental take of endangered and threatened species will occur and a HCP is prepared,</p> <p>(ii) the applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking;</p> <p>(iii) the applicant will ensure that adequate funding for the plan will be provided;</p> <p>(iv) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild[.]</p> <p>16 U.S.C. [Section] 1539, emphasis added.</p> <p>The California Endangered Species Act also provides, in part, that the NCCP required for incidental take of endangered and threatened species must contain conservation measures that provide:</p> <p>(A) Conserving, restoring, and managing representative natural and seminatural landscapes to maintain the ecological integrity of large habitat blocks, ecosystem function, and biological diversity.</p> <p>(B) Establishing one or more reserves or other measures that provide equivalent conservation of covered species within the plan area and linkages between them and adjacent habitat areas outside of the plan area.</p> <p>(C) Protecting and maintaining habitat areas that are large enough to support sustainable populations of covered species.</p> <p>(D) Incorporating a range of environmental gradients (such as slope, elevation, aspect, and coastal or inland characteristics) and high habitat diversity to provide for shifting</p>	<p>This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis.</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>

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		<p>species distributions due to changed circumstances.</p> <p>(E) Sustaining the effective movement and interchange of organisms between habitat areas in a manner that maintains the ecological integrity of the habitat areas within the plan area.</p> <p>Cal. Fish and Game Code [Section] 2820, emphasis added.</p> <p>On this basis, including the new conveyance facilities and related features within the BDCP is a misuse of the HCP and NCCP laws. "If a HCP fails to mitigate and minimize harm to the species "to the maximum extent practicable" -- because the applicant rejected another alternative that would have provided more mitigation or caused less harm to the endangered species and FWS determine[s] in its expert judgment that the rejected alternative was in fact feasible -- then FWS cannot approve the application for an ITP using that less protective proposal." Southwest Center for Biological Diversity v. Bartel, 470 F.Supp.2d 1118, 1158 (S.D.Cal., 2006).</p> <p>Just as an airport expansion that converts wetlands to infrastructure and open fields with increased foraging value for protected raptors cannot properly be cast as a "conservation measure," CM1 is not a true conservation measure, as constructing and operating a water conveyance facility will create more harm to terrestrial species than it will protect, as intended under the statutes and it should be removed from the BDCP. The Federal Fish and Wildlife Service's Habitat Conservation Planning Hand book provides guidance on the form of mitigation measures:</p> <p>"They should address specific conservation needs of the species and be manageable and enforceable. Mitigation measures may take many forms, including, but not limited to, payment into an established conservation fund or bank; preservation (via acquisition or conservation easement) of existing habitat; enhancement or restoration of degraded or a former habitat; establishment of buffer areas around existing habitats; modifications of land use practices, and restrictions on access. Which type of mitigation measure used for a specific HCP is determined on a case by case basis, and is based upon the needs of the species and type of impacts anticipated." [Footnote 6: http://www.fws.gov/endangered/esa-library/pdf/hcp.pdf]</p> <p>These guidelines do not allow for construction of a facility that will create more adverse environmental effects than without implementation of the conservation measure. In fact, each of the examples provided by the handbook demonstrates a protective and defensive measure that addresses the needs of the species. The current approach is publicly misleading and it sets a precedent for misapplication of laws intended to protect endangered, rare, and threatened species. Development projects and related infrastructure, particularly of the scale of CM1, are simply not conservation measures that will mitigate and minimize harm to endangered and threatened species or otherwise appropriately included in an HCP/NCCP as a matter of law.</p>	
1676	15	[ATT1: Yolo County Review of Draft Environmental Impact Report/Environmental Impact Statement, July 29, 2014.]	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1676	16	[From ATT1:] While Chapter 3 contains many different alternatives, this does not per se satisfy the legal	Please see Master Response 4. The specific proposals that were considered but ultimately rejected by the Lead agencies are discussed in Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1. Appendix 3A thoroughly explains why various proposals were not analyzed in the EIR/EIS,

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		<p>requirement that it contain an adequate range of alternatives. The California Supreme Court has clearly stated that one of an EIR's major purposes is to ensure that the lead agency thoroughly assesses all reasonable alternatives to a proposed project. (Laurel Heights, 47 Cal.3d at 406). The Draft EIR/EIS, however, does not include alternatives that focus on enhancing flow and other changes to provide a more natural flow regime, as previously proposed by the Delta Stewardship Council. In addition, with respect to CM2, no consideration appears to have been given to alternatives that propose a more modest floodplain restoration component (in particular, with an earlier end date to seasonal inundation). As a result, the approach leads the County to believe that the authors of the Draft EIR/EIS have predetermined that a major seasonal floodplain habitat restoration project in the Yolo Bypass should be adopted as a key part of the BDCP.</p>	<p>including the NRDC Portfolio-Based Proposal, Congressman Garamendi's Water Plan, and other similar concepts that would require actions that are beyond the scope of the BDCP.</p> <p>Please also see Master Response 5 for further detail about BDCP, including CM2.</p> <p>The BDCP is not the sole project in California tasked with solving California's water supply future. Instead, the BDCP is a proposed Habitat Conservation Plan (HCP) and a Natural Community Conservation Plan (NCCP) developed to comply with the Federal Endangered Species Act (ESA) and the California Natural Community and Conservation Planning Act (NCCPA), and intended to result in long-term permits for the operations of the State Water Project (SWP) and Central Valley Project (CVP). Although the BDCP, if approved, would be a critically important tool for managing California's water resources, it is not a statewide solution to California's water supply reliability problems.</p> <p>The BDCP 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 BDCP 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, and the recovery and conservation of threatened and endangered species that depend on the Delta.</p> <p>Although components such as desalination plants 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. As an HCP/NCCP, the BDCP cannot impose obligations on third parties that are not applicants under BDCP. It is important to note that the BDCP 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. For additional information regarding storage, please see Master Response 37.</p>
1676	17	<p>[From ATT1:]</p> <p>Because CM2-22 are so vaguely defined in the Draft EIR/EIS and there is essentially no discussion of alternatives to those measures, it is difficult to evaluate whether the alternatives described in Chapter 3 (primarily in connection with CM1) avoid or substantially lessen the adverse environmental effects of CM2-22. This fundamental problem plagues the analysis throughout the balance of the document, compromising virtually every substantive chapter. A valid alternatives analysis is legally impossible in these circumstances.</p>	<p>Please see response to Comment 1.</p> <p>Please see Master Response 4 regarding the range of alternatives selected.</p> <p>The alternatives included in the Draft 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.</p>
1676	18	<p>[From ATT1:]</p> <p>As noted by Sacramento County in its comments, the Draft EIR/EIS should include an alternative focused specifically on reducing BDCP's significant impacts on farmland. To comply with the Delta Reform Act, this approach could be carried a step further by including an alternative that focuses more broadly on reducing impacts to the Delta "as a place," including but not limited to its agricultural resources. Consideration of such an alternative is particularly appropriate due to the legal requirement that the "co-equal goals" are to be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place. The Delta Protection Commission's comment letter on the Public Review Draft EIR/EIS identifies issues that would inform the development of such an alternative.</p>	<p>The Delta Reform Act of 2009 assigns responsibility for ensuring protection of the "Delta as a place" to the Delta Stewardship Council, and identifies the Delta Please see response to Comment 1.</p> <p>The Delta Reform Act of 2009 assigns responsibility for ensuring protection of the "Delta as a place" to the Delta Stewardship Council, and identifies the Delta Protection Commission as the appropriate agency to provide recommendations to the Delta Stewardship Council. The legislation does not assign the BDCP specific duties relating to the Delta. Please see Master Response 24 for further information regarding the "Delta as a place." Please see Master Response 31 regarding compliance with the Delta Reform Act.</p> <p>Please see Master Response 4. The alternatives included in the Draft 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 specific proposals that were considered but ultimately rejected by the Lead agencies are discussed in Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1. Appendix 3A thoroughly explains why various proposals were not analyzed in the EIR/EIS, including the</p>

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			<p>NRDC Portfolio-Based Proposal, Congressman Garamendi's Water Plan, and other similar concepts that would require actions that are beyond the scope of the project.</p> <p>Please see Master Response 18 for a discussion of mitigation of agricultural impacts.</p>
1676	19	<p>[From ATT1:]</p> <p>Chapter 3, Page 3-123/Section 3.6.2.1: Description of Alternatives, including CM2.</p> <p>The last sentence of the first full paragraph should be amended to read as follows: "These activities would be coordinated, as appropriate, with USACE, DWR, Central Valley Flood Protection Board (CVFPB), and other flood management agencies, and Yolo County."</p>	<p>The actions and involvement of lead, responsible, and cooperating agencies has been revised in this Final EIR/EIS. Please see Chapter 1, Introduction.</p>
1676	20	<p>[From ATT1:]</p> <p>Chapter 4: Geographic Scope of the Study Area.</p> <p>As noted in the May 15, 2014 report entitled "Review of the Draft BDCP EIR/EIS and Draft BDCP," prepared by the Delta Independent Science Board (hereinafter, "ISB Report") (available at http://deltacouncil.ca.gov/sites/default/files/documents/files/Attachment-1-Final-BDCP-comments.pdf) for the Delta Stewardship Council, the EIR/EIS fails to consider geographic areas downstream of the Delta, including the San Francisco Bay, even though there are several potential impacts such as those listed in the ISB report as well as other impacts that could arise from the use of the Port of San Francisco as a base for construction activity associated with CM1. The County incorporates herein by reference the ISB Report (e.g., p. B-13) and the comments of Sacramento County on this same issue. These areas should be included in the geographic scope of the EIR/EIS, including but not limited to the "baseline" for environmental analysis.</p> <p>Legally, EIRs are required to discuss the area that will be directly and indirectly affected by the project. CEQA Guidelines [Sections] 15126.2(a), 15360. This area must not be defined so narrowly that a significant portion of the affected environment is ignored in the analysis. <i>Bakersfield Citizens for Local Control v. City of Bakersfield</i>, 124 Cal. App. 4th 1184 (2004); <i>County Sanitation Dist. No. 2 v. Kern County</i>, 127 Cal. App. 4th 1544 (2005). For this reason, as noted on p. 4-7 of the Draft EIR/EIS, the relevant geographical area for CEQA purposes may be larger than the project area.</p> <p>The County's basic objection, in sum, is that the defined study area is fundamentally inadequate for CEQA purposes.</p>	<p>The EIR/EIS project area includes the BDCP Plan Area (which is defined by the boundaries of the legal Delta with the addition of the Suisun Marsh area), upstream of the Delta region and the SWP and CVP export Service Areas because some of the effects of implementing the proposed project or its alternatives would extend beyond the BDCP Plan Area. The analysis in the EIR/EIS includes impacts to Delta outflows, which ultimately reach the San Francisco Bay as well as impacts to Southern California and the San Joaquin Valley. The analysis of impacts of the BDCP in the study area can be found in the EIR/EIS chapters 5-30.</p> <p>For responses to comments related to the Delta Independent Science Board's letters, please refer to comment letters BDCP 1448 and/or RECIRC 2546.</p> <p>With regards to baseline, please see Master Response 1. For a discussion on the analysis of environmental impacts and geographic scope of the project, please see Master Response 8.</p> <p>The Final EIR/EIS includes an expanded discussion of downstream areas of the Delta and concludes no significant impacts in the following resources</p> <p>With regards to sufficient CEQA analysis, please see Master Response 2.</p>
1676	21	<p>[From ATT1:]</p> <p>Chapter 4: Outdated Baseline.</p> <p>The "existing conditions" baseline utilized for most analyses in the Draft EIR/EIS is generally outdated, arising from conditions existing as of the most recent NOP (February 13, 2009), and cannot properly be relied upon. This is a fundamental error that pervades many chapters of the Draft EIR/EIS and requires recirculation of the document following the completion of related studies and edits necessary to establish an updated baseline.</p> <p>Additionally, departures from the "existing conditions" baseline are not well explained. At p. 4-4, the Draft EIR/EIS notes that updated assumptions were used in some instances</p>	<p>For more information on environmental baselines, please see Master Response 1.</p>

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		<p>because it "made sense" and "would have been anomalous" to rely on existing conditions data for material such as the June 2009 Biological Opinion for salmonid species. These explanations do not sufficiently provide the lead agency's reasoning for setting aside the "existing conditions" approach that "normally" applies under CEQA Guidelines Section 15126.2(a).</p> <p>Nor is the explanation provided for selectively using only some portions of the smelt and salmonid Biological Opinions sufficient to advise reviewers of the precise extent to which the baseline is derived from those opinions, existing conditions, or some other metric. For instance, the discussion at p. 4-5 is confusing and does not clearly present a full explanation of the extent to which the Biological Opinions are integrated into the baseline for CEQA and NEPA analysis. This confusion is compounded by a statement on the following page (p. 4-6) indicating that while it may be legally permissible to use existing and future conditions baselines, "here DWR did not use dual baselines" In fact, this is precisely what DWR did according to the immediately preceding text.</p> <p>The County also incorporates by reference the comments of Sacramento County on this topic (including but not limited to comments relating to omission of the Fall X2 salinity standard).</p>	
1676	22	<p>[From ATT1:]</p> <p>Chapter 4, Pages 4-11, 4-12, Appendix 3D, and generally: Omission of Central Valley Flood Protection Plan.</p> <p>The omission of the Central Valley Flood Protection Plan (CVFPP) in the definition of "existing conditions" is a serious deficiency. Fundamentally, the potential conflict (as well as potential synergies) between CM2 and CVFPP projects affecting the Yolo Bypass ought to be considered in the EIR/EIS and integrated into the planning and environmental review for both efforts. This is particular true in light of the fact that DWR is the lead CEQA agency for both the BDCP and the CVFPP; a lead agency should not ignore its own plans, programs, and policies covering a common geographic area in the course of defining "existing conditions" for the purposes of CEQA review.</p>	<p>The Central Valley Flood Protection Plan is described in Section 6.1.5.3 of Chapter 6, Surface Water, of the Draft EIR/EIS. As described in Chapter 3, Description of Alternatives, wetlands restoration in the Yolo Bypass is only considered in a programmatic manner in the EIR/EIS. Therefore, project-specific locations and facilities and related impacts and benefits of CMs 2-21 are not considered in the EIR/EIS. Separate engineering and environmental analyses will be completed prior to implementation of restoration actions. However, as described in Chapter 6; Appendix 3C, Construction Assumptions for Water Conveyance Facilities; and Appendix 3B, Environmental Commitments, the facilities would be required to be designed and constructed to provide flood neutrality and to provide continued flood management at the same level of flood protection; or if applicable, to a higher standard for flood management engineering and permitting requirements if the standards are greater than the existing facilities. Additionally, DWR would consult with local reclamation districts to ensure that construction activities would not conflict with reclamation district flood protection measures.</p>
1676	23	<p>[From ATT1:]</p> <p>Chapter 4, Pages 4-10 and 4-11: Temporary and permanent impacts.</p> <p>The discussion on these pages explains the treatment given temporary and permanent effects in the Draft EIR/EIS, noting that in some instances, such as terrestrial biological resources, "impacts are treated as permanent, even though the impact mechanism would end following construction of water conveyance facilities" (i.e., after about nine years). The County believes this is a reasonable approach in the context of terrestrial biological resources and suggests consideration of extending this approach to agricultural resources, which can similarly be affected for extended periods of time in connection with CM1 and many other CMs included in the BDCP. At the very least, the decision not to extend this approach to other environmental impacts should be fully explained.</p>	<p>The analysis in Chapter 14, Agricultural Resources, assesses the potential for temporary (4 or fewer years) or short-term (from 2 to 10 years) construction activities associated with the action alternatives to directly or indirectly impede agricultural production and operations. Where impacts would be temporary or short-term in nature, the impacted land could be restored to productive agricultural status after the completion of construction. As such, the impact should not be considered permanent. For additional information regarding agricultural impacts, please see Master Response 18.</p>
1676	24	<p>[From ATT1:]</p> <p>Chapter 4, Page 4-16: Use of MIKE-21 model.</p>	<p>The EIR/EIS evaluated increased frequency and extent of inundation of the Yolo Bypass in a programmatic manner. Separate engineering and environmental documentation would be completed prior to selection of the final operational and facilities approach to implementation of an alternative to increase frequency and</p>

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		<p>Yolo County has previously provided DWR and USBR with an independent analysis of the MIKE-21 model. The deficiencies of the MIKE 21 model used predict water surface elevation, flows, and average velocity in the Yolo Bypass (per p. 4-16) are well understood. The County has long advocated for corrections and other work to address these deficiencies, and there is no reasonable basis for disputing that such work could have occurred. In fact, a new model is now available (TUFLOW) that may substantially improve the accuracy of analysis within the Yolo Bypass, including effects related to CM2. This model should be integrated into the Draft EIR/EIS once it has been independently reviewed and any significant concerns are addressed.</p> <p>From a legal perspective, while perfection is not required (particularly in an area such as hydrodynamic modeling, where uncertainty always exists), agencies must nonetheless use their best efforts to find out and disclose all that can reasonably be expected. CEQA Guidelines [Sections] 15144, 15151. Relying on a faulty hydrodynamic model -- particularly when its primary shortcomings can feasibly be addressed through application of a new model that is presently available -- is inconsistent with this basic requirement. Even at a programmatic level of review, there is no sound basis for disclaiming any duty to develop and apply a reasonably accurate hydrodynamic model to the Yolo Bypass and utilize the modeling results in estimating potential effects on terrestrial species, agriculture, and other resources. Improved modeling was feasible (CEQA Guidelines [Section] 15151) and would not have taken a significant amount of time to complete (compare National Parks and Conservation Association v. Riverside County, 71 Cal. App. 4th 1341 (1999)).</p>	<p>the extent of inundation in accordance with the 2009 NMFS biological opinion.</p> <p>Please see Master Response 5 for more information related to CM2.</p>
1676	25	<p>[From ATT1:]</p> <p>Chapter 6: Surface Water.</p> <p>As expressed in the Delta Independent Science Board (ISB) Report, the treatment of potential flood protection impacts in the EIR/EIS "does not measure up to their importance." This is an issue that could influence both public health and safety within the project area and the success of the BDCP in meeting its stated objectives because of the influence of levees on water quality and ecosystem restoration.</p> <p>With regard to the latter issue, the BDCP appears to assume that levee failures will be promptly addressed. This is an encouraging but not entirely realistic assumption, particularly given the 50-year term of BDCP and the inherent uncertainties of climate change, levee maintenance funding, and related matters. This issue requires reconsideration and, in all likelihood, further substantive analysis in the Draft EIR/EIS.</p> <p>The County agrees with the ISB's suggestion that the Draft EIR/EIS be revised to include a "comprehensive levee chapter" that brings all levee and flood protection issues into a single place for ease of review and comprehension. Such an important issue deserves focused treatment in the EIR/EIS.</p>	<p>As described in Section 3D.3.2.3.3 of Appendix 3D, Define Existing Conditions, No Action Alternative, No Project Alternative, and Cumulative Impact Conditions, it is assumed that levee repairs would continue as under historical and Existing Conditions as under ongoing programs. This assumption is also included for all alternatives considered in the EIR/EIS, and is not considered to be part of the EIR/EIS alternatives.</p> <p>For responses to comments related to the Delta Independent Science Board's letters, please refer to comment letters BDCP 1448 and/or RECIRC 2546.</p>
1676	26	<p>[From ATT1:]</p> <p>Chapter 6, Page 6-13: Yolo Bypass.</p> <p>The text describes the Yolo Bypass as "about 40,000 acres" in size. The Yolo Bypass is considerably larger, occupying about 59,000 acres.</p>	<p>The U.S. Army Corps of Engineers references used in preparation of this text identified the size of the Yolo Bypass as 40,000 acres. It is recognized that several references prepared by DWR use 59,000 acres. The EIR/EIS evaluated increased frequency and extent of inundation of the Yolo Bypass in a programmatic manner. Separate engineering and environmental documentation would be completed prior to selection of the final operational and facilities approach.</p>

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1676	27	<p>[From ATT1:]</p> <p>Chapter 6, Page 6-13: Yolo Bypass.</p> <p>In lines 25-32, the discussion about the frequency of Yolo Bypass inundation is inconsistent. The text states that "[e]very year, there is approximately a 33% chance of flooding in the Yolo Bypass, and flood flows generally occur during the winter months of December, January, and February." A few lines later, the text states "[t]he bypass was inundated 46 years out of the 65 years between 1935 and 1999."</p> <p>It is not clear why these figures are significantly different or if "flooding" is intended to mean something different than "inundation." This text should be revised for clarity and, in particular, it should explain that overtopping of the Fremont Weir is not one in the same as "flooding" of the Yolo Bypass. Also, as part of the discussion of these figures, the EIR/EIS should discuss the reliability of Bypass flooding data prior to 1984. The County has long understood that pre-1984 data is unreliable. On that basis, the report prepared by UC Davis economists for Yolo County (Agricultural and Economic Impacts of Yolo Bypass Fish Habitat Proposals (Howitt et al 2013)) relies on a 26-year time series of hydrologic conditions (1984-2009).</p> <p>Yolo County incorporates herein by reference the discussion of this topic in its July 12, 2013 comment letter [see ATT3] on the Second Administrative Draft EIR/EIS.</p>	<p>The EIR/EIS presents information from two different references. The U.S. Army Corp of Engineers reference described a 33 percent chance of flooding over the long-term period. The CALFED reference provided data from actual operations of flooding in 46 of 65 years. This information was not specifically used in the impact analysis comparison of action alternatives to Existing Conditions. The impact analysis was based upon simulated Existing Conditions and action alternatives using the CALSIM II model.</p> <p>Please see Master Response 5 for further information regarding CM2.</p>
1676	28	<p>[From ATT1:]</p> <p>Chapter 6, Page 6-20: Clarksburg.</p> <p>The text states that "Clarksburg does not have official boundaries." This is inaccurate, as the Town of Clarksburg has long had an established growth boundary. The current growth boundary is included in the 2009 Yolo County General Plan.</p>	<p>The text referred to in this comment has been modified in the Final EIR/EIS.</p>
1676	29	<p>[From ATT1:]</p> <p>Chapter 6, Page 6-63: Impact SW-8.</p> <p>The discussion does not fully capture the potential for adverse impacts on flood protection associated with CM2, including its seasonal floodplain component. The Draft EIR should evaluate the potential public safety and property damage consequences of the proposed incremental increase in the frequency, duration, and amount of water diverted into the Yolo Bypass.</p> <p>This concern is supported by data in the Central Valley Flood Protection Plan (CVFPP) showing that portions of the Bypass levees are already of "high concern" to the California Department of Water Resources. Similarly, the CVFPP states that "some levees along the bypasses may not be as durable as levees along the main rivers -- levee reliability could also be lowered by longer duration wetting." These are all indications of the need to fully evaluate and mitigate potential flood risks and related hazards associated with elements of CM 2 in the EIR/EIS.</p>	<p>The EIR/EIS evaluated increased frequency and extent of inundation of the Yolo Bypass in a programmatic manner. Separate engineering and environmental documentation would be completed prior to selection of the final operational and facilities approach to implementation of an alternative to increase frequency and the extent of inundation.</p> <p>Please see Master Response 5 for further information regarding the BDCP, including CM2.</p>
1676	30	<p>[From ATT1:]</p> <p>Chapter 6, Page 6-63: Impact SW-8.</p>	<p>The EIR/EIS evaluated increased frequency and extent of inundation of the Yolo Bypass in a programmatic manner. Separate engineering and environmental documentation would be completed prior to selection of the final operational and facilities approach to implementation of an alternative to increase frequency and</p>

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		<p>Agriculture controls the growth of vegetation and thus plays an important role in maintaining the conveyance capacity of flood control facilities like the Yolo Bypass. The potential for adverse flood impacts arising from the cessation of agriculture in portions of the Yolo Bypass and in other locations should be evaluated closely as part of the Draft EIR/EIS. The cessation of agriculture is not, contrary to asserts elsewhere in the Draft EIR/EIS, purely or even primarily an economic issue.</p>	<p>the extent of inundation.</p> <p>Please see Master Response for further information regarding CM1, including agricultural issues, and Master Response 18 for further information regarding mitigation for agricultural impacts.</p>
1676	31	<p>[From ATT1:]</p> <p>Chapter 6, Page 6-153: Cumulative impacts.</p> <p>The cumulative analysis appears largely confined to water supply issues and merely mentions, without analyzing, the flood protection and levee issues that are within the scope of impacts SW-7 and SW-8 (or their cumulative analysis counterparts, SW-17 and SW-18) in this Chapter. Nor does this discussion address the Central Valley Flood Protection Plan or its proposal to expand the Yolo Bypass. These issues must be addressed in the Draft EIR/EIS and, in particular, the document must include substantial evidence to support the significance determinations for these impacts.</p>	<p>The EIR/EIS evaluated increased frequency and extent of inundation of the Yolo Bypass in a programmatic manner in all action alternatives in accordance with the 2009 NMFS biological opinion and other ongoing planning activities. Separate engineering and environmental documentation would be completed prior to selection of the final operational and facilities approach to implementation of an alternative to increase frequency and the extent of inundation. Specific cumulative impact analysis associated with plans by the Central Valley Flood Protection Plan and other plans for the Yolo Bypass will be analyzed in the future engineering and environmental documentation.</p>
1676	32	<p>[From ATT1:]</p> <p>Chapter 7 -- Groundwater.</p> <p>The EIR/EIS analysis does not account for the highly variable nature of groundwater aquifers. It instead assumes effects will be distributed uniformly outward from the dewatering operation, as indicated in figures appearing in the EIR/EIS. In reality, the effects will likely vary greatly across affected aquifers and potential effects in Clarksburg and elsewhere in the study area could be more (or less) significant than described in the EIR/EIS.</p> <p>This factor is an important limitation on the accuracy of the analysis in the EIR/EIS and it should be explained in the document to enable reviewers to develop a clear understanding that the predicted effects may be considerably different than effects observed once construction activity begins. Additionally, the EIR/EIS should explain why additional fieldwork to fully characterize potential groundwater impacts was not performed. A network of test wells in the vicinity of each intake could have provided highly useful information regarding recharge rates, groundwater flow, and related matters.</p>	<p>The regional nature of the groundwater modeling approach presented in the EIR/EIS is only used to compare alternatives, as described in Appendix 7A, Groundwater Model Documentation. As described in Chapter 7, Groundwater, and Chapter 14, Agricultural Resources, in the Final EIR/EIS, DWR would conduct site-specific groundwater analysis to determine the extent of the dewatering activities along the conveyance route and potential impacts on wells in the vicinity. DWR would consult with local agencies.</p>
1676	33	<p>[From ATT1:]</p> <p>Chapter 7, Page 7-31: Groundwater (Environmental Consequences).</p> <p>The qualitative analysis of groundwater recharge from the canals fails to provide sufficient information regarding the range of recharge rates from different designs and fails to inform the public of the extent of the impact that could result from these different designs.</p>	<p>The results of the analysis was presented qualitatively in the EIR/EIS; however, the CVHM-D model was used to analyze possible seepage issues based upon the assumptions included in Table 7A-5 in Appendix 7A, Groundwater Model Documentation.</p>
1676	34	<p>[From ATT1:]</p> <p>Chapter 7, Page 7-32: Groundwater (Analysis of Groundwater Conditions in Areas that Use SWP/CVP Water Supplies).</p>	<p>The groundwater analysis in the EIR/EIS in the Sacramento Valley is conducted at a regional scale because there are no construction activities or direct involvement by water agencies in BDCP/California WaterFix actions. Small incremental differences between the action alternatives and the Existing Conditions and the No Action Alternative of 2 percent over the entire Sacramento Valley would be within the accuracy of the</p>

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		<p>Analysis excludes Sacramento Valley Groundwater Basin from discussion based on statement that potential for 2% increase in groundwater use in the Basin would not be substantial.</p> <ul style="list-style-type: none"> - There is no evidence to support that 2% increase would not be substantial and that increase needs to be related to current use to determine whether the increase has a potentially significant impact on groundwater supply. - The analysis acknowledges some locations do experience drawdown, but dismisses these locations without specifically identifying where they are or further analysis of the project's impacts on drawdown in those areas. - The analysis acknowledges there are circumstances under which significant impacts could result in the Sacramento Valley (if pumping is concentrated in a particular area), but does not identify the areas or provide analysis of the project's impacts on such areas. 	analysis.
1676	35	<p>[From ATT1:]</p> <p>Chapter 7, Page 7-33: Groundwater (Analysis of Groundwater Conditions in Areas that Use SWP/CVP Water Supplies).</p> <p>Analysis does not include a comparison of Existing Conditions (without sea level rise) to BDCP alternatives (without sea level rise). Similarly, there is no comparison of the No Action Alternative. Therefore, there is no analysis of the project's independent impacts as compared to baseline conditions. The comparison of the No Action Alternative to the BDCP alternatives (both with sea level rise) allows for analysis of supply availability due only to the Project, but does not clearly distinguish between impacts attributable to the Project vs. those attributable to sea level rise. Thus, clear significance determinations and mitigation measures based on the Project are not included.</p> <p>Sea level rise should be included as part of the cumulative environment, but should not be embedded into the baseline or the Project. This approach prevents a clear articulation of the Project's impacts. (See also, p. 7-34 "the precise contributions of sea level rise and climate change to the total differences between Existing Conditions and LLT conditions under each alternative cannot be isolated.")</p>	<p>The EIR/EIS presents the changes in conditions under the alternatives as compared to conditions under the Existing Conditions and the No Action Alternative. The effects of climate change and future water demands occur under the No Action Alternative and the action alternatives. Therefore, the changes in conditions under the action alternatives as compared to the No Action Alternative indicate the changes due to the action alternatives. Potential mitigation measures are presented for implementation of the action alternatives without consideration for climate change and future water demands that would occur in the No Action Alternative because the BDCP/WaterFix would not mitigate for changes due to climate change or future water demands. Please see Master Response 1 for information on environmental baselines. Please also see Master Response 19 regarding climate change and greenhouse gas emissions.</p>
1676	36	<p>[From ATT1:]</p> <p>Chapter 7, Page 7-35: Groundwater (Central Valley Hydrologic Model Methodology).</p> <p>Model assumptions regarding the same deliveries for different types of conveyance per alternative and only one delivery time series results in incomplete analysis of distinctions between alternatives.</p>	<p>The SWP and CVP deliveries under the action alternative with different conveyance facilities (e.g., canals versus tunnels) is dependent upon the amount of water diverted at the intakes. Although, there could be seepage from the canals, the volume is minor as compared to the total amount of water conveyed from the intakes to the Banks and Jones pumping plants. Therefore, it is appropriate to consider the same SWP and CVP deliveries under the action alternative with different conveyance facilities.</p>
1676	37	<p>[From ATT1:]</p> <p>Chapter 7, Page 7-38: Groundwater (Determination of Effects).</p> <p>First bullet indicates conclusion of effects is based on potential to impact shallow wells. Although shallow wells are most likely to be impacted, the analysis and mitigation should ensure protection of all wells.</p>	<p>The Final EIR/EIS analysis in Chapter 7, Groundwater, includes consideration for both shallow wells (less than 75 feet deep) and deeper wells.</p>

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1676	38	<p>[From ATT1:]</p> <p>Chapter 7, Page 7-38: Groundwater (Determination of Effects).</p> <p>Second bullet limits groundwater quality analysis to changes in flow that would result in poor groundwater quality migration. There is no analysis of other potential Project actions that could impact groundwater quality (e.g., construction activities).</p>	<p>The Final EIR/EIS groundwater analysis in Chapter 7, Groundwater, includes an analysis and mitigation measures to address mitigation measures related to changes in groundwater quality in the Delta during construction.</p>
1676	39	<p>[From ATT1:]</p> <p>Chapter 7, Page 7-38: Groundwater (Determination of Effects).</p> <p>Fourth bullet does not address whether groundwater subsidence could occur in areas other than the Export Service Areas.</p>	<p>Based upon information included in the U.S. Geological Survey information used to develop the CVHM model, it is not anticipated that subsidence would occur due to construction of operation of the action alternatives in the Delta.</p>
1676	40	<p>[From ATT1:]</p> <p>Chapter 7, Page 7-41: Groundwater (No Action: Changes in Delta Groundwater Levels and Changes in Delta Agricultural Drainage).</p> <p>Analysis of No Action Alternative concludes Delta groundwater levels would increase up to 5 feet, but concludes without analysis that this change would have only "minor" impacts on agricultural drainage. This issue needs further analysis, particularly in areas like Merritt Island and other areas with a shallow groundwater table.</p>	<p>In the EIR/EIS, groundwater effects on Merritt Island would not occur from dewatering actions during construction, as indicated on Figure 7.7 in Chapter 7, Groundwater. However, construction of the large Intermediate Forebay could result in an increase of up to 10 feet in groundwater elevation in the Merritt Island area (see Figure 7-8). As described in Chapter 7, Groundwater, and Chapter 14, Agricultural Resources, in the EIR/EIS and the BDCP/California Water Fix RDEIR/SDEIS, DWR would conduct site-specific groundwater analysis to determine the extent of the dewatering activities along the conveyance route and potential impacts on wells in the vicinity. DWR would consult with local agencies. The effects on agricultural activities are addressed under Agricultural Impact AG-2 (see Chapter 14, Agricultural Resources, in the EIR/EIS), including the impacts to agricultural production due to temporary construction activities that could result in disruption of irrigation or drainage infrastructure, and could jeopardize agricultural production. Implementation of Mitigation Measures AG-1, GW-1, GW-5, and WQ-11 will reduce the severity of these impacts by implementing activities such as siting project footprints to encourage continued agricultural production; monitoring changes in groundwater levels during construction; monitoring seepage effects; relocating or replacing agricultural infrastructure in support of continued agricultural activities; identifying, evaluating, developing, and implementing feasible phased actions to reduce EC levels; engaging counties, owners/operators, and other stakeholders in developing optional agricultural stewardship approaches; and/or preserving agricultural land through off-site easements or other agricultural land conservation interests. However, these impacts remain significant and unavoidable and adverse to agricultural resources.</p>
1676	41	<p>[From ATT1:]</p> <p>Chapter 7, Page 7-43: Groundwater (No Action: Ongoing Plans, Policies, and Programs).</p> <p>There is no NEPA conclusion regarding the effects of the No Action alternative.</p> <p>The CEQA conclusion regarding the No Action alternative is unclear. On the one hand, the document concludes there would be significant impacts to groundwater resources in the Export Service Areas, yet the next paragraph concludes that ongoing programs and plans under the No Action alternative would not result in significant impacts to groundwater.</p>	<p>This comment has been noted. CEQA requires development of mitigation measures due to the implementation of the action alternative as compared to the Existing Conditions. However, if the No Project Conditions include actions/environmental effects that would have occurred without the action alternatives, the CEQA lead agency does not need to develop mitigation measures for those changes in conditions (e.g., climate change).</p>
1676	42	<p>[From ATT1:]</p> <p>Chapter 7, Page 7-48: Impact GW-1.</p> <p>Groundwater modeling described in the EIR/EIS indicates that groundwater levels could be reduced in a "worst case scenario" for Alternative 1A by up to four feet in an areas south of the town of Clarksburg that lie directly across the river from Intake 1. The Draft EIR/EIS does not clearly describe the length of time it may take for wells to recover. This</p>	<p>As described in Chapter 7 of the Final EIR/EIS, changes in groundwater elevations due to dewatering would be temporary. Based upon information provided by the U.S. Geological Survey in the CVGSM model, the effects of the dewatering activities would continue for several months following the end of dewatering activities when groundwater elevations generally would return to conditions similar to pre-construction conditions.</p>

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		<p>information should be provided, preferably based on modeling that accounts for observed flow and recharge rates of the affected groundwater basin.</p> <p>*This comment applies to all Alternatives that, similar to the analysis set forth for Alternative 1A, do not clearly describe the length of time it may take for groundwater wells to recover following construction.</p>	
1676	43	<p>[From ATT1:]</p> <p>Chapter 7, Page 7-48: Groundwater (Mitigation Measure GW-1).</p> <p>Mitigation to offset agricultural water supply losses provides either that alternative water supplies be provided OR compensation be provided to offset for production losses.</p> <p>Compensation for loss of production does not fully mitigate the agricultural impacts associated with loss of production.</p> <p>*This comment applies to all Alternatives that incorporate GW-1 as a mitigation measure.</p>	<p>Chapter 7 of the Final EIR/EIS includes Mitigation Measure GW-1 that provides for a monitoring procedure and options for maintaining adequate water supplies for land owners that experience a reduction in groundwater production from wells within 2,600 feet of construction-related dewatering activities. The effects of dewatering could be reduced through installation of seepage cutoff walls during dewatering. Implementing Mitigation Measure GW-1 would help address these effects; however, the impact may remain significant because replacement water supplies may not meet the preexisting demands or planned land use demands of the affected party. In some cases this impact might temporarily be significant and unavoidable until groundwater elevations recover to conditions similar to preconstruction conditions, which could require several months after dewatering operations cease.</p>
1676	44	<p>[From ATT1:]</p> <p>Chapter 7, Page 7-48: Groundwater (Impact GW-2).</p> <p>Discussion of NEPA effects addresses impacts to agriculture from groundwater encroaching on the ground surface in the vicinity of the new forebays. This is not identified as a CEQA impact, and should also be included in the CEQA analysis.</p> <p>*This comment applies to all Alternatives that result in agricultural impacts from groundwater encroaching on the surface in the forebay areas.</p>	<p>In Chapter 7, Groundwater, of the Final EIR/EIS, potential impacts of seepage from the forebay was analyzed under Impact GW-2. The forebay would be constructed to comply with the requirements of the Division of Safety of Dams (DSD) which include design features intended to minimize seepage under the embankments. In addition, the forebay would include a seepage cutoff wall installed to the impervious layer and a toe drain around the forebay embankment, to capture water and pump it back into the forebay. Any potential vertical seepage would be captured by the toe drain.</p>
1676	45	<p>[From ATT1:]</p> <p>Chapter 7, Page 7-50 (and related discussion in Alternatives 1C, 2C, and 6C): Groundwater (Impact GW-5; Mitigation Measure GW-5).</p> <p>The analysis concludes operation of the project in the vicinity of the forebays could interfere with agricultural drainage in the Delta, and acknowledges that mitigation will not fully address the impact. This creates a significant and unavoidable impact to agriculture. The text of the mitigation measure is vague and uncertain in many respects, referring in one instance simply to unspecified mitigation that will be developed in cooperation with affected landowners on a case-by-case basis. While the mitigation measure also includes a (very general) performance standard, the text also indicates that this performance standard will be unrealistic and unachievable in some instances. Additional mitigation measures should be considered.</p> <p>As one example, while the analysis discusses lined versus unlined canals in some instances (e.g., in connection with Alternatives 1C, 2C, and 6C), the lining of canals is not itself presented as a mitigation measure to address adverse effects on agricultural drainage. Canal lining should be included as an additional mitigation measure in connection with CM1 infrastructure that may contribute to impacts within the scope of Impact GW-5.</p> <p>*This comment applies to all Alternatives that result in significant and unavoidable</p>	<p>Specific design criteria for the canals would be developed during the design phase. Therefore, the EIR/EIS used a worst-case analysis for action alternatives with canals. The CVHM-D analysis presented in the figures included in Chapter 7, Groundwater, of the EIR/EIS, indicated that seepage could occur from the canal into the groundwater when the water elevation in the canal was located at a higher level than the groundwater elevation; and water could seep into the canal when the groundwater elevation was higher than the water elevation in the canal.</p>

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1676	46	<p>impacts to agricultural drainage and/or that incorporate Mitigation Measure GW-5.</p> <p>[From ATT1:]</p> <p>Chapter 7, Page 7-52: Groundwater (Mitigation Measure GW-7).</p> <p>The measure is not clear and does not adequately address the impact. The mitigation must be clear and enforceable. In addition, the measure as written includes language that is not mitigation, but rather analysis and conclusion. Following are suggested revisions:</p> <p>For areas that will be on or adjacent to implemented restoration components, groundwater quality [insert]shall[insert] [delete]will[delete] be monitored.... For wells affected by degradation in groundwater quality, water of a [insert]quantity and[insert] quality comparable to pre-project conditions [insert]shall[insert] [delete]will[delete] be provided. Options for replacing the water supply [delete]could[delete] include drilling.... [delete]Construction activities are anticipated to be localized and would not result in change in land uses. The well drilling activities would result in short-term noise impacts for several days. (Chapter 31 provides an assessment of the impacts of implementing proposed mitigation measures.)[delete]</p> <p>*This comment applies to all Alternatives that incorporate Mitigation Measure GW-7.</p>	<p>This comment, which has been noted, addresses alternatives included in the Draft EIR/EIS related to implementation of the BDCP. Alternative 4 remains a viable alternative. However, a modified proposed project (Alternative 4A/California WaterFix) and Alternatives 2D and 5A are being considered. Alternatives 4A, 2D, and 5A no longer include Conservation Measures 2 through 21, and Impact GW-7 does not apply to the new proposed project. Restoration actions that are independent of Proposed Action, such as EcoRestore which includes many of the actions considered in the Draft EIR/EIS as Conservation Measures 2 through 21, will be evaluated in separate engineering and environmental documentation and are evaluated in the Final EIR/EIS as part of the cumulative impact analysis.</p>
1676	47	<p>[From ATT1:]</p> <p>Chapter 7, Section 7.3.3 generally: Groundwater (Effects and Mitigation Approaches).</p> <p>Several of the Alternative analyses refer back to prior analysis for discussion of potential impacts. The cross-referencing is confusing and the information is not clearly presented. More importantly, however, throughout the section the analysis concludes that impacts will be "similar to" or "the same as" impacts of previously discussed Alternatives. There is no explanation of the distinction between impacts that are "similar to" or "the same as" previously disclosed impacts. Moreover, while indicating that impacts will be "similar to" or "the same as" previously discussed impacts, in many instances there is no conclusion regarding whether the same or similar impact will be significant or less than significant. This lack of information results in inadequate presentation of potential significance of the impacts of the various Alternatives.</p>	<p>The EIR/EIS was prepared in a manner to minimize redundancy in the text, and therefore, results that were identical ("same as") or would lead to identical conclusions ("similar") were noted as such. Specific quantitative analytical results are presented in the tables and figures within Chapter 7, Groundwater, for each alternative with different model results. If there was a difference in the CEQA or NEPA conclusions, those differences were noted in the impact analysis text.</p>
1676	48	<p>[From ATT1:]</p> <p>Chapter 7, Groundwater: Mitigation.</p> <p>The potential for unmodeled effects in the Clarksburg area under all of the Alternatives underscores the need for a carefully designed monitoring program and, if feasible, a mutually agreeable approach to addressing impacts that occur. This could include, among other things:</p> <ul style="list-style-type: none"> - After BDCP approval but prior to construction, cooperate with the County to jointly retain a groundwater consultant to design an effective groundwater monitoring well system at the cost of the BDCP proponents. This is covered to a degree by the mitigation measures included in the Draft EIR/EIS, but public health and safety issues implicated by a reduction of potable water balances in favor of included the County in efforts to characterize and respond to problems that may arise. 	<p>As described in Chapter 7, Groundwater, and Chapter 14, Agricultural Resources, in the Draft EIR/EIS and the BDCP/California Water Fix RDEIR/SDEIS, DWR would conduct site-specific groundwater analysis to determine the extent of the dewatering activities along the conveyance route and potential impacts on wells in the vicinity. DWR would consult with local agencies.</p> <p>As described under Impact GW-1 in Chapter 7, Groundwater, in the EIR/EIS, the impacts due to dewatering during construction of the conveyance facilities may not be able to be fully mitigated to a level of less than significant or become not adverse because replacement water supplies may not meet the preexisting demands or planned land use demands of the affected party, including agricultural production wells. The effects of dewatering could be reduced through installation of seepage cutoff walls during dewatering. The effects on agricultural activities are addressed under Agricultural Impact AG-2 (see Chapter 14, Agricultural Resources, in the EIR/EIS), including the impacts to agricultural production due to temporary construction activities that could result in disruption of irrigation or drainage infrastructure, and could jeopardize agricultural production. Implementation of Mitigation Measures AG-1, GW-1, GW-5, and WQ-11 will reduce the severity of these impacts by implementing activities such as siting project footprints to encourage</p>

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		<p>- A specific strategy for responding to any impacts that occur should be developed in consultation with affected jurisdictions prior to the commencement of construction. This should include, at a minimum, adequate arrangements for the provision of substitute water supplies for municipal and agricultural uses (as indicated in the EIR/EIS).</p> <p>The County requests consideration of revised mitigation measures to incorporate these suggestions.</p>	<p>continued agricultural production; monitoring changes in groundwater levels during construction; monitoring seepage effects; relocating or replacing agricultural infrastructure in support of continued agricultural activities; identifying, evaluating, developing, and implementing feasible phased actions to reduce EC levels; engaging counties, owners/operators, and other stakeholders in developing optional agricultural stewardship approaches; and/or preserving agricultural land through off-site easements or other agricultural land conservation interests. However, these impacts remain significant and unavoidable and adverse to agricultural resources.</p>
1676	49	<p>[From ATT1:]</p> <p>Chapter 8 -- Water Quality: North Delta water quality; narrow geographic focus.</p> <p>The Draft EIR/EIS omits any information regarding water quality in the Yolo County portions of the north Delta. For instance, there is no discussion about surface water quality effects near Clarksburg, West Sacramento, or in the vicinity of the intake (under construction) for the Woodland-Davis Water Supply Project. No reason for the omission of this information is provided, yet it seems highly implausible that there are simply no water quality effects despite the proposed construction and operation of new facilities included in CM1 and various other changes in Delta hydrology in connection with CM2-22.</p> <p>Similarly, as noted by the Delta Independent Science Board (ISB), the water quality analysis omits any discussion of potential impacts downstream of the Delta despite recommendations by the National Research Council. (ISB comments, p. B-22.) This information should be included in the EIR/EIS, along with information relating to eutrophication and other water quality effects in the Delta and San Francisco Bay due to operation of the North Delta Intakes and CM2. On this point, the County incorporates by reference the comments of Sacramento County in its EIR/EIS comment letter and the comments of the ISB in its May 15, 2014 report (e.g., pp. 7-8).</p>	<p>Water quality effects for the Sacramento River north of the Delta, which includes the locations identified in the comment, are addressed for each constituent impact assessment under the "Upstream of the Delta" heading for CM1 and operations-related impacts of CM2 and CM4. CM2-CM22 actions are concentrated in the Delta; hence, the emphasis of the analysis of effects is on the Delta.</p> <p>Assessment of effects to San Francisco Bay water quality is included in the 2015 RDEIR/SDEIS.</p> <p>For responses to comments related to the Delta Independent Science Board's letters, please refer to comment letters BDCP 1448 and/or RECIRC 2546.</p>
1676	50	<p>[From ATT1:]</p> <p>Chapter 8 -- Water Quality: Mercury.</p> <p>Yolo County has previously expressed significant concerns about mercury and methylmercury, including but not limited to comments included in its 2013 comment letter and the attached comment table addressing Chapter 8 of the administrative draft EIR/EIS. [See ATT3 and ATT4.] Those concerns remain applicable to the draft EIR/EIS and are incorporated herein by this reference.</p> <p>The County has also long requested a detailed study of the potential for adverse mercury effects in connection with the floodplain habitat component of CM 2. This analysis should occur now, as the success of CM 2 depends upon effectively controlling adverse mercury effects (including the methylation of mercury). The draft EIR/EIS itself makes this clear, extensively discussing the hazards posed by mercury and methylmercury and, in addition, specifically noting problems that currently exist in the Yolo Bypass.</p>	<p>For alternatives including Yolo Bypass restoration (1A, 1B, 1C, 2A, 2B, 2C, 3, 4, 5, 6A, 6B, 6C, 7, 8, 9), the assessment was programmatic and, thus, site-specific evaluation at the project level was not completed. Alternatives 2D, 4A, and 5A do not include Yolo Bypass restoration as part of the alternative. For more information regarding water quality and mercury methodology please see Chapter 8 and Appendix 8I of the Final EIR/EIS.</p>
1676	51	<p>[From ATT1:]</p> <p>Chapter 8, Page 8-446: Mitigation for methylmercury.</p> <p>Conservation Measure 12 is discussed as potentially addressing methylmercury on a</p>	<p>See response to Comment 1676-50. Please also see Master Response 5 for further detail regarding CM2.</p>

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		<p>project-by-project basis to minimize the impact of habitat restoration on methylation. The notion of developing mitigation on a project-by-project basis is unsatisfying and unnecessary where sufficient detail presently exists to enable that analysis (at least in a preliminary way) for some proposed projects, such as seasonal floodplain habitat restoration included in CM2. As noted elsewhere in the draft EIR/EIS, this element of CM2 has already been defined to a conceptual degree that fairly detailed analyses of environmental issues are possible. Legally, that analysis must happen now (as the County has long contended), even though the EIR/EIS is programmatic.</p>	
1676	52	<p>[From ATT1:]</p> <p>Chapter 8, Page 8-446: Mitigation for methylmercury.</p> <p>The implementation language in CM12 indicated that it would only apply to tidal wetlands restoration projects. This measure should be revised to apply to all conservation measures with the potential to have methylmercury impacts. This includes CM1 due to the potential for construction to disturb "[r]eservoirs of contaminants" (in the words of the Delta Independent Science Board (ISB)) that "could have detrimental impacts on organisms due to their tendency to bioaccumulate." (ISB at p. B-24.)</p>	<p>Please see Master Response 14. Additionally, Impact WQ-31 in Chapter 8, Water Quality addresses water quality effects resulting from construction related activities. The assessment acknowledges the potential for trace constituents (including metals/mercury) in soil. The assessment assumes that all construction activities will be conducted in conformance to applicable federal and state regulations. Additionally, Appendix 3B of the Draft EIR/EIS identifies Environmental Commitments to be implemented by the BDCP proponents. These commitments will be specifically designed as part of final design to avoid, prevent, and minimize potential discharges of constituents of concern.</p>
1676	53	<p>[From ATT1:]</p> <p>Chapter 8, Page 8-766 (example): Cumulative conditions.</p> <p>This is one example (among many) of the cursory nature of the cumulative impacts discussion for various water quality constituents. Referring to Conservation Measures 2, 4, 5, and 10, this text explains that "[t]he methylation of mercury in these restored wetland habitats would contribute substantially to the cumulative condition for mercury in the Delta." This conclusion is not substantially augmented by other text appearing earlier or later in Chapter 8, leaving reviewers without a clear understanding of the potential environmental significance of this effect or its "real world" consequences.</p>	<p>Assessment of project-specific impacts on mercury of these conservation measures is included earlier in the chapter for each alternative. Because the assessments included climate change, sea level rise, increased water demands, and many other present and future projects, the cumulative impact assessment tiers off of these earlier assessments. The cumulative impact analysis should be reviewed following, and in the context of, the project specific assessments of the alternatives.</p>
1676	54	<p>[From ATT1:]</p> <p>Chapter 8, Page 8-771: CM2 -- mercury and methylmercury.</p> <p>The discussion on pp. 8-770 and 8-771 indicates that "[a]ppropriate strategies and control measures" for mercury, methylmercury, and selenium may include ... [a]ppropriate consideration of conservation measure location, preferably not in the direct path of large mercury loading sources such as the Sacramento River, Yolo Bypass, Cosumnes River, or San Joaquin River." This is a baffling suggestion and, as the County previously stated in its April 16, 2013 comment letter [see ATT5], it calls into question the viability of CM2.</p>	<p>The cited section has been removed from the Final EIR/EIS.</p>
1676	55	<p>[From ATT1:]</p> <p>Chapter 8, Page 8-770 (example): Mitigation measures.</p> <p>The discussion on p. 8-770 and throughout the discussion of mitigation in Chapter 8 indicates that (in this particular example) methylmercury mitigation shall be implemented on a project-specific basis if it is "practicable," which is defined as "both feasible and reasonable from a cost-benefit perspective." This is not a lawful standard for implementation of a mitigation measure. Rather, CEQA is clear that "feasibility" is the sole</p>	<p>For information on mitigation measures, please see Master Response 22.</p>

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		measure for evaluating whether a mitigation measure must be implemented. The term "feasible" is defined precisely in Public Resources Code Section 21061.1 and CEQA Guidelines Section 15364. This definition should be substituted for the terms "practicable" and "reasonable" in the discussion on p. 8-770 and elsewhere in Chapter 8 to ensure that mitigation standards conform to CEQA requirements.	
1676	56	[From ATT1:] Chapter 12, Page 12-7: Acreage totals; omission in other chapters. Table 12-ES-1 shows the number of acres of various types of land, including cultivated land, affected under each alternative. This is precisely the type of data that should be provided and analyzed in other chapters, including agricultural land, and its omission in such chapters underscores the basic problem created by overreliance on a programmatic approach to environmental review. The same goes for the total acres of land restored to habitat (83,839) and the total acres restored and protected (153,114), as set forth on p. 12-9. These figures are remarkable and should be an integral part of the analysis in the agricultural resources and socioeconomics chapters of the Draft EIR/EIS (among others). What is the basis for their omission?	The impacts of conservation measures 2-21 are addressed at a program level of detail to reflect the level of detail presented for these conservation measures in the Plan. This approach for these conservation measures is fully discussed in Chapter 3, Description of Alternatives, Chapter 4, Approach to Environmental Analyses, and in methods sections of resource chapters. Lacking locations for these conservation measures, no additional detail would be possible to present without resorting to undue speculation. The Draft EIR/EIS also indicates that conservation measures analyzed at a program level of detail may require, in some cases, additional environmental review prior to implementation of an action.
1676	57	[From ATT1:] Chapter 12, Page 12-8: Purpose of BDCP. The text states that the "principal intent" of the BDCP is to improve habitat conditions for covered species. This is not accurate and should be rephrased to refer to the water supply reliability objectives of BDCP.	The commenter's opinion on the purpose of the BDCP is acknowledged. The BDCP does address water supply reliability but also seeks to conserve habitats for fish and wildlife throughout the Plan Area and to contribute to the recovery of listed species. No technical changes to the document have been prepared in response to the comment.
1676	58	[From ATT1:] Chapter 12, Page 12-124: Delta Plan status. Discussion of status of Delta Plan and associated EIR appears inaccurate, referring to adoption of the plan prior to the completion of environmental review.	The commenter notes that the referral to the status of the Delta Plan and associated EIR is incorrect. The Draft EIR/EIS incorrectly states that "the DSC is still preparing the associated environmental impact report." In fact, the Final EIR was certified on May 16, 2013, at which point the Delta Plan was adopted. The Final EIR/EIS will be revised accordingly.
1676	59	[From ATT1:] Chapter 12, Page 12-157: Lower Yolo Restoration Project. The text refers to the "DWR Lower Yolo Restoration Project." The project proponent is the State and Federal Contractors Water Agency, not DWR. Also, the project size is only about one-half the total acreage (over 3,400 acres) mentioned in the text.	The commenter states that the project proponent identified for the Lower Yolo Restoration Project is incorrect. This information will be confirmed and updated for the Final EIR/EIS.
1676	60	[From ATT1:] Chapter 12, Pages 12-225 and 12-226: Managed Wetlands. The text discusses the potential loss of managed wetlands due to CM2 and other CMs. The impact analysis, however, does not capture the diminution in biological resource value due to CM2 implementation and its effect on managed wetlands in the Yolo Bypass. Various issues mentioned in the Ducks Unlimited study, incorporated herein by this reference (and discussed elsewhere in the Draft EIR/EIS), require attention. Consequently, the impact conclusion (less than significant) set forth a few pages later is flawed and likely	The commenter's opinion is that the analysis of effects on managed wetlands "does not capture the diminution in biological resource value due to CM2" in Yolo Bypass. The commenter specifically references the analysis conducted for Alternative 1A on page pages 12-225 and 12-226 of the Draft EIR/EIS. The analysis presented in this section for managed wetland, as well for the other alternative's Impact BIO-24 Changes in Managed Wetland Natural Community as a Result of Implementing BDCP Conservation Measures, focuses on the amount of managed wetland lost as a natural community and the amount of managed wetland and other wetland habitats that would replace this community, which considers its value as a wetland community. Also, periodic effects to managed wetlands are addressed in Impact BIO-25 Increased Frequency, Magnitude

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		inaccurate because it does not consider many relevant issues.	<p>and Duration of Periodic Inundation of Managed Wetland Natural Community for all of the alternatives. Managed wetlands are manipulated by controlling the hydrology and through periodic disking to maintain areas of shallow, open water habitat for waterfowl.</p> <p>Under Alternative 1A, the BDCP would replace the 12,813 acres of managed wetlands converted and lost throughout the Plan Area (only 24 acres would be permanently lost and 44 acres temporarily effected in Yolo Bypass) with 6,000 acres of tidal brackish emergent wetlands, 24,000 acres of freshwater emergent wetland, and further mitigate with the protection of 8,100 acres of managed wetlands and the creation of 500 acres of managed wetlands. Overall, the value of wetlands as a natural community in the Plan Area and Yolo Bypass would generally improve by having more natural wetlands that are subject to less disturbance and that are available year round as opposed to seasonally as with most managed wetlands. The value of managed wetlands in Yolo Bypass to waterfowl and shorebirds is addressed in Impacts BIO-180 and BIO-181.</p> <p>The commenter further provides an opinion that various issues mentioned in the Ducks Unlimited study require attention and that the less-than-significant conclusion is flawed because “many relevant issues” are not considered. The commenter does not further explain his or her opinion or which issues require attention.</p>
1676	61	<p>[From ATT1:]</p> <p>Chapter 12, Page 12-229.</p> <p>The acreage figures for managed wetlands impacted by CM2 seem inaccurate, as the acreage totals decline as flow rates increase from 4,000 cfs to 8,000 cfs.</p>	<p>The commenter states that the periodic effects to managed wetlands seem inaccurate relative to notch flows at the Fremont Weir. The acreages reported are increases in inundation above existing flow conditions in the Yolo Bypass. As presented in Table 5.4-2 of the BDCP, though not clearly stated, as existing flows from those channels along the Bypass’s western border (e.g., Cache Creek, Putah Creek) enter the Yolo Bypass the area inundated increases as those flows increase and thus as flows from the Fremont Weir are considered, there is a point where existing flows leave less and less area for the flows from the Fremont Weir to add to the level of inundation. In other words, during wet periods the western channels are already filling up the Bypass and the addition of the flows from the Fremont Weir contribute a smaller fraction of the total inundation because the Bypass is already approaching capacity.</p>
1676	62	<p>[From ATT1:]</p> <p>Chapter 12, Page 12-345 (and similar text): Terrestrial species and methylmercury; mitigation efficacy.</p> <p>The discussion concludes that the effects of increased methylmercury exposure on the California black rail will be less than significant, citing the potential for project-by- project implementation of mitigation measures to "address the uncertainty of methylmercury levels in restored tidal marsh." However, the text two pages earlier (12-343) states that floodplain habitat restoration may also cause increases in methylmercury levels affecting the California black rail. The impact conclusion is thus unsupported by substantial evidence because it is confined to tidal marsh and, in addition, it relies on future mitigation measures of unknown content and efficacy. Rather than less than significant, the impact conclusion should be significant and unavoidable for these reasons (for the California black rail and other species where the impact conclusion is similarly flawed, such as the tricolored blackbird (p. 12-458)).</p>	<p>The commenter questions the analysis of effects on terrestrial species from exposure to methylmercury and the mitigation proposed to offset effects. In Appendix D of the RDEIR/SDEIS, the analysis of the effects of methylmercury have been revised to include more species-specific detail with respect to mechanism of effect and locations of effect within the project area.</p>
1676	63	<p>[From ATT1:]</p> <p>Chapter 12, Page 12-441 (and similar text).</p> <p>Repeatedly, the text in this chapter states that CM2 will result in Yolo Bypass inundation in no more than 30% of all years, as the Fremont Weir overtops in the remaining 70% of years. The text continues to explain that in more than 50% of all years under existing</p>	<p>The commenter states concern that the increased duration of inundation of the Yolo Bypass in certain years will inhibit agriculture, which could lead to a shift in crops that provide less foraging value for species such as the Swainson’s hawk.</p> <p>The Yolo Bypass is seasonally inundated under existing conditions which limits the types of crops that can be grown. Orchards and winter crops cannot be grown within the bypass, and long-term ventures such as alfalfa are not viable. Agricultural crops that are grown in the bypass include rice, tomatoes, corn, millet,</p>

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		<p>conditions, an area larger than the anticipated footprint of CM2 (a footprint conspicuously absent from virtually every other chapter in the Draft EIR/EIS) already floods. On this basis, the text concludes that habitat conditions for the Swainson's hawk will not change substantially following implementation of CM2.</p> <p>This analysis ignores the likelihood that increased duration of inundation will inhibit agriculture in the Yolo Bypass--a key contributor to the value of existing foraging habitat. The diminution in habitat value due to a decline in agriculture or a shift to crops of less foraging value (e.g., from tomatoes to safflower) needs to be analyzed in the Draft EIR/EIS, and it is an important factor to understand in assessing the true scope of the BDCP's potential adverse effect on the Swainson's hawk. In the absence of such information, the impact conclusions are faulty.</p>	<p>wheat, milo and safflower, and fallow fields are also part of the cultivated lands rotation. Periodic inundation of the bypass, which would continue under the implementation of CM2, maintains the landscape in non-permanent crops which provides important foraging habitat for many avian species. Fallowed fields that could result from a delay in planting when there are late-season inundation occurrences would still provide suitable foraging habitat for species such as the Swainson's hawk.</p> <p>Alternatives 1A-9 presented in the Draft EIR/EIS include Yolo Bypass improvements as Conservation Measure 2 of the BDCP conservation strategy. The Lead agencies acknowledge the commenters opinion about the potential effects of CM 2 on Swainson's hawk. Additional Alternatives 4A, 2D, and 5A do not include Yolo Bypass as a project component. These improvements are assumed instead under the No Action Alternative.</p>
1676	64	<p>[From ATT1:]</p> <p>Chapter 13 -- Land Use: Outdated and incomplete information; inadequate consideration of available information.</p> <p>Yolo County incorporates herein by reference its July 12, 2013 comments [see ATT4] on the Land Use Chapter in the Second Administrative Draft EIR/EIS, which focused on:</p> <p>1) Requesting that discussion of the expired County moratorium on certain habitat projects be replaced by discussion of the County ordinance requiring a use permit for certain habitat projects, adopted on January 29, 2013; and</p> <p>2) Requesting deletion, in whole or part, of general and inaccurate statements such as "the locations for implementation of CM2-CM21 are not known at this point." To the contrary, at least with respect to CM2, the location is very well known and has been described and modeled in detail.</p> <p>As the Land Use Chapter is essentially unchanged on matters relevant to these two issues, the County's prior comments remain fully applicable. In fact, since the County's first round of comments on the initial Administrative Draft EIR/EIS on April 16, 2012 [see ATT2], the Land Use Chapter has not improved significantly and it continues to substitute vague generalizations for meaningful analysis of the issues within its scope.</p> <p>Altogether, additional information and analysis is necessary to ensure the Draft EIR/EIS is legally adequate. Discrete impact discussions (e.g., LU-1 and -2) must also include conclusions as to whether impacts are significant and unavoidable, less than significant, or otherwise. The omission of such information is inappropriate and cannot be excused by the programmatic nature of the analysis for CM2-22 in the Draft EIR/EIS.</p>	<p>The text has been revised within the chapter with the updated information regarding the expiration of the moratorium.</p>
1676	65	<p>[From ATT1:]</p> <p>Chapter 13 -- Land Use: Western Alignments (1C, 2C, 6C).</p> <p>Yolo County incorporates herein by reference the comments of Sacramento County in its discussion of impacts on Delta Communities and Delta Plan Policy DP-2 with respect to the Land Use Chapter of the Draft EIR/EIS. That discussion applies equally to impacts within Yolo County (though Clarksburg, rather than Hood, will be directly impacted) in the event a western alignment is ultimately selected. As the text notes (e.g., p. 13-81), more than 6,000 acres of land in Yolo County could be impacted by the selection of a western</p>	<p>15 alternatives and 3 new subalternatives were analyzed in the EIR/S and the RDEIR/RSEIS 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. Regarding development of alternatives for the EIR/EIS, a description of the process the Lead Agencies followed to develop and screen alternatives is provided in Master Response 4.</p> <p>Alternative 4A affects substantially less land than the previous Alternative 4. Alternative 4A follows the</p>

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		<p>alignment, including more than 5,000 acres of permanent effects on County farmland. Potential impacts on homes and other structures are also severe, as discussed in the County's comment letter that accompanies this table.</p> <p>These figures, of course, include only impacts associated with CM1; the many thousands of additional acres impacted by CM2-22 constitute an additional land use impact that requires discussion both individually and cumulatively in Chapter 13 and elsewhere in the Draft EIR/EIS.</p>	<p>modified pipeline tunnel alignment rather than the western alignment.</p> <p>Sacramento County's comment letters have been responded to separately. Please see Master Response 42 for further information about how comments are responded to.</p>
1676	66	<p>[From ATT1:]</p> <p>Chapter 14, Pages 14-7 and 14-8 (Table 14-2); 14-26: Use of County Ag Economic Data.</p> <p>Table 14-2, relating to crop acreages in the Plan Area, does not use the best available information for cropping patterns in the Yolo Bypass, as it ignores the report by Dr. Howitt and others on the potential impacts of floodplain habitat restoration proposals on agriculture in the Yolo Bypass. This report is mentioned in passing elsewhere in Chapter 14 and should be integrated more broadly into the analysis, particularly for CM2.</p> <p>At p. 14-26, the text states that the analysis of impacts on agricultural resources in the Yolo Bypass "relies on a comparison between a geographic estimate of the area that would be more frequently inundated, along with data about the agricultural resources present in this area." However, the "data about the agricultural resources" does not appear to draw on the Howitt report mentioned above. The balance of Chapter 14 largely eschews any sort of geographic estimates and data about agricultural resources. This information is available and should be included in the Draft EIR/EIS.</p>	<p>For the purposes of data source consistency and crop type detail for all six counties in the project area, county-specific land use survey data from the California Department of Water Resources was used in Chapter 14, Agricultural Resources.</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>
1676	67	<p>[From ATT1:]</p> <p>Chapter 14, Pages 14-14 and 14-15; 14-26: Crop water table tolerances.</p> <p>The discussion in this location underscores the potential adverse effects of raising the groundwater table (i.e., "The water table elevation must be below the crop root zone to maximize growth and yield and minimize root rotting from oversaturation.").</p> <p>Later in the EIR, however, the impact analysis assumes that the opposite is true in assessing the significance of related impacts on crops. For example, at p. 14-26, the EIR says, "The water table elevation must be within the crop root zone to maximize growth and yield and minimize root rotting from oversaturation." This text should be revised for the sake of clarification.</p>	<p>The text has been revised as noted in the comment.</p>
1676	68	<p>[From ATT1:]</p> <p>Chapter 14, Pages 14-15 and 14-16: Crop salinity tolerances.</p> <p>This discussion highlights the potential adverse effects of increased irrigation water salinity. No data appears in the EIR, however, with regard to the potential for such effects within Yolo County. This information should be included.</p>	<p>As described in Chapter 8, electrical conductivity and chloride were assessed at D- 1641 compliance locations. Those locations are identified in Chapter 8. Based on data availability, data continuity, and geographic location, a total of 20 water quality monitoring stations were selected to characterize the water quality conditions in the BDCP study area (see Chapter 8, Water Quality, Figure 8-7). Chapter 8, Section 8.1.2.2, provides a brief illustration of how the data from these stations were used to represent various parts of the study area. Table 8-6 presents the specific reasons for selecting these locations and describes the spatial area of the study area for which specific stations provide adequate representation.</p> <p>Chapter 14 identifies those compliance locations where, according to water quality monitoring results, there may be EC increases that would affect agricultural beneficial uses.</p>

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			<p>There could be increased long-term and drought period average EC levels during the summer months in the Sacramento River at Emmaton under Alternative 4A relative to the No Action Alternative (ELT), which could adversely affect agricultural beneficial uses. Relative to Existing Conditions, average EC levels at Emmaton would increase by 9% during the drought period modeled. The largest monthly average increases in EC would occur during the summer months of the drought period, and more generally in dry and critical water year types. The increases in drought period average EC levels could cause substantial water quality degradation that would potentially contribute to adverse effects on the agricultural beneficial uses in the western Delta. The comparison to Existing Conditions reflects changes in EC due to both Alternative 5A operations and climate change/sea level rise. The adverse effects expected to occur at Emmaton would be due in part to the effects of climate change/sea level rise, and in part due to Alternative 5A operations. Mitigation Measure WQ-11 (Avoid, Minimize or Offset, as Feasible, Reduced Water Quality Conditions would be expected to reduce the severity of this effect such that it is less than significant following mitigation.</p>
1676	69	<p>[From ATT1:]</p> <p>Chapter 14, Page 14-18: Farmland Protection Policy Act (FPPA).</p> <p>The discussion references an Natural Resources Conservation Service summary of the FPPA and (1) defines farmland as including land of statewide or local importance, and (2) identifies the FPPA as intended to assure that "to the extent possible federal programs are administered to be compatible with state, local units of government, and private programs and policies to protect farmland."</p> <p>The EIR/EIS ignores the FPPA with a general practice of ignoring, rather than attempting to harmonize, the BDCP and farmland protection programs of local government. Compliance with the FPPA should be evaluated in the Draft EIR/EIS and otherwise.</p>	<p>FPPA review is needed for proposed federal actions that might directly or indirectly irreversibly convert prime and/or unique farmland to nonagricultural use. Review requirements do not apply to federal permits issued for privately sponsored construction on non-federal lands, or to lands that are already committed to urban development or water storage. The BDCP alternatives could all result in the conversion of farmland; therefore, FPPA review is included in the project EIR/EIS.</p> <p>The federal lead agencies will coordinate with the Natural Resources Conservation Service (NRCS) to complete a farmland conversion evaluation as part of the EIR/EIS. The NRCS does not issue a permit or other authorization, but rather reviews information provided by the lead agencies. The federal lead agencies must provide information in the document that explains how effects to farmland will be minimized to the extent practicable. The federal</p> <p>lead agencies must also document that the federal action is compatible with other state and local programs intended to protect farmland.</p>
1676	70	<p>[From ATT1:]</p> <p>Chapter 14, Page 14-25: Methods for Analysis.</p> <p>The introductory paragraph explains that the EIR analyzes farmland impacts that include "footprint effects that would be temporary/short-term or permanent in nature," but it does not include any meaningful analysis of long-term effects that are intermittent (as in the case of the Yolo Bypass). No reason is provided for this distinction. It should either be fully explained or the text should be revised to treat intermittent, ongoing effects in a manner similar to permanent effects.</p>	<p>Chapter 14 Agriculture, Section 14.3.1 Methods for Analysis provides an overview of the methodology used to assess the impacts on agriculture as a result of constructing the water conveyance facilities and restoration activities within the Plan Area. The EIR/EIS assessed the implementation of restoration actions at the program level. DWR has indicated that when determined, the environmental impacts of each restoration action would be evaluated at the project level which would include actions in the Yolo Bypass.</p> <p>It should also be noted that Alternative 4A does not include many of the restoration actions proposed as part of the BDCP alternatives that would result in impacts on agriculture occurring in the Yolo Bypass.</p>
1676	71	<p>[From ATT1:]</p> <p>Chapter 14, Page 14-25: Methods for Analysis.</p> <p>The introductory paragraph refers to an analysis of "potential changes to agricultural viability from the project as it relates to operational effects on water quality, groundwater elevation, and inundation frequency." However, these issues are considered only in superficial detail and should be the subject of a much more intensive analysis. In particular, Yolo County requests that the Draft EIR/EIS include information specific to the groundwater table of Merritt Island and the potential for reduced agricultural viability due to BDCP implementation.</p>	<p>In the Draft EIR/EIS, groundwater effects on Merritt Island were related to dewatering activities during construction of a large Intermediate Forebay and seepage during operations of this forebay. In the RDEIR/SDEIS and Final EIR/EIS, the size of the Intermediate Forebay was substantially reduced, and the project description was modified to include a slurry wall and toe drains to be constructed around the perimeter of the forebay to avoid affecting groundwater elevations and water quality on adjacent lands during construction dewatering activities, and to reduce groundwater seepage from the forebay onto adjacent lands during operations of the forebay, as described under Impacts GW-2 through GW-5 of Chapter 7 and Impact AG-2 of Chapter 14 of the Final EIR/EIS. Construction and operation of the tunnel would have no impact on existing wells or yields given the facilities would be located more than 100 feet underground and would not alter groundwater levels in the vicinity of the tunnel.</p>

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1676	72	<p>[From ATT1:]</p> <p>Chapter 14, Page 14-25: Methods for Analysis.</p> <p>The introductory paragraph refers to "several indirect consequences on agricultural resources that may result from implementation of the BDCP." It is unclear what this means. However, it does not appear to include consideration of the reduction in agricultural value of tens of thousands of acres of Delta farmland that will be encumbered by Swainson's hawk and other habitat conservation easements during the course of BDCP implementation. This diminution in agricultural value arising from crop restrictions contained in such easements should be considered in the Draft EIR/EIS, just like the diminution in value that may follow increased use of land in the Yolo Bypass for seasonal floodplain habitat.</p>	<p>Indirect effects on agricultural resources as a result of implementing the BDCP are covered in Impacts AG-2 and AG-4.</p> <p>Impacts AG-3 and AG-4 generally cover the issue the commenter brings up. Implementation of Conservation Measures 2–11, 13, 15, 16, 20, and 21 under BDCP alternatives would restore tidal wetland habitat, seasonally-inundated floodplain, riparian habitat, grassland communities, vernal pool complex habitat, and nontidal marsh areas. Implementation of restoration activities and other conservation measures could result in conversion of a substantial amount of Important Farmland; conflict with land subject to Williamson Act contracts or in Farmland Security Zones; and convert substantial amounts of Important Farmland to other uses through changes in groundwater levels, disruption of drainage and irrigation facilities, changes in inundation frequency, and changes to agricultural practices, resulting in a potentially significant impact on agricultural resources in the study area. Because location-specific effects cannot be identified, this evaluation is qualitative in nature. Further evaluation of these effects would depend on additional information relating to the location of these activities and other detailed information.</p> <p>Please see Master Response 18 for a discussion regarding agricultural mitigation.</p> <p>EIR/EIS analyzes all alternatives, including Alternative 4A. The lead agencies are currently undergoing ESA Section 7 and CESA Section 2081(b) consultation with the fish and wildlife agencies.</p>
1676	73	<p>[From ATT1:]</p> <p>Chapter 14, Pages 14-25 and 14-26: Project/Program Level.</p> <p>This discussion explains that activities associated with CM2-22 (with a few exceptions) are "conceptual at this point" and are therefore the subject of "a programmatic approach to addressing effects on crops using similar analytical approaches and tools as for the placement of the water conveyance facilities." For CM2, this is neither necessary nor appropriate and it contradicts language elsewhere in Chapter 14.</p> <p>For example, at the bottom of p. 14-26, the text acknowledges that "... the potential for increased frequency of inundation events in the Yolo Bypass differs from most other measures in its geographic certainty. Analysis of related effects on agricultural resources relies on a comparison between a geographic estimate of the area that would be more frequently inundated, along with data about the agricultural resources present in this area." Yet while Yolo County agrees with these statements, Chapter 14 does not actually include any related analytical content.</p>	<p>The BDCP EIR/EIS provides an analysis of impacts to agricultural resources consistent with the requirements of CEQA and NEPA.</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>See Master Response 2 for further discussion of project- level and program-level analysis.</p> <p>Effects of the proposed project will be subject to mitigation. Land that is not directly affected by construction or habitat restoration should remain productive.</p> <p>The lead agencies are currently undergoing ESA Section 7 and CESA Section 2081(b) consultation with the fish and wildlife agencies.</p> <p>Operational elements associated with Fremont Weir modifications would not be incorporated as part of the preferred alternative, because Yolo Bypass improvements contemplated in the BDCP (under CM2) would not be implemented as part of the preferred alternative; instead, they would be assumed to occur as part of the No Action Alternative under the existing 2009 NMFS BiOp.</p>
1676	74	<p>[From ATT1:]</p>	<p>The paper previously provided to DWR is available on the project website and has been reviewed and</p>

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		<p>Chapter 14, Pages 14-26: Use of MIKE-21.</p> <p>The text at the bottom of p. 14-26 indicates that Yolo Bypass agricultural impacts are based on "a geographic estimate of the area that would be more frequently inundated." Not only is this information absent from Chapter 14, the model purportedly relied on to produce the geographic estimate (MIKE-21) is flawed. Yolo County has published a paper, previously provided to DWR, which explains the flaws in the MIKE-21 model.</p>	<p>considered by the lead agencies.</p> <p>Alternative 4A no longer involves actions within the Yolo Bypass. If a BDCP alternative involving an HCP/NCCP is ultimately chosen, the lead agencies will re-examine this comment and the concerns over the use of MIKE-21.</p>
1676	75	<p>[From ATT1:]</p> <p>Chapter 14, Page 14-27: Importance of Farmland as a Resource.</p> <p>The text of the EIR states:</p> <p>"High quality soils are complex bio-geo-chemical systems and some of California's most valuable natural resources. The higher the quality of a soil type, the greater and more diverse options it provides to potential users. To the extent that agricultural land produces commodities for sale, such land represents an economic resource, much like lands with significant mineral resources."</p> <p>Farmland has economic value, but this is not to the exclusion of it also being an environmental resource. The text also highlights the problem with placing habitat easements or otherwise disturbing high quality farmland -- it interferes with a wide range of potential agricultural uses. Habitat easements should therefore target compatible lands -- i.e., lands with physical restrictions that make them suited to a more limited range of crop types consistent with easement restrictions. This strategy should be incorporated into the mitigation offered in Chapter 14.</p>	<p>Effects of the proposed project will be subject to mitigation. Land that is not directly affected by construction or habitat restoration should remain productive. Please see Master Response 18 for addition discussion of agricultural mitigation.</p>
1676	76	<p>[From ATT1:]</p> <p>Chapter 14, Page 14-27: Restricting "Important Farmland".</p> <p>The text states that: "For purposes of this EIR/EIS, 'Important Farmland' is defined as land designated under any of these four categories, and refers to land located in areas that can continue to be farmed economically and on a sustainable basis for an indefinite period of time absent a conversion to a different use under the BDCP."</p> <p>What does that mean? What areas have been excluded on the basis that they do not meet the latter criterion? Without some discussion of this and an illustration of excluded areas, by maps or otherwise, it is impossible for a reader to know how this restrictive approach is being applied and the extent to which actively cultivated land is being excluded from the analysis. The County also objects to this narrow approach to defining the types of farmland for analysis in the Draft EIR/EIS for reasons described on p. 4 of a January 24, 2013 letter from Phil Pogledich, Senior Deputy County Counsel, to Katy Spanos, DWR staff counsel (Attachment 6 [ATT12] to the comment letter accompanying this matrix), which is incorporated by reference herein in its entirety.</p>	<p>Because all of the land within the project area has been surveyed for the USDA land capability classifications, CEQA §21060.1(a) applies, defining "Agricultural land" as: "prime farmland, farmland of statewide importance, or unique farmland, as defined by the United States Department of Agriculture land inventory and monitoring criteria, as modified for California."</p> <p>For purposes of the EIR/EIS, the examination of agricultural land effects has been expanded beyond the CEQA requirement to include land defined by a county Board of Supervisors as "Farmland of Local Importance." "Farmland of Local Importance" is land of importance to the local agricultural economy as determined by each county's board of supervisors and a local advisory committee.</p> <p>Land has not been excluded from the examination of impacts to farmland on any basis except that some land is already excluded from the definitions of Important Farmland noted above. By including the specific additional land that may be identified by a County Board, the EIR/EIS expands its consideration of impacts from that required by CEQA.</p> <p>This expanded examination of impact was done by reviewing the following definitions of Farmland of Local Importance for the Delta Counties (source, California Department of Conservation):</p> <p>"CONTRA COSTA – The lands within the Tassajara area, extending eastward to the county boundary and bordered on the north by the Black Hills, the Deer, Lone Tree and Briones Valleys, the Antioch area, and the Delta. These lands are typically used for livestock grazing. They are capable of producing dryland grain on a 2-year summer fallow or longer rotation with volunteer hay and pasture. The farmlands in this category are included in the U.S. Natural Resources Conservation Service's Land Capability Classes I, II, III, and IV, and lack some irrigation water.</p>

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			<p>SACRAMENTO – Lands which do not qualify as Prime, Statewide, or Unique designation but are currently irrigated crops or pasture or nonirrigated crops; lands that would be Prime or Statewide designation and have been improved for irrigation but are now idle; and lands which currently support confined livestock, poultry operations, and aquaculture.</p> <p>SAN JOAQUIN – All farmable land within San Joaquin County not meeting the definitions of "Prime Farmland," "Farmland of Statewide Importance," and "Unique Farmland." This includes land that is or has been used for irrigated pasture, dryland farming, confined livestock or dairy facilities, aquaculture, poultry facilities, and dry grazing. This also includes soils previously designated by soil characteristics as "Prime Farmland," "Farmland of Statewide Importance," and "Unique Farmland" that has since become idle.</p> <p>SOLANO – The Board of Supervisors determined that there will be no Farmland of Local Importance for Solano County.</p> <p>YOLO – Local Importance (L): cultivated farmland having soils which meet the criteria for Prime or Statewide, except that the land is not presently irrigated, and other nonirrigated farmland. Local Potential (LP): Prime or Statewide soils which are presently not irrigated or cultivated."</p> <p>Accordingly, in considering the project's potential impacts on farmland, the EIR/EIS goes beyond the CEQA definition to ensure the Counties' own expanded definition of farmland has been considered and evaluated. To the extent a County has not identified other land that may be capable of agricultural uses, this classification provides the opportunity to do so. Other land impacts have been examined in the Land Use Chapter.</p> <p>Finally, this comment describes an attachment to the comment letter, comments on an October 2012 Draft Discussion Paper on Agricultural Mitigation. The comments, as well as input from other interested stakeholders, were used to develop a list of Agricultural and Land Stewardship Strategies and a Framework for Planning, which provides some suggestions for how to incorporate the Strategies into the project planning process. The Framework and Strategies can help inform agricultural and land stewardship activities, and encourage the voluntary exploration of mutually beneficial solutions.</p>
1676	77	<p>[From ATT1:]</p> <p>Chapter 14, Page 14-28: Programmatic Analysis of CM2; Howitt Report.</p> <p>Chapter 14 does not appear to include any information relating to impacts on individual crop types as a result of CM2. This information should be included in much the same manner that it is presented in Appendix 14A (Individual Crop Effects as a Result of BDCP Water Conveyance Facility Construction). As acknowledged elsewhere in Chapter 14 (e.g., p. 14-26), "... the potential for increased frequency of inundation events in the Yolo Bypass differs from most other measures in its geographic certainty. Analysis of related effects on agricultural resources relies on a comparison between a geographic estimate of the area that would be more frequently inundated, along with data about the agricultural resources present in this area."</p>	<p>The EIR/EIS provides an analysis of impacts to agricultural resources consistent with the requirements of CEQA and NEPA. Please also see Master Response 18 regarding agricultural resources.</p> <p>For further information regarding BDCP, including CM2, please see Master Response 5. See Master Response 2 for further discussion of project-level and program-level analysis.</p>
1676	78	<p>[From ATT1:]</p> <p>Chapter 14, Page 14-28: Agricultural viability; economic effects.</p> <p>Page 14-28 states that "changes in crop selection and crop yield are considered primarily economic effects, rather than changes to the physical environment." This statement is repeated elsewhere in Chapter 14 in several places.</p>	<p>The soil resource has physical and environmental properties. The Important Farmland classification system is based on that resource in use. Some economic nexus must be expected with any changes to patterns of resource use, and the document acknowledges such changes are expected. If uses on farmland are restricted by easements, the easements would be acquired based on the fair market value of the permanent limits imposed, and the landowner would be paid directly. Neither current conditions nor an easement, as generally crafted, could require a farmer to continue farming in the future, so no continuity of continuing participation in market is certain. Secondary or tertiary effects of a fractional impairment of a local or</p>

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		<p>Yolo County disagrees with this statement and believes it arises from the false premise that a decline in agricultural production is an economic issue. To the contrary, farmland is legally and physically an environmental resource. As restrictions (legal or otherwise) limit its utility for agricultural purposes, the viability of agriculture could be threatened. This issue does not appear to be considered in the Draft EIR/EIS despite the potential for a decline in agricultural viability to ultimately have environmental effects as farmland goes out of production. Among other things, a decline in economic viability and the subsequent cessation of agricultural activity on some affected lands could have adverse effects on flood protection and terrestrial species in addition to causing socioeconomic effects and related environmental consequences (i.e., urban blight). These issues require focused attention in the Draft EIR/EIS.</p>	<p>regional agricultural market is highly speculative, specifically economic in nature and outside the scope of this analysis.</p>
1676	79	<p>[From ATT1:]</p> <p>Chapter 14, Page 14-32: Important Farmland, defined.</p> <p>At p. 14-32, the text states: "The future of agricultural activities in the study area is uncertain." This may be true in a limited sense but it does not apply generally to all farmland within the study area. The EIR/EIS then compounds the problems presented by this statement by defining "Important Farmland" as excluding "land located in areas that can continue to be farmed economically and on a sustainable basis for an indefinite period of time absent a conversion to a different use under the BDCP." So if the future of agriculture is uncertain, what land "can continue to be farmed economically and on a sustainable basis"? This misstatement creates many problems and could result in an inaccurate (or at the very least, unclear) baseline.</p>	<p>The text has been revised so that the subject sentence was not a general statement about the entire study area.</p> <p>Please see BDCP EIR/EIS Chapter 4, Approach to the Environmental Analysis, for a discussion of the NEPA and CEQA baselines.</p>
1676	80	<p>[From ATT1:]</p> <p>Chapter 14, Page 14-38 (Table 14-9): Intermittent effects.</p> <p>Table 14-9 identifies the estimated conversion of protected farmland permanently and for temporary periods. Why not also include estimates for lands that will be affected intermittently, such as in the Yolo Bypass?</p>	<p>Please see Master Response 18 for a discussion on agricultural mitigation.</p>
1676	81	<p>[From ATT1:]</p> <p>Chapter 14, Pages 14-39 through 14-48: MM AG-1: Develop an Agricultural Land Stewardship Plan (ALSP).</p> <p>The following comments apply to MM AG-1 wherever it appears in the Draft EIR/EIS.</p> <p>The ALSP strategy suffers from various flaws and, in its present form, it is not legally valid mitigation:</p> <p>While MM AG-1 says that an ALSP must contain three elements, only the first two will typically be required. The third element, relating to conventional agricultural mitigation or an "optional approach," is required only where the project at issue does not include (as mitigation) habitat conservation easements recorded on farmland that also serves as wildlife habitat. This greatly narrows the application of agricultural mitigation to only those instances where conservation easements addressing terrestrial habitat losses are not required.</p>	<p>Please see Master Response 18 for a discussion on agricultural mitigation.</p>

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		<p>The first element includes a factor that prioritizes "public lands and existing conservation lands" for projects can cause to additional impacts (recreation, managed wetlands, land conserved for agriculture), as compared to the use of private lands, and should be used very judiciously.</p> <p>Yolo County applauds the first element language that calls for consideration of subsidies to allow economically viable rice farming on lands due to its environmental benefits, which should be specifically defined to include giant garter snake habitat in addition to the stabilization of subsiding areas and creation of greenhouse gas(GHG)/methylmercury sinks.</p> <p>Requiring compliance with Gov. Code Sections 51290-95 is not mitigation (in context of the Williamson Act), but is legally required.</p> <p>The third element (AG-1c) does not clearly explain how to evaluate the "overall quality" of farmland in a conventional mitigation approach (p. 14-47). Will this include application of LESA modeling or another approach?</p> <p>The third element applies "where the mitigation already being required for the biological resource values for the land at issue (e.g., for its value as habitat for the Swainson's hawk) ... Already requires the equivalent of 1:1 mitigation (based on the net area of land remaining in agriculture) ... Provided the easements for biological values also incorporate agricultural preservation." This is not adequate to fully address the loss of agricultural resource values. Reducing agricultural mitigation requirements by "crediting" land encumbered with crop restrictions and other factors that reduce its agricultural viability is inconsistent with the "like for like" notion that is inherent in mitigation for lost resource values. Moreover, it is logically inconsistent to require that agricultural conservation easements be placed on land of "the same overall quality" (p. 14-47, line 25) while relieving the BDCP proponents of any agricultural mitigation obligation if farmland restricted by a habitat conservation easement is fully credited toward agricultural mitigation requirements. This approach should be reconsidered and revised to eliminate the application of habitat conservation lands toward agricultural mitigation requirements.</p>	
1676	82	<p>[From ATT1:]</p> <p>At [Chapter 14] p. 14-48, the text indicates the agricultural conservation easements can be recorded in other counties (i.e., outside the jurisdiction where the impact occurs), "with a preference for counties in the greater Sacramento metropolitan urban area, as long as the property is at-risk for conversion from agricultural uses to developed uses from encroaching urban development in the absence of such long-term protection, and as long as such purpose does not undermine the overall BDCP conservation strategy by potentially putting off-limits lands that may be needed for habitat purposes during the permit duration of the BDCP (i.e., up until 2060)."</p> <p>This creates at least two problems. First, while this is generally a proper and laudable objective, it needs to be squared with local general plans and should be implemented cautiously and only with the consent of the receiving jurisdiction. Second, it does not account for potential conflicts with other HCP/NCCPs. The BDCP is not the only HCP/NCCP in the Delta, but rather one of a handful of developing or existing plans. Potential conflicts should be accounted for, as this statement acknowledges (albeit solely in the context of the BDCP).</p>	<p>Generally, state and federal agencies such as the lead agencies, as well as some local or regional agencies involved with the location or construction of facilities for the production, generation, storage, treatment, or transmission of water, are not subject to local land use regulations (See, e.g., Hall v. Taft (1956) 47 Cal. 2d 177, 183; Town of Atherton v. Superior Court (1958) 159 Cal.App.2d 417 and Lawler v. City of Redding (1992) 7 Cal. App. 4th 778, 784.). Please see Master Response 11 for additional discussion on this issue. Please also see section 12.3.6 of the Final EIR/EIS for a discussion of impacts on other conservation plans.</p>

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1676	83	<p>[From ATT1:]</p> <p>Chapter 14, Pages 14-48 through 14-50 (Impact AG-2): Other effects on agriculture due to building/operating the conveyance facility.</p> <p>At p. 14-50, Yolo County notes that the "Environmental Commitments" will include funding or providing other assistance toward obtaining alternative water supplies or modifying operations to handle increased EC/salinity. This is similar in some respects to the economic mitigation proposal offered by the County in that it helps to sustain agriculture in a region impacted by the implementation of BDCP.</p>	<p>The commenter's note regarding the BDCP environmental commitment to address the potential increased water treatment costs that could result from electrical conductivity effects on agricultural water purveyor operations is acknowledged.</p>
1676	84	<p>[From ATT1:]</p> <p>Chapter 14, Page 14-51 (Impact AG-3): Farmland conversions due to CM 2-11, etc.</p> <p>The analysis in the IMPACT AG-3 section repeatedly states "[w]hile locations have not been selected..." for the projects included in CMs 2-11, 13, 15, 16, 20 and 21, other text in the Draft EIR acknowledges that this is not true for CM2. The result is an incomplete analysis that does not utilize available information on agriculture in the Yolo Bypass, modeling results (even if somewhat flawed), and even the text of CM2 of the BDCP. Needless to say, the environmental analysis of a plan cannot ignore the text of the plan that it studies, as has happened here with respect to CM2.</p> <p>In addition, this analysis fails to describe how CM2 could affect agriculture. It does not even try, and concludes only that "it is anticipated that a substantial area of Important Farmland would be directly converted to habitat under this alternative." This is not a meaningful analysis or conclusion, and much more is both possible and legally required.</p>	<p>Although the analysis for Impact AG-3, Temporary Conversion, Short-Term Conversion, and Permanent Conversion of Important Farmland or of Land Subject to Williamson Act Contracts or in Farmland Security Zones as a Result of Implementing the Proposed Conservation Measures 2-11, 13, 15, 16, 20, and 21, (the impact that the commenter is referring to) is qualitative, because locations have not yet been selected for implementation of habitat restoration/enhancement conservation measures, it takes a conservative approach. Specifically, it states that based on the large proportion of the Conservation Zones designated as Important Farmland, it is anticipated that a substantial area of Important Farmland, land subject to Williamson Act contracts, and in Farmland Security Zones would be converted to habitat. As such, the impact is considered adverse under NEPA and significant under CEQA, and the impact would be significant and unavoidable even with implementation of mitigation measures.</p> <p>Design information for the restoration and conservation strategies for aquatic and terrestrial habitat and some other CM measures are currently at a conceptual level. Accordingly, the analyses in the Draft EIR/EIS address the effects of typical construction, operation, and maintenance activities that would be undertaken for implementation of some conservation measures at a program-level of analysis, describing what environmental effects may occur in future project phases. Additional, project-level environmental review will be completed as necessary prior to implementation of specific conservation measures other than CM1. For additional discussion regarding the conservation measures that may require additional environmental review, see Appendix 31A, BDCP Later CM Activity Environmental Checklist.</p>
1676	85	<p>[From ATT1:]</p> <p>Chapter 14, Page 14-52 (Impact AG-3, continued): Williamson Act impacts due to CM 2-11, etc.</p> <p>The discussion states that land subject to Williamson Act contracts will be affected, "leading to the potential cancellation of existing contracts and the direct conversion of agricultural land to other uses." Projects that conflict with a Williamson Act contract do not lead to farmland conversions because such projects are prohibited as a matter of law unless the applicable contract(s) is cancelled by the affected county. The proper issue for analysis in this section is thus whether ecosystem restoration could require the cancellation of a Williamson Act contract. The discussion should be revised accordingly.</p>	<p>Effects on agricultural resources with regard to lands under Williamson Act contract are considered adverse for purposes of NEPA and significant for purposes of CEQA if a BDCP alternative would result in the following condition:</p> <p>☐ Convert a substantial amount of land subject to Williamson Act contracts or in Farmland Security Zones to a non-agricultural use incompatible with contract restrictions or local preserve rules or ordinances, or conflict with surrounding land uses or the terms of the applicable Farmland Security Zone.</p> <p>Therefore, this is the focus of the discussion as it relates to lands subject to Williamson Act contracts in the BDCP agricultural resources study area.</p> <p>In 2008, Assembly Bill 2921 was enacted, providing for a mechanism to rescind Williamson Act agricultural contracts in order to enter into either an open space contract under the Williamson Act, or an open space easement. Under the new provisions, the resulting agreement must be at least as restrictive as the contract it replaced, and the affected parcel large enough to provide open space benefits. This mechanism may be applicable to preservation or restoration activities associated with the implementation of BDCP conservation measures.</p> <p>The lead agencies are currently undergoing ESA Section 7 and CESA Section 2081(b) consultation with the fish and wildlife agencies.</p>

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1676	86	<p>[From ATT1:]</p> <p>Chapter 14, Page 14-53 (Impact AG-4): Other agricultural impacts due to CM2-11, etc.</p> <p>Effects resulting from changes in groundwater elevation. This issue is studied only in passing and does not receive close attention in the Groundwater or Agricultural Resources chapters of the Draft EIR/EIS. It should receive more attention in connection with CM1, but even in the context of CM2 it can and should be studied in light of the availability of information about the location and (possibly) the timing, extent, and duration of flooding in the Yolo Bypass.</p>	<p>The greatest potential for impacts to groundwater will be during the construction of the intake facilities, pump stations, forebays, and tunnel shafts. It is anticipated that construction of these facilities will require some type of groundwater dewatering immediately adjacent to the construction site while construction activities are underway. For the tunneling work itself, it is anticipated that groundwater presents minimal risk to the project since the tunneling work will be conducted with equipment that is specifically designed to operate under high groundwater conditions. Hence localized dewatering along the tunnel alignment will not be conducted as a regular component of the tunnel mining operation. Localized dewatering along the alignment will be used only in the event of certain maintenance activities, or specialized construction conditions. Geotechnical exploration work is planned in advance of dewatering well installation so that the groundwater regime at each project site can be better understood, which in turn will allow each dewatering system to be uniquely designed and operated in order to limit construction-related effects to the groundwater user adjacent to the construction sites.</p> <p>DWR plans to have a groundwater monitoring and management plan (Plan) in place before construction begins. The Plan will include a process by which baseline groundwater conditions are established along the project corridor, defining groundwater monitoring during and after construction, and establishing mitigation measures to be utilized. The establishment of groundwater baseline information will allow DWR and all relevant parties to develop information on groundwater conditions and consumptive usage patterns. This information will aid in determining if and when any adverse project-related effects to the groundwater during construction activities occur. The baseline monitoring process may include determining variables such as seasonal changes in groundwater level elevations and water quality, the interface of groundwater with surface water and drainage, consumptive usage patterns established by municipal, domestic, and agricultural wells, and crop utilization of the groundwater. The timing, frequency, and duration of the monitoring during and after construction would be determined before construction begins and will be dependent, in part, on the results of the pre-construction monitoring and the documented use of each resource.</p> <p>If a construction-related effect is identified to have occurred, the magnitude, significance, and anticipated duration of the effect will be determined and an appropriate mitigation measure will be utilized. Mitigation measures that may be considered could include deepening of existing wells, the installation of new wells, or providing an alternate source of temporary water. The most appropriate mitigation methodology applied will be determined on a case by case basis in conjunction with the impacted party. For more information see Mitigation Measure GW-1 in Appendix A Chapter 7 Groundwater.</p>
1676	87	<p>[From ATT1:]</p> <p>Chapter 14, Page 14-53 (Impact AG-4): Other agricultural impacts due to CM2-11, etc.</p> <p>Effects resulting from disruptions to agricultural infrastructure in the Yolo Bypass. Yolo County has actively sought funding for a study on potential disruptions to agricultural infrastructure due to seasonal floodplain habitat restoration. This study should be performed and considered in the Draft EIR/EIS despite its programmatic treatment of CM2.</p>	<p>The commenter's opinion that the lead agencies should perform a study on potential disruptions to agricultural infrastructure due to seasonal floodplain habitat restoration to inform the impact analysis in the BDCP EIR/EIS is acknowledged.</p>
1676	88	<p>[From ATT1:]</p> <p>Chapter 14, Page 14-53 (Impact AG-4): Other agricultural impacts due to CM2-11, etc.</p> <p>Effects on agriculture as a result of increased frequency of inundation events. This issue is briefly summarized in the Draft EIR, including a discussion of the potential operations of the gated Fremont Weir, resulting footprints of inundation, etc. It includes the timing requirements for agriculture from the study by Dr. Howitt and others (mentioned above),</p>	<p>Please see response to Comment 78.</p>

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		<p>yet it does not include other information from the study such as effects on various types of crops. It specifically notes that CM2 "is expected to result in crop yield losses and an increase in fallow acres, as well as agricultural revenue losses." However, the discussion dismisses these effects as "economic, rather than environmental, in nature," a proposition that Yolo County has disagreed with.</p>	
1676	89	<p>[From ATT1:]</p> <p>Chapter 14, Page 14-53 (Impact AG-4): Other agricultural impacts due to CM2-11, etc.</p> <p>The discussion notes that "[t]he new inundation schedule could substantially prevent agricultural use of these lands. The amount of agricultural land potentially affected by these and related activities (up to 17,000 acres) suggests the potential for an adverse effect on agricultural resources; however, the extent of these effects is unknown at this point and will be analyzed in forthcoming documents for the Yolo Bypass Fishery Enhancement Plan (YBFEP), which would be completed under CM2. Mitigation Measure AG-1 is available to mitigate this effect." Yolo County objects that this discussion is conclusory and should include a more precise analysis of potential effects on farmland given the amount of information available about the anticipated features of CM2, as well as related mitigation measures.</p> <p>Oddly, the discussion then states that "some benefits could result from an increased presence of water. An increase in potential groundwater recharge could raise the groundwater table to within the root zone of some crops." It is unclear how this is a potential benefit and, in fact, a high groundwater table can impair or even preclude continued agricultural production. This text should be reviewed and clarified or deleted, as appropriate.</p>	<p>While it may be true that in some cases a high groundwater table can impair or even preclude continued agricultural production, particularly where drainage is poor, it is also true that agricultural benefits could be derived from groundwater recharge/raising the groundwater table to within the root zone of some crops. No clarification or text revision is necessary.</p>
1676	90	<p>[From ATT1:]</p> <p>Chapter 14, Page 14-56: Easement stacking.</p> <p>The text states "the project proponents would acquire and protect approximately 48,100 acres of nonrice cultivated lands and manage them for specific habitat values corollary to agricultural use for species including the Swainson's hawk, giant garter snake.... Additionally, 3,500 acres of rice lands or similarly functioning habitat would be maintained annually for giant garter snake in Conservation Zones 4 and/or 5."</p> <p>This is all offered as farmland conservation, and presumably will be applied to reduce agricultural mitigation obligations in accordance with Mitigation Measure AG-1. The decline in agricultural crop production that will result from crop restrictions, restrictions on pesticide application, increased predation due to the increased proximity of nearby habitat, etc., are all dismissed as "primarily economic in nature" (p. 14-57).</p> <p>This is not appropriate. Other environmental resources covered by CEQA -- water quality, air quality, aesthetics -- can be impacted incrementally and in ways that lead to economic impacts. But the presence of an economic impact does not transform an environmental impact into something else. These direct and indirect environmental impacts of these effects on farmland must be considered -- not dismissed as "primarily economic" -- in the EIR/EIS.</p>	<p>The use of hybrid agricultural land and habitat conservation easements is not the same as what has been termed "easement stacking," which historically has been carried out under circumstances where one type of easement preexists another easement proposed for a different, but purportedly compatible set of perpetual restrictions. For example, the Yolo County Habitat/Natural Community Conservation Plan Joint Powers Agency (JPA) has considered the use of stacked easements to effect additional easement restrictions to provide additional public interest habitat benefits on agricultural land. The challenge in such cases is to ensure the subsequent easements both maintain the original easement benefits and meet the additional, anticipated benefits. Creating the hybrid easement intended to serve both purposes may result in the original drafting to be more cohesive, and can help to ensure that all expected mitigation, and the grantor/grantee/beneficiary relationships are designed in from the beginning.</p> <p>The shifts in production, if any, may or may not result in secondary economic effects, but direct economic effects will be reflected in the prices offered and paid to the landowners for the resulting restrictions on uses imposed by the easements. Any secondary effects remain highly speculative, but if there are environmental impacts, they are discussed in the document.</p> <p>Please also note that the presence of a secondary economic impact does not automatically translate into a cognizable environmental impact, particularly when many other factors affect the economics of agricultural operations from a seasonal change, to pests, to world market events, or the changing tastes of customers.</p>

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1676	91	<p>[From ATT1:]</p> <p>Chapter 14, Page 14-187: Cumulative Effects.</p> <p>For some reason, the cumulative effects analysis does not consider the Central Valley Flood Protection Plan (CVFPP) and, specifically, the potential widening of the Yolo Bypass to provide increased flood protection to downstream communities. This omission is difficult to understand. The CVFPP will have a significant effect on farmland in Yolo County and will convert hundreds (perhaps thousands) of acres as part of a widened Yolo Bypass. In Appendix A (CVFPP Cost Estimate Methodology) to Attachment 8J (Cost Estimates) to the CVFPP, there is a significant additional amount of information concerning the proposed Yolo Bypass expansion and other CVFPP elements. All of the following assumptions were apparently relied on in developing estimated costs for CVFPP implementation:</p> <ul style="list-style-type: none"> - The Yolo Bypass expansion will require the acquisition of 25,500 acres; - Agriculture on 6,500 acres of the land acquired for the Yolo Bypass expansion will be "developed for environmental conservation." Presumably, this means agricultural production will cease. The remaining 19,000 acres will be "leased back to farmers for environmentally friendly agricultural practices such as planting of corn, rice, and other grains." - In the regions that include Yolo County (Lower Sacramento and Delta North), an additional 10,000 to 20,000 acres will be acquired for agricultural conservation easements; - Based on a GIS analysis of specific proposed levee locations, the following new levees will be built to facilitate the Yolo Bypass expansion: <ul style="list-style-type: none"> - Yolo Bypass near Fremont Weir, Left Bank (2.5 miles) - Yolo Bypass upstream of Putah Creek, Right Bank (16.5 miles) - Yolo Bypass downstream of Putah Creek and near Rio Vista, Right Bank (18.5 miles) <p>Surely, this program should have been considered in the cumulative analysis and its omission should be addressed in a recirculated Draft EIR.</p>	<p>As noted in Section 14.3.4 (Cumulative Analysis) of Chapter 14 of the BDCP EIR/EIS, Table 14-12 includes projects considered for the cumulative analysis, as does Appendix 3D, Defining Existing Conditions, No Action Alternative, No Project Alternative, and Cumulative Impact Conditions. The Central Valley Flood Protection Plan is considered in the cumulative analysis in the BDCP EIR/EIS, as indicated in Table 3D-A of Appendix 3D.</p>
1676	92	<p>[From ATT1:]</p> <p>Chapter 14: Western Alignments (1C, 2C, 6C).</p> <p>Yolo County observes that the discussion of Impact AG-2, relating to changes in groundwater elevation and other effects, does not include a significance determination. This determination should be included and additional mitigation discussed in connection with the Groundwater Chapter of the Draft EIR/EIS, set forth above (relating to canal lining), should be included.</p>	<p>Text was revised so that the impact determinations were clear. As indicated for these alternatives under Impact AG-2, the impacts are significant and unavoidable for the reasons discussed and mitigation measures are identified.</p>
1676	93	<p>[From ATT1:]</p> <p>Chapter 15 -- Recreation: Inadequate mitigation.</p>	<p>In addition to the mitigation described in the Draft EIR/EIS, DWR has added environmental commitments to the project that further address impacts on recreation opportunities in the Delta. These commitments are described in RDEIR/SDEIS Appendix 3B and include measures to address fish rescue and salvage, operation of barges, noise abatement, enhancing recreation access in the vicinity of the proposed intakes, and helping</p>

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		<p>Yolo County incorporates herein by reference the comments set forth at p. 17 of the Arcadis report (May 2014) prepared for the Delta Stewardship Council, entitled "How the Bay Delta Conservation Plan Addresses the Delta Reform Act's Goals and Objectives" (hereinafter, "Arcadis Report"), with regard to impacts on recreational facilities. As noted therein, impacts associated with intake and conveyance construction will "adversely impact recreation in construction areas both on land and water for ten or more years." A variety of potential impacts, including a general decline in regional recreation-related economic activity, are discussed in the Arcadis Report, many of which require more detailed analysis in the Draft EIR.</p> <p>The County also concurs with the observation that "[i]mproved mitigation, including enhancing opportunities for visitor serving businesses (DP R17), could partly compensate for these impacts." To date, however, the BDCP proponents have offered no such mitigation. The County recommends that the BDCP proponents consider one or more mitigation measures that implement the recommendation by Arcadis, consistent with Recommendation DP R17 in the Delta Plan.</p>	<p>fund efforts to carry out the recreation recommendations adopted in the Delta Plan.</p>
1676	94	<p>[From ATT1:]</p> <p>Chapter 15 -- Recreation: Recreational spending.</p> <p>Yolo County incorporates herein by reference the comments of the Delta Protection Commission in its forthcoming comment letter on the Draft EIR/EIS relating to the "undercounting" of recreational spending in the Delta, the reduction in recreational boating activity and a related economic impact on marinas, and other recreation-related impacts. The discussion relating to recreational spending should be reviewed for accuracy and corrected if needed.</p>	<p>The Delta Protection Commission's comment letters have been responded to separately. Please see Master Response 42 for further information about how comments are responded to.</p> <p>Please see Chapter 16, Socioeconomics, regarding socioeconomic impacts on the Delta from the project. Please also note that DWR is revising the Socioeconomic Impact Analysis for the project based on changes included in the Recirculated Draft EIR/Supplemental Draft EIS.</p>
1676	95	<p>[From ATT1:]</p> <p>Chapter 15 -- Recreation: Flows and river levels.</p> <p>Yolo County incorporates herein by reference the comments of Sacramento County regarding the lack of clear and detailed information about changes in flows and river levels in Chapter 15 (Recreation) of the Draft EIR/EIS. This information should be included in sufficient detail to enable readers to understand whether recreational uses will be affected and, if so, the anticipated magnitude of such effects. A section in Chapter 15 devoted specifically to a discussion of this issue would be helpful.</p>	<p>Sacramento County's comment letters have been responded to separately and may be found by consulting the table of comments contained within the Final EIR/EIS. Please see Master Response 42 for further information about how comments are responded to.</p> <p>As stated in Chapter 15, Recreation, Section 15.3.3, CALSIM modeling results indicate that effects, if any, to river flows are so minor as to have no effect and, therefore, are not discussed further in the chapter.</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 see 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 1 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 BDCP, depending on which operational scenario was selected.</p>

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1676	96	<p>[From ATT1:]</p> <p>Chapter 15, Generally (e.g., pp. 15-87 and 15-88): Baseline.</p> <p>Yolo County incorporates herein by reference the comments of Sacramento County on the baseline used in assessing recreational impacts, which appears to use a future baseline that includes sea level rise as a consequence of climate change rather than existing conditions. The basic problem with this approach, as Sacramento County asserts, is that it obscures the actual significance of BDCP's effects on recreation and access to recreational facilities.</p>	<p>Sacramento County's comment letters have been responded to separately and may be found by consulting the table of comments contained within the Final EIR/EIS. Please see Master Response 42 for further information about how comments are responded to.</p> <p>Please see Section 15.3.1 "Methods of Analysis" regarding baselines used in the Recreation chapter. Please also see Chapter 4, Section 4.2.1.1 "CEQA and NEPA Baselines" and Master Response 1 regarding explanations of each baseline used in the document.</p>
1676	97	<p>[From ATT1:]</p> <p>Chapter 15, Generally (e.g., p. 15-76): Impact REC-2.</p> <p>The discussion in this section is quite confusing in places, including at p. 15-76 in the "CEQA Conclusion." For instance, the text states with respect to conveyance facility construction impacts: "These impacts would be temporary, but may occur year-round and would occur over the long- term." Later in the same paragraph, the text states: "... it is not certain the mitigation would reduce the level of these impacts to less than significant in all instances such that there would be no reduction of recreational opportunities or experiences over the entire study area. Therefore, these impacts are considered significant and unavoidable. However, the impacts related to construction of the intakes would be less than significant."</p> <p>This language is unclear at best and the concluding sentence appears to be entirely at odds with the preceding discussion. Substantial clarifying edits are required.</p>	<p>The text has been revised to increase clarity.</p>
1676	98	<p>[From ATT1:]</p> <p>Chapter 15, Page 15-97: Construction impacts within the Yolo Bypass Wildlife Area (YBWA) and in other recreational locations.</p> <p>Construction impacts within the Yolo Bypass Wildlife Area in connection with CM2 are not studied in meaningful detail. Rather, the Draft EIR/EIS mentions such impacts only in passing. As one example, at p. 15-97, the text states that "[c]onstruction of facilities could have short-term impacts on the noise or visual setting and could indirectly affect recreational fishing." Nonetheless, the text then concludes that CM2-21 would be "considered beneficial" with regard to fishing opportunities over the long term. Even assuming this is true, it does not excuse the need for meaningful analysis and discrete consideration of temporary construction-related impacts on fishing and other forms of recreation in the YBWA and elsewhere in the study area.</p>	<p>Alternatives 1A-8 presented in this Final EIR/EIS include Yolo Bypass improvements as Conservation Measure 2 of the BDCP conservation strategy. The Lead Agencies acknowledge the commenter's opinion about the potential effects of CM 2 on recreation. Additional Alternatives 4A, 2D, and 5A do not include Yolo Bypass as a project component. These improvements are assumed instead under the No Action Alternative. Please see 4.3.11 in Section 4 of the RDEIR/SDEIS for updated recreational impacts and associated mitigation measures of the preferred alternative.</p>
1676	99	<p>[From ATT1:]</p> <p>Chapter 15, Page 15-106: Upland recreational opportunities in the Yolo Bypass Wildlife Area (YBWA).</p> <p>The text in this location (and similar text appearing later in the Chapter in connection with other alternatives) explains the potential for adverse effects on recreational opportunities in the YBWA due to the implementation of CM2 and increased inundation of lands used for hunting, hiking, birdwatching, and other recreational uses. This discussion concludes</p>	<p>Alternatives 1A-8 presented in this Final EIR/EIS include Yolo Bypass improvements as Conservation Measure 2 of the BDCP conservation strategy. The lead agencies acknowledge the commenter's opinion about the potential effects of CM2 on recreation. Additional Alternatives 4A, 2D, and 5A do not include Yolo Bypass as a project component. These improvements are assumed instead under the No Action Alternative.</p> <p>In addition to the mitigation described in the Draft EIR/EIS, DWR has added environmental commitments to the project that further address impacts on recreation opportunities in the Delta. These commitments are described in RDEIR/SDEIS Appendix 3B and include measures to address fish rescue and salvage, operation of barges, noise abatement, enhancing recreation access in the vicinity of the proposed intakes, and helping</p>

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		<p>with the following statement: "BDCP proponents and agencies will work with CDFW to provide alternate public hunting opportunities and access and address additional management costs resulting from increased inundation of the Yolo Wildlife Area resulting from CM2. Additionally, environmental commitments are available to reduce the effects of inundation on upland recreational opportunities."</p> <p>This language is promising but far too vague to be legally adequate or useful to readers. What does it mean to "work with" CDFW to provide alternative hunting opportunities and access? Similarly, what does it mean to "address additional management costs"? What "environmental commitments are "available," specifically -- the funding discussed generally in Section 3B.2.3 of the "Environmental Commitments" appendix? The Draft EIR/EIS does not appear to answer any of these questions.</p> <p>While this section concludes by stating that related impacts will be "less than significant," this conclusion rests solely on the generalities mentioned above. It is thus lacking in evidentiary support and -- even taking into account the text of Section 3B.2.3 of the Environmental Commitments appendix -- appears to rely on mitigation that is illusory and inadequate. Section 3B.2.3 of the Environmental Commitments offers only the promise of future mitigation without any accompanying performance standards or other criteria required for legally adequate mitigation under CEQA. Section 3B.2.3 does not constitute legally adequate mitigation because it does not mention the amount of funding that may be made available, it does not assure that such funding will be adequate to reduce the effects of inundation on upland recreation, and it does not even assure that any funding will be made available to the YBWA in connection with CM2- related impacts. It thus cannot be properly considered in assessing the significance of impacts on upland recreational opportunities.</p>	<p>fund efforts to carry out the recreation recommendations adopted in the Delta Plan. Aspects of Alternative 4 (i.e., CM 3, 4, 6-12, 15, 16) are included in the preferred alternative as environmental commitments.</p>
1676	100	<p>[From ATT1:]</p> <p>Chapter 15 -- Recreation: Vectors.</p> <p>As observed in the Delta Independent Science Board (ISB) Report (pp. B-61 and B-62), construction of the water conveyance facilities will include the creation of sedimentation basins and lagoons. These features will include standing water and could result in an increase in vector breeding locations, populations (including mosquitoes), and related human health effects. The consequence for recreational impacts, as the ISB report suggests, is that "[i]ncreases in mosquito populations will affect virtually all recreational activities in the Delta (e.g., fishing, camping, wildlife viewing, sightseeing), resulting in [a] loss of recreational opportunities and increased human discomfort. The County incorporates by reference herein the balance of the ISB Report's comments and recommendations on this topic.</p>	<p>Please see Appendix 3B, Environmental Commitments, for a description of measures, specifically the commitment to prepare and implement Mosquito Management Plans, to be implemented to avoid/minimize potential impacts on public health.</p> <p>For responses to comments related to the Delta Independent Science Board's letters, please refer to comment letters BDCP 1448 and/or RECIRC 2546.</p>
1676	101	<p>[From ATT1:]</p> <p>Chapter 15 -- Recreation: Impact REC-12.</p> <p>The discussion and analysis of Impact REC-12, relating to compatibility of the BDCP with federal, state, and local plans and policies addressing recreation, is far from adequate.</p> <p>The Yolo Bypass Wildlife Area is covered by a comprehensive management plan. Additionally, Yolo County General Plan Policy CO-9.14 calls for establishing Clarksburg "as a gateway entry for visitors to the Delta region seeking agricultural tourism, ecotourism,</p>	<p>Section 13.3.2 of Chapter 13, Land Use, describes how when conflicts with the above listed land use policies, regulations, or plans, even those that (unlike local planning documents or the DPC's LURMP) are applicable to DWR as a state agency, do not by themselves constitute adverse alterations of, or effects on, the physical environment, the lead agencies, in preparing this assessment (in Impacts LU-1 and LU-4), have framed their conclusions in terms of whether proposed action alternatives are "compatible" or "incompatible" with such enactments, rather than whether any environmental impacts are "adverse," "beneficial," "significant," or "less than significant."</p> <p>Please also see Master Response 11 regarding consistency with local plans. Alternatives 1A-8 presented in this Final EIR/EIS include Yolo Bypass improvements as CM2 of the BDCP conservation strategy. Additional</p>

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		<p>and recreational opportunities." Various other General Plan policies call for increasing public access and recreational uses in the Yolo Bypass and Sacramento River (Policy CO-1.24), and balancing the needs of agriculture with recreation, flood management, and habitat within the Yolo Bypass (Policy CO-1.29). Lastly, the Land Use and Resource Management Plan (Delta Protection Commission) and the Delta Plan (Delta Stewardship Council) each contain policies and other material relevant to Impact REC-12.</p> <p>Rather than study relevant provisions of these plans, however, the Draft EIR/EIS dismisses the need for such discussion by simply stating that various observed "incompatibilities" between the BDCP and such plans "indicate the potential for a physical consequence to the environment" studied elsewhere in the document. This conclusion is incomplete and lacks any evidentiary support or reasoned discussion. More importantly, it obscures the tradeoffs inherent in the BDCP, as it effectively sidesteps consideration of impacts on existing and planned recreational opportunities that the BDCP will impair or preclude altogether. These tradeoffs must be identified and studied, particularly in connection with CM1 and elements of CM2- 22 that are presently described (or capable of being described) in sufficient detail to enable such analysis.</p>	<p>Alternatives 4A, 2D, and 5A do not include Yolo Bypass as a project component. These improvements are assumed instead under the No Action Alternative. Impacts to recreation related to CM1 or the project, and CMs 2-22 or environmental commitments, are not discussed in detail in Chapter 13, but are instead discussed in Chapter 15, Recreation.</p>
1676	102	<p>[From ATT1:]</p> <p>Chapter 15, Pages 15-110 and 15-111: Compatibility with Yolo Bypass Wildlife Area management.</p> <p>Here and elsewhere in Chapter 15, the analysis includes a statement that: "Proposed restoration areas in the Yolo Bypass, on Sherman Island, and in Suisun Marsh would be designed to be compatible with and complement the current management direction for these areas and would be required to adapt restoration proposals to meet current policy established for managing those areas."</p> <p>This seems highly unlikely. Yolo County is not aware of any written commitments that support this statement. None appears in the "Environmental Commitments" appendix of the BDCP. Additionally, this statement contradicts representations made in staff level discussions involving the County, DWR, CDFW, and other agencies. If this is nonetheless the intent of the BDCP proponents, it should be further described in the BDCP, Implementing Agreement, or other appropriate document. Otherwise, it should be revised or deleted from the EIR/EIS and related text (including impact determinations) should be modified accordingly. To the extent it is offered as mitigation, it is also deficient and constitutes deferred mitigation because of the lack of performance standards and other relevant details.</p>	<p>This comment has been noted. Please note that Alternatives 1A-8 presented in this Final EIR/EIS include Yolo Bypass improvements as CM2 of the BDCP conservation strategy. When CM2 is incorporated, it is incorporated at a programmatic level, and therefore lacks project-level details. The analysis for CMs 2-22 was completed at a programmatic level, as described in Section 4.1.2 of Chapter 4, Approach to the Environmental Analysis. Additional Alternatives 4A, 2D, and 5A do not include Yolo Bypass as a project component. These improvements are assumed instead under the No Action Alternative.</p>
1676	103	<p>[From ATT1:]</p> <p>Chapter 16--Socioeconomics.</p> <p>Yolo County incorporates herein by reference portions of the May 22, 2014 paper authored by Dr. Jeffrey Michael on the socioeconomic effects of the BDCP, included with the Draft EIR/EIS comments of Sacramento County. Only the comments specifically directed at Chapter 16 of the Draft EIR/EIS, are incorporated herein. While those comments generally pertain to Sacramento County impacts, Yolo County is equally likely to experience the same adverse socioeconomic and other effects described by Dr. Michael. Consequently, to the extent it may be necessary or appropriate to further analyze Sacramento County impacts, the same is true for potential impacts in Yolo</p>	<p>Sacramento County's comment letters have been responded to separately and may be found by consulting the table of comments contained within the Final EIR/EIS. Please see Master Response 42 for further information about how comments are responded to.</p> <p>Please see Chapter 16, Socioeconomics, which fulfills CEQA and NEPA requirements. The chapter analyzes socioeconomic impacts to the five-county Delta region, including Yolo and Sacramento Counties.</p>

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1676	104	<p>[From ATT1:]</p> <p>Chapter 16, Page 16-23: Yolo Bypass Wildlife Area.</p> <p>Table 16-12 projects "direct economic contributions from recreation in the Delta." It shows substantial growth in each category of recreational income -- about 60% over a 50 year period -- with the sole exception of the Suisan Marsh and Yolo Bypass. For those two areas, the Table shows zero recreational income growth between 2010 and 2060. This needs to be explained, as it appears to create an artificially low baseline for these areas that may contribute to underestimating the economic effects of BDCP implementation.</p>	The text has been updated within Table 16-12 in the Final EIR/EIS to explain the flat growth.
1676	105	<p>[From ATT1:]</p> <p>Chapter 16, Page 16-25: Crop Values.</p> <p>This table describes crop yields, prices, and value per acre in the Delta Counties between 2005 and 2007 based on DWR data. As the table shows, rice and tomatoes -- the two most prevalent crops in the Yolo Bypass -- have a per-acre value that is between 3-7 times higher than safflower, which is often mentioned as a substitute crop that may be planted if inundation associated with CM2 precludes rice or tomatoes. This illustrates the dramatic difference in agricultural values that could result from implementation of CM2.</p> <p>This difference in values ties into one of the County's main comments: that the EIR/EIS must consider the economic viability of agriculture in areas where a change to lower value crops is anticipated, particularly where other changes in risk factors (i.e., more frequent inundation, longer period of inundation, etc.) are present. This undertaking will illuminate the potential for increased fallowing of farmland and related social effects -- as well as potential environmental effects like a decrease in flood conveyance capacity -- that is currently absent from the EIR/EIS.</p>	<p>Please see page 2 of the Howitt report, which indicates that their production model estimates the change in crop mix:</p> <p>We estimate the effect on agricultural production using the Bypass Production Model (BPM), developed specifically for the Yolo Bypass. The BPM estimates the change in crop mix, agricultural revenues, and other factors due to crop yield loss (DAYCENT model) and the number of acres affected (HEC-RAS and MIKE-21 models) in the Yolo Bypass. Results from the BPM are linked to the IMPLAN regional input-output model to estimate total output, value added, and employment losses within the Yolo Bypass and the Yolo County economy.</p>
1676	106	<p>[From ATT1:]</p> <p>Chapter 16, Page 16-34: Delta Plan.</p> <p>This text is outdated and describes the Delta Plan as "in process."</p>	The text has been updated.
1676	107	<p>[From ATT1:]</p> <p>Chapter 16, Page 16-39: Temporary Effects.</p> <p>The text on this page describes the analytical approach of dividing effects into "temporary effects and "permanent effects." It explains that the construction period is assumed to be eight years, and that this assumption "may differ slightly from the period assumed for other chapters." The reason for this is unclear, as the only explanation provided states: "This is due to the refinement of the estimated length of the construction period for purposes of providing cost data used to model socioeconomic effects." What this may mean is difficult to determine.</p> <p>This also relates to one of [Yolo] County's principal comments on the EIR/EIS -- the arbitrary treatment of some temporary effects as requiring permanent mitigation, while mitigation for other temporary effects is dismissed on the ground that the impact is</p>	The chapter does use "short-term" and "long-term" to describe the temporary (e.g. not permanent) effects related to the construction period. It would be speculative to assume that impacts would persist once construction is complete, operations and maintenance are ongoing, and construction areas have been restored to their original condition or enhanced. Additionally, areas temporarily used for construction activities, such as staging areas, barge unloading facilities, and RTM, would be restored to their original conditions whenever possible, as described in Appendix 3B, Environmental Commitments. The project proponents will consult relevant parties, such as landowners, reclamation districts, flood protection agencies, federal and state agencies with jurisdiction in the Delta, and counties, in developing such site-specific spoil, RTM, and dredged material reuse plans.

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		temporary. The Draft EIR/EIS should be revised to better explain the disparate treatment of some effects and related mitigation or, alternatively, to harmonize the treatment of temporary effects and mitigation throughout the document.	
1676	108	<p>[From ATT1:]</p> <p>Chapter 16--Socioeconomics: Western Alignments (1C, 2C, 6C).</p> <p>The analysis of Impacts ECON-3, 6, 7, 9, 12, 13, 15, and 18, relating to changes in community character and agricultural economics due to new conveyance facilities, is superficial and legally inadequate. In a handful of pages for each impact, the Draft EIR attempts to analyze these impacts with respect to each west alignment alternative. Both the analysis and conclusions set forth for each alternative appear to represent little more than educated guesswork without any evidentiary basis. The reader is left to wonder how a project that converts over 16,000 acres of farmland in the Clarksburg region would not have a significant effect on community character or agricultural economics. This analysis simply needs to be redone in its entirety with an appropriate focus on the Clarksburg and Yolo County areas that are "ground zero" for these alternatives, also taking into account CM2 and other elements of BDCP with reasonably foreseeable impacts in Yolo County.</p> <p>In addition, the cumulative impacts analysis is also deficient because it fails to consider CM1 together with CM2-22, instead analyzing CM1 separately from CM2-22. This results in an incomplete and understated portrayal of potential direct and indirect environmental effects. The entirety of BDCP needs to be considered together in the cumulative effects analysis, together with other appropriate projects.</p>	<p>Some of actions that would have occurred under the conservation measures would be implemented as environmental commitments instead under Alternative 4A. With these changes, the amount of land converted for restoration would be substantially less than the previous preferred alternative, Alternative 4.</p> <p>Please see Section 16.3.1 for an explanation of the methodology used for the socioeconomic analysis. Concurrent project effects (analyzing the impacts of CM1 or the project, and CMs 2-22 or the environmental commitments) have been added to the cumulative analysis for each resource chapter in the RDEIR/SDEIS. Additionally, DWR is revising the Socioeconomic Impact Analysis for the project based on changes included in the Recirculated Draft EIR/Supplemental Draft EIS.</p>
1676	109	<p>[From ATT1:]</p> <p>Chapter 19, Page 19-27/Sections 19.1.5 to 19.1.5.11: Transportation (Air Transportation Facilities).</p> <p>Air facilities that would appear to be within or adjacent to the transportation study area, but that are not identified or the absence of which is not explained include: Yolo County Airport (Yolo County); California Highway Patrol Academy Airport (W. Sacramento); Borges-Clarksburg Airport (Clarksburg); Watts-Woodland Airport; and Medlock Field (Woodland).</p>	<p>Section 19.1.5 and Figure 19-1 in Chapter 19, Transportation, identify public use airports are within or adjacent to the transportation study area. Yolo County Airport, Watts-Woodland Airport, and Medlock Field, therefore, are outside of the study area (Yolo County Airport is 6 miles northeast of Winters, Watts-Woodland Airport is just west of Woodland, and Medlock Field is just south of Woodland). The California Highway Patrol Academy Airport and Borges-Clarksburg Airport are private-use airports.</p>
1676	110	<p>[From ATT1:]</p> <p>Chapter 19, Page 19-35: Transportation (Methods for Analysis).</p> <p>Last Paragraph, first sentence: "An intersection-level analysis was not performed because sufficient information regarding construction traffic patterns is not available for this level of analysis and it would be speculative and potentially misleading to assign construction related traffic by turning movement."</p> <p>Does the absence of intersection analysis regarding construction traffic eliminate from consideration some number of potentially necessary intersection improvements?</p>	<p>The project proponents acknowledge your comment regarding intersections in addition to roadway segments. Mitigation Measure TRANS-1a - Implement Site-Specific Construction Management Plan addresses intersections.</p> <p>Prior to construction, the project proponents will be responsible for project management and may contract with one or more construction management firms to assist in ensuring that construction contractors' crews and schedules are coordinated and that the plans and specifications are being followed. The project proponents will also ensure development of site-specific construction traffic management plans (TMPs) that address the specific steps to be taken before, during, and after construction to minimize traffic impacts, including the mitigation measures and environmental commitments identified in this EIR/EIS. This effort will include potential expansion of the study area identified in this EIR/EIS to capture all potentially significantly affected roadway segments.</p>
1676	111	<p>[From ATT1:]</p>	<p>The lead agencies agree with the need to identify significant effects of the project on the environment. Because Mitigation Measure TRANS-1c is dependent on the successful negotiation of agreements with other</p>

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		<p>Chapter 19, Page 19-41: Transportation (Alternative 1A, Impact TRANS-1).</p> <p>Last paragraph: "If an improvement that is identified in any mitigation agreements(s) contemplated by Mitigation Measure TRANS-1c is not fully funded and constructed before the project's contribution to the effect is made, an adverse effect in the form of unacceptable LOS [level of service] would occur. Therefore, this effect would be adverse. If, however, all improvements required to avoid adverse effects prove to be feasible and any necessary agreements are completed before the project's contribution to the effect is made, effects would not be adverse."</p> <p>This impact assessment fails to inform the public about the nature and extent of the environmental effect. The analysis suggests that either a significant adverse effect will exist (LOS), or there will be no adverse effect. EIRs must clearly identify "[d]irect and indirect significant effects of the project on the environment." (Pub. Resources Code [Section] 15126.2(a).)</p> <p>Related to the foregoing comments, Yolo County seeks a response to two questions:</p> <ul style="list-style-type: none"> - What are the grounds upon which to assume that there may not be full funding for one or more improvements? - Won't all mitigation measures in Mitigation Measure TRANS-1a be required pursuant to the Mitigation Monitoring and Reporting Plan (MMRP)? 	<p>affected agencies, there is a possibility that agreement may not be reached and full funding may not be achieved. Mitigation Measures TRANS-1a, TRANS-1c, and all other mitigation measures will be subject to the MMRP.</p>
1676	112	<p>[From ATT1:]</p> <p>Chapter 19, Page 19-52 and related text:</p> <p>Transportation (Alternative 1A, Impact TRANS-1); Transportation (Alternative 1B, Impact TRANS-1); Transportation (Alternative 1C, Impact TRANS-1); Transportation (Alternative 2A, Impact TRANS-1); Transportation (Alternative 2B, Impact TRANS-1); Transportation (Alternative 2B, Impact TRANS-1); Transportation (Alternative 2C, Impact TRANS-1); Transportation (Alternative 3, Impact TRANS-1); Transportation (Alternative 4, Impact TRANS-1).</p> <p>The CEQA Conclusion section indicates that "Mitigation Measures TRANS-1a through TRANS-1c would reduce the severity of this impact [Impact TRANS-1] but not to a less than significant level."</p> <p>This same CEQA Conclusion continues: "The BDCP proponents cannot ensure that the improvements will be fully funded or constructed prior to the project's contribution to the impact. If an improvement that is identified in any mitigation agreement(s) contemplated by Mitigation Measure TRANS-1c is not fully funded and constructed before the project's contribution to the impact is made, a significant impact in the form of unacceptable LOS [level of service] would occur. Accordingly, this impact would be significant and unavoidable. If, however, all improvements required to avoid significant impacts prove to be feasible and any necessary agreements are completed before the project's contribution to the effect is made, impacts would be less than significant."</p> <p>a) The final sentence above suggests a less than significant impact with complete mitigation, and therefore appears inconsistent with the above language in the same CEQA Conclusion that even with mitigation, Impact TRANS-1 cannot be reduced to less than</p>	<p>Please see Master Response 22, Alternative-Specific Environmental Commitments, and responses to Comments 1676-119, 1676-124, and 1754-20.</p>

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		<p>significant.</p> <p>b) The statement raising the possibility that mitigation improvements may not be "fully funded and constructed before the project's contribution to the impact is made", and the resulting significant impact, undermines the integrity of both the impact assessment and the proposed mitigation measures. It is always the case that mitigation measures or improvements that do not receive adequate funding cannot be implemented as planned, and will consequently result in significant adverse effect. This is, at least in part, the intent of the Mitigation Monitoring Program, to demonstrate compliance with the stated mitigation proposal. If any question remains about the viability of the proposed mitigation measure(s), including funding, then the impact should be declared significant.</p> <p>c) Because the impact assessment for Impact TRANS-1 wavers between a determination of significance and less than significant, the DEIR fails to comply with CEQA by providing a clear and understandable analysis for the public to follow and understand. (See Public Res. Code [Section] 21061.)</p>	
1676	113	<p>[From ATT1:]</p> <p>Chapter 19, Page 19-52 and related text: Transportation (Alternative 1A, Mitigation Measure TRANS-1a).</p> <p>The text indicates: "The BDCP proponents will also ensure development of site-specific construction traffic management plans..., including the mitigation measures and environmental commitments identified in this EIR/EIS. This will include potential expansion of the study area identified in this EIR/EIS to capture all potentially significantly affected roadway segments." By leaving the door open for a potentially expanded study area, the DEIR violates CEQA and introduces the possibility that the existing identified impacts and mitigation measures are insufficient. Additionally, the suggestion that "all potentially significantly affected roadway segments" have not already been captured in the study area to date confirms that the DEIR's existing review and conclusions are based on insufficient data regarding potentially affected roadway segments.</p>	<p>The lead agencies understand that plans may evolve and want to ensure that changes are evaluated appropriately. This statement is in reference to the traffic management plans, and it is included to ensure that additional affected areas identified as part of these plans are evaluated.</p>
1676	114	<p>[From ATT1:]</p> <p>Chapter 19, Page 19-54 and related text: Alternative 1A, Mitigation Measure TRANS-1b.</p> <p>The County incorporates herein by reference the comments of Sacramento County with regard to Mitigation Measure TRANS 1-b. This measure is unlikely to prove fully feasible in most instances, and it should not be relied upon in determining the significance of related impacts.</p>	<p>Sacramento County's comment letters have been responded to separately and may be found by consulting the table of comments contained within the Final EIR/EIS. Please see Master Response 42 for further information about how comments are responded to.</p> <p>This mitigation is only one part of the overall mitigation plan. All measures are developed to work together to mitigate impacts. For more information regarding the preferred alternative and its impacts and associated mitigation measures on transportation please see Section 4.3.15 of the RDEIR/SDEIS.</p>
1676	115	<p>[From ATT1:]</p> <p>Chapter 19, Pages 19-61 and 19-62 and related text: Alternative 1A, Mitigation Measure TRANS-1c; Transportation (Alternative 4, Mitigation Measure TRANS-1c).</p> <p>The County incorporates herein by reference the comments of Sacramento County with regard to Mitigation Measure TRANS 1-c. This measure is vague, impermissibly defers mitigation, and otherwise raises a number of legal and practical questions, including those presented by Sacramento County.</p>	<p>Sacramento County's comment letters have been responded to separately and may be found by consulting the table of comments contained within the Final EIR/EIS. Please see Master Response 42 for further information about how comments are responded to.</p> <p>Please see Master Response 22 for additional information on mitigation.</p>

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1676	116	<p>[From ATT1:]</p> <p>Chapter 19, Page 19-68 and related text: Transportation (Alternative 1A, Impact TRANS-2); Transportation (Alternative 2A, Impact TRANS-2); Transportation (Alternative 2B, Impact TRANS-2); Transportation (Alternative 4, Impact TRANS-2).</p> <p>The CEQA Conclusion section indicates that "Mitigation Measures TRANS-2a through TRANS-2c would reduce the severity of this impact [Impact TRANS-2] but not necessarily to a less than significant levels, as the BDCP proponents cannot ensure that the agreements or encroachment permits will be obtained from the relevant transportation agencies...a significant impact in the form of deficient pavement conditions would occur."</p> <p>This same CEQA Conclusion continues: "If, however, mitigation agreement(s) or encroachment permit(s) providing for the improvement or replacement of pavement are obtained and any other necessary agreements are completed, impacts would be reduced to less than significant." These conflicting contingent impact determinations mislead the public and provide no clear indication of what the ultimate effect of Impact TRANS-2 will be.</p>	<p>The lead agencies understand that construction traffic may especially degrade pavement on roadway segments that are already experiencing unacceptable conditions. Mitigation Measure TRANS-2c on page 19-69 of the Draft EIR/EIS is intended to ensure that construction activities will not worsen pavement conditions relative to Existing Conditions. For some segments, the share of the cost born by the project will be to return the pavement to its condition before the project. Ideally, this contribution would only be a portion of a larger effort by the jurisdiction to improve the condition of the segment that was deficient with or without the proposed project.</p>
1676	117	<p>[From ATT1:]</p> <p>Chapter 19, Page 19-68 and related text: Transportation (Alternative 1A, Mitigation Measure TRANS-2a); Transportation (Alternative 2A, Mitigation Measure TRANS-2a); Transportation (Alternative 2C, Mitigation Measure TRANS-2a); Transportation (Alternative 3, Mitigation Measure TRANS-2a); Transportation (Alternative 4, Mitigation Measure TRANS-2a)</p> <p>This mitigation measure calls for prohibitions against construction traffic using roadway segments with pavement conditions below certain thresholds, but the actions proposed (both the prohibitions and the implementation) are only required "to the extent feasible". Because the measure can be avoided, TRANS-2a constitutes inadequate and illusory mitigation.</p>	<p>The lead agencies acknowledge that truck traffic may degrade the physical condition of the roadway segments as discussed in the Draft EIR/EIS on page 19-13. The lead agencies are committed to minimizing and remedying such damage. The lead agencies also acknowledge your concerns about transportation impacts on Delta and other local roads and agree with the desire to avoid further deterioration of these roads. Table 19-10 of Chapter 19 identifies roadway segments that are deficient. Mitigation Measures TRANS-2a, b, and c seek to eliminate or reduce traffic on those segments or to improve the condition of those pavement sections if use cannot be avoided. However, the lead agencies realize that this may not be feasible for all segments. Mitigation Measure TRANS-2c also includes remediation of roads to their condition prior to project construction, or better. Mitigation Measure TRANS-2c also includes coordination with affected agencies to accomplish this objective.</p>
1676	118	<p>[From ATT1:]</p> <p>Chapter 19, Page 19-69 and related text: Transportation (Alternative 1A, Mitigation Measure TRANS-2c); Transportation (Alternative 2A, Mitigation Measure TRANS-2c); Transportation (Alternative 2C, Mitigation Measure TRANS-2c); Transportation (Alternative 4, Mitigation Measure TRANS-2c); Transportation (Alternative 3, Mitigation Measure TRANS-2c).</p> <p>a) The delay of pre-construction pavement analysis is problematic because there is no mechanism for assessing the potential impacts of any required improvements identified by the analysis.</p> <p>b) The statement in the fifth paragraph that major transportation infrastructure improvements, including bridge repair and new highway interchanges are "not anticipated", but that "construction activities could cause the need for such major transportation infrastructure improvements [and] the BDCP proponents retain the flexibility to seek alternative means of transporting people, equipment, and materials..." is ambiguous and open ended.</p>	<p>The lead agencies acknowledge your concerns about the timing of pavement assessments. This mitigation discussion includes two assessments of each segment. Although pavement analysis will be conducted immediately prior to construction, pavement conditions were also assessed earlier as shown in Table 19-5 of BDCP EIR Chapter 19, Transportation. The first assessment provides an initial view of what improvements are likely to be required under Mitigation Measure TRANS-2c. A second review immediately prior to construction will provide a basis for determining construction impacts, as well as identify additional segments with conditions that have changes since the initial assessment and thus require action.</p> <p>Mitigation Measure TRANS-1c is intended to only increase capacity so that level of service or delay is not worse than pre-project conditions, as described on page 19-61.</p>

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		<p>The stated uncertainty regarding the need for physical construction leaves the significance determination for the resulting impact open ended, and introduces an unanswered question regarding possible growth inducing impacts. Further, to the extent the need for transport alternatives is caused by the project, there is no analysis of what the flexible alternatives actually are (the only limited example provided is barges), or how their development and use might affect the environment.</p>	
1676	119	<p>[From ATT1:]</p> <p>Chapter 19, Page 19-70 and related text: Transportation (Alternative 1A, Impact TRANS-3); Transportation(Alternative 1C, Impact TRANS-3); Transportation (Alternative 2B, Impact TRANS-3); Transportation (Alternative 4, Impact TRANS-3).</p> <p>The statement raising the possibility that mitigation improvements may not be "fully funded or constructed prior to the project's contribution to the impact", and the resulting significant impact, undermines the integrity of both the impact assessment and the proposed mitigation measures. It is always the case that mitigation measures or improvements that do not receive adequate funding cannot be implemented as planned, and will consequently result in a significant adverse effect. This is, at least in part, the intent of the Mitigation Monitoring Program, to demonstrate compliance with the stated mitigation proposal. If any question remains about the viability of the proposed mitigation measure(s), including funding, then the impact must be declared significant.</p> <p>The impact uncertainties are furthered by the concluding mitigation statement that if the improvements are feasible "and any necessary agreements are completed", the impact would be less than significant. Because the impact assessment for Impact TRANS-3 vacillates between a determination of significance and less than significant, the DEIR fails to comply with CEQA by providing a clear and understandable analysis for the public to follow and understand. (See Public Res. Code [Section] 21061.)</p>	<p>Please see Master Response 22, Alternative-Specific Environmental Commitments, and responses to Comments 1606-60 and 1785-148. The commenter states that the impact conclusion for impact TRANS-3, as applied to Alternative 4, "vacillates between a determination of significance and less than significant," and contends that such alleged vacillation constitutes a failure to comply with CEQA. The lead agencies disagree. Their alleged vacillation is merely their recognition that, if agreements can be reached under Mitigation Measure TRANS-1c, then Impact TRANS-3 will be mitigated to a less-than-significant level, whereas without such an agreement, the impact will be significant and unavoidable. This frank assessment of the importance of successfully negotiating agreements is not a violation of CEQA, which favors candor from lead agencies authoring environmental documents. The commenter apparently believes that the lead agencies should not have addressed the level of impact that would result if agreements can be reached. Again, the lead agencies disagree. In any event, for present purposes, the lead agencies have treated the impact as significant and unavoidable, consistent with the commenter's recommendation.</p>
1676	120	<p>[From ATT1:]</p> <p>Chapter 19, Pages 19-78 to 79: Transportation (Alternative 1A, Impact TRANS-10).</p> <p>The list identified on page 19-78 does not seem to include any West Sacramento roadways, this despite the CEQA Conclusion statement that "roads and highways in and around Suisun Marsh and the Yolo Bypass could experience increases in traffic volumes, resulting in localized congestion and conflicts with local traffic."</p> <p>Here too, a significant and unavoidable impact conclusion is rendered confusing and potentially meaningless by the statement, if "all improvements required to avoid significant impacts prove to be feasible and any necessary agreements are completed before the project's contribution to the effect is made, impacts would be less than significant." The DEIR continues to try to avoid a conclusive impact designation decision, opting instead to indicate that significance determinations are entirely funding dependent and thus can go either way.</p>	<p>As stated in Chapter 19, the CEQA conclusion for Impact Trans-10 is significant and unavoidable. The NEPA conclusion is that the effect would be adverse. There is a chance that the impacts could be reduced to a less than significant level if all mitigation and other improvements were completed before the project's contribution to the effect is made but the EIR/EIS has conservatively estimated that these effects would be significant and unavoidable and adverse. The impacts to West Sacramento have been considered and are documented in Chapter 19 and Appendix 19A. Please see Table 19-1 Roadway Study Segments for the list of West Sacramento roadways studied. Please see Appendix 19A for information regarding the hourly roadway volumes and level of service threshold for each of the alternatives on West Sacramento roadways. As stated in Chapter 19, the roadways anticipated to be affected is listed under Impact Trans-10. No West Sacramento roadways are anticipated to be effected. The commenter does not specify which West Sacramento roadways should be included therefore, a more specific response cannot be provided.</p>
1676	121	<p>[From ATT1:]</p> <p>Chapter 19, Page 19-127: Transportation (Alternative 1C, Impact TRANS-6).</p> <p>The CEQA Conclusion states in pertinent part, "the BDCP proponents cannot ensure that</p>	<p>The lead agencies agree with your desire to effectively inform the public about the impacts of the project. The Draft EIR/EIS has been written to identify and discuss all direct and indirect impacts of the project of the environment. The statement about full funding does not avoid those impacts, but it is an acknowledgement of the fact that some mitigation measures are dependent on agreement among many affected agencies.</p>

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		<p>the improvements will be fully funded or constructed prior to the project's contribution to the impact. If an improvement identified in the mitigation agreement(s) is not fully funded and constructed before the project's contribution to the impact is made, a significant impact in the form disruptions [sic] to transit service would occur. Therefore this impact would be significant and unavoidable."</p> <p>This impact assessment fails to inform the public about the nature and extent of the environmental effect. The analysis suggests that either significant adverse effects relating to construction activities and traffic congestion will exist in the absence of funding or construction of the necessary improvements, or alternatively there will be no adverse effect. EIRs should not conclude there will either be a significant effect or there will none. The ambiguity does little to inform the public about the true environmental effects of the project. Rather, EIRs should clearly identify all "[d]irect and indirect significant effects of the project on the environment." (Pub. Resources Code [Section] 15126.2(a).)</p>	
1676	122	<p>[From ATT1:]</p> <p>Chapter 19, Page 19-130: Transportation (Alternative 1C, Impact TRANS-10).</p> <p>The CEQA Conclusion states in pertinent part, "the BDCP proponents cannot ensure that the improvements will be fully funded or constructed prior to the project's contribution to the impact. If an improvement identified in the mitigation agreement(s) is not fully funded and constructed before the project's contribution to the impact is made, a significant impact would occur. Therefore, the project's impacts to roadway segment LOS [level of service] would be conservatively significant and unavoidable. If, however, all improvements required to avoid significant impacts prove to be feasible and any necessary agreements are completed before the project's contribution to the effect is made, impacts would be less than significant."</p> <p>This impact assessment fails to inform the public about the ultimate environmental effect. The analysis suggests that either significant adverse will exist in the absence of funding or alternatively there will be no adverse effect if the identified improvement(s) are funded and constructed. EIRs should not conclude there will either be a significant effect or there will none. The ambiguity does little to inform the public about the true environmental effects of the project. Rather, EIRs should clearly identify all "[d]irect and indirect significant effects of the project on the environment." (Pub. Resources Code [Section] 15126.2(a).)</p>	Please see the responses to Comments 1676-119 and 1676-121.
1676	123	<p>[From ATT1:]</p> <p>Chapter 19, Page 19-187: Transportation (Alternative 4, Impact TRANS-7).</p> <p>The CEQA Conclusion notes possible temporary bicycle disruption. Although the DEIR concludes that the impact is less than significant, this is the result of the application of Mitigation Measure TRANS-1a, which is fundamentally flawed. (See 19-52/19.3.3.2.)</p>	The lead agencies would provide mitigation via the traffic management plans discussed in Mitigation Measure TRANS-1a. Specific elements may include alternate access routes via detours or bridges to maintain continual circulation for local travelers in and around construction zones, including bicycle riders; provide signage warning of loose gravel, steel plates, etc. that could be hazardous to road cycling activity on roadways open to bicycle traffic; provide signage, barricades, and flag people as necessary to slow or detour traffic around construction sites. For more information regarding the preferred alternative and its impacts and associated mitigation measures on transportation please see Section 4.3.15 of the RDEIR/SDEIS.
1676	124	<p>[From ATT1:]</p> <p>Chapter 19, Page 19-192: Transportation (Alternative 4, Impact TRANS-10).</p> <p>The CEQA Conclusion section indicates that "Mitigation Measures TRANS-1a through TRANS-1c would reduce the severity of this impact [Impact TRANS-10] but not to a less</p>	<p>The CEQA and NEPA conclusions are clear.</p> <p>See Master Response 22, Alternative-Specific Environmental Commitments and the responses to Comment 1676-119.</p>

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		<p>than significant level."</p> <p>This same CEQA Conclusion continues: "The BDCP proponents cannot ensure that the improvements will be fully funded or constructed prior to the project's contribution to the impact. If an improvement that is identified in any mitigation agreement(s) contemplated by Mitigation Measure TRANS-1c is not fully funded and constructed before the project's contribution to the impact is made, a significant impact in the form of unacceptable LOS [level of service] would occur. ... If, however, all improvements required to avoid significant impacts prove to be feasible and any necessary agreements are completed before the project's contribution to the effect is made, impacts would be less than significant."</p> <p>a) The final sentence above, which suggests a less than significant impact with mitigation appears to be inconsistent with the conclusion that even with mitigation, Impact TRANS-10 cannot be reduced to less than significant.</p> <p>b) The statement raising the possibility that mitigation improvements may not be "fully funded and constructed before the project's contribution to the impact is made", and the resulting significant impact, undermines the integrity of both the impact assessment and the proposed mitigation measures. It is always the case that mitigation measures or improvements that do not receive adequate funding cannot be implemented as planned, and will consequently result in significant adverse effect. This is, at least in part, the intent of the Mitigation Monitoring Program, to demonstrate compliance with the stated mitigation proposal. If any question remains about the viability of the proposed mitigation measure(s), including funding, then the impact should be declared significant.</p> <p>c) Because the impact assessment for Impact TRANS-10 wavers between a determination of significance and less than significant, the DEIR fails to comply with CEQA by providing a clear and understandable analysis for the public to follow and understand. (See Public Res. Code [Section] 21061.)</p>	
1676	125	<p>[From ATT1:]</p> <p>Chapter 20--Public Services and Utilities: Law enforcement, fire protection, and emergency response.</p> <p>Yolo County incorporates herein by reference the comments of Sacramento County on this topic, including but not limited to its position that the Draft EIR/EIS does not include substantial evidence or analysis to support the conclusion that BDCP will not have a significant effect on public service demands. In addition to the specific criticisms offered by Sacramento County, Yolo County observes generally that it not plausible the BDCP -- the largest public infrastructure project in decades, with billions of dollars in construction costs and thousands of workers over a ten-year period (for CM1 alone) -- will have a less than significant effect on law enforcement, fire protection, and emergency response. Certainly, a series of major projects such as those included in the BDCP will impact first responders. Also, as noted in the cover letter accompanying this document, the County incorporates by reference the comments of the Clarksburg Fire Protection District on this range of issues.</p> <p>This comment applies equally to the "western alignment" alternatives in the Draft EIR/EIS (Alternatives 1C, 2C, and 6C), which are analyzed in substantially the same manner as</p>	<p>Sacramento County's comment letters have been responded to separately. Please see Master Response 42 for further information about how comments are responded to.</p> <p>Construction of the preferred alternative could create additional demand for law enforcement, fire protection, or emergency medical services for construction property protection and related to the potential for construction-related accidents associated with hazardous materials spills, contamination, or fires. To minimize these increased demands, DWR would implement environmental commitments (as discussed in Appendix 3B, Environmental Commitments) which would minimize the potential for construction-related accidents associated with hazardous materials spills, contamination, or fires, and reduce potential effects associated with increased service demands from new construction workers in the Plan Area. The potential for the project to result in an effect on law enforcement, fire protection, and emergency response services because of increased demand from new workers in the Plan Area during construction of the proposed water conveyance facilities is low.</p> <p>The effects of the operation and maintenance of the proposed project are analyzed in Impact UT-7: Effects on Public Services and Utilities as a Result of Operation and Maintenance of the Proposed Water Conveyance Facilities. For the preferred alternative (Alternative 4A/California WaterFix, which has been developed in response to public and agency input and replaces BDCP), it was estimated that weekly operations and maintenance would require approximately 129 workers, including maintenance crew, management, repair crew, pumping plant crew, and dewatering crew. These activities would take place along the entire alternative alignment. Given the limited number of workers involved and the large number</p>

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		<p>Alternatives 1A and 4.</p>	<p>of work sites, it is not anticipated that routine operations and maintenance activities or major inspections would result in substantial demand for law enforcement, fire protection, or emergency response services. Alternatives 1A-8 all have similar estimated workers and the same impact on public services as a result of maintenance and operation.</p> <p>However, majority of the major construction of the project would take place more than 100 feet below the surface of the plan area and that which takes place above the surface will be in remote areas. It is unlikely, after implementation of the environmental commitments described in Appendix 3B and implementation of construction best management practices, that these construction activities would require additional public services. Additionally, construction underground would not impact the response times and abilities of emergency services. Construction above ground will be located in mostly remote areas that are unlikely to impede or impact emergency response times to the surrounding areas.</p> <p>As described in responses to the Clarksburg Fire Protection District, under the preferred alternative a proposed 28-foot interior diameter single-bore tunnel would be constructed more than 100 feet below the surface of Hood. It would connect north of Hood to pipelines running from Intakes 2 and 3, and south of Hood to the intermediate forebay. There are no public facilities in the proposed tunnel alignment. Construction of the tunnel facilities would not conflict with any public facilities, nor would it require the construction or major alteration of such facilities. It is not anticipated that the construction of the preferred alternative would alter the way in which the Clarksburg Fire Protection District delivers emergency services.</p>
1676	126	<p>[From ATT1:]</p> <p>Chapter 20--Public Services and Utilities: Wastewater treatment and disposal.</p> <p>Yolo County incorporates herein by reference the comments of Sacramento County on this subject. In particular, the County questions the adequacy of the analysis set forth in Impact UT-4 throughout Chapter 20. Like Sacramento County, Yolo County is troubled by the lack of detail regarding wastewater composition, volume, and treatment methodology (among other things).</p>	<p>Sacramento County's comment letters have been responded to separately. Please see Master Response 42 for further information about how comments are responded to.</p> <p>As discussed in Chapter 8, Water Quality, as part of the Environmental Commitments (Appendix 3B) for each alternative, DWR will be required to conduct project construction activities in compliance with the State Water Board's NPDES Stormwater General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ/NPDES Permit No. CAS000002).</p> <p>As discussed in Chapter 20, Public Services and Utilities, wastewater treatment services required for the preferred alternative would be provided by temporary facilities and treated onsite. Construction of the alternatives would not require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities.</p>
1676	127	<p>[From ATT1:]</p> <p>Chapter 23, Page 23-15: Noise (Yolo County).</p> <p>The document does not include noise standards applicable in the City of West Sacramento. Given that the project is likely to generate significant traffic and transportation noise in the City of West Sacramento, the City's noise standards should be included.</p>	<p>The conveyance alternatives extend through several jurisdictions, and effects of traffic extend through many local jurisdictions beyond counties listed in Chapter 23. Construction of the project uses noise thresholds established by California DWR, which were established based on a consensus of experts, and local and resource agencies. DWR will meet local noise standards wherever feasible.</p>
1676	128	<p>[From ATT1:]</p> <p>Chapter 23, Page 23-20 and related text: Noise (Existing Baseline Conditions in the Study Area).</p> <p>The analysis conservatively assumes that ambient noise levels in the entire plan area are 40 dBA. This results in a significance threshold for construction noise of 60 dBA. However, if ambient noise levels at certain locations exceed 60 dBA, a construction noise threshold of 5 dBA should apply. The DEIR/DEIS acknowledges that ambient noise monitoring at</p>	<p>The analysis assumes the most stringent criterion of 60 dBA Leq for daytime construction noise applies to the whole study area, even though some areas may have existing ambient noise levels that exceed 60 dBA Leq. Areas with existing ambient levels exceeding 60 dBA Leq most likely are adjacent to roads. The analysis of traffic noise during construction (heavy trucks and commuter vehicles) includes several areas with ambient noise levels exceeding 60 dBA Leq, and in these cases the 5 dB increase threshold was applied to determine impact significance.</p>

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		specific locations has not been conducted and, therefore, if there are locations that with ambient levels that exceed 60 dBA, the DEIR/DEIS fails to apply the appropriate construction noise threshold to these locations.	
1676	129	[From ATT1:] Chapter 23, Page 23-23 and related text: Noise (Determination of Effects). The analysis fails to address construction noise impacts that may occur in locations where ambient exceeds 60 dBA because ambient monitoring at specific locations has not been conducted. This failure is repeated in Table 23-16 and the analysis fails to identify the distance at which thresholds would be exceeded where ambient exceeds 60 dBA. (See also, e.g., pp. 23-31 to 23-41 and Tables 23-17, 23-21, 23-22.) This deficiency is repeated throughout analysis of construction impacts of each alternative.	Please see the response to Comment 1676-128.
1676	130	[From ATT1:] Chapter 23, Page 23-26 and related text, including p. 23-181: Noise (No Action Alternative, Future of Noise Conditions in the Delta) (Cumulative Impact NOI-5, No Action Alternative). The analysis suggests that noise impacts under the No Action alternative would be significant in the event of levee failure repair/construction activity. Such an event is highly speculative and could occur under any of the alternative scenarios. Thus, the analysis should not suggest that some greater noise impact might result from a catastrophic event if the project is not implemented.	As the text states, such an impact would only occur in the event of a catastrophic failure. The discussion is included for disclosure of the potential effects that could occur under the No Action Alternative. Chapter 4, Approach to the Environmental Analysis in Section 4.2.4 discloses possible effects from other alternatives from seismic events and climate change and references additional material presented throughout the Draft EIR/EIS.
1676	131	[From ATT1:] Chapter 23, Page 23-41, and related text: Noise (Mitigation Measure NOI-1a). The analysis fails to identify the noise reductions that will be achieved by implementation of Mitigation Measure NOI-1A. This information should be included to enable informed consideration of the efficacy of this measure.	This information was added in the RDEIR/SDEIS, at the end of the impact statements for Impact NOI-1.
1676	132	[From ATT1:] Chapter 23, Page 23-44, and related text: Noise (Mitigation Measure NOI-2). Mitigation Measure NOI-2 is vague and unenforceable, and improperly deferred. It does not identify with specificity what measures are required to be implemented for the various vibration generating activities. Additionally, the analysis does not specify the vibration reductions that will be achieved by implementation of the mitigation.	The disclosure of potential vibration impacts reflects a worst-case condition based on locations of pile driving activity relative to residential structures. Although vibration is expected to affect land uses including residential-zoned parcels (e.g. Table 23-24), vibration impacts would only occur where impact pile driving occurs within 70 feet of structures, and depending on drilling locations such a condition may not occur during construction of intakes. Where construction plans indicate that piles would be driven within 100 feet of a residence, Mitigation Measure NOI-2 (discussed under Alternative 1A) would be available to reduce the effect. Mitigation Measure NOI-2 would be used to reduce the significance of Impact NOI-2, however, it is considered an unavoidable impact because use of vibration-reducing practices may not be feasible in all cases.
1676	133	[From ATT1:] Chapter 23, Page 23-48, and related text: Noise (Mitigation Measure NOI-3). Mitigation Measure NOI-3 is vague and unenforceable, and is improperly deferred. It does not identify with specificity what measures will be required and, therefore, it is impossible to determine whether such measures will be effective at reducing operational noise	Operation of the project primarily involves fixed noise sources in the form of pumps and associated equipment. Acoustical enclosures and treatments are available and generally feasible to implement for fixed sources. As acoustical treatments have not been specified for the pump stations, the analysis assumes that none are included. As such Mitigation Measure NOI-3 assumes that noise control measures will be engineered at the source during design and construction, such that the performance standard will be met.

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		impacts to less than significant levels.	
1676	134	<p>[From ATT1:]</p> <p>Chapter 23, Page 23-48, and related text: Noise (Impact NOI-4: Exposure to Noise-Sensitive Land Uses from Implementation of Proposed Conservation Measure 2-10).</p> <p>The analysis of noise impacts from implementation of CM 2-10 is wholly inadequate. While these aspects of the project are evaluated at a programmatic level, CEQA requires that the analysis be commensurate with the information that is available, and not be deferred to the future. As described in the DEIR/DEIS, there is information regarding the types of noise-inducing construction activities that would result from implementation of CM 2-10, yet the analysis is performed at a "qualitative" level and is insufficient given the extent of information available regarding these aspects of the project.</p>	<p>Based on the information available, the noise levels shown in Table 23-16 that are used to determine significance of Impact NOI-4 are representative of a reasonable worst-case condition. The analysis of CMs 2-10 were performed at a program level because the project does not identify specific locations for restoration actions. Project level effects will be addressed separately for these improvements and other CMs may require additional environmental review prior to implementation.</p>
1676	135	<p>[From ATT1:]</p> <p>Chapter 23, Page 23-174: Noise (Alternative 9, Impact NOI-2).</p> <p>The CEQA conclusion only concerns whether residences would be exposed to construction vibration and ground-borne noise, without discussion of other sensitive receptors that could be impacted. This information should be included.</p>	<p>The text for CEQA conclusions has been changed from "residences" to "sensitive receptors".</p>
1676	136	<p>[ATT2: Comments of Yolo County on Preliminary Draft Chapters of the Bay Delta Conservation Plan Environmental Impact Report/Environmental Impact Statement (EIR/EIS). Letter to U.S. Bureau of Reclamation dated April 16, 2012.]</p>	<p>The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.</p>
1676	137	<p>[From ATT2:]</p> <p>The EIR/EIS should include a county-by-county summary of anticipated project features and impacts (environmental and economic).</p> <p>As an initial matter, the BDCP and draft EIR/EIS are tremendously complex and lengthy. It is very difficult for Yolo County (and, we suspect, other cooperating agencies) to review, analyze, and fully understand the many thousands of pages of documents released for public review over the past 60 days. Certainly, the challenge of reviewing these documents is even more daunting to landowners, farmers, and other members of the public with an interest in the BDCP.</p> <p>On this basis, the County urges the federal (and state) agencies responsible for the EIR/EIS to develop a chapter or appendix that concisely summarizes the anticipated project features and environmental effects of the BDCP on a county-by-county basis. Such an approach would greatly help the County and others to understand and efficiently analyze the potential local effects of BDCP implementation. It would also further many of the policy aims underlying both NEPA and its state analog, the California Environmental Quality Act (CEQA), by facilitating informed public participation in the decisionmaking process. (e.g., In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings, 43 Cal.4th 1143, 1162 (2008).) Particularly in an EIR/EIS of such unusual complexity, a county-by-county summary of anticipated project features and environmental effects is both necessary and appropriate.</p>	<p>Please see Master Response 38 regarding the length and complexity of the document. Because of the size of the document, and that it is not required by CEQA or NEPA, a county by county analysis will not be created.</p>

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1676	138	<p>[From ATT2:]</p> <p>The EIR/EIS should include detailed figures and graphics illustrating the potential location of major water conveyance infrastructure and related facilities.</p> <p>Yolo County urges the agencies responsible for the EIR/EIS to prepare more detailed, county-specific versions of Figure 4-3 in Chapter 4 of the draft BDCP. Figure 4.3 provides a basic overview of anticipated project water conveyance infrastructure and related facilities, but the scale of the figure makes it difficult to determine even the approximate locations of key facilities. Figure 4-3 also omits certain types of project infrastructure that are discussed throughout the draft BDCP and EIR/EIS, such as the location of the large 230-kv transmission lines that will apparently be built to provide electricity for project operations. [Footnote 1: The figures included in Chapter 3 (Description of Alternatives), which are intended to illustrate components of the conveyance infrastructure integral to each alternative, are similarly deficient.] The location of these transmission lines (and other major project infrastructure not currently shown on Figure 4-3) is tremendously important to the County and others throughout the Delta.</p> <p>In all candor, it is unreasonable to request the County's comments on over 2,400 pages of the draft EIR/EIS without first providing basic information on the location of project features that are expected to have significant environmental effects. Appropriate county-level figures or other graphics displaying this information should be included in the county-by-county summary chapter(s) [previously] proposed. Such an approach will greatly aid the County, other cooperating agencies, and the general public in understanding the EIR/EIS and participating in the project planning and environmental review process.</p>	<p>The mapbooks contain locations of proposed water conveyance infrastructure and related facilities for CM1.</p>
1676	139	<p>[From ATT2:]</p> <p>Additional studies are necessary to ensure a meaningful analysis of certain potential impacts.</p> <p>Yolo County strongly encourages the NEPA lead agencies to provide funding for the completion of studies in connection with the EIR/EIS. In the County's judgment, each of the studies is integral to the adequacy of certain chapters of the EIR/EIS (even accounting for its programmatic character with respect to many conservation aspects of the BDCP). The County would like to have principal responsibility for all aspects of the development and performance of these studies, coordinating as appropriate with the state and federal agencies responsible for BDCP and the EIR/EIS. With the exception of the proposed Yolo Bypass infrastructure study, the County has previously proposed all of the studies at various points in the past 1-2 years.</p>	<p>The EIR/S, RDEIR/SDEIS, and Final EIR/EIS contain a robust analysis of impacts, and satisfy NEPA and CEQA requirements. No further changes or studies are required.</p>
1676	140	<p>[From ATT2:]</p> <p>Agricultural Impacts:</p> <p>Various chapters of the draft EIR/EIS discuss potential conversions of farmland and other impacts of the BDCP on Delta agriculture. Generally, the discussion of such impacts occurs on a regional level. Even where impacts are discussed with more geographical precision, however, no effort is made to specifically identify the crop types, public and private infrastructure, and other key agricultural elements that could foreseeably be affected by implementation of the BDCP. The result is a generally uninformative discussion that</p>	<p>The maps in the Agricultural Resources Appendix do identify many different crop types in the study area and along alternative alignments.</p> <p>For additional information, please see Chapter 14 and Master Response 18.</p>

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		<p>leaves Yolo County (and no doubt, other readers) without any clear sense of how BDCP could affect local agriculture.</p> <p>To illustrate that a more refined analysis is both feasible and necessary, the County offers the example of Conservation Measure 2 (CM 2) and its potential effect on agricultural operations within the Yolo Bypass. With financial support from the State and Federal Contractors Water Agency, the County is completing a detailed economic analysis of how CM 2 could affect the cultivation of specific crops -- including rice and processing tomatoes -- in the Yolo Bypass. This analysis is nearly complete and it is expected to show the possibility of a severe decline in the cultivation of certain crops, particularly rice, if inundation continues into March and April. [Footnote 2: The County will forward a copy of the completed study under separate cover as soon as it is released to the public (within the next few weeks).]</p> <p>In light of the modest amount of acreage committed to rice cultivation through the BDCP Planning Area (7,298 acres per p. 14-6 of the Admin. Draft EIR/EIS), the loss of a significant portion of rice acreage within the Yolo Bypass raised the potential of an array of indirect economic and environmental effects. This includes the possibility of reaching a "tipping point" for rice cultivation, meaning that rice cultivation ceases to be commercially viable even on unaffected lands throughout the County due to a decline in rice volumes, the resulting closure of local rice mills, and the eventual rise of unit processing costs to unacceptable levels. While this evaluation is beyond the limited scope of the County's agricultural impacts analysis for CM 2, it is feasible to expand the analysis to encompass this issue. This additional work would help illuminate the broader economic and environmental consequences of changes to agriculture that are best considered at a programmatic level. (Stanislaus Natural Heritage Project v. County of Stanislaus, 48 Cal. App. 4th 182, 199 (1996).) In turn, such information would allow the County to participate constructively in a discussion of potential means of mitigating the economic effects of CM 2, potentially establishing a useful framework for addressing similar issues in other parts of the Delta. [Footnote 3: The draft EIR/EIS frequently reminds readers that economic effects are generally beyond the purview of both NEPA and CEQA. Even so, the County believes that the success of the BDCP depends upon implementation of appropriate mitigation for all impacts -- economic as well as environmental.]</p>	
1676	141	<p>[From ATT2:]</p> <p>While the EIR/EIS notes in several places that farmland provides significant foraging and other benefits to endangered, threatened, and other species of concern, it does not fully explore the connection between potential conversions of farmland (or changes in crop selection) and effects on such species. The California Department of Fish and Game has emphasized the importance of sustaining alfalfa, rice, and other crops that provide significant benefits to certain species in connection with the development of the Yolo Natural Heritage Program (an HCP/NCCP). The next draft of the EIR/EIS should include considerably more detail on the potential for such changes, the types of species that will be affected, and the measures that may be employed to address such effects -- including whether such measures will themselves have any adverse environmental or economic impacts.</p>	<p>The commenter states that the EIR/EIS does not fully explore the connection between potential conversions of farmland and effects on such species. Chapter 12 of the EIR/EIS does address the effects on wildlife (e.g., giant garter snake, Swainson's hawk, white-tailed kite, tricolored blackbird, sandhill cranes) from the loss or conversion of cultivated lands to other types (areas developed for the water conveyance facilities or areas used for restoration) for all alternatives and includes extensive protection and management of cultivated lands for the benefit of wildlife, which includes 51,625 acres of cultivated lands protected and managed under the BDCP alternatives and 11,870 acres under Alternative 4A.</p> <p>Chapters 14 and 16 of the EIR/EIS address BDCP and California WaterFix's effects on cultivated lands and the economic impact of both the loss of cultivated lands and the management of cultivated lands for wildlife.</p>
1676	142	<p>[From ATT2:]</p> <p>Mercury:</p>	<p>Please see responses to comments 1676-53, -54, and -176. Please also see Master Response 14 for further information regarding mercury and methylmercury.</p>

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		<p>Yolo County has long requested a detailed study of the potential for adverse mercury effects in connection with the floodplain habitat component of CM 2. This analysis should occur now, before the completion of BDCP and the EIR/EIS, because the success of CM 2 depends upon effectively controlling adverse mercury effects (including the methylation of mercury). The draft EIR/EIS itself makes this clear, extensively discussing the hazards posed by mercury and methylmercury and, in addition, specifically noting problems that currently exist in the Yolo Bypass.</p> <p>For example, at pp. 8-64 and 8-65, the EIR/EIS references recent studies that identified elevated fish tissue mercury concentrations -- five times higher than the Delta TMDL recommendation -- in fish originating in the Yolo Bypass. Despite this, the EIR/EIS fails to discuss CM 2 in evaluating the potential for cumulative adverse mercury impacts on water quality in the Delta and the SWP/CVP Export Service Areas (see p. 8-456 and 8-458). Worse still, the EIR/EIS concludes that some combination of mitigation measures should effectively address adverse mercury effects, including the following proposed measure:</p> <p>[Ensure] [a]ppropriate consideration of conservation measure locations, preferably not in the direct path of large mercury or selenium loading sources such as the Sacramento River, Yolo Bypass Consumes River or San Joaquin River. (EIR/EIS at p. 8-459.)</p> <p>To put it mildly, this proposed "mitigation measure" directly calls into question the feasibility of the floodplain habitat component of CM 2 -- a key element of the Delta habitat restoration proposed by the BDCP. This text highlights the need for analysis of mercury issues before CM 2 can be appropriately included within the BDCP.</p>	
1676	143	<p>[From ATT2:]</p> <p>Flood Risks:</p> <p>Increasing the frequency and duration of inundation within the Yolo Bypass -- an important flood control facility -- is central to CM 2 (and likely to the overall success of the BDCP). Yolo County is concerned, however, that increased inundation will adversely affect the Bypass levees and increase the level of flood risk for local communities. This concern has been heightened by the release of data showing that portions of the Bypass levees are already of "high concern" to the California Department of Water Resources. [Footnote 4: Draft Central Valley Flood Protection Plan, Figures 1-7 and 2-1. The draft Plan is available online at http://www.cvfpb.ca.gov/CVFPP/.] Similarly, the draft Central Valley Flood Protection Plan states at p. 3-18 that "some levees along the bypasses may not be as durable as levees along the main rivers-levee reliability could also be lowered by longer duration wetting." These are all indications of the need to fully evaluate and mitigate potential flood risks and related hazards associated with elements of CM 2 in the EIR/EIS.</p> <p>Additionally, agriculture controls the growth of vegetation and thus plays an important role in maintaining the conveyance capacity of flood control facilities like the Yolo Bypass. The potential for adverse flood impacts arising from the cessation of agriculture in portions of the Yolo Bypass and in other locations should be evaluated closely as part of the EIR/EIS. To some extent, this analysis dovetails with the additional agricultural impact studies proposed, as the scale of agricultural impacts (including the potential for indirect impacts, such as the cessation of agriculture on unaffected lands) directly influences the maintenance of vegetation in many flood-prone areas of the Delta.</p>	<p>Please see Appendix 6A of the Final EIR/EIS for a discussion on impacts from restoration-related environmental commitments and conservation measures, including the removal of CM2 (Yolo Bypass Enhancements) and substantial reductions in the amount of planned habitat restoration under the new proposed project, Alternative 4A. Instead, Yolo Bypass Enhancements would be assumed to occur as part of the No Action Alternative.</p> <p>Also, see Section 6A, Section 6.2.1.3, for discussion on DWR consistency with the State Plan of Flood Control (SPFC), and Section 6A.6.1.2 for information on project consistency with USACE, CVFPB, and DWR flood standards and regulations.</p>

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1676	144	<p>[From ATT2:]</p> <p>Infrastructure Impacts:</p> <p>The Yolo Bypass contains important agricultural water supply, transportation, and other infrastructure that may be affected by the increased frequency and longer duration of flooding proposed as part of CM 2. The draft EIR/EIS currently analyzes the potential for impacts on such infrastructure on a regional basis. It does not, however, appear to include any significant discussion of potential impacts on existing infrastructure in the Yolo Bypass.</p> <p>Under both NEPA and CEQA, the level of analysis set forth in the draft EIR/EIS should correspond with the level of detail provided in the draft BDCP. In re Bay-Delta, 43 Cal.4th at 1176, citing CEQA Guidelines [Section] 15146.) The omission of any detailed discussion of potential infrastructure impacts within the Yolo Bypass is one example of an instance where the draft EIR/EIS fails to meet this legal requirement. Clearly, the draft BDCP describes CM 2 in significant detail. Such information, together with the availability of detailed hydrodynamic modeling and other data, enables a meaningful analysis of infrastructure impacts within the Yolo Bypass as part of evaluating the environmental impacts of CM 2. A study evaluating the potential impacts of CM 2 on Bypass infrastructure is therefore necessary and appropriate at this stage of the environmental review process.</p>	<p>Please see Appendix 6A, Section 6A.6.4, Final EIR/EIS, for a discussion on impacts from restoration-related environmental commitments and conservation measures, including the removal of CM2 from the new proposed project, Alternative 4A. Instead, Yolo Bypass Enhancements would be assumed to occur as part of the No Action Alternative. Also, see Master Response 2 regarding program-level and project-level detail in the EIR/EIS documents.</p>
1676	145	<p>[From ATT2:]</p> <p>Yolo County also believes that a vector control analysis focused on CM 2 should be performed in connection with the EIR/EIS.</p>	<p>Accordingly, there would be a lower potential for an increase in suitable mosquito habitat within the study area as a result of implementing the project under this alternative because there would be less restoration/enhancement of aquatic habitat.</p> <p>Impact PH-5 addresses the potential for increase in vector-borne diseases in the study area as a result of habitat restoration/enhancement. Project proponents would consult and coordinate with San Joaquin County and Sacramento-Yolo County MVCDs and prepare and implement MMPs (Appendix 3B, Environmental Commitments). BMPs to be implemented as part of the MMPs would help control mosquitoes. This would reduce the potential for an increase in mosquito breeding habitat, and an associated substantial increase in vector-borne diseases would not result. Furthermore, habitat would be restored in areas where existing potentially suitable habitat for mosquitoes already exists. Finally, predators of mosquitoes would likely increase as a result of restoration and enhancement, which would keep mosquito populations in check.</p>
1676	146	<p>[From ATT2:]</p> <p>Currently underway, waterfowl impacts analysis of CM 2 (being performed by Ducks Unlimited), needs to be integrated into the next draft of the EIR/EIS and likely should be expanded to consider Delta-wide impacts on migratory birds and other species that currently depend on alfalfa, rice, and other common crops and agricultural practices.</p>	<p>Alternatives 1A-9 presented in this Draft EIR/EIS include Yolo Bypass improvements as CM2 of the BDCP conservation strategy. The lead agencies acknowledge the commenters opinion about the potential effects of CM 2 on migratory birds and other terrestrial species. Ducks Unlimited conducted an analysis of the impacts of CM2 Yolo Bypass Fisheries Enhancement and CM4 Tidal Natural Communities Restoration on waterfowl (Ducks Unlimited. 2013. BDCP Waterfowl Effects Analysis. July. Prepared for Laura King Moon, program manager, BDCP. Rancho Cordova, CA).</p> <p>Additional Alternatives 4A, 2D, and 5A do not include Yolo Bypass as a project component. These improvements are assumed instead under the No Action Alternative.</p>
1676	147	<p>[ATT3: Comments of Yolo County on Preliminary Draft Chapters of the Bay Delta Conservation Plan Environmental Impact Report/Environmental Impact Statement (EIR/EIS). Letter to U.S. Bureau of Reclamation dated July 12, 2013.]</p>	<p>The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.</p>

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1676	148	<p>[From ATT3:]</p> <p>Yolo County is a "cooperating agency" pursuant to an October 12, 2010 Memorandum of Understanding with the Bureau of Reclamation and other federal agencies responsible for preparation of the BDCP EIR/EIS pursuant to the National Environmental Policy Act (NEPA). The Office of the County Counsel submits this letter in its capacity as the County representative to the federal agencies responsible for the NEPA process (MOU, Section 5). As a cooperating agency, the County sincerely desires to assist the federal agencies in ensuring that the BDCP EIR/EIS is credible, thorough, and legally sound.</p> <p>Previously, on April 16, 2012, the County submitted written comments on an earlier administrative draft version of the EIR/EIS. A copy of that comment letter is included as Attachment 2 [ATT5] hereto. Those comments focused on identifying key studies and other information that the County believed must be developed and included in future drafts of the EIR/EIS. Over a year later, on June 12, 2013, the EIR/EIS consultant for the BDCP (ICF) provided a one-page written response that is included herewith as Attachment 3 [ATT6]. As both the timing and substance of the ICF response makes clear, responding to the comments of cooperating agencies is apparently regarded as little more than an afterthought.</p> <p>This begs the question of whether the cooperating agency process serves any meaningful purpose. For the time being, the County will postpone judgment on that question with the expectation that deficiencies in the existing process will be remedied with due haste. Specifically, the County respectfully requests the courtesy of a response to the comments in this letter (and more importantly, Attachment 1 [ATT4]) within 30 days. The County also requests that the Bureau (or other agency, as appropriate) ensure that ICF designates a liaison to the cooperating agencies to provide useful non-technical information, such as where to look in the draft EIR/EIS for coverage of particular issues. This will greatly aid the County and other cooperating agencies in reviewing the draft EIR/EIS and engaging constructively in the environmental review process.</p>	<p>The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 Draft EIR/EIS; however, the comment does note that as a cooperating agency, Yolo County offers assistance to the federal agencies responsible for the NEPA process to ensure that the EIR/EIS is legal and requests that a designated liaison be assigned to cooperating agencies to assist them with review of the Draft EIR/EIS.</p> <p>Responses to all of Yolo County's comments are included in this Final EIR/EIS. Reclamation has met with its cooperating agencies many times over the course of the EIR/EIS development to solicit input on the contents of the EIR/EIS.</p>
1676	149	<p>[From ATT3:]</p> <p>The EIR/EIS and certain BDCP objectives misstate Yolo Bypass flooding data.</p> <p>A fundamental problem with the BDCP and EIR/EIS is that both rely on a published paper (Sommer et al. 2008) to state the Yolo Bypass floods in 70 percent of all years. The statistic is used as the basis for at least three biological objectives in Chapter 3 of the BDCP (Objectives FRCS1.2, STHD1.2, and WRCS1.2) that are central to certain actions proposed in Conservation Measure 2 ("CM2"). However, there are at least two problems with this statistic.</p> <p>First, this statistic is potentially inaccurate. Before it is used as the basis for a biological objective or the EIR/EIS baseline, this statistic must be thoroughly evaluated for accuracy. Yolo County has previously been advised that Bypass flooding data prior to 1984 is unreliable. On that basis, the report prepared by UC Davis economists for Yolo County (Agricultural and Economic Impacts of Yolo Bypass Fish Habitat Proposals (Howitt et al 2013)) relies on a 26-year time series of hydrologic conditions (1984-2009).</p> <p>Second, even if accurate, the statistic does not define the extent of Bypass flooding. It likely includes very small overtopping events that caused only localized inundation within the Bypass. This statistic thus cannot be used to define current or "natural" conditions</p>	<p>As described in Chapter 3, Description of Alternatives, wetlands restoration in the Yolo Bypass is considered only in a programmatic manner in the EIR/EIS. Therefore, project-specific locations and facilities and related impacts and benefits are not considered in the EIR/EIS. Separate engineering and environmental analyses will be completed prior to implementation of restoration actions. However, for the purposes of the EIR/EIS, modeling of a programmatic operational scenario was conducted to consider possible changes in the Sacramento River downstream of Fremont Weir. The extent of bypass flooding in the Yolo Bypass was not considered in the analysis because that evaluation would need to be conducted following a determination in a separate process about the extent and timing of wetlands restoration in the Yolo Bypass. The modeling indicated increased inundation based upon Sacramento River surface water elevations at Fremont Weir, not based upon a inundation frequency goal.</p>

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		<p>that have any significant bearing on appropriate restoration strategies. Its use in CM2 and the above-referenced objectives is scientifically questionable in the absence of any apparent connection to research regarding the appropriate frequency of inundation for covered aquatic species. Nor is it appropriately used as the baseline for evaluating related impacts in the EIR/EIS. Legally, a properly defined baseline requires reliable data on the frequency, duration, and extent of Bypass flooding.</p>	
1676	150	<p>[From ATT3:]</p> <p>The EIR/EIS wrongly ignores or defers the analysis of Conservation Measures 2-22 under the guise of taking a "Programmatic" approach to review.</p> <p>In preparing these comments, Yolo County fully considered the "programmatic" nature of the draft EIR/EIS. Just like a project-level, EIR, however, a programmatic EIR must "give the public and government agencies the information needed to make informed decisions, thus protecting not only the environment but also informed self-government." (In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings, 43 Cal.4th 1143, 1162 (2008).) The "semantic label accorded to the [EIR]" does not determine the level of specificity required. (Al Larson Boat Shop, Inc. v. Board of Harbor Commissioners of the City of Long Beach, 18 Cal. App. 4th 729, 741-42 (1993).) Rather, the "degree of specificity required in an [EIR] will correspond to the degree of specificity involved in the underlying activity which is described in the [EIR]." (In re Bay-Delta, 43 Cal.4th at 1176, citing CEQA Guidelines [Section] 15146.) The level of detail in the Draft EIR must therefore reflect -- at a minimum -- the level of detail in the BDCP, including Conservation Measure 2. Similarly, both project-level and programmatic environmental analyses must include "accurate, stable, and finite" project descriptions. (Rio Vista Farm Bureau Center v. County of Solano, 5 Cal. App. 4th 351, 370 (1992).)</p> <p>Additionally, while subsequent environmental analyses will "tier" from or otherwise draw upon a programmatic EIR, tiering is not a device for deferring the analysis of present issues. "Tiering is properly used to defer analysis of environmental impacts and mitigation measures to later phases when the impacts or mitigation measures are not determined by the first-tier approval decision but are specific to the later phases." (Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova, 40 Cal.4th 412, 431 (2007) (emphasis added).) "[T]iering' is not a device for deferring the identification of significant environmental impacts that the adoption of a specific plan can be expected to cause," and "fundamental and general matters" should be addressed in the first-tier EIR. (Stanislaus Natural Heritage Project v. County of Stanislaus, 48 Cal. App. 4th 182, 199 (1996).) The draft EIR/EIS for the BDCP, accordingly, must identify and consider foreseeable significant environmental impacts that will result from the actions authorized by its adoption.</p>	<p>Please see Master Response 2 for information on project-level and program-level analysis.</p>
1676	151	<p>[From ATT3:]</p> <p>Yolo County believes the EIR/EIS must specifically analyze the impacts of CM2 given the defined nature of certain biological objectives in the BDCP. Objectives FRCS 1.2 (fall-run/late fall-run Chinook salmon juveniles), STHD 1.2 (steelhead juveniles), WRCS 1.2 (winter run Chinook salmon), and SAST 1.1 (splittail), for example, all specifically identify access to 7,000 acres of inundated floodplain habitat in the Yolo Bypass and/or the Cache Slough ROA. CM2 presents a "plan of action" for realizing these objectives within the Yolo Bypass. More than enough information exists for the EIR/EIS to include specific</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>

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		<p>information about potential impacts using the acreage data, modeling, and other presently available information regarding the seasonal floodplain restoration element of CM2. Indeed, the draft EIR/EIS includes some specific information on such impacts based on a UC Davis study commissioned by Yolo County. This approach illustrates that it is presently possible -- and thus, required as a matter of law -- to include a much more detailed analysis of potential environmental impacts of CM2 in the draft EIR/EIS.</p>	<p>For more information regarding project versus program level please see Master Response 2. Please also see Master Response 5 for more information regarding CM2.</p>
1676	152	<p>[From ATT3:]</p> <p>The EIR/EIS existing conditions baseline is out-of-date and seriously flawed.</p> <p>CEQA Guidelines Section 15125(a) provides that the appropriate baseline for environmental review is "normally" the conditions existing at the time the notice of preparation ("NOP") is published. Presumably on this basis, the draft EIR/EIS states that it generally uses a baseline tied to the 2009 date of publication of the NOP. This approach is not reasonable for a project like BDCP given its lengthy and tremendously complex planning and environmental review process, as well as the overall timeframe for implementation. Among other flaws resulting from application of the outdated baseline, the EIR/EIS does not appear to consider the Central Valley Flood Protection Plan (adopted in mid-2012) ("CVFPP"). Coordinating the implementation of BDCP and CVFPP, however, will be a very real issue for many years to come, and it deserves consideration in the EIR/EIS. Yolo County thus urges consideration of an updated baseline as work on the EIR/EIS proceeds.</p>	<p>Please see response to Comments 22 and 91. Please see Appendix 3D in the RDEIR/SDEIS for ongoing programs, projects, and policies included in existing conditions, including the CVFPP. Please also see Master Response 1 for further information regarding environmental baselines.</p>
1676	153	<p>[From ATT3:]</p> <p>Improvements to the MIKE-21 Model are critical to ensure accurate estimates of Bypass impacts.</p> <p>Although the EIR/EIS does not evaluate all impacts of CM2 as mentioned above, the EIR/EIS does appear to use a footprint for inundation in the Yolo Bypass generated with a draft MIKE-21 model to estimate impacts to terrestrial species. [Footnote 1: Figures 5.J-1 to 5.J-7 in Appendix 5J of the BDCP administrative draft contain maps of the difference between existing and proposed Bypass inundation based on the preliminary MIKE-21 modeling results. Given the estimates of terrestrial species impacts in Chapter 12 of the EIR/EIS, the County assumes the preliminary MIKE-21 modeling results were used to generate these impact estimates.] Yolo County hired Northwest Hydraulic Consultants ("NHC") to conduct an independent review of the MIKE-21 model being used by DWR, resulting in the September 2012 report entitled Yolo Bypass MIKE-21 Model Review: Strengths, Limitations, and Recommendations for Refinement. This report indicates data and modeling results important to answering the questions about potential impacts of CM2 are currently unavailable or inadequate, including insufficient model detail (computational mesh size and extent) to accurately depict shallow flooding on fields adjacent to the toe drain, inaccurate topographic and bathymetric data, unvalidated west side tributary flow information, and improper location of tributary inflow entry points in the model. In addition, there are a number of MIKE-21 assumptions and inputs that need to be tested, including verification of boundary conditions, computational cell sizes, and validation of wetting and drying assumptions. Finally, the model needs to be validated and additional sensitivity analysis performed to verify that shallow flow results are reliable.</p> <p>The improvements needed are significant enough to call into question any results</p>	<p>Please see response to Comments 24 and 74.</p>

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		<p>generated with the MIKE-21 model. Most of these shortcomings, however, can be addressed in the manner described in the Recommended Next Steps" section of the NHC report. This work should occur now, prior to the release of the final draft EIR/EIS, to ensure that related analyses of potential environmental impacts are accurate, credible, and complete.</p>	
1676	154	<p>[From ATT3:]</p> <p>Impacts of CM2 on Yolo Natural Heritage Program and Yolo Bypass Wildlife Area need to be further evaluated.</p> <p>Chapter 12 of the EIR/EIS lists specific impacts of CM2 on terrestrial species, many of which are covered by the Yolo Natural Heritage Program (YNHP). The YNHP is an HCP/NCCP and a local conservation strategy that is under preparation by a joint powers authority consisting of the County, the cities of Woodland, Davis, Winters, and West Sacramento, and the University of California, Davis (the Yolo County Habitat/Natural Community Conservation Plan Joint Powers Agency ("Habitat JPA")). In addition, Chapter 12 indicates CM2 will result in both the temporary and permanent loss of managed wetlands in the Yolo Bypass, which includes the Yolo Bypass Wildlife Area.</p> <p>The first administrative draft of the YNHP was released in June 2013. The next draft of the BDCP EIR/EIS should therefore more fully evaluate the potential impact of BDCP on the YNHP. The YNHP released an issue paper on May 23, 2013 describing the overlap of BDCP and the YNHP entitled Interface with the Bay Delta Conservation Plan: Background, Summary, and Remaining Issues (Attachment 4 [ATT7]). The EIR/EIS should build on this work and evaluate issues related to plan overlap, including the potential for BDCP to interfere with the Yolo NHP's ability to achieve its conservation goals. Current language in the BDCP referring to only considering effects substantial if there is a conflict with an "adopted HCP or NCCP" ignores HCPs and NCCPs like Yolo that are still in the planning process.</p>	<p>The commenter states that the Draft EIR/EIS ignores HCPs and NCCPs like the YNHP that are in development. The standard under CEQA is for proposed projects to evaluate whether they "conflict with the provisions of an adopted Habitat Conservation Plan (HCP), Natural Communities Conservation Plan (NCCP) or other approved local, regional or state habitat conservation plan" Therefore, CEQA does not require that proposed projects consider their overlap or potential conflict with HCPs or NCCPs that are in preparation. However, the BDCP Draft EIR/EIS does address potential conflicts between the BDCP and the YNHP (and other regional HCPs and NCCPs in preparation) in Impact BIO-192 starting on page 12-3244, with a specific discussion for the YNHP starting on page 12-3269. At the time the Draft EIR/EIS analysis was performed (prior to the June 28, 2013, release of the YNHP administrative draft), no acquisition targets (acres needed for conservation goals) for the YNHP were available. The analysis does address the amount of overlap of major natural community types between the two plans as well as how much of these areas would be lost to BDCP covered activities within the YNHP Plan Area (see Table 12-17 on page 12-3253 of the Draft EIR/EIS).</p>
1676	155	<p>[From ATT3:]</p> <p>The EIR/EIS should specifically evaluate the impacts of CM2 on the Yolo Bypass Wildlife Area. Given there is no inundation footprint specifically referenced for this analysis, it is difficult to isolate the specific impacts on the Wildlife Area. In addition, the EIR/EIS does not (aside from an isolated comment in Chapter 15) reference or appear to utilize the important 2012 work by Ducks Unlimited to evaluate the potential CM2 impacts on managed wetlands entitled Waterfowl Impacts of Proposed Conservation Measure 2 for the Yolo Bypass - An Effects Analysis Tool. Yolo County and the state and federal government have worked hard to support the Wildlife Area and the educational programs associated with it, including securing millions of dollars to create the wetlands in the 1990s. The EIR/EIS must fully evaluate the specific impacts on the Yolo Wildlife Area and utilize the Ducks Unlimited model as the best information available to assess these impacts. These impacts are even more important to understand because the BDCP as a whole will result in a net loss of wetlands in the plan area, potentially impacting decades of work to create additional habitat for migrating waterfowl habitat along the Pacific Flyway consistent with the North American Waterfowl Management Plan and the Central Valley Joint Venture.</p>	<p>Please see response to Comment 154.</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>For more information regarding project versus program level planning please see Master Response 2. For more information regarding impacts to terrestrial resources and its associated mitigation measures please see Chapter 12 of the Final EIR/EIS.</p> <p>The originally proposed habitat restoration measures and related Conservation Measures (CMs) (i.e., CM2</p>

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			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.
1676	156	<p>[From ATT3:]</p> <p>Yolo County questions the EIR/EIS conclusion for a number of terrestrial species that no mitigation is necessary for impacts from CM2 because BDCP will restore or preserve habitat elsewhere in the plan area. This is not a conclusion BDCP should make without close coordination with the Yolo Basin Foundation, the Yolo County Habitat/Natural Community Conservation Plan Joint Powers Agency (Habitat JPA), and Yolo County. The loss of important habitat in Yolo County may undermine the goals of the Yolo Natural Heritage Program (YHNP), the Open Space Element of the Yolo County General Plan, and the Yolo Bypass Wildlife Area Land Management Plan.</p>	<p>The commenter states that the Draft EIR/EIS concludes that “for a number of terrestrial species that no mitigation is necessary for impacts from CM2 because BDCP will restore or preserve habitat elsewhere in the plan area.” The commenter does not provide specific instances where they believe this occurs but rather makes a general statement. This statement mischaracterizes the analysis of terrestrial species in Chapter 12. For each terrestrial species, the Draft EIR/EIS addresses the loss or conversion of habitat from CM2 (from weir improvements, silting basin improvements, Putah Creek realignment, toe drain excavation) as well as all other conservation measures under one impact discussion and does not specifically state that impacts from CM2 do not need to be mitigated. The impacts from all CMs are considered collectively to determine whether the proposed conservation efforts in the Plan Area are sufficient to mitigate these impacts in total in order to determine the Plan’s total impact of the loss and conversion of terrestrial species habitat. The Draft EIR/EIS also specifically addresses the periodic effects from CM2 Yolo Bypass Fisheries Enhancement, which analyzes changes in Fremont Weir operations that would periodically flood habitat for terrestrial species in the Yolo Bypass. The proposed change increases the amount of area inundated in no more than 30% of all years and for a longer duration. In more than half of all years under existing conditions, an area greater than that identified under the operation of BDCP is already inundated in the Bypass. No mitigation was identified for these periodic effects because the habitats for species that occur within the Bypass are already subject to occasional seasonal flooding. The Draft EIR/EIS acknowledges that the frequency and duration of flooding would make these habitat periodically unavailable for terrestrial species but not to the point of resulting in a loss or conversion of habitat such that it would result in adverse/significant impacts that would require mitigation.</p>
1676	157	<p>[From ATT3:]</p> <p>Flood Risks:</p> <p>Yolo County has worked with the Sacramento Area Flood Control Agency to develop an approach to analyze flood impacts, including peer review of any flood impacts analysis performed by the state and federal government related to CM 2. Yolo Bypass levees are already of "high concern" to the California Department of Water Resources. While the County appreciates language in the EIR/EIS that states any modification of the Yolo Bypass will be designed and implemented to maintain flood conveyance capacity at design flow level "and to comply with other flood management standards and permitting processes," Yolo County needs to verify through independent peer review that CM2 will not impact existing flood protection for Yolo County and the Sacramento region. This includes ensuring vegetation maintenance will continue if CM 2 results in the cessation of agriculture in parts of the Bypass.</p>	<p>Please see Appendix 6A, Section 6A.6.4, Final EIR/EIS, for a discussion on impacts from restoration-related environmental commitments and conservation measures, including the removal of Conservation Measure 2 (Yolo Bypass Enhancements) and substantial reductions in the amount of planned habitat restoration under the new proposed project, Alternative 4A. Instead, Yolo Bypass Enhancements would be assumed to occur as part of the No Action Alternative.</p> <p>Also, see Section 6A.6.2.1.3 for discussion on DWR consistency with the State Plan of Flood Control (SPFC), and Section 6A.6.1.2 for information on project consistency with USACE, CVFPB, and DWR flood standards and regulations.</p>
1676	158	<p>[From ATT3:]</p> <p>Increased Methylation of Mercury:</p> <p>The EIR/EIS determines, in essence, that effects of CM2 on methylation of mercury are significant and unavoidable, but no specific mitigation is available because nobody knows what the effects will be, they cannot be predicted, and nobody knows how to effectively</p>	<p>Please see responses to Comments 1676-50-54.</p>

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		<p>reduce or eliminate those effects even if they occur. The BDCP states, "seasonal inundation of floodplain areas, such as the Yolo Bypass, has the potential to create anaerobic conditions that contribute to the methylation of mercury, which increases toxicity" (BDCP 2A 3.5.7) and "the highest concentrations [of mercury in sediments] have been reported in Cache Creek and Yolo Bypass..." (BDCP 3.4.12.1). Given these conclusions, the County's longstanding request for a detailed study of adverse effects of CM2 on methylation of mercury is more critical now than it has been in the past.</p>	
1676	159	<p>[From ATT3:]</p> <p>Fish Benefits Analysis:</p> <p>Given the uncertainty associated with the fish benefits of some CM2 elements, such as the amount of acreage required to provide sufficient habitat and the number of fish that will enter the Bypass through the proposed notch in the Fremont Weir, an independent analysis of the fish benefits of CM2 should be performed in conjunction with the EIR/EIS. The EIR/EIS should include consideration of alternatives to the existing splittail biological objective, for example, which currently requires 7,000 acres of floodplain habitat in the Yolo Bypass (Objective SAST 1.1). It is Yolo County's understanding that splittail, which are not even a threatened species, can successfully spawn in a small area of floodplain.</p>	<p>Please see Master Response 5 for more information regarding the BDCP, including CM2. Please also see Chapter 11 of the Final EIR/EIS for further information regarding impacts on aquatic resources.</p>
1676	160	<p>[From ATT3:]</p> <p>Intakes Impacts:</p> <p>The three proposed 3,000 cfs intakes are located directly across the Sacramento River from Yolo County. The EIR/EIS should analyze the impacts of diverting water at these locations on downstream diversions in Yolo County, as well as other issues.</p>	<p>Changes in minimum and maximum surface water elevations were projected at locations along the Sacramento River using the CALSIM II and DSM2 models, as summarized in Appendix 5A, Section C, Modeling Results, Sections 26 through 32, of the Final EIR/EIS. The results of the analysis indicate that water surface elevations would be higher under all alternatives as compared to the Existing Conditions along the Sacramento River at Rio Vista. However, along the Sacramento River at Georgiana Slough (immediately downstream of the north Delta intakes), water elevations would be up to 0.7 feet lower in March under most of the alternatives. For more information regarding impacts to water supply please see Chapter 5 of the Final EIR/EIS.</p>
1676	161	<p>[From ATT3:]</p> <p>Yolo County also believes that a vector control analysis and a groundwater impact analysis focused on CM2 should be performed in connection with the EIR/EIS. Funding necessary to analyze the impacts of refined CM2 proposals on agriculture and waterfowl habitat should also be provided.</p>	<p>Since the time of the Draft EIR/EIS, Yolo Bypass improvements have been removed from the Preferred CEQA/NEPA Alternative (Alternative 4A) addressed in the RDEIR/SDEIS. However, effects of potentially increasing mosquito habitat for CMs 2-21 are addressed in EIR/EIS Chapter 26, Public Health and habitat effects in the Yolo Bypass are addressed in Chapter 12, Terrestrial Biological Resources. No additional groundwater analyses for the Yolo Bypass have been performed for any of the alternatives because the slight modifications related to bypass inundation are not expected to significantly affect groundwater resources and the preferred alternative does not include Yolo Bypass improvements.</p>
1676	162	<p>[From ATT3:]</p> <p>An inclusive governance structure -- particularly for Conservation Measure 2 -- should promptly be developed.</p> <p>Yolo County is encouraged by some of the language in Conservation Measure 2 related to "minimizing impacts" and "proposing a sustainable balance between important uses of the Bypass" (see Chapter 3 comments). The success of this approach, however, will require the establishment of a robust, inclusive governance structure for CM2 that includes Yolo County and other interested agencies and stakeholders. A "sustainable balance" will not emerge from a governance process that excludes local government, agricultural stakeholders, and others presently left out of the limited group of agencies designated for service on the leading governance entities for the BDCP. Yolo County strongly encourages the BDCP to work with Yolo County immediately to develop a</p>	<p>For more information regarding implementation structure for Alternative 4 please see Chapter 7 of the BDCP 2013 Public Draft. Please see Master Response 5 for more information regarding BDCP, including governance.</p>

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		<p>mutually agreeable governance structure for CM2 operations.</p> <p>As a starting point, Yolo County has developed the attached proposed governance structure for BDCP (Attachment 5 [ATT8 and ATT9]). Yolo County hopes to work with interested parties to adapt this proposal to CM2 in the near future.</p>	
1676	163	<p>[From ATT3:]</p> <p>The EIR/EIS is vastly complex and lengthy, and must be simplified.</p> <p>In its April 16, 2012 comment letter [ATT5], the County stated that "the BDCP and draft EIR/EIS are tremendously complex and lengthy." This statement should have been reserved for the current draft, which dwarfs the 2012 administrative draft both in volume (increased by many thousands of pages) and overall complexity.</p> <p>The County is hard pressed to make constructive suggestions for reining in the substance of the draft EIR/EIS. As the County also suggested over a year ago, however, it would be very helpful if the federal (and state) agencies responsible for the EIR/EIS develop a chapter or appendix that concisely summarized the anticipated project features and environmental effects of the BDCP on a county-by-county basis. Such an approach would further many of the policy aims underlying both NEPA and its state analog, the California Environmental Policy Act (CEQA), by facilitating informed public participation in the decisionmaking process. (E.g., In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings, 43 Cal.4th 1143, 1162 (2008).) Particularly in an EIR/EIS of such unusual complexity, a county-by-county summary of anticipated project features and environmental effects is both necessary and appropriate.</p> <p>Even this suggestion, however, is only a starting point. The draft EIR/EIS should be thoroughly revised for the sake of clarity and simplicity. The need for such work is apparent by virtue of the length of the EIR/EIS alone. The length of the document presents an immediate obstacle for reviewers that (like many affected counties and stakeholders) with limited resources. Chapters of 300+ pages in length do not even contain a detailed table of contents, executive summary, or other material intended to aid reviewers.</p> <p>Certainly, the EIR/EIS will never be an easy read. In its current state, however, it is far too complex to serve its informative purposes under CEQA or NEPA.</p>	<p>To enable public and agency review of the documents, the lead agencies posted online documents highlighting important aspects of the BDCP and the EIR/EIS. They produced 17 informational webinar episodes regarding the BDCP and EIR/EIS that were available online, and they distributed highlight documents and one-page factsheets throughout the comment period. The lead agencies conducted open house meetings throughout the state in January and February 2014, and staff members were available via telephone, email, and Twitter to guide readers through the documents.</p> <p>Although the commenter may have had trouble negotiating the documents, the Table of Contents at the front of each document provides names and page numbers for the sections of every chapter, and the EIR/EIS contains an index. In addition, both the BDCP and EIR/EIS contain executive summaries, and the most complex EIR/EIS chapters contain reader guides and summaries of impacts.</p> <p>The BDCP and EIR/EIS attempt to balance readability, thorough technical analysis, and responses to public and agency requests for information. Nevertheless, because of the highly technical and complex nature of the BDCP and importance of the Delta, the EIR/EIS contains a large amount of information. The lead agencies' balancing of technical information and readability is fully consistent with the procedural and informational requirements of CEQA and NEPA. For additional information regarding document length, please see Master Response 38.</p>
1676	164	<p>[ATT4: Table of Yolo County's comments on the Administrative Draft of the BDCP EIR/EIS, July 12, 2013.]</p>	<p>The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.</p>
1676	165	<p>[From ATT4:]</p> <p>Chapter 3, Page: 3-101, Lines 34-38:</p> <p>The text states that any modification of the Yolo Bypass will be designed and implemented to maintain flood conveyance capacity at design flow level "and to comply with other flood management standards and permitting processes."</p> <p>The meaning of this text is at least partly unclear. Increasing the duration, magnitude, and frequency of inundation in the Bypass poses flood protection risks that go well beyond</p>	<p>Please see Appendix 6A, Section 6A.6.4, Final EIR/EIS, for a discussion on impacts of restoration-related environmental commitments and conservation measures, including a substantial reduction in the habitat restoration footprint and the removal of Conservation Measure 2 (Yolo Bypass Enhancements) under proposed Alternative 4A.</p> <p>Alternative 4A 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. Nevertheless, habitat restoration under any alternative will be designed and operated to comply with</p>

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		mere effects on flood conveyance capacity. These risks, including the potential for longer duration wetting to adversely affect levee integrity in the Yolo Bypass, were raised in Yolo County's April 16, 2012 comment letter [see ATT5] in Section 3.C (Flood Risks), which is incorporated herein by reference.	applicable flood protection polices and regulations, including those enforced by the USACE and the CVFPB.
1676	166	<p>[From ATT4:]</p> <p>Chapter 3, Page 3-102, Lines 4-31.:</p> <p>The description of three categories of actions to be implemented as part of CM2 is very vague and uninformative. It is clear, however, that additional environmental review and stakeholder outreach are contemplated as part of the Category 2-3 actions. Also, the text states that the Yolo Bypass Fishery Enhancement Plan (YBFEP) "would propose a sustainable balance between important uses of the Yolo Bypass such as flood protection, agriculture ..." and various other uses. The discussion continues on to eventually state that projects included within the YBFEP are intended to "provide the greatest biological benefit to the covered fish species ... while also minimizing impacts to other uses of the Yolo Bypass, such as flood control, agriculture, waterfowl use and hunting, and habitat for covered terrestrial species."</p> <p>In general, Yolo County is very encouraged by these comments. The success of this approach, however, will likely require the establishment of a robust, inclusive governance structure for CM2 that includes Yolo County and other interested agencies and stakeholders. A "sustainable balance" will not emerge from a governance process that excludes local government, agricultural stakeholders, and others presently left out of the limited group of agencies designated for service on the leading governance entities for the BDCP.</p>	Alternative 4A no longer includes large-scale habitat restoration, including Conservation Measure 5 and Conservation Measure 2. 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. Nevertheless, if CM2 were to be pursued under another alternative, DWR will work with the local government and other applicable entities to ensure appropriate minimization and avoidance of impacts to other uses in the Yolo Bypass.
1676	167	<p>[From ATT4:]</p> <p>Chapter 3, Page 3-102, Lines 32-39.:</p> <p>This paragraph explains that "[i]f the YBFEP does not support implementation of one or more component projects, they would not be implemented. Reasons that implementation may not be supported by the Yolo Bypass Fishery Enhancement Plan (YBFEP) include, but are not limited to the following: the action would not be effective; the action is not needed because of the effectiveness of other actions; the action would have unacceptable negative effects on flood control; the action would have unacceptable negative effects on land use or species...or; landowner agreement cannot be achieved with respect to implementing the action."</p> <p>This discussion is imprecise due to overreliance on the phrase "unacceptable negative effects," which raises various questions:</p> <ul style="list-style-type: none"> - What thresholds will be used? - Who will apply them? - What opportunities for public input, peer review, and other external inputs into the decisionmaking process will be afforded? <p>In the absence of a more precise explanation of these and other related matters, this paragraph offers little of substance to guide the County's evaluation of the adequacy of</p>	Please see the response to Comment 1676-159.

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		<p>the EIR/EIS. Also, there is no provision in the BDCP itself for additional studies relevant to land use impacts, including studies to define what changes may be necessary if projects included in CM2 do not function as expected. Similar to the identification of biological uncertainties in Table 3.4.2-4, there should be a listing of key land use and other uncertainties and the steps that will be taken to evaluate those at appropriate times.</p>	
1676	168	<p>[From ATT4:]</p> <p>Chapter 3, Page 3-106, Lines 22-28:</p> <p>This paragraph discusses "Phase 4" of the operation of CM2, defined as occurring in "approximately 2027-2063." It explains that operations may be adjusted based on monitoring and studies, and that operation of the gated Fremont Weir could shift to earlier or later timeframes with "the adaptive management range."</p> <p>A clear project description requires a discussion of the "adaptive management range" referenced in this paragraph. Without such information, the draft EIR/EIS cannot meet legal standards under CEQA and NEPA that require a project to be clearly defined for the purposes of environmental review.</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, CDFW, 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 the proposed project 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. Such management will support the proposed project 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. In addition, this collaborative effort is expected to inform operational decisions within the ranges established by the USFWS/NMFS biological opinions and CDFW 2081b permit for the proposed project.</p> <p>Additionally, please refer to the discussion on adaptive management and monitoring in Master Response 33. Monitoring is also discussed in Chapter 3 of the Draft BDCP.</p>
1676	169	<p>[From ATT4:]</p> <p>Chapter 6, Page 6-13, Lines 4-16:</p> <p>The text mentions that the Yolo Bypass "was inundated 46 years out of the 65 years between 1935 and 1999." In addition, the BDCP relies on a published paper (Sommer et al. 2008) to state the Yolo Bypass floods in 70% of all years. The statistic is also used as the basis for development of at least three biological objectives in Chapter 3 of the BDCP (Objectives FRCS1.2, STHD1.2, and WRCS1.2). Before such a statistic is used as the basis for a biological objective or the EIR/EIS, and therefore sets the regulatory standard for development of CM2, this statistic needs to be thoroughly evaluated for accuracy and applicability to CM2. In the report prepared by UC Davis economists for Yolo County entitled Agricultural and Economic Impacts of Yolo Bypass Fish Habitat Proposals (Howitt et al 2013), the researchers rely on a 26-year time series of hydrologic conditions (1984-2009) because of information provided to the researchers that data regarding flooding in the Bypass prior to 1984 is unreliable. Further, the mere fact that the Bypass "was inundated" does little to define the appropriate baseline for environmental review. If "inundated" means that the Fremont Weir overtopped, that does not mean that lands within the Bypass were necessarily affected to a significant degree. In fact, text in the paragraph prior makes clear that overtopping at the Weir is no indication of Bypass inundation, stating: "The Yolo Bypass is flooded about once every 3 years, on average...." The text is thus somewhat unclear on this issue, as it presents much different data for the frequency of Bypass "flooding" and "inundation." The resulting baseline for evaluating flood-related impacts is thus unclear.</p> <p>Separately, the text also mentions (at line 1 on p. 6-13) that the Yolo Bypass "encompasses about 40,000 acres." The Yolo Bypass includes about 59,000 acres.</p>	<p>Please see response to Comment 149. The EIR/EIS presents information from two different references. The U.S. Army Corp of Engineers reference described a 33 percent chance of flooding over the long-term period. The CALFED reference provided data from actual operations of flooding in 46 of 65 years. This information was not specifically used in the impact analysis comparison of action alternatives to Existing Conditions. The impact analysis was based upon simulated Existing Conditions and action alternatives using the CALSIM II model.</p>
1676	170	<p>[From ATT4:]</p>	<p>Please see response to Comment 149. The EIR/EIS presents information from two different references. The U.S. Army Corp of Engineers reference described a 33 percent chance of flooding over the long-term period. The CALFED reference provided data from actual operations of flooding in 46 of 65 years. This information</p>

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		<p>Chapter 6, Pages 6-39 and 6-40:</p> <p>The methodology discussion at line 21 on p. 6-39 appears to say that this Chapter of the draft EIR/EIS evaluates surface water conditions under three scenarios that integrate anticipated sea level rise and climate change impacts except with respect to "existing conditions." These factors appear to be considered, for example, in the discussion at page 6-48 with respect to the Yolo Bypass and other features (discussed below). However, the following 120 pages of the EIR/EIS only infrequently appear to include any analysis of sea level rise or climate change in discussing the potential effects of the BDCP. Overall, it appears sea level rise and climate change have been largely omitted from the analysis of surface water and flood issues in Chapter 6.</p> <p>This shortcoming is significant and needs to be addressed prior to the release of the public draft EIR/EIS. Neither the public nor decisionmakers can evaluate the potential effects of BDCP on flood flows at various Delta locations in the absence of data that fully evaluates potential effects of the BDCP and sea level rise and climate change. [Alternatively, if a conclusion regarding sea level rise and climate change in the context of each project alternative appears in Chapter 6, it needs to be more directly called out so that a reader does not have to sift repeatedly through 167 pages of analysis (which this particular reader did) in an effort to find any analysis of these critical issues.]</p>	<p>was not specifically used in the impact analysis comparison of action alternatives to Existing Conditions. The impact analysis was based upon simulated Existing Conditions and action alternatives using the CALSIM II model.</p> <p>The EIR/EIS presents the changes in conditions under the alternatives as compared to conditions under the Existing Conditions and the No Action Alternative. The effects of climate change and future water demands occur under the No Action Alternative and the action alternatives. Therefore, the changes in conditions under the action alternatives as compared to the No Action Alternative indicate the changes due to the action alternatives. Please see Master Responses 1 and 19 for more information.</p>
1676	171	<p>[From ATT4:]</p> <p>Chapter 6, Page 6-48, Lines 32-36:</p> <p>The "CEQA Conclusion" for the "no action alternative" is confusing. It states in pertinent part:</p> <p>No Action Alternative could result in an increase in potential risk for flood management compared to Existing Conditions because of the changes due to sea level rise and climate change unless flood management criteria are not modified for changed climate.</p> <p>This statement needs to be revised for the sake of clarity and accuracy. As currently drafted, it makes no sense.</p>	<p>The text referred to in this comment has been modified in the Final EIR/EIS.</p>
1676	172	<p>[From ATT4:]</p> <p>Administrative Draft--Chapter 8 (Water Quality):</p> <p>The current treatment of mercury issues alone in the draft BDCP and EIR/EIS is a good illustration of unreasonable complexity of these documents. A reader must navigate a labyrinth of documents laden with internal cross- references to yet more documents in order to arrive at an understanding of this and many other issues. For instance, the first page of the discussion of methylmercury at p. 3.4-233 of the draft BDCP directs reviewers to read all of the following in order to understand mercury and methylmercury effects associated with the BDCP:</p> <ul style="list-style-type: none"> - Chapter 2 of the BDCP (Existing Conditions) - Conservation Measure 12 of the BDCP (in Chapter 3) - Section 3.3 of Chapter 3 of the BDCP 	<p>The EIR/EIS attempts to balance readability with the need for accurate and thorough technical analysis of complex issues. The extensive cross referencing to EIR/EIS chapters and appendices and to the BDCP itself provides readers with important context and details while reducing unnecessary duplication and redundancy in the document.</p>

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		<ul style="list-style-type: none"> - Chapter 6 of the BDCP (Plan Implementation) - Chapter 8 of the EIR/EIS - Appendix 3.C (Avoidance and Minimization Measures) - Appendix 5.D (Contaminants) <p>Surely, there must be a more straightforward way of presenting this issue.</p>	
1676	173	<p>[From ATT4:]</p> <p>Chapter 8 (Water Quality):</p> <p>The draft EIR/EIS appears to retain information regarding the high concentrations of mercury in the tissue of fish originating in the Yolo Bypass. Not surprisingly, the mitigation measure calling for avoidance of the Yolo Bypass in habitat restoration has been omitted.</p>	<p>The following alternatives include Yolo Bypass restoration: 1A, 1B, 1C, 2A, 2B, 2C, 3, 4, 5, 6A, 6B, 6C, 7, 8, 9. Alternatives 2D, 4A, and 5A do not include Yolo Bypass restoration as part of the alternatives.</p> <p>Alternative 4A has been developed in response to public and agency input. The EIR/EIS analyzes all alternatives, including Alternative 4A. Alternative 4A would have substantially less effect on Delta water quality such that significant impacts were only identified for electrical conductivity (EC) at Emmaton and Prisoners Point, and mercury associated with the limited tidal habitat restoration that would be implemented. The significant impacts to EC 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> <p>Chapter 11, Fish and Aquatic Resources discusses effects of contaminants and bioaccumulation of methylmercury in fish species.</p>
1676	174	<p>[From ATT4:]</p> <p>Chapter 8, Page 8-431, Lines 20-32:</p> <p>This paragraph explains the uncertainties inherent in predicting methylmercury formation in restored areas, including that no models are currently available. It concludes by referring to "modeled restoration assumptions" that purportedly "provide some insight into potential hydrodynamic changes that could be expected related to implementing CM2 and CM4 and are considered in the evaluation of the potential for increased mercury and methylmercury concentrations under Alternative 4."</p> <p>This is so vague as to be of little value to a reviewer. At the very least, a reasonable qualitative analysis and discussion of methylmercury formation and related issues should be included in the draft EIR/EIS, particularly for CM2.</p>	<p>The modeling assumptions and methodology for assessing mercury are fully described in section 8.3.1 of Chapter 8, Water Quality, Draft EIR/EIS. A qualitative analysis and discussion of methylmercury formation for CM2 is included in the Draft and Final EIR/EIS for those alternatives that include CM2 (Impact WQ-14). Alternatives 2D, 4A, and 5A do not include Yolo Bypass restoration as part of the alternative.</p>
1676	175	<p>[From ATT4:]</p> <p>Chapter 8, Page 8-432, Lines 14-33:</p> <p>This paragraph describes the CEQA conclusion on mercury and methylmercury issues. The conclusion, in essence, is that:</p> <ul style="list-style-type: none"> - Nobody knows what the mercury/methylmercury effects of the BDCP will be; - Nobody can predict those effects in any useful way; - CM 12, relating to methylmercury reduction, will ensure the development of site-specific mercury management plans -- all of unknown effectiveness -- as restoration plans are implemented; and - The effects must be deemed "significant and unavoidable, and no specific mitigation is 	<p>For alternatives including Yolo Bypass restoration (1A, 1B, 1C, 2A, 2B, 2C, 3, 4, 5, 6A, 6B, 6C, 7, 8, 9), the assessment was programmatic, and thus site-specific evaluation at the project level was not completed. Alternatives 2D, 4A, and 5A do not include Yolo Bypass restoration as part of the alternative.</p> <p>Please also see Master Response 14 for information on water quality. For more information regarding environmental commitments, such as Methylmercury Management, please see Appendix 3B of the Final EIR/EIS.</p>

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		<p>available because nobody knows what the effects will be, they cannot be predicted, and nobody knows how to effectively reduce or eliminate those effects even if they occur.</p> <p>This is a rather bleak scenario that must be further developed and explained with a discussion of potential outcomes, such as what the effects of an "unquantifiable" (p. 8-432, line 18) increase in methylmercury concentrations would be on fish, wildlife, and humans in the Delta. It is not legally adequate to simply say that unknown effects will occur without explaining what those effects might be aside, presumably, from some unquantifiable level of increased concentrations in fish tissue. It is especially important to attempt to explain the effects given the information provided about Yolo Bypass mercury levels in the draft BDCP, such as "the highest concentrations [of mercury in sediment] have been reported in Cache Creek and Yolo Bypass and the Mokelumne-Cosumnes River system (Wood et al. 2010)." (3.4.12.1 of the 2013 draft BDCP) and "Seasonal inundation of floodplain areas, such as in the Yolo Bypass, has the potential to create anaerobic conditions that contribute to the methylation of mercury, which increases toxicity" (2A.3.5.7 of 2013 draft BDCP).</p>	
1676	176	<p>[From ATT4:]</p> <p>Chapter 8, Page 8-432, Lines 14-33:</p> <p>The notion of developing mitigation on a project-by-project basis is unsatisfying and unnecessary where sufficient detail presently exists to enable that analysis (at least in a preliminary way) for some proposed projects, such as seasonal floodplain habitat restoration included in CM2. As noted elsewhere in the draft EIR/EIS, this element of CM2 has already been defined to a conceptual degree that fairly detailed analyses of environmental issues are possible. Legally, that analysis must happen now (as Yolo County has long contended), even though the EIR/EIS is programmatic.</p>	<p>For alternatives including Yolo Bypass restoration (1A, 1B, 1C, 2A, 2B, 2C, 3, 4, 5, 6A, 6B, 6C, 7, 8, 9), the assessment was programmatic, and thus site-specific evaluation at the project level was not completed. Alternatives 2D, 4A, and 5A do not include Yolo Bypass restoration as part of the alternative.</p>
1676	177	<p>[From ATT4:]</p> <p>Chapter 11, Page 11-83, Lines 6-11:</p> <p>The text in this location misstates the number of species covered by the Yolo Natural Heritage Plan (an HCP/NCCP). The Plan currently covers 32 species, not "70 to 80." Also, the entity preparing the plan is referred to as the "Yolo Natural Heritage Foundation." It is actually a joint powers agency that is known as the Yolo County Habitat/Natural Communities Conservation Plan Joint Powers Agency.</p>	<p>The information has been updated according to the current (December 2015) Yolo Habitat Conservancy website. According to the website, "The Yolo Habitat Conservancy (YHC), formerly the Yolo County HCP/NCCP Joint Powers Agency, directs the preparation of the Yolo Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) and the Yolo Local Conservation Plan (LCP). These plans were formerly known as the Yolo Natural Heritage Program." Also, the website states that 12 species are covered under the HCP/NCCP, not "32" or "70 to 80". The natural community (habitat) types have also been updated, as well as the current status of the environmental documents and permits.</p>
1676	178	<p>[From ATT4:]</p> <p>Chapter 12:</p> <p>Yolo County observes that Chapter 12 contains various specific estimates of the acres of various species habitats that may be affected by implementation of CM2. This is precisely the type of information that needs to be included in other chapters of the EIR/EIS, as noted in the County's comments on individual chapters and in its cover letter. [see ATT3]</p>	<p>Each resource chapter in the Draft EIR/EIS provides a description of the analysis methods used to judge the severity of impacts caused by the project alternatives. In some cases qualitative analysis is sufficient to make CEQA and NEPA conclusions. In other cases, such as for water supply, surface water, groundwater, water quality, fish and aquatic resources and terrestrial resources a more quantitative approach was needed to make impact determinations. The specific examples referenced in this comment are addressed separately. Please refer also to Master Response 2, which describes the project-level versus program-level approach to the Draft EIR/EIS.</p>
1676	179	<p>[From ATT4:]</p> <p>Chapter 12:</p> <p>This Chapter should include a discussion of the potential for the BDCP to shift the</p>	<p>An analysis of the overlap of the two plans is provided in the 2013 Draft EIR/EIS, Chapter 12, Section 12.3.3.18. As described in this section, there was found to be no conflict between the 2013 BDCP and the overlapping HCPs and NCCPs in the plan area. As described in Chapter 12 of the 2013 Draft EIR/EIS and in Chapter 6 of the 2013 BDCP, land acquisition would be coordinated with the overlapping plans to further</p>

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		implementation of conservation requirements in local HCP/NCCPs to areas outside of the Delta. Such shifting could occur if, for example, suitable habitat for one or more covered species exists within the Delta but an easement or other preservation mechanism is infeasible because of competition with BDCP for mitigation and conservation lands (or for related issues, such as the conversion of certain habitat types in discrete locations by BDCP).	minimize the potential for conflicts.
1676	180	<p>[From ATT4:]</p> <p>Chapter 12, Page 12-99 Part 1, Lines 25-33:</p> <p>Yolo County disagrees with the significance criteria expressed with regard to conflicts with an adopted HCP, NCCP, or similar plan. It is well known that the BDCP may conflict not only with adopted plans, but plans that are currently under preparation (like the Yolo Natural Heritage Program, which includes a Countywide HCP/NCCP). The Yolo Natural Heritage Program recently released a first draft of its plan on June 28, 2013. Consequently, the significance criteria relating to HCP/NCCPs and similar plans should be expanded to include draft plans.</p> <p>Also, the significance criteria for conflicts relevant to HCP/NCCPs defines an unrealistically high threshold for evaluating the significance of impacts (i.e., treating certain conflicts as significant only if the HCP/NCCP "could not achieve its conservation goals"). Not only is this highly subjective and difficult to apply, it is also inappropriate to deem a conflict "significant" only if the conservation goals of another HCP/NCCP are rendered impossible to achieve (as opposed to significantly more difficult, time consuming or expensive). Finally, it is not clear whether the criteria relating to conservation goals applies only upon a demonstration that all goals, as opposed to fewer than all, cannot be achieved.</p>	<p>For the first part of this comment, please see response to Comment 1676-154.</p> <p>The commenter states their opinion that the significance criteria identified in the Draft EIR/EIS (see Section 12.3.1.2 on page 12-133 of the Draft EIR/EIS) set unrealistically high thresholds that are subjective and difficult to apply. There is no further guidance in CEQA or its implementing regulations beyond the checklist question of whether the proposed action "conflicts with the provisions of an adopted Habitat Conservation Plan (HCP), Natural Communities Conservation Plan (NCCP) or other approved local, regional or state habitat conservation plan." The applicants have interpreted the word "conflict" to mean that to be significant, a proposed HCP/NCCP must conflict with an existing or proposed HCP or NCCP to such an extent as to make it impossible to meet its conservation goals. The EIR/EIS applied this criterion to mean that a significant impact would occur if any of the conservation goals could no longer be achieved, not if all conservation goals could not be achieved. The comment is noted that the overlap of BDCP with the Yolo HCP/NCCP may cause some conservation goals to be more difficult or expensive to achieve. Regional HCPs and NCCPs should be designed to be flexible in their implementation and adapt to changing conditions, including changing land prices, changing willingness of landowners to sell their land, and acquisition or restoration of some lands by other HCPs or other conservation plans. Part of the reason that DWR provided this analysis for plans in process is to provide an opportunity to adjust these plans, if necessary, to build in additional flexibility to account for any overlap with BDCP. If major conflicts still remain, the applicants are willing to continue to discuss ways to further reduce those conflicts.</p>
1676	181	<p>[From ATT4:]</p> <p>Chapter 13, Page 13-40, Lines 28-38:</p> <p>The discussion refers to the Yolo County moratorium on certain types of habitat projects. The moratorium expired in October 2012. The County subsequently adopted an ordinance requiring a use permit for certain habitat projects, including those undertaken in the County to mitigate for habitat losses or species impacts occurring outside of the County. Related text (of which this page/line number reference is only one example) should be updated to describe the County's current ordinance, which appears in Title 10, Chapter 10 of the Yolo County Code.</p>	<p>The text has been revised within the chapter with the updated information regarding the expiration of the moratorium.</p>
1676	182	<p>[From ATT4:]</p> <p>Chapter 13, Page 13-123, Lines 24-33:</p> <p>The text indicates that potential conflicts between CM2-CM21 with local land use designations for agricultural and other uses cannot be assessed because "the locations for implementation of CM2-CM21 are not known at this point." To the contrary, the location of CM2 is very well known and has been described and modeled in detail. While project design may result in a reduced or somewhat different footprint for the floodplain habitat restoration component of CM2, there is enough information presently available to assess potential land use conflicts and related environmental effects, such as the loss of</p>	<p>As described in Section 13.3, CM1 was described on a project level while the other CMs were described at a programmatic level.</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</p>

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		<p>farmland.</p> <p>Legally, this analysis must appear in the draft EIR/EIS. The absence of this information is a fundamental flaw in Chapter 13 (and other Chapters of the draft EIR/EIS) that leaves Yolo County unable to offer constructive comments or suggestions.</p>	<p>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>
1676	183	<p>[From ATT4:]</p> <p>Chapter 14, Pages 14-10 and 14-11, Section 14.1.1.5:</p> <p>This section is one of several places where the draft EIR/EIS distinguishes between different types of farmland for analytical purposes. The end result is that some types of farmland, such as grazing land, are effectively excluded from the impacts discussion and related mitigation.</p> <p>Yolo County objected to this approach in its January 24, 2013 comment letter [see ATT12]. Please see pp. 3-4 thereof (Section II.D-E), which are incorporated herein by this reference.</p>	<p>Please see Master Response 18 for an explanation regarding why grazing lands were not considered in the impact discussion and related mitigation.</p>
1676	184	<p>[From ATT4:]</p> <p>Chapter 14, Page 14-24, Lines 3-21:</p> <p>This paragraph generally describes the general plans of Delta counties and cities, referring in places to local farmland mitigation programs. These programs should be described in greater detail to enable an evaluation of conflicts between the mitigation proposed in (or omitted from) the draft EIR/EIS for farmland conversions. The significance of that conflict should be explored either in Chapter 13 (Land Use) or 14 (Agricultural Resources), or both.</p>	<p>Generally state and federal agencies, as well as some local or regional agencies involved with the location or construction of facilities for the production, generation, storage, treatment, or transmission of water are not subject to local land use regulations and inconsistency with a specific local land use regulation is not by itself an adverse effect on the environment (See, e.g., Hall v. Taft (1956), 47 Cal. 2d 177, 183; Town of Atherton v. Superior Court (1958) 159 Cal.App.2d 417 and Lawler v. City of Redding (1992) 7 Cal. App. 4th 778, 784.) However, this EIR/EIS, in assessing whether particular categories of environmental effects are adverse or beneficial (NEPA) or significant (CEQA), considers relevant local land use regulations that are adopted for the purpose of avoiding or mitigating an environmental impact. No change to the EIR/EIS.</p>
1676	185	<p>[From ATT4:]</p> <p>Chapter 14, Page 14-26, Lines 1-7 and 41-45:</p> <p>The text in these paragraphs seems to say two different things regarding the evaluation of CM2 and agricultural resources. Lines 1-7 appear to say that the draft EIR/EIS defers any meaningful evaluation of CM2’s agricultural resource effects to the project-level environmental review. However, lines 41-45 (as noted above) seem to instead say that the seasonal floodplain element of CM2 will be analyzed in detail.</p> <p>Unfortunately, while the latter statement should be the case, the former statement appears to more accurately describe the content of the draft EIR/EIS. The draft EIR/EIS should include a detailed evaluation of the agricultural resource impacts of those elements of CM2 that are already defined sufficiently to enable a relatively precise analysis.</p>	<p>The seasonal floodplain element of CM2 is analyzed in more detail (relative to CMs 3-21) as part of the Impact AG-2 analysis, “Effects on agriculture as a result of increased frequency of inundation events.”</p> <p>For alternatives including Yolo Bypass restoration (1A, 1B, 1C, 2A, 2B, 2C, 3, 4, 5, 6A, 6B, 6C, 7, 8, 9), the assessment was programmatic, and thus site-specific evaluation at the project level was not completed. Alternatives 2D, 4A, and 5A do not include Yolo Bypass restoration as part of the alternative. Please see Master Response 2 for further information about project versus program level analysis. Please also see Master Response 5 regarding BDCP, including CM2.</p>
1676	186	<p>[From ATT4:]</p> <p>Chapter 14, Page 14-27, Lines 32-36:</p> <p>The text in this location further narrows the range of farmland analyzed in the draft</p>	<p>California Public Resources Code Section 21060.1 defines agricultural land as prime farmland, farmland of statewide importance, or unique farmland for the purposes of assessing environmental impacts using the FMMP. The BDCP EIR/EIS Agricultural Resources impact analysis also includes farmland of local importance in the impact analysis related to conversion of “Important Farmland.”</p> <p>The law concerning CEQA’s consideration and protection of agricultural land continues to evolve, and the</p>

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		<p>EIR/EIS, defining "Important Farmland" as only those types of farmland that are both:</p> <ul style="list-style-type: none"> - Listed in Public Resources Code Section 21060.1(a) (i.e., prime farmland, farmland of statewide importance, or unique farmland); and - "[L]and located in areas that can continue to be farmed economically and on a sustainable basis for an indefinite period of time absent a conversion to a different use under the BDCP." <p>Yolo County objected to this approach in its January 24, 2013 comment letter [see ATT12]. Please see p. 4 thereof (Section II.E), which is incorporated herein by this reference.</p>	<p>BDCP carefully considers the impacts of farmland conversion and the options available for responding to those impacts.</p> <p>Please see Master Response 18 for an explanation regarding why grazing lands were not considered in the impact discussion and related mitigation.</p>
1676	187	<p>[From ATT4:]</p> <p>Chapter 14, Page 14-28, Lines 10-14:</p> <p>The text states that the draft EIR/EIS "does not use a numerical approach" to assessing impact severity and the need for mitigation, but rather identifies "degrees of impacts." This may be reasonable to an extent, but some impacts can be quantified at least in general terms -- again, in the context of CM2 -- and a quantitative approach should be employed where feasible to promote a solid understanding of the potential impacts of the BDCP. The omission of such information is puzzling and unnecessary.</p>	<p>Please see response to Comment 178. With regard to Important Farmland, Williamson Act land, and land in Farmland Security Zones, the analysis provided a quantitative estimate for land conversion (temporary and short-term, as well as permanent) as a result of construction of the water conveyance facilities for each action alternative.</p>
1676	188	<p>[From ATT4:]</p> <p>Chapter 14, Page 14-38, Lines 1-15:</p> <p>Here and elsewhere, the draft EIR/EIS calls for preparation of an Agricultural Lands Stewardship Plan (ALSP) to mitigate the loss of farmland and preserve agricultural productivity. Many elements of the proposed ALSP approach described in this mitigation measure are similar or identical to the Discussion Paper that was the subject of the Yolo County's January 24, 2013 comment letter [see ATT12]. The County thus has the same concerns with this mitigation measure as it had with the approach proposed in the Discussion Paper. Perhaps most significantly for CEQA and NEPA purposes, this mitigation measure lacks clear performance standards and it thus appears to constitute improper "deferred mitigation."</p> <p>The County raised a concern with the lack of performance standards in its January 24, 2013 comment letter. Please see p. 3 thereof (Section II.B), which is incorporated herein by this reference. These comments apply equally to all other instances in Chapter 14 where this mitigation measure is essentially repeated.</p>	<p>Please see Master Response 18 for further discussion of agricultural mitigation.</p>
1676	189	<p>[From ATT4:]</p> <p>Chapter 14, Page 14-40, Lines 14-23:</p> <p>This text makes the baffling and inaccurate claim that preserving farmland for the Swainson's hawk is "the equivalent of full mitigation for impacts to Important Farmland or land subject to Williamson Act contracts or in Farmland Security Zones, provided that the easements for biological values also incorporate agricultural preservation."</p> <p>The County objected to this approach in its January 24, 2013 comment letter [see ATT12].</p>	<p>The document states that the impacts on farmland, and particularly the loss of acreage, cannot be fully mitigated. To the extent that there can be mitigation for the loss of working land that provides both ongoing agricultural uses and associated habitat benefits, ensuring those benefits will be guaranteed into the future can be provided by restricting land to agricultural use and ensuring only those limits to husbandry practices necessary to ensure beneficial outcomes to farming and to the species expected to share the farmland in perpetuity.</p>

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		<p>Please see p. 5 thereof (Section II.G), which is incorporated herein by this reference. These comments apply equally to all other instances in Chapter 14 where this mitigation measure is essentially repeated.</p>	
1676	190	<p>[From ATT4:]</p> <p>Chapter 14, Page 14-42, Lines 22-36:</p> <p>These paragraphs propose different methods of funding implementation of an Optional Agricultural Lands Stewardship Approach. Some proposed sources are reasonable (i.e., greenhouse gas offsets) but others appear to shift the burden of funding this program -- which is after all, mitigation for implementation of the BDCP -- to state taxpayers generally rather than the beneficiaries of the BDCP. Setting aside policy questions, this raises considerable uncertainty about the feasibility of this approach to mitigation and further diminishes its legal adequacy. These comments apply equally to all other instances in Chapter 14 where this mitigation measure is essentially repeated.</p>	<p>Please see Master Response 18 regarding mitigation for agricultural impacts.</p>
1676	191	<p>[From ATT4:]</p> <p>Chapter 14, Page 14-44, Lines 33-38:</p> <p>This text explains that the default mitigation ratio for conventional agricultural mitigation (via conservation easements) shall be 1:1, but a lesser ratio "may be sufficient to reduce impacts to a less than significant level" based on various factors.</p> <p>Yolo County discourages this approach, particularly for any permanent farmland conversions (rather than short-term or temporary impacts). As it proposed in its January 24, 2013 comment letter [see ATT12] (p. 6 thereof, Section III.B), incorporated herein by this reference, local agricultural mitigation programs that apply uniformly to other forms of development in a jurisdiction should generally be followed in implementing the BDCP. These comments apply equally to all other instances in Chapter 14 where this mitigation measure is essentially repeated.</p>	<p>Please see Master Response 18 for more information regarding agricultural impact mitigation.</p>
1676	192	<p>[From ATT4:]</p> <p>Chapter 14, Page 14-49, Lines 22-25 and 37-39:</p> <p>The text states that the extent of certain effects is unknown because "locations have not been selected" for various BDCP-related activities. Certainly, some sense of the magnitude of these effects -- the conversion of "Important Farmland" and land under Williamson Act contracts -- can be conveyed in general quantitative terms. 83,700 acres of habitat restoration will have to go somewhere, and it takes no great leap of logic to assume that farmland will be the landing place for a significant portion of this restoration activity.</p> <p>The Draft EIR should not obfuscate this issue, and should provide some numerical context for these types of impacts. These comments apply equally to all other instances in Chapter 14 where this discussion is essentially repeated.</p>	<p>Although the analysis for Impact AG-3, Temporary Conversion, Short-Term Conversion, and Permanent Conversion of Important Farmland or of Land Subject to Williamson Act Contracts or in Farmland Security Zones as a Result of Implementing the Proposed Conservation Measures 2–11, 13, 15, 16, 20, and 21, (the impact that the commenter is referring to) is qualitative, because locations have not yet been selected for implementation of habitat restoration/enhancement conservation measures, it takes a conservative approach. Specifically, it states that based on the large proportion of the Conservation Zones designated as Important Farmland, it is anticipated that a substantial area of Important Farmland, land subject to Williamson Act contracts, and in Farmland Security Zones would be converted to habitat. As such, the impact is considered adverse under NEPA and significant under CEQA, and the impact would be significant and unavoidable even with implementation of mitigation measures.</p> <p>Design information for the restoration and conservation strategies for aquatic and terrestrial habitat and some other CM measures are currently at a conceptual level. Accordingly, the analyses in the Draft EIR/EIS address the effects of typical construction, operation, and maintenance activities that would be undertaken for implementation of some conservation measures at a program-level of analysis, describing what environmental effects may occur in future project phases. Additional, project-level environmental review will be completed as necessary prior to implementation of specific conservation measures other than CM1. For additional discussion regarding the conservation measures that may require additional environmental</p>

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			review, see Appendix 31A, BDCP Later CM Activity Environmental Checklist.
1676	193	<p>[From ATT4:]</p> <p>Chapter 14, Page 14-52 and 14-53:</p> <p>Yolo County notes that much of the information on these pages is derived from the County's own agricultural impacts analysis. The apparent value of this information to the overall environmental impact analysis underscores the need to support the County's longstanding requests for additional funding to complete other studies relevant to the environmental and economic effects of the BDCP. Indeed, without this information, the EIR/EIS would contain virtually no specific analysis of CM2 despite the existence of sufficient project-specific information to enable such analysis. These comments apply equally to all other instances in Chapter 14 where this discussion is essentially repeated.</p>	Please see the response to Comment 1676-139. This comment has been acknowledged.
1676	194	<p>[From ATT4:]</p> <p>Chapter 14, Page 14-55, Lines 12-30:</p> <p>The CEQA Conclusion in this section -- which should relate at least in part to CM2 -- instead discusses other issues and appears to be the result of an erroneous "cut and paste." These comments apply equally to all other instances in Chapter 14 where this error is essentially repeated.</p>	The lead agencies respectfully disagree that this section is the result of an erroneous "cut and paste." The page and section (lines 12-30) of the Public Draft EIR/EIS that the commenter is referring to is part of the impact analysis related to effects on agriculture as a result of increased frequency of inundation events. Further, the section in question is discussing the time required between the end of water inundation in the Yolo Bypass and the point when ground preparation activities can begin, based on the agricultural practices (outlined in Table 14-10) in the context of determining whether the duration of inundation events would reduce the growing season for tomato, rice, safflower, corn and Sudan grass. A conclusion is made that depending on the frequency and duration of inundation events, crop selection may be constrained and that these effects would be considered economic rather than environmental. The section then goes on to discuss water flows under the CM2 scenario and losses of irrigated acres.
1676	195	<p>[From ATT4:]</p> <p>Chapter 15, Page 15-287, Lines 8-28:</p> <p>This passage describes how changes associated with CM2, particularly relating to "flood management in the Yolo Bypass," could adversely affect waterfowl and recreational uses such as hiking, hunting, and bird watching. It also attempts to describe the conclusions of a 2012 Ducks Unlimited study of waterfowl-related impacts.</p> <p>Unfortunately, the information provided is too vague to be of any significant value. The Yolo Bypass Wildlife Area receives tens of thousands of visitors each year and offers some of the best winter waterfowl hunting opportunities in the region. It also offers education programs that serve thousands of students each year, but these do not merit even a mention in the text of the draft EIR/EIS. Surely, the draft EIR/EIS can be revised to include a greatly expanded discussion of recreational and other related uses of the Yolo Bypass Wildlife Area and, in particular, how CM2 and other elements of the BDCP could affect those uses in the future. In its present state, the draft EIR/EIS says virtually nothing informative on these topics, and does not describe how the loss of such recreational and related opportunities could have an adverse environmental effect (e.g., by shifting such uses to other existing facilities).</p>	Alternatives 1A-8 presented in this Final EIR/EIS include Yolo Bypass improvements as CM2 of the BDCP conservation strategy. The lead agencies acknowledge the commenter's opinion about the potential effects of CM2 on recreation. Additional Alternatives 4A, 2D, and 5A do not include Yolo Bypass as a project component. These improvements are assumed instead under the No Action Alternative.
1676	196	[From ATT4:]	Please see the response to Comment 1676-195.

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		<p>Chapter 15, Page 15-290, Lines 16-26:</p> <p>The CEQA Conclusion addressing impacts to recreation in the Yolo Bypass and various other locations is highly general and uninformative. In a nutshell, the conclusion is that impacts are "not considered significant" because they are not "anticipated to result in a substantial long-term disruption of upland recreational opportunities."</p> <p>This absurdity is excusable for the sole reason that the draft EIR/EIS remains preliminary in nature, and will undergo substantial refinement before it is an "official" draft EIR/EIS. CM2 is not a temporary measure, but instead proposes a variety of actions that will continue for decades and perhaps into perpetuity. Managing the Bypass as seasonal floodplain habitat could thus -- absent sensible design and operational features -- have effects on recreation and related activities that are essentially permanent in nature. The County raised this concern in a letter over three years ago, in April 2010 [see ATT10], and is greatly frustrated to see that it remains essentially an afterthought in the environmental analysis under CEQA and NEPA.</p>	
1676	197	<p>[From ATT4:]</p> <p>Chapter 16, Page 16-24, Lines Table 16-13:</p> <p>This table describes crop yields, prices, and value per acre in the Delta Counties between 2005 and 2007 based on DWR data. As the table shows, rice and tomatoes -- the two most prevalent crops in the Yolo Bypass -- have a per-acre value that is between 3-7 times higher than safflower, which is often mentioned as a substitute crop that may be planted if inundation associated with CM2 precludes rice or tomatoes. This illustrates the dramatic difference in agricultural values that could result from implementation of CM2, and should be evaluated carefully in Chapter 16 and elsewhere in the draft EIR/EIS. [Note: This same principle is set forth at p. 16-46 at lines 15-17, where the text states that such changes are part of the NEPA analysis.]</p>	<p>As discussed for Impact ECON-18 under the EIR/EIS alternatives, the agricultural production and production value effects of CM2 were evaluated based on impact estimates of CM2 provided by The Yolo Bypass Flood Date and Flow Volume Agricultural Impact Analysis (Howitt et al. 2012). As described in the report, the authors used the Bypass Production Model to estimate crop acreage and production value effects of CM2. This model produced changes in crop mix and agricultural revenues, based on the model's predicted changes in crop yields and crop acreage attributable to changes in flooding and crop planting dates in the Yolo Bypass under CM2. As the Howitt report states (pg. 32), the production losses under CM2 are anticipated to be minimal and would only occur in years during which there is natural flooding. Given the minimal and periodic nature of the impacts, no crop substitution is anticipated to occur under CM2, as reflected in the modeling conducted for the Howitt report. Therefore, no assessment of potential crop substitution effects is necessary for the EIR/EIS assessment of CM2.</p>
1676	198	<p>[From ATT4:]</p> <p>Chapter 16, Page 16-36, Lines 19-29:</p> <p>The text in this location attempts to summarize relevant portions of the Yolo General Plan, identifying two General Plan policies that are relevant to socioeconomic issues. There are many more policies in the General Plan that bear on socioeconomic issues. The County can provide a suggested list of policies if requested.</p>	<p>No issues related to the adequacy of the environmental impact analysis in the 2015 RDEIR/SDEIS were raised.</p>
1676	199	<p>[From ATT4:]</p> <p>Chapter 16, Page 16-45, Lines 9-12:</p> <p>This text repeats the frequent claim that CM2-22 are conceptual, so no quantitative (or other meaningful) analysis of their environmental effects is possible. The County has commented on the problems with this approach in other chapters of the draft BDCP EIR/EIS, and it incorporates those comments by reference.</p>	<p>Please see Master Response 2 regarding program-level and project-level analyses.</p>
1676	200	<p>[From ATT4:]</p> <p>Chapter 16, Page 16-162, Lines 38-44:</p>	<p>If business owners and residents are displaced under CMs 2-21, the project proponents will provide compensation to property owners for losses due to implementation of alternatives.</p>

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		<p>Here and elsewhere in Chapter 16, the text describing a "CEQA Conclusion" states that "when required," the BDCP proponents will pay landowners for "economic losses" due to the implementation of BDCP. Compliance with state and federal constitutional provisions regarding the payment of just compensation for the governmental taking of private property is appropriate to note, but this is hardly a substitute for meaningful analysis of related indirect economic effects of the widespread conversion of Delta farmland and other private property to water supply infrastructure and habitat as part of the BDCP. Presumably, this text will be revised to include appropriate CEQA and NEPA analysis in the final draft EIR/EIS.</p>	
1676	201	<p>[From ATT4:]</p> <p>Chapter 16, Pages 16-45 and 46:</p> <p>This discussion explains the approach to evaluating economic effects under NEPA. It includes various metrics for determining when a change in relevant socioeconomic circumstances occurs due to BDCP. However, it is difficult to determine whether these metrics are applied in the balance of Chapter 16. NEPA conclusions are not presented -- only CEQA is specifically referenced in the text throughout the rest of the Chapter. The draft EIR/EIS should take a more direct and explicit approach to analyzing socioeconomic issues in the context of NEPA.</p>	<p>All chapters in the EIR/EIS describe impacts under both "NEPA Effects" and "CEQA Conclusion" headlines.</p>
1676	202	<p>[From ATT4:]</p> <p>Chapter 16, Page 16-169, Lines 5-44:</p> <p>This discussion attempts to describe effects on the Delta's regional economy due to implementation of Conservation Measures 2-22. As one would expect given the brevity (four paragraphs) of this discussion, it appears this issue has received only preliminary consideration. For instance, a fair amount of the discussion simply summarizes select portions of the Yolo County's agricultural impacts analysis before concluding that those impacts will be offset by "an increase in construction and operation and maintenance-related employment and labor income," as well as the untold (and as yet, entirely hypothetical) benefits of the Agricultural Land Stewardship Program described in Chapter 14 (Agricultural Resources).</p> <p>The County looks forward to reviewing a comprehensive analysis of this issue in the future. The current discussion of this issue is not sufficiently advance to warrant specific comments or suggestions, though the County encourages the BDCP proponents to begin expanding this analysis by referring to the list of NEPA-related socioeconomic considerations set forth at pages 16-45 and 46.</p>	<p>The comment references Chapter 16, page 16-69, lines 5-44 of the EIR/EIS. This reference is to a part of the Impact ECON-6 discussion for Alternative 4 that addresses effects on agricultural economics in the Delta Region during construction of the water conveyance facilities. The comment, however, focuses on the effects of CM2 through 22, which are not addressed under Impact ECON-6.</p> <p>Assuming that the comment was instead directed at Impact ECON-13 (EIR/EIS pages 16-176 through 16-177), which addresses the regional economic effects of CMs 2-22, the comment is not correct in stating that the analysis concludes that the agricultural economic effects would be offset by "an increase in construction and operation and maintenance-related employment and labor income." Rather, as stated in the NEPA Effects section of Impact ECON-13, the analysis concludes that implementation of CMs2-22 would be anticipated to result in a beneficial regional economic effect. However, the section goes on to state that the implementation of these CMs2-22 would also be anticipated to result in a decrease in agricultural-related employment and labor income, which would be considered an adverse effect. No statement is made that beneficial construction and operations and maintenance-related effects would offset the adverse agricultural-related effects.</p> <p>Additionally, note that the NEPA Effects conclusion for Impact ECON-13 does not state that Mitigation Measure AG-1 (Agricultural Land Stewardship Program) would offset the adverse agricultural economic effects of CMs2-22. Instead, it is stated that Mitigation Measure AG-1 would reduce the effects of CMs2-22. This Mitigation Measure is described in detail in Chapter 14, Section 14.3.3.9, Mitigation Measure AG-1, EIR/EIS.</p>
1676	203	<p>[From ATT4:]</p> <p>Chapter 16, Page 16-172, Lines 5-29:</p> <p>This discussion explains that BDCP proponents will "offset forgone property tax and assessments levied by local governments and special districts on private lands converted</p>	<p>As described in Impact ECON-4 and 16, the project proponents would make arrangements to compensate local governments for the loss of property tax or assessment revenue for land used for constructing, locating, operating, or mitigating for new Delta water conveyance facilities. When required, the project proponents would provide compensation to property owners for economic losses due to implementation of the project. Additionally, the Sacramento-San Joaquin Delta Reform Act commits the entities receiving water from the State Water Project and federal Central Valley Project to mitigate for lost property tax and</p>

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		to habitat." Yolo County has received such promises before, yet it has been more than a decade since the state paid amounts owed under state law for land within the Yolo Bypass Wildlife Area. The draft EIR/EIS needs to explain the source of this funding and affirm that it is reliable (i.e., not subject to appropriation as part of the annual state budget process). Ideally, a mechanism for such payments would be included as an enforceable mitigation measure.	assessment revenue associated with land needed for the construction of new conveyance facilities (Water Code Section 85089).
1676	204	[From ATT4:] Chapter 16, Pages 16-173 and 174, Lines 15-44 and 1-17: This discussion (relating to effects on Delta agricultural economics) is very similar to the text that is the subject of Comment 6 [Page 16-169, Lines 5-44] and differs only in that it is more narrowly focused on agricultural economic issues. Yolo County incorporates its remarks in Comment 6 by reference.	Please see the response to Comment 1676-202.
1676	205	[ATT5: Comments of Yolo County on Preliminary Draft Chapters of the Bay Delta Conservation Plan Environmental Impact Report/Environmental Impact Statement (EIR/EIS). Letter to U.S. Bureau of Reclamation dated April 16, 2012. Same as ATT2.]	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1676	206	[ATT6: June 2013 ICF response to Yolo County's 2012 comment letter [ATT5].]	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1676	207	[ATT7: The Yolo Natural Heritage Program Interface with the Bay Delta Conservation Plan Background, Summary, and Remaining Issues. May 23, 2013.]	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1676	208	[ATT7: att1: Figure 1-2. Map of BDCP Plan Area in Relation to Neighboring Conservation Plan Boundaries.]	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1676	209	[From ATT7:] BDCP Fremont Weir and Yolo Bypass Modifications and Operations: The BDCP includes a conservation measure to modify the Fremont Weir and Yolo Bypass and to operate the Fremont Weir to increase the availability of floodplain habitat for spawning and rearing for juvenile salmon and splittail, increase food production on and downstream of the Yolo Bypass, and improve fish passage in and near the Yolo Bypass for adult salmon, sturgeon, and other fish species. The Fremont Weir and Yolo Bypass will be modified with an operable gate and operated to improve rearing and spawning habitat for covered fish species, provide for a higher frequency and duration of inundation of the Yolo Bypass, and improve fish passage in the Yolo Bypass, Putah Creek, and past the Fremont and Sacramento weirs. These actions are expected to result in some removal of riparian, grassland, wetland, and agricultural habitats within the footprint of new structures and could alter the farming practices if necessitated by BDCP Fremont Weir operations. (The BDCP has not yet fully developed the Yolo Bypass project and Yolo County is working with BDCP to identify and minimize potential impacts of the proposal.) Implementation of this BDCP conservation measure affects Yolo HCP/NCCP natural communities and covered species in Yolo HCP/NCCP Planning Units 17 and 18, including giant garter snake habitat if farmers can no longer produce rice in the Yolo Bypass as a	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. 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

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		result of increased flooding.	<p>habitat enhancements, 8,000 acres of tidal habitat restoration), (2) California EcoRestore, and (3) the 2014 California Water Action Plan.</p> <p>For more information regarding impacts to terrestrial resources and land use and its mitigation measures, please see Chapters 12 and 13, respectively.</p>
1676	210	<p>[From ATT7:]</p> <p>Habitat Protection and Restoration:</p> <p>The BDCP includes the following actions to protect and restore habitat, a portion of which could be implemented in the Yolo HCP/NCCP Plan Area. Maps from the draft plan showing giant garter snake and Swainson’s hawk habitat in Yolo County are included at the back of this paper for comparison [see ATT7: att2 and ATT7: att3], since these are the two species for which there may be the most significant overlap with BDCP conservation efforts.</p> <p>* Restoration of over 5,000 acres of tidal habitat in the Cache Slough/lower Yolo Bypass area, some of which could be implemented in Planning Unit 18. This habitat is primarily focused on restoring habitat for covered fish species, but will also provide benefits for many terrestrial covered species. (Based on conversations with BDCP staff, it is expected that approximately 1,400 acres of this tidal marsh restoration will occur in Yolo County on the Yolo Ranch. The rest is expected to occur in Solano County.)</p> <p>* Restoration of at least 5,000 acres of riparian habitat, some of which could be implemented in the Planning Units 15, 17, 18, and 21. At least 3,000 acres of the restored riparian habitat will occur on restored floodplains in the south or east Delta. The remaining acreage can be distributed throughout the BDCP plan area, a portion of which is likely to occur as a component of the tidal habitat restoration in the Cache Slough/lower Yolo Bypass area.</p> <p>* Restoration of at least 600 acres of nontidal wetland in Planning Units 17, 18, or 11. [Footnote 1: BDCP has expanded its Plan Area to include a portion of Planning Unit 11 to accommodate protection and restoration of giant garter snake habitat, of which nontidal wetland is a component.]</p> <p>* Protection and enhancement of 5,000 acres of managed wetland, some of which could be implemented in Planning Units 17 and 18. It is likely that protection and enhancement of managed wetland will be focused in Solano County to meet the needs of species that occur in Suisun Marsh.</p> <p>* Protection of grassland, some of which could be implemented in Planning Unit 18. The majority of the conservation would occur in BDCP conservation zones outside Yolo County.</p> <p>* Restoration of 2,000 acres of grassland, some of which could be implemented in Planning Units 11, 16, and 18 to provide upland habitat adjacent to tidal and nontidal wetlands.</p> <p>* Protection of at least 45,405 acres of cultivated lands throughout the BDCP plan area, much of which will be required to be in alfalfa rotation, and plant trees and establish hedgerows on protected lands, some of which could be located in Planning Units 15-18.</p>	<p>This comment quotes the 2013 Draft BDCP.</p>

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		<p>This protection of cultivated lands is primarily driven by the needs of the Swainson’s hawk, sandhill crane, and giant garter snake, but several other covered species will also benefit.</p> <p>* Protection of at least 50 acres of occupied/recently occupied tricolored blackbird nest sites, some of which could be implemented in Planning Units 15-18 if unprotected tricolored blackbird nest sites are present.</p> <p>These habitat restoration and protection objectives will be implemented such that at least 800 acres of giant garter snake habitat is restored and at least 700 acres, comprised of cultivated lands, is protected (at least 500 acres of rice) adjacent to the Yolo Bypass (Planning Units 17 and 18).</p>	
1676	211	<p>[From ATT7:]</p> <p>Coordination with local HCP/NCCPs:</p> <p>The BDCP overlaps several HCP and NCCP plan areas, in addition to the Yolo HCP/NCCP. To coordinate BDCP implementation in overlapping plan areas, the BDCP proposes to enter into partnerships with the HCP/NCCP Implementing Entities. The 2013 draft of the BDCP identifies the following criteria for establishing these partnerships (Section 3.2.4.2.3 on page 3.2-26 and 3.2-27).</p> <p>* The BDCP is responsible for the mitigation of its effects.</p> <p>* The mitigation actions and the mitigation requirements of the BDCP must be additive to the mitigation obligations of other plans (i.e., BDCP mitigation cannot supplant the mitigation obligations of other plans and vice versa).</p> <p>* In cases where the BDCP shares the goal of providing for the conservation of covered species with another conservation program, where actions contributing to species or natural community conservation are not related to either program’s mitigation requirements and limited opportunities exist for either plan to achieve its goal separately, the BDCP and the other conservation program may share conservation credit for the same action with fish and wildlife agency approval. (This situation is most likely to arise for requirements to protect rare and fragmented natural communities.)</p> <p>* Actions contributing to species or natural community conservation, when implemented by another conservation program in the Plan Area on behalf of the BDCP, could be funded by the BDCP to cover the costs of initial implementation, long-term management, long-term monitoring, and remedial actions.</p> <p>The Yolo HCP/NCCP will comment on the 2013 draft of the BDCP, including the above coordination criteria. It is important to keep in mind, however, that the BDCP (as an HCP/NCCP) must be granted a permit by the state Department of Fish and Wildlife and U.S. Fish and Wildlife Service, similar to the Yolo HCP/NCCP. As a result, the wildlife agencies view of acceptable means to coordinate overlapping plan areas is more important than language in the draft BDCP document. DFW staff have expressed that the above language in the BDCP draft is not permit-worthy. In addition, DFW staff have consistently indicated over time that it is unlikely the BDCP and other conservation programs may share conservation credit for the same action with fish and wildlife agency approval. DFW staff have further indicated that additional discussion is needed to</p>	<p>As part of the planning and environmental assessment process, the project proponents will incorporate environmental commitments and best management practices into the action alternatives to avoid or minimize potential adverse effects (a NEPA term) and potential significant impacts (a CEQA term). The project proponents will implement these environmental commitments as part of the project construction activities.</p> <p>For more information regarding Environmental Commitments, please see Appendix 3B of the RDEIR/SDEIS. Please also see Master Response 22.</p>

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		<p>determine whether actions implemented by another conservation program in the Plan Area on behalf of BDCP to achieve species or natural community conservation goals could receive funding from BCP to cover the costs of initial implementation, long-term management, long-term monitoring, and remedial actions.</p>	
1676	212	<p>[From ATT7:]</p> <p>Mechanism for achieving conservation objectives in BDCP overlap areas:</p> <p>The Yolo County Joint Powers Authority (JPA), BDCP, and the wildlife agencies, must establish a mechanism must to provide assurances to all parties that the conservation objective for covered species can be met in the area of overlap between the Yolo HCP/NCCP and BDCP by either or both plans. The California Department of Fish and Wildlife (CDFW) and United States Fish and Wildlife Service (USFWS) have indicated they will work with the Yolo HCP/NCCP to establish the conservation objective for species covered by both plans in the area of plan overlap, independent of the mitigation requirements of either plan, and based upon the guidance of published recovery plans and the best available science. Where actions contributing to species or natural community conservation are not related to either program’s mitigation requirements, the wildlife agencies have indicated that either plan or both plans may contribute to meet the conservation objective, with agreements and assurances made through an implementing instrument such as a Memorandum of Understanding (MOU). Given limited availability of local sources of funding to meet Yolo HCP/NCCP habitat restoration and protection objectives, coordination with BDCP may be a critical component of the success of the Yolo HCP/NCCP. Further discussion about potential increases in funding to the Yolo HCP/NCCP in return for coordination with BDCP and/or means to reduce Yolo HCP/NCCP costs will be a critical component of future discussions with both BDCP and the wildlife agencies.</p>	<p>Please also see section 12.3.6 of the Final EIR/EIS for a discussion of impacts on other conservation plans. Please see RDEIR/SDEIS Appendix 3D Attachment 3D-A for more information regarding descriptions of programs, projects, and policies considered for Existing Conditions, No Action Alternative, No Project Alternative, and Cumulative Impact Analysis for the EIR/EIS.</p>
1676	213	<p>[From ATT7:]</p> <p>Mitigation for BDCP impacts outside of Yolo County within Yolo County (and vice versa):</p> <p>The Yolo County Joint Powers Authority (JPA), wildlife agencies, and BDCP need to develop policies related to BDCP mitigation efforts implemented in the Yolo HCP/NCCP Plan Area for impacts of BDCP actions outside of the Yolo HCP/NCCP Plan Area and vice versa -- the potential for BDCP to mitigate outside of the Yolo HCP/NCCP Plan Area for BDCP impacts in the Yolo HCP/NCCP Plan Area. Both situations could negatively affect the ability of the JPA to achieve Yolo HCP/NCCP biological objectives.</p>	<p>Please see the response to Comment 1676-212.</p>
1676	214	<p>[From ATT7:]</p> <p>Assurances re Yolo HCP/NCCP permit commitments:</p> <p>The Yolo County Joint Powers Authority (JPA), wildlife agencies, and BDCP need to discuss the possibility of USFWS and DFW assurances in the Yolo HCP/NCCP regarding any failure of Yolo HCP/NCCP to achieve Yolo HCP/NCCP permit commitments resulting from implementation of permitted BDCP actions. Such assurances would include mechanisms for ensuring Yolo HCP/NCCP commitments can be achieved into the future regardless of BDCP conservation actions in Yolo County. The wildlife agencies have indicated that if BDCP is permitted first, the JPA and the wildlife agencies should be able to anticipate some of BDCP’s implementation actions, so the Yolo HCP/NCCP could be developed in</p>	<p>Please response to Comment 212.</p>

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		coordination with BDCP implementation actions.	
1676	215	<p>[From ATT7:]</p> <p>Consistency of BDCP and Yolo HCP/NCCP implementation actions:</p> <p>The Yolo County Joint Powers Authority (JPA), wildlife agencies, and the BDCP need to ensure consistency of BDCP habitat restoration, protection, and management actions in the Yolo HCP/NCCP Plan Area with Yolo HCP/NCCP implementation requirements (e.g., mitigation requirements, application of conservation land assembly principles). The wildlife agencies have indicated there is a mechanism for addressing the consistency issue through a process that is part of the Natural Community Conservation Planning Act related to interim projects, which needs to be further explored as part of this discussion. BDCP proposed actions currently include, for example, the easement requirement for Swainson’s hawk of maintaining 50% of land under Swainson’s hawk easements in alfalfa in perpetuity. Some farmers have expressed concern about such requirements and therefore more discussions with landowners and farmers are needed before the JPA can agree to base the Yolo HCP/NCCP conservation strategy on such requirements. (See Swainson’s hawk issue paper developed by the JPA.) Another example includes mitigation for loss of giant garter snake habitat in the Yolo Bypass (e.g. rice and wetlands). The USFWS is currently considering permitting a giant garter snake mitigation bank in the Bypass, but the USFWS recovery strategy for giant garter snake discourages preservation of giant garter snake habitat in the Bypass. Such issues need to be resolved as both BDCP and the Yolo HCP/NCCP move forward. [Footnote 2: The Bay Delta Field Office of the USFWS will likely be providing some language to help clarify any issues regarding mitigation banks.]</p>	Please see response to Comment 212.
1676	216	<p>[From ATT7:]</p> <p>Land cost increases or other impacts resulting from competition:</p> <p>The wildlife agencies, BDCP and the Yolo County Joint Powers Authority (JPA) need to identify mechanisms for avoiding/minimizing competition between Yolo HCP/NCCP and BDCP for acquisition of lands necessary for Yolo HCP/NCCP and BDCP to achieve their biological goals and objectives and permit commitments. Such mechanisms could include coordination prior to making offers to purchase available land from willing sellers. Without such coordination, land and easement costs could increase as a result of competition between BDCP and the Yolo HCP/NCCP for conservation lands for covered species in Yolo County. (In Merced County, the University of California at Merced paid a large sum for land to mitigate for vernal pool impacts. This purchase impacted the price of land for vernal pool mitigation within the County.) Such mechanisms should include policies for ensuring effective coordination between the Plans during implementation to avoid conflicts and to increase implementation cost effectiveness (e.g., consolidated monitoring of biological resources, management of contiguous Yolo HCP/NCCP and BDCP conservation lands) and mechanisms for addressing any impacts of BDCP actions on Yolo HCP/NCCP protected lands.</p>	Please see response to Comment 212.
1676	217	[ATT7: att2: Figure A-21. Map of Swainson's Hawk Modeled Habitat and Nest Sites.]	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.

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1676	218	[ATT7: att3: Figure A-19. Map of Giant Garter Snake Modeled Habitat and Occurrences.]	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1676	219	[ATT8: April 16, 2013 letter from Sacramento-San Joaquin Delta Counties Coalition to Bureau of Reclamation. Regarding Yolo County's proposed BDCP governance structure model. Also draft paper "Bay Delta Conservation Plan -- Enhancing Local Control" prepared by Yolo County.]	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1676	220	<p>[From ATT8:]</p> <p>The proposed [Yolo County] governance model includes the following key elements:</p> <ul style="list-style-type: none"> * Executive Council. The Executive Council sits atop the organizational structure of BDCP governance entities. Its 11 voting members include senior federal and state officials (six total members), together with elected representatives of the five Delta Counties (five total members). The Executive Council also includes two non-voting seats reserved for representatives of the CVP and SWP contractors. The Executive Council would be responsible for both the completion of planning for the BDCP and the actual implementation. * Technical Advisory Group (TAG). Appointed by the Executive Council, the TAG takes the place of the Adaptive Management Team described in the existing governance framework in Chapter 7 of the draft BDCP. It will begin work shortly after the Executive Council is formed, and its primary function is to provide the Executive Council with objective technical and scientific expertise from a range of disciplines to guide decisions relating to BDCP planning and implementation. * Permit Oversight Group (POG). Also appointed by the Executive Council, the POG is responsible for evaluating compliance (post-BDCP approval) with BDCP permit terms and interacting with the Executive Council and TAG on related matters. As described herein, the POG would perform many of the same tasks as currently described in Chapter 7 of the draft BDCP (entitled "Implementation Structure"). * Program Manager. The Program Manager is to be retained by the Executive Council for day-to-day activities associated with BDCP implementation. The Program Manager interacts with the TAG and the POG, and also conducts public outreach (including management of the Coordinating Council). * Coordinating Council. The Executive Council also appoints a Coordinating Council to serve as a stakeholder forum that facilitates regular information sharing, feedback, and some measure of broader public influence in the BDCP planning and implementation process. Like the POG, the Coordinating Council is currently described in Chapter 7 of the draft BDCP (denominated therein as a stakeholder council). 	The comment is noted regarding a new proposed governance model for BDCP implementation. Please see Master Response 5 for more information regarding the BDCP, including governance.
1676	221	<p>[From ATT8:]</p> <p>In comparison with the governance framework currently described in Chapter 7 ("Implementation Structure") of the draft BDCP, the proposed [Yolo County] model does not merely envision "governance" as something that begins after BDCP is fully approved. Rather, the proposed model establishes a governance structure that applies to both BDCP planning and implementation. In this respect, the proposed model addresses the current</p>	Please see the response to Comment 1676-220.

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		<p>absence of local government participation in the BDCP planning effort, which is governed solely by the January 2012 Memorandum of Agreement between various agencies and the water contractors. Additionally, the proposed model greatly strengthens the role of local governments in BDCP implementation. It gives the Delta counties a prominent position within the lead governance entity, the Executive Council, rather than consigning the Delta counties to membership with dozens of other entities and the general public on a "stakeholder council." These changes respond to fundamental problems with the BDCP that must be addressed, whether by advancing the approach described in this paper or otherwise.</p> <p>Presently, the Delta counties seek feedback on the composition and general role of the proposed Executive Council in BDCP planning, approval, and implementation. The composition and role of other subordinate governance entities described in this paper remains conceptual and is subject to further refinement. With that caveat, comments on those entities and their functions are also welcomed.</p> <p>Governance Entities: Composition and Roles:</p> <p>A. BDCP Executive Council (EC)</p> <p>Consists of eleven voting members from federal (3) and state (3) agencies and elected local governments (5). Two non-voting seats will also be held by CVP and SWP water contractor representatives.</p> <p>(1) Members are: Bureau of Reclamation, U.S. Fish and Wildlife Service, National Marine Fisheries Service, Delta Conservancy, Department of Water Resources, Department of Fish and Wildlife, and Yolo, San Joaquin, Sacramento, Solano, and Contra Costa Counties. Two representatives of the CVP and SWP contractors will also participate in a non-voting capacity.</p> <p>(2) Engages in BDCP planning and environmental review, supported by appropriate staff and consultant expertise (including the Technical Advisory Group). Ultimately, in addition to the individual agency actions necessary for BDCP approval as an HCP/NCCP under federal and state laws, the EC votes as a group to approve the final BDCP.</p> <p>(3) During BDCP implementation, the EC receives all substantive information from the Technical Advisory Group, the Permit Oversight Group, and the BDCP Program Manager.</p> <p>(4) EC provides input to the BDCP implementation process through Technical Advisory Group and Permit Oversight Group.</p> <p>(5) EC decides policy regarding BDCP, including decisions on the allocation of resources, the priority of capital improvements, how the BDCP Program Manager's office is staffed, the staff qualifications, the scope of the authority of the TAG, the POG and the Program Manager, and the budget.</p> <p>(6) EC decides on implementation steps for BDCP, including review and approval of actions undertaken to implement conservation measures, adaptive management, mitigation, and all related matters.</p> <p>(7) EC votes on all significant matters concerning BDCP implementation, and proceeds by consensus or, where broad consensus is not achievable, by majority vote. Where federal or state agency proposal or action is involved, that agency does not vote, since it would</p>	

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		<p>be a conflict of interest for the responsible agency to vote on its own proposal.</p> <p>(8) EC is authorized by federal and state legislation and funded by federal and state funds. EC will require an initial MOU or similar document to guide its organization and functions, as well as to provide a decisionmaking process that includes robust dispute resolution provisions (including the potential for resort to third-party mediation or other forms of alternative dispute resolution).</p> <p>(9) EC appoints BDCP Program Manager and provides advice and direction to the Program Manager regarding office staffing. Each EC member also appoints a member of the Technical Advisory Group, the Permit Oversight Group, and the Coordinating Council.</p> <p>B. BDCP Technical Advisory Group (TAG)</p> <p>The TAG will provide relevant scientific and technical expertise to the EC, Permit Oversight Group, and Program Manager during BDCP planning, approval, and implementation. It is not a decisionmaking body, but instead provides advice by consensus. It will consist of individuals with scientific and technical qualifications in water resources, fisheries and wildlife, and agriculture (among other relevant disciplines). Each EC member will appoint one member of the TAG.</p> <p>Some of the principal functions of the TAG may include:</p> <p>(1) Identify special status species, not already identified in existing draft documents.</p> <p>(2) Assemble additional baseline information on agriculture, hydrologic, geologic, habitat and special status species, not already assembled in existing draft documents.</p> <p>(3) Develop and implement a continuing baseline-monitoring program within the statutory Delta and any other areas affected by the BDCP.</p> <p>(4) Create and operate a computer model of the BDCP, including both an accounting model for the movement of water and a predictive model for impacts from BDCP decisions on agriculture, water resources, species and habitat.</p> <p>(5) Identify representative sample of indicators to monitor and establish early signs of adverse effects on agriculture, water resources or species.</p> <p>(6) Develop a monitoring plan for detecting adverse effects to agriculture, water resources and species.</p> <p>(7) Identify and seek funding for research projects to help characterize relationship among agricultural, water and biological resources.</p> <p>(8) Specify procedures for data management, sharing, analysis and reporting.</p> <p>(9) Coordinate with the Permit Oversight Group.</p> <p>(10) Develop recommendations to mitigate unreasonable effects on agriculture, water resources and species from individual projects that implement the BDCP, especially where such mitigations were not fully identified or developed during the EIR/EIS process.</p> <p>(11) Monitor success of mitigation efforts and propose any changes to increase mitigation</p>	

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		<p>effectiveness or otherwise adjust mitigation for consideration by EC.</p> <p>C. BDCP Permit Oversight Group (POG)</p> <p>The POG is responsible for overseeing compliance with BDCP permits and approvals, including Section 7 and Section 10 permits under the federal ESA. Its members are appointed by the Executive Council (one each). Some of its principal functions may include:</p> <ol style="list-style-type: none"> (1) Using baseline information from the TAG to monitor status of species. (2) Developing and implementing monitoring programs to ensure that reasonable and prudent measures and terms and conditions of the incidental take permits are met. (3) Consulting with the TAG on water resource issues related to indicator species. (4) Preparing monitoring reports on species status. (5) Making recommendations to the Executive Council on conservation measures related to BDCP implementation. <p>D. BDCP Coordinating Council</p> <p>The Coordinating Council will serve as the public outreach and information sharing arm of the BDCP governance structure. Its members will consist of EC member appointees, stakeholders, environmental groups, together with other NGOs, scientific organizations, university professionals, water districts, and other local governmental entity representatives. Some of its principal functions may include:</p> <ol style="list-style-type: none"> (1) Receiving periodic reports and updates from the BDCP Program Manager, TAG and POG. (2) Reviewing and providing comments on all technical and policy related information used by the BDCP Program Manager, TAG and POG. (3) Commenting, both individually and as a group, upon proposals, actions and recommendation related to implementation of BDCP. <p>E. BDCP Program Manager</p> <p>The BDCP Program Manager is responsible to the Executive Council for overall implementation of BDCP and permits in accordance with Council direction. The Program Manager will retain and manage appropriate staff and consultant expertise to (a) prepare and oversee the BDCP budget; (b) prepare and oversee work plans; (c) coordinate closely with the TAG and POG on implementation recommendations and other matters; (d) prepare reports on compliance and progress of implementation; and (e) work with the Coordinating Council to provide information, receive comments, and provide responses.</p>	
1676	222	[ATT9: White paper re: Models for governance to be used in Bay Delta Conservation Plan. Prepared for Yolo County by Michael J. Van Zandt, Hanson Bridgett LLP. April 12, 2013.]	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS..

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1676	223	<p>[From ATT9:]</p> <p>The purpose of this Paper is to describe various models that have been used in the past by federal, state and local governments in managing projects or initiatives where the interests of all three entities are involved. Yolo County (and other affected Delta counties) is interested in taking a more proactive role in the decision making associated with the Bay Delta Conservation Plan (BDCP). The BDCP involves many different aspects of water resource management in and around the Bay/Delta. All of these activities have the potential to impact local governmental entities. It is important in these federal and state processes that local government is not overlooked, and that the concerns of the local populace, who may be most affected by these decisions, be included not only by public comment, but that their elected representatives have a meaningful input to the planning process and implementing decisions.</p> <p>Federal and state agencies are sometimes reluctant to allow meaningful local participation in the decision making process for a variety of reasons. Those reasons may be policy-based, budget-based, or authority-based to name a few. Overcoming these objections, however, is possible where the need for an inclusive, credible approach supports having the local government at the table assisting, as opposed to having the local government on the outside criticizing the actions. It takes a commitment on both sides to work by consensus and only when the position of a local government is truly incompatible with legitimate federal or state policies or interests should there be a recognition that the local government's position cannot be accommodated.</p> <p>Many times the source of the inspiration for cooperation between federal, state and local governments on a major project comes from the United States Congress. The Congress has recognized in the context of the National Environmental Policy Act that the cooperation of local government is absolutely necessary to accomplish the environmental goals and project goals that are authorized. So for example, 40 CFR 1501.6, 1506.2 and 1508.5 all address the question of cooperating agencies and encourage close cooperation between the federal agency and local agencies, especially for the purposes of avoiding duplication and to allow for joint planning.</p> <p>The Federal Land Policy Management Act also contains specific direction to the Secretary of Interior to allow for the participation of state and local government in the commenting on the formulation of standards and criteria for the execution of the Secretary's plans and programs, but also to require the Secretary to allow state and local government the opportunity to participate in the preparation and execution of such plans and programs. 43 U.S.C. [Sections] 1712(c)(9), 1739(e). The Secretary must also establish advisory councils of ten to fifteen members appointed by the Secretary from representatives of the various major citizens' interests concerning land use planning in the area where the public lands are located. At least one of the representatives shall be an elected official of general purpose government serving the people in the area. 43 U.S.C. [Section] 1739(a).</p> <p>The federal Endangered Species Act (ESA) also requires cooperation with state and local agencies to resolve water resource issues in concert with conservation of endangered species. The ESA states: "It is further declared to be the policy of Congress that Federal agencies shall cooperate with State and local agencies to resolve water resource issues in concert with conservation of endangered species." 16 U.S.C. [Section] 1531(c)(2).</p> <p>There are also federal regulations that require coordination and consultation with state and local agencies to reduce duplication between NEPA and state and local requirements.</p>	<p>The 2013 public draft BDCP proposes that the Delta counties be involved in implementation through the Stakeholder Council, an advisory body to the Authorized Entity Group. An additional role in implementation for Delta counties was being considered by DWR (see public draft Implementing Agreement). Please see Master Response 5 for more information related to BDCP, including governance.</p> <p>An Implementation Agreement is no longer required under this new regulatory approach. Impacts on Delta counties have also been substantially reduced with the reduction in proposed tidal wetland restoration. However, DWR appreciates Yolo County's interest in a more substantial role in the decision-making associated with the BDCP. If an alternative is selected that includes BDCP or an HCP/NCCP, DWR would restart discussion with Delta counties, including Yolo County, regarding their special role in plan implementation as it relates to CM2 and the Yolo Bypass.</p>

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		<p>The cooperation extends to: 1) joint planning processes; 2) joint environmental research and studies; 3) joint public hearings; and 4) joint environmental assessments. 40 C.F.R. [Section] 1506.2. Moreover, this section directs federal agencies to cooperate with state and local agencies to the fullest extent possible to reduce duplication of efforts. Subsection (d) of section 1506.2 states:</p> <p>To better integrate environmental impact statements into state and local planning processes, statements shall discuss any inconsistency of a proposed action with any approved state or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law.</p> <p>Thus, there is significant authority requiring federal agencies to coordinate with Yolo County and, importantly, to substantively address inconsistencies with plans and laws that Yolo County has adopted.</p> <p>Under California law, the Natural Communities Conservation Planning Act (Cal. Fish & Game Code [Sections] 2800 et seq.) (NCCPA) similarly requires coordination with local government in developing a Natural Communities Conservation Plan such as the BDCP. Indeed, the Legislature expressly found in adopting the NCCPA that:</p> <p>Natural community conservation planning promotes coordination and cooperation among public agencies, landowners, and other private interests[.] (Cal. Fish & Game Code [Section] 2801(d).)</p> <p>and</p> <p>Natural community conservation planning is a voluntary and effective planning process that can facilitate early coordination to protect the interests of the state, the federal government, and local public agencies, landowners, and other private parties. (Cal. Fish & Game Code [Section] 2801(f).)</p> <p>Consistent with these findings, the NCCPA authorizes the California Department of Fish and Wildlife to enter into planning agreements for individual plans "in cooperation with a local agency that has land use permit authority over the activities proposed to be addressed in the plan, to provide comprehensive management and conservation of multiple wildlife species...." (Cal. Fish & Game Code [Section] 2810(a).) Consistent with the holding in California Native Plant Society v. City of Rancho Cordova (2009) 172 Cal. App. 4th 603, it is likely that these provisions of the NCCP would be read broadly to require meaningful involvement of affected local governments—and in particular, involvement by those local governments with "land use permit authority" over activities to be carried out pursuant to the BDCP.</p> <p>As these statutes, regulations and cases illustrate, it is both necessary and appropriate for Yolo County to be included meaningfully in the planning and implementation of the BDCP, including any related governance structures.</p>	
1676	224	<p>[From ATT9:]</p> <p>The existing proposal for BDCP governance would relegate the counties to a fifty (50)</p>	Please see response to Comment 223.

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		<p>member stakeholder group, including environmental groups, non-governmental organizations, and concerned citizens. The stakeholder group is designed as an informational forum where the BDCP Governing Body may, but is not obligated to, share information about the BDCP planning and implementation process. The stakeholder group is not permitted to provide input or advice to the BDCP Governing Body because receiving such advice from the private citizens and other non-governmental groups would violate the Federal Advisory Committee Act. Including Yolo County in this stakeholder group does not meet either the letter of the spirit of the federal laws and regulations requiring meaningful participation by local governments in federal programs, nor would it fulfill state requirements under the NCCPA.</p> <p>There are several models for BDCP Governance. They range from bodies where the parties receive only information to bodies where voting authority exists to actually decide how programs will be planned and implemented. Usually, there are several levels of governance, with the highest level consisting of elected officials from local government with appointed officials from state and federal agencies, along with Indian Tribes. This group is often called the Executive Coordinating Council. At the second level there is the Advisory Group or Council who actually makes decisions about the project, and where votes are actually taken. Many times it takes a supermajority (two-thirds) to pass an item. Below that are Technical Advisory Groups or Teams (TAG/TAT) which provide recommendations to the Advisory Council. The TAG consists mainly of qualified scientists or professionals who can develop and evaluate alternatives for consideration and can also track progress.</p> <p>Here are some examples.</p> <p>1. Truckee River Operating Agreement (TROA)</p> <p>This agreement was mandated by 1990 federal legislation entitled: Truckee-Carson-Pyramid Lake Water rights Settlement Act, P.L. 101-618, 104 Stat. 3294, November 16, 1990. The act was designed to provide for a resolution of an Interstate Compact between California and Nevada and to create a new operating agreement on the Truckee River. The operating agreement or TROA was signed in 2008, but has not gone into effect.</p> <p>The governing scheme consists of two layers of parties. First, the primary signatories are the United States, California, Nevada, Pyramid Lake Paiute Tribe of Indians, and the Truckee Meadows Water Authority (TMWA), a joint powers agency. TMWA consists of three governmental entities, Washoe County, City of Reno and City of Sparks, Nevada. These agencies have overall executive control over TROA. The Executive Committee of five, including the JPA, have the power to name and hire the Administrator of TROA, to set the budget, to provides plans for improving the reservoirs and to implement the water exchange programs. The other 20 signatories to TROA act more in an advisory capacity. The U.S. Congress has been funding the efforts of the major participants by providing \$10M to \$20M per year.</p> <p>2. Klamath Basin Restoration Agreement</p> <p>This Klamath Basin Restoration Agreement (KBRA) was negotiated by the Department of Interior and will require the remove of four dams in the Klamath Basin and restoration of the rivers for fisheries. The parties will be seeking federal funding and federal legislation to authorize their activities in a federal settlement act.</p>	

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		<p>The governance provisions of the KBRA consist of three major tiers. First, the agreement establishes the Klamath Basin Coordinating Council. On this council are all the federal agencies, California, Oregon, Indian Tribes and the Counties of Klamath, Oregon, Siskiyou, Humboldt, and Del Norte, California. Conservation/Restoration Groups and Fishery Groups may also be represented. Despite its name, this Council is not designed to provide advice to the federal agencies. It is a coordinating body only. This is to avoid the Federal Advisory Committee Act (FACA) requirements, which are stringent.</p> <p>The second tier is the Klamath Basin Advisory Council. This body consists of federal, state, local government, and Tribal representatives, who are the only voting members. The council must comply with the FACA. Other entities may participate in the Advisory Council, but they are not voting members. When a recommendation for a specific federal agency is being voted on, that agency becomes a non-voting member.</p> <p>The third tier is the Technical Advisory Team (TAT). Any party with technical expertise may participate in the TAT. Funding is to be supplied through federal appropriations. The TAT is tasked to use the technical expertise of the parties with expertise in water resources and fisheries management to inform the implementation of the Agreement. The TAT makes recommendations to the non-federal agencies.</p> <p>3. Coyote Springs Memorandum of Agreement</p> <p>The Coyote Springs Memorandum of Agreement (MOA) relates to the Coyote Springs hydrologic basin in eastern Nevada. The agreement is among the Southern Nevada Water Authority, which is a joint powers authority of a number of local water districts in and around Las Vegas, and a political subdivision of the state of Nevada, the United States Fish and Wildlife Service (USFWS), the Coyote Springs Investment LLC, the Moapa Band of Paiute Indians, and the Moapa Valley Water District, also a local government entity. The purpose of the MOA is to allow for the protection and recovery of the endangered Moapa dace.</p> <p>Under the governance scheme created by the MOA, the parties listed above have created a Hydrologic Review Team (HRT). Each party appoints two representatives to the HRT, including at least one with substantial formal training and experience in hydrogeology. The two HRT Representatives from each party have one vote on HRT matters. The HRT by consensus may offer voting or non-voting membership to others who may provide regional monitoring records and analyses to the HRT.</p> <p>The objectives of the HRT are: 1) to identify opportunities and make recommendations for the purpose of coordinating and ensuring accuracy, consistency and efficiency in monitoring, other data collections, and analytical activities under a Regional Monitoring Plan; 2) to establish technically sound analyses of impacts on Muddy River Springs and Muddy River flows resulting from regional groundwater pumping; 3) to assess whether pumping restrictions should be adjusted; and 4) to adopt by consensus appropriate adjustments to pumping restrictions.</p> <p>The Technical Representatives to the HRT provide an annual report to the HRT containing a well-documented analysis of regional pumping, and recommendations for pumping restriction adjustments.</p> <p>If the HRT cannot agree on annual determinations for pumping restrictions, then the matter may be referred to a peer review group of qualified scientists, having substantial</p>	

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		<p>formal training in hydrogeology. The makeup of the panel may be from the U.S. Geological Survey, the Desert Research Institute and a private firm with the requisite qualifications, appointed by the majority of the parties to the HRT. Funding for the HRT is provided by each of the parties in equal shares.</p> <p>The goal of the governance scheme for BDCP should be to allow maximum participation and meaningful input for local government entities like Yolo County, much like the Klamath model, with federal or other outside funds supporting the activities. The BDCP planning process should be fundamentally reorganized to allow Yolo County (and other Delta counties) to participate in a meaningful manner as the federal law provides. As reflected in the proposed governance model developed by the County, this should also carry over into the implementation phase of the BDCP to ensure full and meaningful participation for Delta local governments.</p>	
1676	225	[ATT10: Letter from Yolo County to California Natural Resources Agency re: Bay Delta Conservation Plan -- Yolo Bypass/Fremont Weir Modification. April 10, 2010.]	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1676	226	<p>[From ATT10:]</p> <p>Under no circumstances will Yolo County support the Fremont Weir/Yolo Bypass Habitat Improvements Conservation Measure unless:</p> <p>Flood protection afforded by the Yolo Bypass is maintained. The County cannot accept changes in the Yolo Bypass that increase the level of flood risk to local properties. The design and operation of the Conservation Measure must not have an adverse effect on the flood protection function of the Bypass.</p>	For more information regarding floods and levees, please see Master Response 8. Please also see Master Response 5 for further information regarding BDCP, including CM2.
1676	227	<p>[From ATT10:]</p> <p>Under no circumstances will Yolo County support the Fremont Weir/Yolo Bypass Habitat Improvements Conservation Measure unless:</p> <p>Agriculture in the Yolo Bypass is preserved. Agricultural activities in the Bypass are a significant contributor to the County's agricultural economy, the operation of the Yolo Bypass Wildlife Area, and the flood protection afforded by the Bypass. The Conservation Measure must include appropriate design and operational criteria to avoid jeopardizing agriculture -- particularly the cultivation of rice -- in the Yolo Bypass.</p>	For more information regarding agricultural impacts and its associated mitigation measures, please see Chapter 14 of the Final EIR/EIS. Please also see Master Response 5 for further information regarding BDCP, including CM2. Please also see Master Response 18 regarding agricultural impact mitigation.
1676	228	<p>[From ATT10:]</p> <p>Under no circumstances will Yolo County support the Fremont Weir/Yolo Bypass Habitat Improvements Conservation Measure unless:</p> <p>The Yolo Bypass Wildlife Area is protected. The habitat, recreational, and educational opportunities afforded by the Wildlife Area make it an invaluable asset to Yolo County and the surrounding region. The Conservation Measure should not jeopardize the Wildlife Area and, if possible, it should be enhanced and preserved in perpetuity as part of the Bay Delta Conservation Plan ("BDCP").</p>	This comment has been acknowledged. Please see Master Response 5 for more information regarding the BDCP, including CM2.
1676	229	<p>[From ATT10:]</p> <p>Under no circumstances will Yolo County support the Fremont Weir/Yolo Bypass Habitat</p>	This comment has been acknowledged. Please see Master Response 5 for more information regarding the BDCP, including CM2.

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		<p>Improvements Conservation Measure unless:</p> <p>Completion and implementation of the Yolo Natural Heritage Program are assured. The County and the four cities (Woodland, Davis, West Sacramento, and Winters) have worked for years to complete a local HCP/NCCP through a joint powers authority. This effort is nearing completion and BDCP must not interfere with -- and should assist where possible -- in the completion and implementation of this effort.</p>	
1676	230	<p>[From ATT10:]</p> <p>Under no circumstances will Yolo County support the Fremont Weir/Yolo Bypass Habitat Improvements Conservation Measure unless:</p> <p>Local economic impacts are addressed. All appropriate steps must be taken to identify and fully mitigate local economic impacts of the Conservation Measure, including but not limited to its effects on County revenues and the agricultural industry. The County should be closely consulted as financial assistance programs or other mitigation measures are developed.</p>	<p>This comment has been acknowledged. Please see Master Response 5 for more information regarding the BDCP, including CM2.</p> <p>For more information regarding agricultural and socioeconomic impacts and its associated mitigation measures, please see Chapter 14 and 16 of the Final EIR/EIS, respectively.</p>
1676	231	<p>[From ATT10:]</p> <p>Yolo County needs financial resources to enable it to perform an independent technical review of the local effects of the BDCP on flood protection, agriculture, and other issues. We have previously requested \$500,000 for this purpose, and we now urge the California Natural Resources Agency to act promptly upon this request. Independent local review of these issues is necessary if the County and its constituents are expected to have a meaningful role in the BDCP planning process, particularly regarding this Conservation Measure.</p>	<p>No issues related to the adequacy of the environmental impact analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/DEIS were raised.</p>
1676	232	<p>[From ATT10:]</p> <p>The California Natural Resources Agency must engage in a robust local outreach effort to develop stakeholder input regarding the design and operation of the Fremont Weir/Yolo Bypass Habitat Improvements Conservation Measure. We recognize that the Agency proposes to convene a "local issues group" for the Yolo Bypass and certain related issues. Yolo County encourages the Agency to convene such a group so long as it proceeds in the following manner, which we believe is the only reasonable way of assuring its success:</p> <ul style="list-style-type: none"> * Identify key stakeholders. Many stakeholders have a sincere interest in the flood protection, agriculture, habitat, and recreational attributes of the Yolo Bypass and the Yolo Bypass Wildlife Area. Appropriate representatives of these diverse stakeholders must be included in the local issues group. * Give them a meaningful role. The issues group must be a forum for meaningful review and discussion of the Conservation Measure, suggested alternatives and mitigation measures, and other issues of concern. The Agency will need to devote the time and resources necessary to review and respond to concerns, suggestions, and other matters appropriately raised by the group. * Provide the group with the resources it needs to succeed. Additional technical modeling and studies may be needed to address certain topics with the local issues group. Similarly, the Agency should make appropriate staff and outside consultants 	<p>For more information regarding public outreach adequacy, please see Master Response 40.</p>

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		<p>available for local issues group meetings.</p> <p>* Assure that the County plays a key role. A proper role for the County must include an Agency commitment to promptly respond in writing to the County's written comments, to provide the County with reasonable access to Agency decision makers, and to otherwise assure a true cooperative relationship between the County and the Agency in the manner envisioned in the Natural Community Conservation Planning Act.</p> <p>* Integrate local stakeholder input into the final text of the Conservation Measure. If stakeholder input demonstrates that changes to the Conservation Measure are appropriate (before or after the September 2010 draft is released), the Agency should make such changes. For example, if the work of the issues group shows that additional options for the design and operation of the Conservation Measure are reasonable, they should be integrated into the final Conservation Measure. An Agency commitment of this nature is fundamental to the success of the issues group and is of great importance to the County.</p>	
1676	233	<p>[From ATT10:]</p> <p>Yolo County has long sought payment of nearly \$1,000,000 owed by the Department of Fish and Game for payments in lieu of taxes and local assessments on the Yolo Bypass Wildlife Area. We recently raised this issue with Agency staff and hereby reiterate our request for prompt California Natural Resources Agency assistance with this matter. A productive long-term relationship between the County and state agencies on BDCP depends on the fulfillment of the state's financial obligations to the County, both now and in the future. Payment of this debt would be a significant demonstration of good faith.</p>	<p>No issues related to the adequacy of the environmental impact analysis in the 2015 RD EIR/SDEIS or the 2013 DEIR/DEIS were raised.</p>
1676	234	<p>[ATT 11: Review of Noise Analysis in the Bay Delta Conservation Plan Draft EIR/EIS, from Ascent Environmental to Yolo County and Consero Solutions. July 7, 2014.]</p>	<p>The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.</p>
1676	235	<p>[From ATT11:]</p> <p>The analyses of construction noise and operational noise from the conveyance facilities apply hourly L(eq) noise standards; however, the origin of these standards is unclear and the reasoning for their use is not provided.</p> <p>The assessment of construction noise impacts applies noise standards from DWR Specification 05-16 (page 23-23, lines 11 to 14). The approach discussed in the EIR/EIS states the following (page 23-23, lines 33 to 42):</p> <p>Onsite construction and restoration activity between the hours of 7:00 a.m. to 10:00 p.m. (daytime) would have adverse noise effects if the activity is predicted to result in a 1-hour A-weighted equivalent sound level that exceeds 60 dBA at noise-sensitive land uses where the ambient noise level is less than 60 dBA, or if the activity is predicted to increase the ambient noise level at residential locations by 5 dB or more where the ambient noise level is already greater than 60 dBA (pursuant to Section 01570 of DWR Specification 05-16).</p> <p>Onsite construction and restoration activity between the hours of 10:00 p.m. to 7:00 a.m. (nighttime) would have adverse noise effects if the activity is predicted to result in a</p>	<p>Because of the extent of the new water conveyance facilities construction at some locations and the multi-year durations for some of the construction components, the direction of DWR was to establish a numerical limit for construction noise during daytime hours. In establishing the 60 dBA threshold, consideration was given not only DWR specification 05-16, but also guidance in the California Model Noise Ordinance. The model ordinance identifies a maximum daytime noise level of 60 dBA for long-term (more than 10 days) construction projects where it is technically and economically feasible to do so. The model ordinance also specifies a maximum noise level of 50 dBA during nighttime hours.</p> <p>As discussed in Chapter 23, Noise, longer-term noise level increases often result in a higher probability of an adverse community reaction when ambient noise levels increase by 10-20 dB; these increases have been shown to result in "several threats of legal action" and "vigorous action" according to social surveys and case studies of community reaction to noise.</p> <p>There is a reasonable concern about the cost and feasibility of mitigating to reduce noise levels below 60 dBA (daytime) or 50 dBA (nighttime). In practice, in the large majority of cases it would be both technically and economically feasible to reduce construction noise levels at the nearest residences to conform to these levels. It has been shown in many other projects that temporary noise reducing barriers constructed at stationary sites can substantially reduce noise levels for adjacent land uses. However, as indicated in the EIR/EIS, there may be locations where such measures will not be feasible, such as those related to pile</p>

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		<p>1-hour A-weighted equivalent sound level that exceeds 50 dBA at noise-sensitive land uses where the ambient noise level is less than 50 dBA, or if the activity is predicted to increase the ambient noise level at residential locations by 5 dB or more where the ambient noise level is already greater than 50 dBA. The lower noise threshold for nighttime activity is based on the 5 to 10 dB reduction in noise performance standards that is commonly applied to noise levels during nighttime hours as used in local noise ordinances in the Plan Area.</p> <p>DWR Specification 05-16 is stated in the regulatory section, without a citation, as follows (page 23-13, lines 1-13):</p> <p>Where ambient noise levels are less than 60 dBA and it is determined that construction-related noise will cause noise levels to exceed 60 dBA, or where the ambient noise levels are greater than 60 dBA and it is determined that construction related noise will cause noise levels to exceed the ambient level by 5 dBA, a temporary sound wall shall be constructed between the sensitive area and the construction related noise source. The 60 dBA limit is not a regulatory requirement. Although the 60 dBA limit is not a regulatory requirement, it has been established as a threshold for establishing noise impacts by consensus of experts, local and resource agencies, including the U.S. Fish and Wildlife Service (USFWS). It is estimated that among other things, noise levels above 60 dBA may interfere with communication among birds and other wildlife.</p> <p>An explanation of DWR Specification 05-16 is found in the contract bid specifications for another DWR project document called the Tehachapi East Afterbay--Completion--Phase II (DWR 2005:R-05). This document reveals that the purpose of the noise criteria in DWR Specification 05-16 is to protect bird species and other wildlife. In fact, the same noise criteria are written in the section of DWR Specification 05-16 that focuses on the need to conduct preconstruction bird surveys prior to construction activity. See section 1.07, Collection and Harassment of Species, part B (DRW 2005:R-05).</p> <p>Therefore, the Draft EIR/EIS assesses the potential for noise impacts to residents and people using hourly L(eq) metrics that were intended to the assessment of noise impacts to wildlife. No explanation is provided about whether these criteria are also suitable for assessing noise impacts to residents and other human, noise-sensitive receptors.</p> <p>Applying these noise standards alone has the potential to lead to erroneous impact conclusions, as explained in the next two comments.</p>	<p>driving activities.</p>
1676	236	<p>[From ATT11:]</p> <p>The construction noise analysis and operational noise analysis do not disclose the degree in which ambient noise levels would increase.</p> <p>Ambient noise levels in the rural parts of Yolo County are relatively quiet given that these locations are not located in close proximity to freeways, high-volume roadways, rail lines, mining operations, industrial facilities, or densely populated areas.</p> <p>The analysis of construction noise under Impact NOI-1 does not reveal how these relatively low ambient noise levels would increase during the 9-year construction period. This information is important to disclose to readers regardless of whether resultant noise levels would exceed any particular standard. For instance, if the ambient noise level during a daytime hour is 46 dBA L(eq), which can be the case in a rural area, and</p>	<p>Construction of the project uses noise thresholds established by California DWR, which were established based on a consensus of experts, and local and resource agencies.</p> <p>The project uses a 5 dB increase threshold for traffic noise (including realigned roadways), which was revised from the Draft EIR/EIS. However, this increase is applicable only where existing noise levels exceed 60 dBA Leq.</p> <p>The 40 dBA existing ambient is used to characterize rural setting for many locations within the project area. The goal of mitigation is to reduce levels to below the thresholds of 60 dBA daytime/ 50 dBA nighttime. Note that although noise levels of up to 60 dBA would still be higher than the existing level of 40 dBA, a noise level of 60 dBA Ldn (equivalent to threshold of 60 dBA daytime/50 dBA nighttime) would be considered "normally acceptable" under State General Plan guidelines.</p>

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		<p>construction activity would cause noise levels to increase to 58 dBA L(eq) then application of DWR's</p> <p>Specification 05-16 criteria would lead to the conclusion that this increase would be less than significant. However, this would be a 12 dBA increase and, as explained on page 23-3 of the Draft EIR/EIS (line 35), a 10 dBA increase would be perceived as a doubling in loudness. Given that a 10 dBA increase is considered to be a doubling in loudness, a 12 dBA increase threshold is not as protective of public health. Substantial increases in noise to sensitive uses are significant impacts under CEQA, as suggested by the checklist questions from the CEQA Guidelines, which ask whether the proposed project would result in a substantial permanent (or temporary) increase in ambient noise levels in the project vicinity above levels existing without the project.</p>	
1676	237	<p>[From ATT11:]</p> <p>Sole use of the hourly L(eq) standards does not inform readers about the level of noise increases during the non-peak hours of the day.</p> <p>A determination that the hourly L(eq) standard of 60 dBA would be exceeded during the worst-case daytime hour and therefore be a significant impact, nonetheless does not reveal the extent of the impact or, more specifically, whether the 60 L(eq) dBA standard would be exceeded during multiple hours of the day. There is no indication of whether the impact would occur during all, some, or only one hour of the day during daytime hours. The analysis should provide more information about the duration of construction-generated and operational noise impacts. For instance, are there reasons that various construction activities or operational noise sources would generate noise levels that are noticeably greater during one hour of the day than other times? It is more likely, that both construction and operational noise levels would be consistent throughout the day, at least during daytime hours.</p>	<p>For the purposes of the analysis, the worst-case noise levels under construction or operation of the project can be assumed to occur during any hour or multiple hours of the day. As the commenter indicates, construction noise of the magnitudes indicated in the analysis could occur throughout all hours of the day. The worst-hour noise level is used to evaluate significance of impacts.</p> <p>Mitigation Measures NOI-1a and NOI-1b are available to reduce the effects of noise during construction. Mitigation NOI-3 is available to reduce the effects of noise during operation.</p> <p>From Appendix 3B, Section 3B.5.5: DWR and contractors hired to construct any conveyance components of the project will implement a site-specific noise abatement plan to avoid or reduce potential construction-, maintenance-, and operation-related noise impacts. This section also includes environmental commitments to reduce noise levels where exceedances are anticipated to occur.</p>
1676	238	<p>[From ATT11:]</p> <p>The hourly noise standards established by other rural counties in California are more stringent than the hourly L(eq) standards used in the analysis.</p> <p>While Yolo County is still in the process of developing its noise ordinance, as called for by Action HS-A61 from the Yolo Countywide General Plan (Yolo County 2009), comprehensive noise standards established by other rural counties would be worth considering as thresholds of significance. For example, [see] the noise standards established by Madera County and Fresno County. [See ATT11: att1.]</p> <p>If more stringent noise standards, such as the ones established by Madera and Fresno counties, which were specifically established to evaluate construction noise and other non-transportation noise sources, were used as significance criteria, it is more likely that noise impacts would be determined to be significant in the Draft EIR/EIS for the BDCP.</p>	<p>Construction of the project uses noise thresholds established by California DWR, which were established based on a consensus of experts, and local and resource agencies. DWR will meet local noise standards wherever feasible. All of the impacts addressed in this Draft EIR/EIS chapter identify significant noise impacts from construction and operations of conveyance facilities and identify mitigation measures to reduce noise effects.</p>
1676	239	<p>[ATT11: att1: Tables of noise standards established by Madera County and Fresno County.]</p>	<p>The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.</p>
1676	240	<p>[From ATT11:]</p>	<p>Construction of the project uses noise thresholds established by California DWR, which were established based on a consensus of experts, and local and resource agencies. Project proponents will meet local noise</p>

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		<p>The EIR/EIS does not address local CNEL standards.</p> <p>The action alternatives of the BDCP include the construction and operation of noise-generating facilities in Yolo County, including the Clarksburg General Plan Area. However, the noise analysis does not recognize the following noise standards from the Noise Element of the Clarksburg General Plan (Yolo County 2002), particularly Policy N-5:</p> <p>* Policy N-4. New development of residential or other noise-sensitive land uses will not be permitted in noise-impacted areas unless effective mitigation measures are incorporated into project designs to reduce noise to the following levels:</p> <ul style="list-style-type: none"> - For noise sources preempted from local control, such as street and highway traffic: <ul style="list-style-type: none"> . 60 dB Community Noise Equivalent Level (CNEL) or less in outdoor activity areas. . 45 dB CNEL or less within interior living spaces or other noise-sensitive interior spaces. . Where it is not possible to achieve reductions of exterior noise to 60 dB CNEL or less by using the best available and practical noise reduction technology, an exterior noise level up to 65 dB CNEL will be allowed. . Under no circumstances will interior noise levels be allowed to exceed 45 dB CNEL with windows and doors closed. <p>* Policy N-5. New development of industrial, commercial, or other noise generating activities will not be permitted if resulting noise levels will exceed 60 dB CNEL in areas containing residential or other noise-sensitive land uses unless effective mitigation measures are incorporated into project designs to reduce noise levels consistent with Noise Policy N-4 above.</p> <p>As explained in the Draft EIR/EIS the CNEL metric is a 24-hour noise metric that accounts for the greater annoyance of noise to humans during the evening and nighttime hours between 7:00 p.m. and 7:00 a.m. (page 23-2, lines 12 to 21). The noise impact analysis should determine whether construction activity and long-term operations would expose noise-sensitive receptors in the Clarksburg General Plan Area to 24-hour noise levels that exceed local CNEL standards.</p> <p>This oversight is particularly concerning given that other environmental assessments for DWR projects have applied the applicable noise standards of the applicable local city or county to make significance determinations. For instance, in the Dutch Slough Tidal Marsh Restoration Project Draft EIR, DWR's noise analysis applied both the CNEL standards and hourly L(eq) standards of the City of Oakley (DWR 2008:3.7-2 through 3.7-5). Also, noise standards of both the City of Perris and Riverside County noise standards were used to make significance determinations about project-related construction noise in the Perris Dam Remediation Program EIR (DWR 2010: 3.9-6 through 3.9-9). Moreover, in the Salton Sea Species Conservation Habitat Project Draft EIS/EIR, which was prepared by DWR for the U.S. Army Corps of Engineers, the noise analysis applied the noise standards of Imperial County (DWR 2011:3.14-3 through 3.14-6).</p> <p>Moreover, one reason local jurisdictions have different noise standards, or even use different noise metrics in their standards (e.g., L(dn), CNEL, hour L(eq), and/or L(max)) is</p>	<p>standards wherever feasible.</p>

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		because they have different ambient noise environments under existing conditions.	
1676	241	<p>[From ATT11:]</p> <p>The EIR/EIS does not to apply any noise standards based on a 24-hour metric.</p> <p>Figure 23-1 shows the Federal Railroad Administration’s (FRA) and Federal Transit Administration’s (FTA) allowable increase in cumulative noise level and is based on Figure 3-1 from the FRA’s High-Speed Ground Transportation Noise and Vibration Impact Assessment (FRA 2012) -- which is the most up-to-date version of the 2008 document cited in the EIR/EIS. The concept portrayed in Figure 23-1 is that a greater noise increase is considered to be more tolerable if existing ambient noise levels are relatively low and only smaller noise increases are considered tolerable if existing ambient noise levels are high. Figure 23-1 notes that the assessment of noise increase impacts for Category 1 land uses should use the hourly L(eq) metric (i.e., L(eq)(h)) and the assessment of noise increase impacts for Category 2 land uses should use the L(dn) metric. As explained in the Draft EIR/EIS the L(dn) metric is a 24-hour noise metric that accounts for the greater annoyance of noise to humans during the nighttime hours between 10:00 p.m. and 7:00 a.m. (page 23-2, lines 18 to 20). According to FRA’s report, Category 1 land uses include "residences and buildings where people normally sleep. This category includes homes, hospitals, and hotels where a nighttime sensitivity to noise is assumed to be of utmost importance" (FRA 2012:3-5). FRA’s report also states that the L(dn) metric should be used for land uses where nighttime sensitivity is a factor and the L(eq) during the hour of the day when maximum transit noise exposure should be used to assess land uses that only host only daytime activities (FRA 2012:3-4). The noise impact analysis in the Draft EIR/EIS does not assess noise impacts to residential land uses and other noise-sensitive land uses using a 24-hour noise metric, such as L(dn) or CNEL. Noise impacts to noise-sensitive receptors need to be assessed for all times of day rather than just the peak daytime and nighttime hours.</p>	<p>Construction of the project uses noise thresholds established by California DWR, which were established based on a consensus of experts, and local and resource agencies. DWR will meet local noise standards wherever feasible. The FTA and FRA thresholds are presented for informational purposes, but are not directly applicable to the analysis. The DWR nighttime threshold of 50 dBA accounts for increased sensitivity to nighttime noise, which is the primary purpose of the Ldn and CNEL metrics.</p>
1676	242	<p>[From ATT11:]</p> <p>The construction noise analysis does not characterize ambient noise levels in rural areas of Yolo County that could potentially be affected by the proposed project.</p> <p>Ambient noise levels in Yolo County are not well characterized in the environmental setting. Table 23-6 on page 23-9 shows that the traffic noise level 100 feet from State Route 84 near Clarksburg is 56.8 dBA L(dn). However, no information is provided about ambient noise levels in areas where traffic noise is not the predominant noise source, such as the community of Clarksburg which is located across the Sacramento River and approximately 800 feet from State Route 84 and approximately 1,000 feet from the site of Water Intake 2 under Alternative 1C; 1,500 feet from the site of Water Intake 2 under Alternative 4; or the residential land uses across the river from the proposed site of Water Intake 3 under Alternative 4. Also, according to Figure M3-3 for Alternative 4, some residential land uses would be located across the Sacramento River and approximately 600 feet from both Water Intakes 2 and 3.</p> <p>While the County or its consultants have not conducted any sound level measurements at these locations, it’s not unreasonable to expect, given the rural nature of the area, that the ambient sound levels in these locations would be between 40 and 50 L(eq) during daytime hours and between 25 and 40 dBA L(eq) during nighttime hours. These levels have been measured in other rural areas with similar levels of development (Amador</p>	<p>The data discussed in Chapter 23, Noise, for each jurisdiction is included for information, and to inform thresholds used for the project. Because of large variations in the noise environment throughout the study area, a baseline of 40 dBA is used in the analysis to characterize the existing ambient level, and this applies to the entire study area.</p> <p>From Section 23.3.1.5:</p> <p>To assess increases in noise levels due to construction of the project, a baseline of 40 dBA is used to describe the existing ambient noise level in the study area. Because many of the facilities that would be constructed under the project alternatives are located primarily in rural areas, a baseline level of 40 dBA would be characteristic of the project’s mostly rural setting, and was therefore assumed to apply to the entire study area. The ambient baseline level of 40 dBA is used in this analysis to conservatively account for increases in noise levels during daytime hours, and potentially sleep disturbance during nighttime hours. Noise monitoring at specific locations has not been conducted for this project. Noise monitoring to establish ambient noise levels was not conducted for this project because access to appropriate locations was unavailable and the size of the project area would make it difficult to reasonably characterize all locations within the project area. Instead, existing noise conditions were characterized using traffic noise modeling and typical ambient noise levels as a function of population density as reported in standard references (Cowan 1994, Hoover & Keith 2000).</p> <p>The thresholds for construction indicate that, where existing ambient noise level is less than 60 dBA, impacts would be significant where construction noise levels are predicted exceed the DWR standard of 60 dBA (50</p>

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		<p>County, Buena Vista Biomass Facility Subsequent EIR, 2010:4.3-7). This information differs from the text in the Environmental Setting/Affected Environment, which states that "existing noise levels are in the range of 40 to 50 dBA" (page 23-7, lines 19 and 20). Rather than rely on estimates or measurement performed for other projects, we suggest that 24-hour noise measurements be conducted in areas of Yolo County that would be impacted by project-related noise to properly characterize existing conditions. Collecting project-specific noise measurements would also be consistent with other noise impact analyses published by DWR, including the analyses for in the Dutch Slough Tidal Marsh Restoration Project Draft EIR (DWR and California State Coastal Conservancy 2008:3.7-5) and the Perris Dam Remediation Program Draft EIR (DWR 2010:3.9-8).</p> <p>Characterizing the baseline noise levels is important to understand the degree to which construction activity would change the ambient noise environment, as discussed further in the next comment.</p>	<p>dBA during nighttime hours). Therefore, an existing ambient noise level of 40 dBA conservatively accounts for the most stringent construction noise increase thresholds used in the environmental consequences analysis.</p>
1676	243	<p>[From ATT11:]</p> <p>Locations and potential quantitative noise impacts from construction related to conservation measures CM2 through CM10, discussed on page 23-49.</p> <p>Noise impacts from the implementation of conservation measures (CM) 2 through 10 are discussed under Impact NOI-4. This analysis states, "Because the specific areas for implementing these conservation measures have not been determined, this effect is evaluated qualitatively" (page 23-49, lines 10 and 11). However, the analysis lacks much detail that could be provided at this time and quantitative analysis for at least some of the features that would be a part of CM2 is possible. For instance, at least the general location is known for the following features:</p> <ul style="list-style-type: none"> * Installing fish ladders and experimental ramps at Fremont Weir or widening the existing fish ladder. * Installing fish screens on small Yolo Bypass diversions. * Constructing new or replacement operable check-structures at Tule Canal/Toe Drain. * Replacing the Lisbon Weir with a fish-passable gate structure. * Realigning Lower Putah Creek. * Increasing operation of upstream unscreened pumps. * Installing operable gates at Fremont Weir. * Constructing physical barriers in the Sacramento River. * Constructing associated support facilities (operations buildings, parking lots, access facilities such as roads and bridges). * Improving levees adjacent to the Fremont Weir Wildlife Area. * Replacing agricultural crossings of the Tule Canal/Toe Drain with fish-passable structures such as flat car bridges, earthen crossings with large, open culverts. 	<p>Based on the information available, the noise levels shown in Table 23-16 used to determine significance of Impact NOI-4 are representative of a reasonable worst-case condition.</p> <p>In Chapter 12 of the Draft EIR/EIS, the effects from noise were for evaluated generally for several wildlife species depending on their proximity to the work and their sensitivity. Effects on bird species were evaluated using a threshold of greater than 50 dBA.z</p>

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		<p>To the extent possible, general locations should also be considered and analyzed for additional features of CM2 that include grading, removal of existing berms, levees, and water control structures, construction of 30 berms or levees, re-working of agricultural delivery channels, and earthwork or construction of structures to reduce Tule Canal/Toe Drain channel capacities.</p> <p>At the very least, the analysis should discuss the types of construction activities and construction equipment that would be needed for these CMs and estimate associated noise levels. The analysis should also discuss whether any noise-sensitive receptors are located in the general area of each CM feature and calculate the distance at which applicable noise standards would be exceeded. For instance, the realignment of Lower Putah Creek would likely involve the use of excavators, dozers, graders, front loaders, and/or haul trucks -- types of equipment for which reference noise levels are known, as presented in Table 23-12 on page 23-18. It is also possible to explain to the reader whether pile driving would be involved in the implementation of any of these features.</p> <p>Therefore, the analysis provided under Impact NOI-4 is insufficient and additional, detailed analysis should be provided to determine whether applicable, local noise standards would be exceeded at any noise-sensitive receptors located near the construction and operation locations of these conservation measures. Noise impacts on wildlife should also be evaluated using DWR Specification 05-16 or other appropriate methodology.</p>	
1676	244	<p>[From ATT11:]</p> <p>The attenuation rate used in the analysis of construction noise impact is too high.</p> <p>The analysis of noise generated during the construction of water intakes is discussed under Impact NOI-1, beginning on page 23-30. The analysis states that potential reasonable worst-case noise levels from construction of the intakes were evaluated (page 23-30, lines 31 to 32). The analysis then presents Table 23-16 which shows the estimated sound levels from construction activity as a function of distance (page 23- 31, line 1). The attenuated noise levels shown in Table 23-16 indicate that an attenuation rate of 8 dBA per doubling of distance (dBA/DD) was used to estimate noise attenuation. This likely overestimates noise attenuation, meaning that noise will likely be higher at sensitive receptors than reported in the EIR/EIS.</p> <p>According to guidance from the Federal Transit Administration noise from point sources typically attenuate at a rate of 6 dBA/DD through divergence alone and some additional attenuation may occur from ground absorption when sound paths lie close to freshly-plowed or vegetation-covered ground (FTA 2006:2-10). The same guidance also explains that for acoustically "hard" ground conditions no ground absorption should be applied to attenuation calculations (FTA 2006:6-22). Caltrans defines acoustically hard sites as those with a reflective surface between the source and receiver, such as parking lots or smooth bodies of water (Caltrans 2009:2-32). No excess ground attenuation is assumed for these sites. With hard sites, changes in noise levels with distance are related to geometric spreading only. Caltrans recommends that an attenuation rate of 7.5 dBA/DD should be used to estimate noise levels from point sources around soft sites and 6.0 dBA/DD should be used for point sources around hard sites (Caltrans 2009:2-32).</p> <p>Thus, the analysis under Impact NOI-1 overestimates the level of attenuation and ground absorption in two ways. First, it assumes that the surfaces around the sites where water</p>	<p>Geometric and ground effect attenuation were calculated based on methods specified in the FTA Transit Noise Impact Assessment. Water bodies and parking lot surfaces taken alone would be characterized as "hard" surfaces. However, the vast majority of the Plan area can reasonably be characterized as "soft" ground, and was used to characterize construction noise attenuation in the model.</p>

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		<p>intakes would be constructed are acoustically soft. However, the sites are along a body of water than is typically at minimum flow during the low-flow times of year when construction would occur. Also, as shown in Figures 3-19, the water intakes would be built of concrete and surrounded by paved parking areas, and these surfaces thus need to be considered in assessing operational impacts. Second, even if the surrounding surface were acoustically soft, the attenuation rate of 8 dBA/DD used in the analysis is greater than the Caltrans-recommended attenuation rate of 7.5 dBA/DD. For these reasons, the analysis understates the level of noise impact and the number of parcels that would be adversely affected, as shown in Table 23-16 (page 23-33) and Table 23-17 (page 23-34), as well as all the corresponding tables for the other action alternatives.</p>	
1676	245	<p>[From ATT11:]</p> <p>The analysis does not address single-event noise levels from trucks passing noise-sensitive receptors.</p> <p>The noise impact analysis does not address intermittent Single-Event Levels (SEL) associated with trucks hauling materials to and from the various construction sites. The SEL describes a receiver's cumulative noise exposure from a single impulsive noise event (e.g., an automobile passing by or an air craft flying overhead), which is a rating of a discrete noise event that compresses the total sound energy of the event into a 1-second time period, measured in decibels (Caltrans 2011a:D-20). It is a different metric than L(eq) or L(max) . While noise generated by truck activity may not exceed the applicable hourly L(eq) standard, or applicable L(dn) or CNEL standards, nearby receptors may still be exposed to SELs that result in speech disruption, or during nighttime hours, sleep disruption. Increased attention to the evaluation of SELs and their effects on sleep is highlighted by the court decision in Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners of the City of Oakland, 2001. The Federal Interagency Committee on Aviation Noise (FICAN) has studied the effects of SELs and their likelihood to result in people being awakened while sleeping inside their residences (FICAN 1997) and this research will be helpful in developing a threshold against which to evaluate these types of noise events.</p> <p>Other environmental documents have addressed SEL impacts from haul trucks, including the Mitchell Ranch Center Draft EIR (City of Ceres 2010:4.10-23 through 4.10-24). This analysis determined that exposure to 65 dBA SEL would result in a chance of sleep disturbance of less than 5 percent and, therefore, used 65 dBA SEL as a significance threshold. The appropriate dBA SEL standard for the BDCP Draft EIR/EIS needs to be considered in light of the surrounding ambient noise levels and other appropriate circumstances.</p> <p>Given that truck hauling may occurring during noise-sensitive evening or early morning hours and many haul routes pass in close proximity to residences and other noise-sensitive receptors, we recommend that an SEL analysis be included in the EIR/EIR and all necessary mitigation be required to minimize related impacts, especially sleep disruption at residences during noise-sensitive nighttime hours.</p>	<p>A provision of the environmental commitments (Appendix 3B.5) states that off-site truck trips and commutes would be limited to daytime and evening hours where feasible. Note that the 65 dBA SEL is an interior criterion. A criterion of 50 dBA Lmax interior (70 Lmax exterior) is included as a threshold to address sleep disturbance.</p>
1676	246	<p>[From ATT11:]</p> <p>The pulsating nature of pile driving noise is not addressed.</p> <p>Many noise impact analyses, such as DWR's Monterey Plus EIR (DWR 2007:7.12-7),</p>	<p>Construction of the project uses noise thresholds established by California DWR, which were established based on a consensus of experts, and local and resource agencies.</p> <p>The noise analysis was based on FTA construction noise analysis methods, which do not adjust for impulsive noise. While some General Plans specify adjustment factors for impulsive noise, this is not the case for many</p>

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		<p>evaluate noise sources with an impulsive or periodic character such as pile driving with a more stringent standard than other noise sources. This is because these types of noise sources are more likely to result in annoyance or disturbance to receptors. In the Monterey Plus EIR, DWR's analysis applied the Kern County General Plan noise standards, which apply a 5 dBA reduction to the standards applicable to non-pulsating sources of noise. Given that pile driving would be performed during project construction, it would be appropriate to use a similar adjustment in determining the significance conclusion.</p>	<p>jurisdictions. This analysis assumes a 100% utilization factor for pile drivers, assuming the high end of pile driver source levels. This is a reasonable conservative assumption, given a typical factor of 20% for a single driver.</p> <p>DWR environmental commitments (Appendix 3B.5) include measures to reduce noise levels during daytime hours. DWR and contractors hired to construct any conveyance components of the project will implement a site-specific noise abatement plan to avoid or reduce potential construction-, maintenance-, and operation-related noise impacts. These plans will vary by location. Additional options to reduce noise to acceptable levels will be considered on a case-by-case basis.</p>
1676	247	<p>[From ATT11:]</p> <p>The threshold used in analyzing project-related traffic noise is inappropriate.</p> <p>The analysis considers traffic noise increases that would occur during the 9-year construction phase to be significant if they exceed 12 dBA, which, as stated on page 23-24 (lines 16 through 20), is what Caltrans considers to be a substantial increase in the Traffic Noise Analysis Protocol (Caltrans 2011). However, the 12 dBA increase standard is not suitable to the analysis of additional traffic being added to existing traffic volumes on an existing roadway. Instead, as stated on page 23-13, the Caltrans Traffic Noise Analysis Protocol specifies the practices to be used for "new construction or reconstruction of federal-aid highway projects" (lines 16 through 20). In fact, the full title of Caltrans' guidance document is the Traffic Noise Analysis Protocol for New Highway Construction, Reconstruction, and Retrofit Barrier Projects (Caltrans 2011). As evidenced by the full title, this guidance is intended to help agencies evaluate traffic noise levels that are exposed to receptors for the first time or to traffic noise from reconstructed, widened, or realigned roadways. This is not the same as a project that adds new traffic to existing roadways.</p> <p>When analyzing traffic noise increases on existing roadways from additional trips generated by proposed projects lead agencies typically apply an incremental increase threshold of 1.5, 3, and/or 5 dBA, depending on the existing ambient noise level. This approach has been used in many environmental reviews including the Perris Dam Remediation Program EIR. More specifically, the approach used in the Perris Dam EIR applied threshold criteria established by the Federal Interagency Committee on Noise, which is presented in Table 3.94 of that EIR as follows (DWR 2010: 3.9-6 through 3.9-9). [See ATT11: att2.]</p> <p>This tiered approach is also consistent with guidance and noise criteria of multiple local jurisdictions in California, including Fresno County (Fresno County 2014:2-180) and Merced County (Merced County 2013:HS-13).</p> <p>Given that a 10 dBA increase is considered to be a doubling in loudness, as stated on page 23-3 of the Draft EIR/EIS (line 35), a 12 dBA increase threshold is not as protective of public health.</p> <p>This comment is not only relevant to the determination of whether a traffic noise increase would be significant; It is also directly relates to the reduction needed to be achieved by Mitigation Measure NOI-1a in order to reduce a traffic noise impact to a less-than-significant level.</p>	<p>The commenter is correct that the large majority of roadways analyzed in this project are existing roadways. However, some roadways such as State Route 160 would be realigned around project intake structures.</p> <p>The project uses a 5 dB increase threshold for traffic noise (including realigned roadways), which was revised from the Draft EIR/EIS. Traffic noise thresholds were revised to be consistent with construction noise thresholds, which is an appropriate approach given that traffic is construction-generated.</p>

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1676	248	[ATT11: att2: Table of Thresholds of Significance for Noise Exposure.]	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1676	249	<p>[From ATT11:]</p> <p>Insufficient mitigation is required to reduce traffic noise levels that would be significant</p> <p>The traffic noise modeling conducted for Impact NOI-1 determined that traffic noise increases would be a significant impact along some of the haul routes that would be used during the 9-year construction period. As stated in the Draft EIR/EIS, "the increase in noise levels would exceed the project threshold for traffic noise and would be considered adverse. Mitigation Measures NOI-1a and NOI-1b are available to address this effect (page 23-38, lines 9 and 10)." However, these mitigation measures contain very few measures to reduce traffic noise exposure.</p> <p>Mitigation Measure 1a includes only one measure that addresses traffic noise impacts, which is to select haul routes that affect the fewest number of people. This measure lacks detail. It is not clear whether alternative haul routes exist. It is also not clear whether a route that affects fewer people is a reduction in the impact. What if one route passes within 60 feet of 50 residences at travel speeds of 40 mph and another route passes within 100 feet of 35 residences at travel speeds of 55 mph?</p> <p>Additional mitigation should be implemented to reduce traffic noise impacts, such as temporary sound barriers, reduced travel speeds, specifically limiting the times of day when haul trucks travel on their routes, specifications requiring lower-noise trucks, signs that prohibit engine braking near intersections or near receptors, coordinating with farmers or other land owners to use private routes that cross their lands, or using conveyors to move material rather than public roadways.</p> <p>Mitigation Measure 1b contains no measures that pertain to traffic noise. It is not clear how making the construction schedule available to residents and establishing a complaint coordinator would reduce traffic noise impacts. Specific recourse that results in actual reduction of noise needs to be part of any such mitigation.</p> <p>Also, these mitigation measures should aim to reduce traffic noise levels such that they meet the traffic noise increase standards presented in the previous comment. For instance, the Table 23-20 of the EIR/EIS indicates that the segment of Courtland Road between State Route 84 and River Road would experience a traffic noise increase of 18 dBA from 48 dBA to 66 dBA. All feasible mitigation should be implemented to reduce the increase to 5 dBA, or a resultant noise level of 53 dBA in order to reduce the impact to a less-than-significant level.</p>	<p>From Appendix 3B, Section 3B.5.5: DWR and contractors hired to construct any conveyance components of the project will implement a site-specific noise abatement plan to avoid or reduce potential construction-, maintenance-, and operation-related noise impacts. This section also includes environmental commitments to reduce noise levels where exceedances are anticipated to occur.</p> <p>As stated in Chapter 23, construction noise impacts are considered to be "significant and unavoidable." This is based on an analysis that considers worst-case conditions. These conditions would not necessarily occur on a routine basis. However, although alternative haul routes for truck traffic may be an effective measure in some cases, significant impacts are still likely after mitigation. The construction of noise barriers for mitigation of traffic noise on local roads is generally not a feasible option, due to driveway access and line-of-sight requirements. Further, traffic noise impacts due to the project would cease after the construction period ends.</p>
1676	250	<p>[From ATT11:]</p> <p>The tables of modeled traffic noise levels do not indicate the noise level at the nearby sensitive receptors.</p> <p>Modeled existing traffic noise levels are presented in Table 23-20 and traffic noise levels with the added traffic from the alternatives are provided in Tables 23-14, 23-37, 23-63, and 23-82. All of these tables show the modeled traffic noise level at a distance of 100 feet from the centerline of the modeled roadway segment. In many cases, however, the</p>	Tables added to traffic noise sections include counts of affected receptors in each jurisdiction where traffic noise levels are predicted to increase during construction. Traffic noise level contours are included in Appendix 23A in the RDEIR/SDEIS.

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		residences or other noise-sensitive receptors located along these roadways are closer than 100 feet. In order for readers of the analysis to understand the degree to which they will be impacted the analysis should present both existing and existing-plus-project noise levels at their specific locations.	
1676	251	[From ATT11:] Noise from new substations is not addressed. The analysis does not address noise that would be generated by new substations associated with the transmission lines that would supply power to the water intake facilities and other pump facilities, and whether this noise could adversely affect nearby noise-sensitive receptors.	The text has been updated within the Final EIR/EIS to include a discussion of substations.
1676	252	[From ATT11:] Corona noise from transmission lines. The analysis does not address whether the transmission lines would produce corona noise that could adversely affect nearby noise-sensitive receptors.	The text has been updated within Chapter 23 of the Final EIR/EIS to include a discussion of corona noise from transmission lines.
1676	253	[From ATT11:] Nighttime construction of transmission lines. The building of new transmission lines typically involves the construction of new towers as well as the "stringing" of new power lines. In locations where these lines cross public roadways, the construction activity is often performed at night in order to minimize traffic delays. The noise impact analysis should identify such locations and determine whether this nighttime construction activity would impact nearby noise-sensitive receptors.	The analysis indicates that the DWR nighttime threshold of 50 dBA Leq could be exceeded at a distance of 1,800 feet. Locations of affected receptors are shown graphically in Appendix 23A.
1676	254	[From ATT11:] The noise levels generated at the offsite borrow/spoil areas may be underestimated. Analysis of noise generated at the offsite borrow/spoil areas, as provided on page 23-39, is based on the combined noise level of the three loudest pieces of equipment that would operate at these locations simultaneously (an excavator, a truck, and a bulldozer). We ask DWR and its consultants to review this assumption. Given the quantity of material that would be hauled to and from these locations and the duration of time in which that hauling would occur we suspect it would be necessary to have multiple sets of these equipment operating simultaneously, which would result in higher noise levels than evaluated under Impact NOI-1.	The analysis indicates that the effect of exposing noise-sensitive land uses to noise increases above thresholds would be adverse during earth moving activities and borrow/spoil areas. Mitigation Measures NOI-1a and NOI-1b would be available to reduce this effect. Note that the analysis assumes three pieces of equipment operating at one discrete location relative to a noise-sensitive receptor location, to simulate worst-case conditions. Multiple sets of equipment may operate at the same time but likely in different locations. For noise levels to exceed levels indicated in Table 23-22 at a given noise sensitive receptor location, sets of equipment would need to operate in very close proximity to one another (within 100 feet), and this is a highly unlikely scenario. The analysis of predicted noise levels at borrow/spoil sites represents reasonable worst-case noise levels.
1676	255	[From ATT11:] The potential for structural damage caused by ground vibration is not assessed. Table 23-3 on page 23-5 indicates that ground vibration could result in structural damage to structures made of engineered concrete and masonry if they are exposed to a peak particle velocity (PPV) of 0.3 inches/second (in/sec) or more. In the analysis, Table 23-23 on page 23-43 shows that structures within 50 feet of impact pile driving would be exposed to a PPV greater than 0.3 in/sec. However, the analysis does not present	As discussed in the 2013 Public Draft EIR/EIS Chapter 9, Geology and Seismicity, Impact GEO-5, pile driving and other heavy equipment operations would cause vibrations that could initiate liquefaction and associated ground movements in places where soil and groundwater conditions are present to allow such movements to occur. The movements could result in compaction, settlement, loss of bearing capacity, and lateral spreading of the levee material, thereby causing levee failure. Also described are the codes and standards that would be adhered to with respect to pile driving and the measures that would be implemented to minimize the potential for construction-induced liquefaction and other ground movements. Additionally, if the proposed project makes any modification to a levee that is part of the federal flood control system, the proposed project proponents must secure approval from USACE through the Section 408 permitting process.

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		whether pile driving would occur within 50 feet of any structures resulting in the potential for structural damage.	See Appendix 6A regarding flood control in the Delta.
1676	256	[ATT12: January 24, 2013 letter from Yolo County to Department of Water Resources. Comments on October 2012 Draft Discussion Paper on Agricultural Mitigation.]	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1676	257	[From ATT12:] Coordination With Counties: Yolo County has consistently sought close coordination between BDCP and affected jurisdictions, including coordination on the implementation of mitigation for the loss of farmland and related economic effects. The Discussion Paper appears to embrace this approach. [Discussion Paper at p. 2.] As I understand it, affected jurisdictions will be consulted on a project-by-project basis to determine their interest in either a "conventional mitigation approach" or an "optional agricultural land stewardship approach," the details of which are presented conceptually in the Discussion Paper. Generally, this is the very type of close coordination with affected jurisdictions that the County would like to see integrated into the BDCP and its implementation.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. Please see Master Response 5 for more information regarding the BDCP, including governance. Please also see Master Response 18 for information regarding agricultural impact mitigation.
1676	258	[From ATT12:] Emphasis on Impact Avoidance: The Discussion Paper places considerable weight on planning projects in a manner that avoids farmland conversions, particularly "highest quality" farmland (a term that is undefined). [Discussion Paper at pp. 5-6.] This is a basic but very important component of the overall approach reflected in the Discussion Paper, and it is consistent with Yolo County's longstanding policies regarding activities affecting farmland.	Please see the response to Comment 1676-257.
1676	259	[From ATT12:] Commitment to a Neutral (or Better) Economic Outcome: Generally, the Discussion Paper's focus on maintaining the economic viability of Delta agriculture is appropriate given the potential magnitude of the changes that BDCP and related initiatives may introduce. [Discussion Paper at p. 3.] If DWR is truly willing to commit to implement BDCP in a manner that has at least a neutral economic effect on Delta agriculture [Discussion Paper at p. 1], this is very significant and should open the door to a meaningful conversation with the County (and perhaps other affected jurisdictions) about how to achieve this outcome. I encourage you to highlight this commitment in future drafts of the Discussion Paper.	As suggested by the comment, DWR will continue to highlight and discuss the objective of implementing proposed project in a manner that has, at a minimum, a neutral economic effect on Delta agriculture in any future drafts of the discussion paper.
1676	260	[From ATT12:] Creative Approach to Addressing Economic Effects: The draft Discussion Paper describes an "optional agricultural land stewardship approach" that includes various strategies for addressing the environmental and economic effects of the conversion of farmland. [Discussion Paper at pp. 8-13.] In concept, many of these strategies -- particularly those described in subsections A, B, F, H-P, and R -- appear to have merit and are worthy of further exploration in developing a comprehensive	No issues related to the adequacy of the environmental impact analysis in the EIR/S were raised.

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		mitigation program. This portion of the draft Discussion Paper reflects a creative and thoughtful approach to mitigation strategies.	
1676	261	<p>[From ATT12:]</p> <p>The Discussion Paper Creates a False Dilemma:</p> <p>The Discussion Paper explains that the conversion of farmland will have both environmental and economic effects. The County agrees, and it has consistently argued that the BDCP should fully mitigate both types of effects in coordination with affected jurisdictions. However, while the Discussion Paper includes references to achieving a "neutral" economic effect on Delta agriculture, it seems that the overall strategy may result in a compromise that neither assures a "neutral" economic effect on agriculture or adequate mitigation under CEQA for the conversion of farmland.</p> <p>Confronted with the choice of conventional mitigation or the optional agricultural land stewardship strategy, affected jurisdictions will thus have a dilemma: accept mitigation for the loss of agricultural resources (the conventional approach); or accept mitigation primarily directed at the direct and indirect economic effects of such conversions (the optional strategy). This is not likely to be well received by many jurisdictions, and it will not be well received by Yolo County. Affected jurisdictions will want to be "made whole" on both sides of the ledger. Many jurisdictions will place no value on having a choice between the conventional mitigation approach and the optional strategy.</p> <p>At bottom, this is a leading concern with the Discussion Paper -- it appears to enshrine a false dilemma by creating a choice that affected jurisdictions should not have to make. Environmental and economic mitigation should be provided in coordination with affected jurisdictions, not merely one or the other (or, at best, a bit of both). If cost presents an obstacle to achieving fairness for affected jurisdictions, the problem is not with the solution (full mitigation) but rather with the financial integrity of the program (BDCP) creating the impacts that require mitigation. This is a fundamental issue to address in future drafts of the Discussion Paper.</p>	No issues related to the adequacy of the environmental impact analysis in the EIR/S were raised. Please see Master Response 18 for more information regarding agricultural impact mitigation.
1676	262	<p>[From ATT12:]</p> <p>The Discussion Paper Needs to Include Performance Measures:</p> <p>The discussion of both the conventional approach to mitigation and the optional strategy should be expanded to include clear performance measures or other metrics that define mitigation objectives. It is not clear, for example, whether the conventional approach to mitigation will consist of 1:1 (or higher) mitigation by preserving farmland of comparable quality to that converted. Similarly, while the Discussion Paper states that a "critical objective" of the optional strategy is to achieve a neutral economic effect, it is not clear whether (or how) this objective will serve as a performance measure that defines the extent of mitigation. For the sake of clarity, these matters should be addressed in the public review draft.</p>	Please see response to Comment 261.
1676	263	<p>[From ATT12:]</p> <p>The Discussion Paper Should Describe Benefits of Conventional Mitigation:</p> <p>The Discussion Paper states that conventional mitigation "does little to help the individual</p>	Mitigation Measure AG-1c (Consideration of an Optional Agricultural Land Stewardship Approach or Conventional Mitigation Approach) represents a mitigation approach that would be implemented to mitigate impacts that cannot be otherwise mitigated by Mitigation Measure AG-1a or Mitigation Measure AG-1b.

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		<p>farmer whose land was converted or otherwise impacted by the project." This may be true, but it is important to also present the perceived benefits of a conventional mitigation approach. For example, many jurisdictions use conservation easements to mitigate the loss of farmland because they have determined that protecting comparable farmland from conversion will constrain future development and help preserve a sustainable agricultural base. Also, I observe that a similar approach to mitigation is common -- and has been embraced and utilized by various state agencies -- for the permanent loss of other irreplaceable resources, such as foraging habitat for the Swainson's hawk and other threatened and endangered species.</p>	<p>Mitigation Measure AG-1c requires that either a "Conventional Mitigation Approach" or an "Optional Agricultural Land Stewardship Approach" be implemented. The conventional approach involves the purchase of interests in agricultural land that would require the preservation and/or enhancement of land of similar agricultural quality to the land being lost to agricultural uses under the project actions, which would help maintain agricultural productivity.</p> <p>The proposed Optional Agricultural Land Stewardship Approach does not focus principally on physical effects, but on maintaining agriculture and economic viability in the Delta, taking into consideration the desire of individual Delta farmers to continue working on their land, the long-term viability of regional agricultural economies, the economic health of local governments and special districts, and the Delta as an evolving place.</p> <p>For more information on evaluating the Delta as a place, please see Master Response 24.</p>
1676	264	<p>[From ATT12:]</p> <p>The Definition of "Agricultural Land" Should Be Expanded:</p> <p>The Discussion Paper defines "Agricultural Land" for purposes of mitigation generally as "prime farmland, farmland of statewide importance, or unique farmland." [Discussion Paper at p. 5.] This is in accord with Appendix G of the CEQA Guidelines, which focuses the analysis of impacts on agricultural resources in environmental documents on these categories of farmland. Importantly, however, local governments in the Delta have rejected this narrow focus on "prime farmland, farmland of statewide importance, or unique farmland" in developing their own agricultural land preservation strategies, favoring a broader view of "farmland" that includes farmland of local importance, grazing land, and other lands suitable for agriculture which do not meet these definitions.</p> <p>Yolo County is among these jurisdictions. Its Agricultural Land Easement Program requires mitigation for the conversion of any land suitable for agriculture, including grazing land. The County could not accept an agricultural mitigation strategy in BDCP that depends, in part, on whether the land at issue constitutes land worthy of mitigation under the constrained approach set forth in the CEQA Guidelines. Other affected local governments are likely to have similar sentiments to the extent that the Discussion Paper proposed mitigation for a more narrow range of farmland than is designated for conservation and mitigation by local general plans and ordinances. As discussed below, this aspect of the overall mitigation strategy should therefore be aligned with the approach taken in local mitigation programs.</p>	<p>This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. Please see response to Comment 186. Also, please see Master Response 31.</p>
1676	265	<p>[From ATT12:]</p> <p>The Classification "Important Farmland" Should Be Removed:</p> <p>The Discussion Paper states that of the "Agricultural Land" affected by a project, the only land that may require mitigation is "Important Farmland." This term is defined as including only the acreage that "is currently farmed and can continue to be farmed economically and on a sustainable basis for an indefinite period of time absent a conversion to a different use under the project." [Discussion Paper at p. 6.] This highly restrictive approach is unlikely to be acceptable to Yolo County or other affected</p>	<p>This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. Please see response to Comment 186.</p>

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		<p>jurisdictions. Some of the problems it presents are as follows:</p> <ul style="list-style-type: none"> * Limiting mitigation to land that "is currently farmed" indirectly encourages the cessation of agriculture to lower the cost of conversions to habitat or other uses associated with BDCP. Additionally, this approach would preclude mitigation for land removed from agriculture for temporary periods due to landowner decisions having nothing to do with the underlying value of the land and its suitability for agriculture. * Evaluating whether land "can continue to be farmed economically and on a sustainable basis for an indefinite period of time" will be difficult or impossible in at least some instances. For example, forecasting the potential effects of climate change is speculative and its impact on a given parcel depends on a range of factors, including whether levees will be improved to neutralize its effects. <p>Consequently, in all but extraordinary circumstances, lands capable of being farmed should be considered likely be farmed in the future, and conversions of such lands should require full mitigation.</p>	
1676	266	<p>[From ATT12:]</p> <p>The Concept of Working Landscapes is Misapplied:</p> <p>As defined in the Discussion Paper (see footnote 3 on p. 2), a "working landscape" is a place where agriculture or other economic endeavors are pursued in a manner that integrates the consideration of ecological values and ecosystem needs. In places, the Discussion Paper seems to articulate a role for "working landscapes" that is consistent with this definition, with agriculture remaining the predominant land use. [Discussion Paper at p. 7.] In other places, however, the Discussion Paper seems to treat almost any sort of land management activity as consistent with the concept of "working landscapes," including managing restored habitat as if such an activity is equivalent to the production of agricultural commodities. [Discussion Paper at p. 9.]</p> <p>This may be interesting to contemplate in the abstract, but it is not logically sound. The permanent conversion of agricultural resources to another use--whether it be homes or habitat--results in the loss of a resource, period, and it cannot be squared with the concept of working landscapes. Nor does it matter that farmers can potentially be reemployed as managers of restored habitats. [Discussion Paper at pp. 9-10.] They can just as easily be hired to grade land for urban development and maintain parks, but that has no bearing on whether farmland has been converted (or the adequacy of related mitigation).</p> <p>Certainly, the concept of working landscapes has a place in the development and implementation of BDCP. It may even be a viable strategy for limiting the conversion of farmland--for example, if in lieu of directly converting land to habitat landowners are encouraged to undertake modest changes in agricultural practices to provide an incremental benefit for covered species. While such an approach may require more acres to achieve a desired environmental outcome (as compared with projects that covert land to habitat), it is far more likely to gain acceptance among affected jurisdictions than the overly broad concept of working landscapes apparently endorsed by the Discussion Paper.</p>	<p>This comment has been acknowledged. No issues related to the adequacy of the environmental impact analysis in the EIR/S were raised. Please see Master Response 18 for more information regarding agricultural impact mitigation.</p>

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1676	267	<p>[From ATT12:]</p> <p>The Discussion Paper appears to place considerable weight on the potential reemployment of farmers as habitat managers. [Discussion Paper at p. 9.] This is fine to consider but it has value only to the extent it contributes to economic mitigation, as it does not mitigate for the loss of agricultural resources. It is thus distinct from, and not a true alternative to, "conventional mitigation" for the loss of agricultural resources as indicated on p. 7 of the Discussion Paper (where it states that hiring farmers may "eliminate or reduce a potential conventional mitigation requirement"). The same goes for other elements of the proposed optional strategy that are economic in nature (e.g., the strategies described in subsections B and D of Section IV).</p> <p>Separately, the Discussion Paper indicates that coordinating agricultural and terrestrial species mitigation may reduce or eliminate the need for stand-alone agricultural conservation strategies (including easements). [Discussion Paper at pp. 5-6.] There may be limited instances where this strategy will be viable. In some circumstances, however, maintaining lands for terrestrial species will limit crop types and will severely diminish the residual agricultural value of the conserved lands. For this reason, the County generally does not allow the "stacking" of habitat and agricultural conservation easements. The Discussion Paper should recognize this issue and place appropriate limits on easement stacking to ensure the long-term sustainability of agriculture on the conserved lands.</p>	<p>This comment has been acknowledged. No issues related to the adequacy of the environmental impact analysis in the EIR/S were raised. Please see Master Response 18 for more information regarding agricultural impact mitigation.</p>
1676	268	<p>[From ATT12:]</p> <p>Do not ask jurisdictions to choose between conventional mitigation and the optional strategy. Instead, make a commitment to mitigate the conversion of farmland in line with the conventional approach, as reflected in any local ordinances or general plan policies. Separately, make a commitment to a neutral (or better) economic outcome for affected jurisdictions. This seems to be defined as a "critical objective" in the opening paragraphs of the Discussion Paper, yet it is unclear whether it is true commitment or how its achievement will be measured.</p>	<p>This comment has been acknowledged. The socioeconomic effects of the proposed project also are examined in Chapter 16. Socioeconomics, of the Final EIR/EIS. Please see Master Response 18 for more information regarding agricultural impact mitigation.</p>
1676	269	<p>[From ATT12:]</p> <p>Follow Local Agricultural Mitigation Requirements:</p> <p>Some jurisdictions, including Yolo County, have established local agricultural mitigation programs that contain specific mitigation ratios and other standards for agricultural mitigation. These programs (typically reflected either in ordinances or general plan policies) reflect legal and policy choices made carefully by local elected officials, often with substantial input from local farm bureaus and other stakeholders. The BDCP should be implemented in a manner that respects these local programs, particularly if such programs require a higher level of conservation than would be required under any mitigation measure included in the BDCP EIR/EIS.</p>	<p>Please see Master Response 18 regarding the use of mitigation ratios.</p>
1676	270	<p>[From ATT12:]</p> <p>Develop a Robust Economic Mitigation Program:</p> <p>Certainly, many of the strategies identified in the Discussion Paper could help address the adverse economic effects of BDCP. The Discussion Paper appears to contemplate that affected jurisdictions will be given a leading role in developing local programs to address</p>	<p>This comment raises issues with the economic mitigation of agricultural land needed for the reserve system included in the BDCP, Alternative 4. This comment has been acknowledged.</p>

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		<p>such effects, and this should be emphasized even more strongly in the public review draft.</p> <p>The Discussion Paper should also directly encourage the development of additional strategies for addressing economic effects. For example, additional strategies could include grower assistance programs intended to provide compensation for occasional impacts affecting agricultural viability (e.g., annual compensation for any losses attributable to seasonal habitat management) as a means of ensuring that such lands stay in agriculture. It is important to describe the strategies in the paper as only an initial list of approaches for consideration.</p> <p>The Discussion Paper should recognize that no matter how carefully an economic mitigation program is prepared, it would not eliminate the risk of adverse economic effects. This factor, together with the Delta Reform Act's dictate that the "coequal goals" be achieved in a manner "that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place," supports the creation of locally administered economic development programs capable of addressing any unanticipated adverse economic effects. Each such program should be supported by an endowment that provides an ongoing stream of revenue sufficient to achieve program objectives (and assure that local tax and assessment revenues are paid in full).</p>	
1677	1	<p>Because the BDCP is a significant infrastructure project, it is likely to impact PG&E's existing electric and gas infrastructure. PG&E is proud to serve 15 million gas and electric customers in California, from Bakersfield to the Oregon border. Given PG&E's vast service territory, a project of the size and scope of the BDCP will need to be closely coordinated with PG&E's existing and planned infrastructure, and PG&E's operations and maintenance activities will need to be considered.</p>	<p>The Lead Agencies will make every effort to coordinate early in the process with PG&E to ensure minimal disruption or impacts to PG&E service and infrastructure.</p>
1677	2	<p>In addition to managing potential impacts of the BDCP on its infrastructure, PG&E understands that CDWR may request that PG&E provide some or all of the power supply needs of the project, which could include the temporary power for the construction/tunnel boring process or the permanent needs of the new pumping stations. Meeting these needs would likely require development of new infrastructure and require substantial lead time and coordination with multiple other entities, including the California Public Utilities Commission (CPUC) and the California Independent System Operator Corporation (CAISO). We appreciate CDWR's willingness to work with PG&E on these issues and early engagement of PG&E in the planning process could help avoid project delays.</p>	<p>Please see Response to Comment 1677-1.</p>
1677	3	<p>PG&E provides the following comments to assist the project in addressing these issues comprehensively and efficiently. We have been in communication with California Department of Water Resources regarding these issues and encourage the project to continue working closely with potentially affected utilities in a collaborative manner. PG&E will be able to provide more specific comments about necessary mitigation of impacts to utility infrastructure once the project plan has been further defined.</p>	<p>Responses are provided in Responses to Comments 1677-4 through 15, below.</p>
1677	4	<p>Cost, Permitting, and Planning</p> <p>The BDCP project proponents (Proponents) are responsible for costs associated with the relocation and protection of existing PG&E facilities to accommodate construction and operation of the new water conveyance facilities proposed in Conservation Measure 1</p>	<p>The California Department of Water Resources continues to work with PG&E to review the potential relocation of impacted PG&E facilities and intends to comply with all state laws and regulations regarding such activities.</p>

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		<p>(CM-1), as well as those affected by any future restoration activities within the proposed Restoration Opportunity Areas (ROAs). These costs include utility relocation and protection activities associated with the gas and electric distribution and transmission systems, including planning activities, grid reliability studies, engineering studies, environmental studies, environmental permitting, land acquisition, and any other activities necessary to comply with all requirements and standards to ensure safe, reliable energy and meet all environmental obligations. Because utility relocations typically require long lead times to plan, permit, and execute, and are not feasible in all cases, the Proponents are encouraged to consult with PG&E early and often during the planning and design phases for the new CM-1 facilities, as well as for the future restoration projects as these are proposed.</p> <p>While it is not yet clear to what extent PG&E facilities will play a role in providing temporary construction power to the project, or any new permanent facilities to serve the project's operational needs once it is built, PG&E has been working with the Proponents and other potential power providers to conduct system impacts studies and other analyses to determine the least impactful, most environmentally sound configuration for new or upgraded electric transmission facilities. As a general principle, these costs would also be the responsibility of the project.</p>	
1677	5	<p>California Public Utilities Commission Jurisdiction:</p> <p>Section 20.2.2 of Chapter 20 (Public Services and Utilities) of the Draft EIR/EIS should include the California Utilities Commission (CPUC) General Order (GO) 131 -- which governs siting of electric facilities constructed by CPUC-regulated investor-owned utilities like PG&E. PG&E will need to comply with GO 131-D requirements prior to constructing any new electric facilities that might be required to serve project, or relocating existing electric facilities.</p> <p>PG&E is subject to the jurisdiction of the CPUC and must comply with CPUC GO 131-D in connection with the construction or modification of electric facilities (e.g., transmission lines, substations, switchyards, etc.). In most cases where electric facilities are under 200 kV and are related to a larger project (e.g., electric generation plant), GO 131-D exempts PG&E from obtaining an approval from the CPUC provided its planned facilities have been included in the larger project's California Environmental Quality Act (CEQA) review, the review has included circulation with State Clearinghouse and review by the CPUC, and the project's lead agency finds no significant unavoidable environmental impacts as a result of construction of the electric facilities. PG&E may proceed with construction once PG&E has filed notice with the CPUC and the public as to the project's exempt status, and the public has had a chance to protest PG&E's claim of exemption. If PG&E facilities are not adequately evaluated in the larger project's CEQA review, or if the project does not qualify for the exemption because the lead agency has concluded that the electric facilities will result in a significant unavoidable impact, PG&E may need to seek approval from the CPUC Permit to Construct (PTC)), which could take 18 months or more, although it could take less time than that in cases where another lead agency has already conducted an environmental review that includes PG&E's facilities.</p> <p>When PG&E's transmission lines are designed for immediate or eventual operation at 200 kV or more, GO 131-D requires PG&E to obtain a Certificate of Public Convenience and Necessity (CPCN) from the CPUC unless one of the following exemptions applies: the replacement of existing power line facilities or supporting structures with equivalent</p>	DWR will comply with all applicable laws.

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		facilities or structures, the minor relocation of existing facilities, the conversion of existing overhead lines (greater than 200 kV) to underground, or the placing of new or additional conductors, insulators, or their accessories on or replacement of supporting structures already built. Obtaining a CPCN can take 18 months or more, although it could take less time than that in cases where another lead agency has already conducted an environmental review that includes PG&E's facilities.	
1677	6	Planned and Unplanned PG&E Projects PG&E also recommends that the Proponents consult with PG&E concerning planned and potential future PG&E facility improvements and expansion plans. It is recommended that the Proponents should identify and evaluate early on with PG&E potential future impacts to PG&E facilities and the potential for those facilities to accommodate future electricity and gas demand.	The Lead Agencies will make every effort to coordinate early in the process with PG&E on all potential future PG&E facility improvements and expansion plans.
1677	7	Access and Maintenance PG&E owns and operates electric and gas transmission lines and distribution facilities, substations and other PG&E facilities and properties along the proposed project boundaries. To promote the safe and reliable maintenance and operation of utility facilities, the CPUC has mandated requirements utility surrounding objects or construction activities. To ensure compliance with these the Proponents should coordinate with PG&E early in the development of their project plans. Any proposed development should provide for unrestricted utility access and prevent easement encroachment where possible that might impair the safe and reliable maintenance and operation of PG&E's facilities. The proposed tunnel mud spoil storage locations appear to potentially conflict with several PG&E facilities, if not closely coordinated. These material storage areas should not be located in such a way as to prevent PG&E access to overhead or underground facilities, or conflict with regulatory standards for line clearance, vegetation management, and other	The Lead Agencies will make every effort to coordinate early in the process with PG&E to ensure minimal disruption or impacts to PG&E service and infrastructure. All proposed developments will comply with CPUC mandated requirements. 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. Please refer to the Final EIR/EIS for updated maps of the new preferred alternative, Alternative 4A.
1677	8	In addition to the need to avoid intersecting pipelines siting the project's facilities, the construction and dewatering activities have the potential to detrimentally impact PG&E's. For example, studies may need to be performed to ensure that vibration from the tunnel boring activities or ground subsidence does not detrimentally impact the reliability and safety of the gas transmission and distribution facilities.	The Lead Agencies will make every effort to coordinate early in the process with PG&E to ensure minimal disruption or impacts to PG&E service and infrastructure. Vibration effects from tunneling locomotives and tunnel boring machines were evaluated against a threshold of 0.04 in/sec PPV. This is a threshold of perception of vibration, associated with annoyance. Groundborne vibrations from the TBMs to above-ground structures would not exceed 0.008 in/sec PPV and would therefore not result in adverse vibration effects to nearby sensitive receptors. Furthermore, tunnel locomotives would be operated at slow speeds inside of tunnels and would not result in excessive vibrations. Groundborne vibrations from the tunnel may cause a perceptible level of vibration to pipelines passing very near to the tunnel, however overall vibration levels from tunneling would likely be minimally disruptive to infrastructure. Please also see Chapter 23, Noise, of the Final EIR/EIS.
1677	9	Also of interest are the habitat restoration projects proposed in the ROAs. The ROA areas overlap with many PG&E facilities, and proposals to create habitat pose many concerns for PG&E's ability to access and maintain our facilities. For example, PG&E facilities are developed and constructed for the particular environment that they are situated in. Inundation of currently dry areas resulting in submersion of portions of PG&E electric structures, including transmission or distribution poles, could require replacement with	The Lead Agencies will make every effort to coordinate early in the process with PG&E to ensure minimal disruption or impacts to PG&E service and infrastructure. 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

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		<p>new poles developed for a wet environment in addition to presenting new access challenges. Likewise, earthwork and ground disturbance, including inundation, could create subsidence or other impacts affecting underground gas pipelines, requiring engineering testing and possibly modifications/replacement. In addition, modifications to waterways to create navigable waters could require raising the height of overhead lines to comply with regulatory requirements, incurring significant costs. As the ROAs are only being reviewed in the EIR/EIS at a programmatic level, proposed habitat restoration projects would require separate environmental review, and PG&E should be consulted with at the earliest opportunity to determine the feasibility and costs of probable relocations or retrofits of utility facilities.</p>	<p>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>
1677	10	<p>Utility Coordination</p> <p>The Draft EIR/EIS states in the Public Service and Utilities Section that the Proponents "would work with utility owners during the final engineering design and construction of the project to relocate utilities or protect them in place." There are many requirements that must be satisfied in either relocating or protecting utility infrastructure, including, for example California Public Utilities Commission General Orders 95, 112-E, and 131-D, North American Electric Reliability Corporation reliability standards, and California Independent System Operator (CAISO) outage scheduling, planning, approval, and other requirements. In addition, there may be other permits and authorizations required by resource agencies in the design and construction of utility facilities including but not limited to incidental take authorization for federal- or state-listed species (U.S. Fish and Wildlife Service, California Department of Fish and Wildlife), Clean Water Act section 401 water quality certification (California Regional Water Quality Control Boards), Clean Water Act section 404 permit (U.S. Army of Engineers), Streambed Alteration Agreement (California Department of Fish and Wildlife), and concurrence with the cultural resource findings by the State Historic Preservation Officer. To ensure satisfaction of these requirements and minimize PG&E recommends that the Proponents coordinate with us during all project phases including the environmental document/project report, permitting, engineering and design, right-of-way acquisition, and construction phases.</p>	<p>The Lead Agencies are currently working to obtain the required permits and authorizations required by resource agencies. The Lead Agencies will make every effort to coordinate early in the process with PG&E to comply with requirements for relocating or protecting utility infrastructure.</p>
1677	11	<p>Electric and Magnetic Fields (EMF)</p> <p>One area of the Draft that should corrected to avoid misinforming the public is the discussion of EMFs. To assist CDWR to appropriately EMFs in a manner consistent with the approach taken by other CEQA lead agencies including the CPUC, PG&E has provided below a summary of reports regarding possible health effects of EMF, a discussion of how has generally been addressed under the California Environmental Quality Act (CEQA), and a description of the EMF exposure reduction measures that could be incorporated into the design of electric transmission projects necessitated by the project, if required by the CPUC.</p> <p>EMF is a term used to describe electric and magnetic fields that are created by electric voltage (electric field) and electric current (magnetic field). Power frequency EMF is a natural consequence of electrical circuits, and can be either directly measured using the appropriate measuring instruments or calculated using appropriate information. Attachment A: [att 1] Electric and Magnetic Fields provides a detailed explanation of EMF.</p>	<p>The lead agencies thank the commenter for providing this information.</p> <p>Current scientific evidence does not show conclusively that EMF 1 exposure can increase health risks, and state and federal public health regulatory agencies have determined that setting numeric exposure limits is not appropriate. However, in light of the scientific uncertainty and public concern about potential public health impacts from EMF exposure, the CPUC developed the EMF design guidelines, which are intended for new construction or major reconstruction of electric utility transmission, substation, and distribution facilities. Based on this, utility companies are required to consider the "low-cost, no-cost" EMF design guidelines (See Appendix 3B of the BDCP/California WaterFix EIR/EIS) in order to reduce potential health risks associated with power lines.</p> <p>It is understood that the CPUC does not recognize the potential adverse health impacts related to EMF exposure generated by transmission power lines. However, as indicated in Final EIR/EIS Chapter 25, Public Health, some studies have shown an association between EMF exposure and a small increased risk of childhood leukemia. Further, some studies have suggested a link between EMF exposure in electrical workers and leukemia and brain cancer. Therefore, in light of public concern, and to be conservative for the purpose of the Public Health impact analysis, the potential for EMF exposure as a result of constructing electrical lines in the plan area as part of implementation of proposed project was included in the impact</p>

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			<p>analysis presented in Chapter 25, Public Health.</p> <p>This comment includes an attachment to the comment letter. A reply is provided in this response to comment, 1677-11. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.</p>
1677	12	<p>Possible Health Effects of EMF</p> <p>The possible effects of EMF on human health have come under scientific scrutiny. Hundreds of EMF studies have been conducted over the last 20 years in the areas of epidemiology, animal research, cellular studies, and exposure assessment. There is a consensus among the medical and scientific communities that there is insufficient evidence to conclude that EMF causes adverse health effects. Neither the medical nor scientific communities have been able to provide any foundation upon which regulatory bodies could establish a standard or level of exposure that is known to be either safe or harmful. As a result, the CPUC and the California Department of Health Services (CDHS) have not concluded that exposure to magnetic fields from utility electric facilities is a health hazard.</p> <p>A number of nationally recognized multi-discipline panels have performed comprehensive reviews of the body of scientific knowledge on EMF. Attachment A, Electric and Magnetic Fields, summarizes reports from the National Institute of Environmental Health Sciences, National Research Council/National Academy of Sciences, World Health Organization, International Agency for Research on Cancer, American Cancer Society, and American Medical Association. These reports conclude that insufficient scientific evidence to warrant the adoption of specific health-based EMF mitigation measures.</p>	Please see Response to Comment 1677-11.
1677	13	<p>EMF and the California Environmental Quality Act</p> <p>EMF are matters of public interest but not regarded as potentially significant physical, environmental effects under the California Environmental Quality Act (CEQA). Section 15145 of the CEQA Guidelines states that if a lead agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact. This CEQA Guidelines section is relevant to EMF because there is ongoing scientific study of long-term health risks from exposure, with no definitive evidence that exposure to EMF adversely affects public health summarized in Attachment A: Electric and Magnetic Fields, many reports have concluded the potential for health associated with EMF exposure is too speculative to allow the evaluation of impacts or the preparation of mitigation measures. Correspondingly, the CPUC repeatedly recognized that EMF is not an environmental impact to be analyzed in the context of CEQA because (1) there is no agreement among scientists that EMF does create a potential health risk, and (2) there are no defined or adopted CEQA standards for defining health risk from EMF. See, e.g., CPUC Decision No. 04-07-027 (Jul. 16, 2004); Delta DPA Capacity Increase Substation Project Final MND and Supporting Initial Study (November 2006), A.05-06-022, section B.1.14.1, page B-31, adopted in D.07-03-009 (March 1, 2007).</p>	Please see Response to Comment 1677-11.
1677	14	EMF Measures Required by the CPUC	Please see Response to Comment 1677-11. The Lead Agencies thank PG&E for providing this information. Final EIR/EIS Chapter 25 refers to CPUC EMF Design Guidelines for Electrical Facilities, which are described in

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		<p>While the CPUC has repeatedly recognized that EMF is not an environmental impact to be analyzed in the context of CEQA, in response to scientific uncertainty and public concern regarding EMF, the CPUC issued Decision D.06-01 -042, which specifically requires PG&E and other utilities to consider "no-cost" and "low-cost" measures, where feasible, to reduce magnetic field exposure from new or upgraded utility facilities. Appendix A [Att 1:] Electric and Magnetic Fields provides background on the CPUC's process to arrive at the decision.</p> <p>To comply with CPUC requirements, two main "no-cost" and "low-cost" measures have been considered in the design of transmission projects:</p> <p>The first measure considered is optimal phasing. Optimal phasing involves inverting the phasing of one circuit on the same towers so that the magnetic fields emitted by the circuits cancel each other out more effectively.</p> <p>The second measure is increasing height of the line by increasing tower height.</p> <p>PG&E would comply with CPUC's "no-cost, low-cost" EMF reduction policy with respect to any electric facilities necessitated by construction of the project.</p> <p>Consistent with the authorities discussed above, we recommend that CDWR refrain from assessing EMF exposure as a potential environmental effect in the Final EIR/EIS, and instead include a discussion of the in an informational appendix to the Final EIR/EIS that could include some or all of the information discussed and cited in Appendix A [Att 1] to this letter</p>	<p>Appendix 3B, Environmental Commitments, Section 3B.1.3, and indicates that the design of the proposed project's transmission lines would be consistent with CPUC's guidelines.</p>
1677	15	Att 1: Attachment A: Electric and Magnetic Fields	This comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment (see Response to Comment 1677-11) or the Final EIR/EIS.
1678	2	In regard to BDCP conservation and restoration areas being located within Sacramento Municipal Utility District's (SMUD) service territory, the Final EIS/EIR and the BDCP itself should account for SMUD's right to utilize all of our construction, access, and maintenance easements.	Final project designs will comply with all legal access and easements. The Lead Agencies will coordinate early in the process with SMUD in the event that project areas fall within SMUD's service territory.
1678	3	The EIS/EIR discusses the impacts associated with construction of the transmission lines for the project, but does not appear to address impacts associated with any distribution facilities (both lines and any distribution substations) that would be required for the project. Sacramento Municipal Utility District (SMUD) respectfully requests that the lead agencies ensure the final EIS/EIR addresses the environmental impact of upgrading, installing, and maintaining these facilities.	<p>The distribution lines and necessary substations were both considered components of the Action Alternatives, and the environmental effects from construction of these components were included in the construction impacts for each resource topic (i.e., EIR/EIS chapters). The energy transmission for the alternatives was generally described in Section 21.1.4 of the Energy Chapter. There are no additional environmental effects associated with these energy components.</p> <p>For more information regarding project and program level analysis please see Master Response 2.</p>
1678	4	Interconnection to Sacramento Municipal Utility District (SMUD) facilities: The transmission alignment proposed under Alternative 4 would connect to the existing grid at a point north of Lambert Road and west of Highway 99. SMUD is currently undergoing a System Impact Study that will identify how SMUD can best provide electrical power to the project and any system improvements that may be required to ensure SMUD can serve the project and its existing customers. The results of this study may indicate a	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

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		different interconnection location which may require additional environmental review unless the Final EIS/EIR accounts for an interconnection at this location.	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. The Lead Agencies will continue to coordinate with SMUD on the proposed project.
1678	5	Transmission substation: Page 3-108, lines 39-41 describes the anticipated need for a new transmission substation, which would be approximately 2 acres (268 by 267 feet) in size. Sacramento Municipal Utility District (SMUD) transmission substations are typically 5-10 acres, and the document should be amended accordingly. A practical concern is ensuring sufficient space to safely install the necessary transmission facilities.	Designs for the new transmission substation will be refined when the provider is selected.
1678	6	Page 3-109, lines 44 and 45, discusses the use of a dipped cross arm configuration that could be used to discourage raptor perching. Sacramento Municipal Utility District (SMUD) does not typically or currently use this configuration, but would be willing to work with DWR to find a solution that addresses this concern.	See Response to Comment 1678-4.
1678	7	Phase Separation clarification: Page 3-110, lines 2-5 state that for 69 kilovolt (kV) lines, there would be 60 inches between the conductor and pole face. Please confirm whether this separation would be the result of materials placed on the conductors at each pole to create 60 inches of separation between perching opportunities and exposed wires, or whether the wires themselves would be constructed 60 inches apart. Would this standard also apply to distribution lines constructed or relocated for this project?	The project is currently in the planning phase. When the project is in the design phase, DWR will coordinate with the selected utility to identify the most appropriate method for meeting guidelines to mitigate raptor electrocutions as set forth in Suggested Practices for Avian Protection on Power Lines: State of the Art in 2006 (APLIC 2006) or the most recent guidance put forth by the industry and approved by the wildlife agencies.
1678	8	Please identify the party responsible for identifying areas of raptor concern as discussed on page 3-110, lines 3 and 4. Will DWR or the local utility designate those areas?	DWR will coordinate with SMUD to identify areas of raptor concerns during the development of avian protection plans and following Avian Power Line Interaction Committee (APLIC) guidelines,
1678	9	Material coating on monopole and lattice structures (page 3-110, lines 12-14): Sacramento Municipal Utility District (SMUD) typically uses hot-dip galvanized steel that is dulled to reduce reflectivity as material for its poles. Please describe the material that would be used (both type and color) that would address reflectivity and visibility.	Engineering completed for the project is at conceptual level. Pole material noted in the comment will be considered during future design phases.
1678	10	Appendix 3B, Transmission Line Design and Alignment Guidelines (3B.1.3) This section discusses the electric and magnetic field (EMF) guidance to reduce magnetic fields for new facilities including reducing conductor (phase) spacing. This seems inconsistent with the raptor-safe design guidelines, which suggest 60 inches of separation between conductors, but no distance is given to minimize potential magnetic fields. Sacramento Municipal Utility District (SMUD) will abide by the California Public Utilities Commission's (CPUC) seven interim measures regarding EMF from its November 1993 decision, which was affirmed on January 27, 2005, or the most current adopted guidance from the CPUC. The CPUC EMF Design Guidelines for Electrical Facilities have not been adopted by the CPUC and, therefore, at this time are only recommendations.	Current scientific evidence does not show conclusively that EMF exposure can increase health risks, and state and federal public health regulatory agencies have determined that setting numeric exposure limits is not appropriate. However, in light of the scientific uncertainty and public concern about potential public health impacts from EMF exposure, the CPUC developed the EMF design guidelines, which are intended for new construction or major reconstruction of electric utility transmission, substation, and distribution facilities. Based on this, utility companies are required to consider the "low-cost, no-cost" EMF design guidelines in order to reduce potential health risks associated with power lines. Please see Final EIR/EIS Appendix 3B, Section 3.B.2.3 regarding an environmental commitment to avoid/minimize exposure of the public to new sources of EMF as a result of implementing the project.
1678	11	Similar to Comment 2E, please confirm that DWR will identify the bird strike risk zones and greater sandhill crane winter use areas. Are these bird strike risk zones defined in Figure 2 of Attached 5J.C as all areas with a bird strike risk index of 1.0 or greater? Sacramento Municipal Utility District (SMUD) is open to exploring the feasibility of	Bird strike risk zones are defined in Figure 2 of Attached 5J.C as all areas with a bird strike risk index of 1.0 or greater. For additional information regarding sandhill crane, please see Master Response 17.

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		<p>undergrounding existing lines in high bird strike zones, but removing or relocating lines may be infeasible due to our obligation to provide power to our existing customers. SMUD has several concerns associated with construction and operation of underground transmission and subtransmission lines, including but not limited to: costs; increased environmental impacts associated with constructing the lines (i.e., the physical impacts from a trench exceed the impacts associated with installing poles); increased environmental impacts associated with maintenance of the lines; and potentially feasibility given the high water table, soil type, and seismicity. The Draft EIS/EIR discusses some of these concerns on pages 3-110 through 3-112.</p> <p>SMUD is willing to install and maintain flight diverters on all new permanent lines and existing lines in the highest risk zones at DWR's cost.</p>	
1678	12	<p>Avoidance and Minimization Measure 30, Transmission Line Design and Alignment Guidelines</p> <p>There appears to be inconsistency between the text of BDCP Appendix page 3.C-70, lines 25 and 26, and EIR/EIS Appendix page 3B-10, lines 20 and 21 regarding reconfiguring of irrigation systems. The BDCP Appendix states that any reconfiguring of irrigation systems would be completed at the utility's (i.e., SMUD's) expense, while the EIS/EIR Appendix does not specify who would be responsible for the expense. Although Sacramento Municipal Utility District (SMUD) does anticipate that any facilities can be constructed to avoid impacts to existing irrigation systems, the EIS/EIR should be amended to consistently state that DWR, not SMUD, will pay for utility relocations required due to the BDCP.</p>	Final EIR/EIS Appendix 3B states that "in cases where existing structures and improvements cannot be feasibly avoided, the project proponents will ensure that structures and improvements are relocated or the owner compensated for the loss and ensure that disturbed areas are returned to preconstruction conditions," indicating that it would be the lead agencies' responsibility, and it does refer the reader to BDCP Appendix 3C.
1678	13	The Land Use section of the Draft EIR/EIS provides a detailed description of the proposed project (and project alternatives) impacts associated with transmission line development. These potential transmission related impacts could affect up to 61 acres of land designated for Low Density Residential, Nature Preserve, Commercial Office, and/or Recreation land uses within Sacramento Municipal Utility District (SMUD) service area, infrastructure footprint, and SMUD's non service area properties.	Alternative 4A would place temporary and permanent structures on lands designated for other uses by the general plans of Sacramento, San Joaquin, Contra Costa, and Alameda Counties. Project conflicts with existing public structures under Alternative 4A are addressed in Final EIR/EIS Chapter 20, Public Services and Utilities. When required, the project proponents would provide compensation to private property owners for losses due to implementation of the alternative, which would reduce the severity of economic effects related to this physical impact.
1678	14	Chapter 13 did not include the impact acreages for Alternative 2C, but states that they would be similar to Alternative 1C. Please provide the impact areas.	The EIR/EIS did not provide impact acreages for Alternative 2C because Alternatives 2C and 1C are both comprised of the West Alignments and Intakes 1-5. Therefore, the surface impacts will be the same.
1678	15	Sacramento Municipal Utility District (SMUD) has wind resources in Solano County, and it does not appear that this section addresses potential impacts on those resources that might occur as a result of restoration activities or other project components in the vicinity.	All impacts to utilities are described in Final EIR/EIS Chapter 20, Public Services and Utilities. The project would not interfere with SMUD wind facilities.
1678	16	Impacts associated with utility easements and existing infrastructure are not described in the Land Use discussion and could result in additional incompatibilities. Sacramento Municipal Utility District (SMUD) recognizes that there is some discussion of this impact in the Public Services and Utilities Section, starting on Page 20-123. Please ensure these issues are adequately addressed in the Final EIR/EIS.	<p>Final EIR/EIS Chapter 13, Land Use, describes general land incompatibilities. Impacts to easements and utilities are described in more detail in Chapter 20, Public Services and Utilities.</p> <p>Impacts to utility easements and existing infrastructure are discussed for each alternative under Impact UT-2: Displacement of Public Service Facilities as a Result of Constructing the Proposed Water Conveyance Facilities, Impact UT-4: Effects on Water or Wastewater Treatment Services and Facilities as a Result of Constructing the Proposed Water Conveyance Facilities, Impact UT-5: Effects on Landfills as a Result of Solid Waste Disposal Needs during Construction of the Proposed Water Conveyance Facilities, Impact UT-6: Effects on Regional or Local Utilities as a Result of Constructing the Proposed Water Conveyance Facilities, Impact UT-7: Effects on Public Services and Utilities as a Result of Operation and Maintenance of the Proposed Water Conveyance Facilities, and Impact UT-8: Effects on Public Services and Utilities as a Result of</p>

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			Implementing the Proposed Environmental Commitments 3, 4, 6-12, 15, and 16.
1678	17	The Transportation Management Plan for Hood (required under Mitigation Measure Trans-1a for Alternative 1A) will need to be prepared in coordination with Sacramento Municipal Utility District (SMUD) to ensure adequate access to our utility facilities in the area.	Facility access will be addressed during creation of detailed traffic management plans. For more information regarding the preferred alternative and its impacts and associated mitigation measures on transportation please see Section 4.3.15 of the RDEIR/SDEIS.
1678	18	Chapter 17, Aesthetics and Visual Resources The mitigation for visual impacts included potentially undergrounding transmission lines in areas where significant visual impacts would occur. Sacramento Municipal Utility District (SMUD) rarely installs transmission lines underground, as described above in section 4B, due to costs and additional construction and operational environmental impacts, but is willing to work with DWR to address this concern. The BDCP Mitigation Monitoring Plan should state that the project applicant is responsible for the funding of the associated aesthetic mitigation measures including but not limited to: A. Line or pole relocation; B. Undergrounding of transmission lines; C. Visual barrier and/or design treatment development; D. Easement acquisition; and E. Ongoing vegetation management activity.	Mitigation Measure AES-6a: Underground New or Relocated Utility Lines Where Feasible, states that the undergrounding of transmission lines will be the responsibility of the lead agencies. This will include all aspects of undergrounding. The commenter's suggested mitigation measures for undergrounding have been taken into consideration and incorporated into the Mitigation Monitoring and Reporting Plan as appropriate.
1678	19	Sacramento Municipal Utility District (SMUD) has existing distribution lines throughout the project area including both the water conveyance system and Conservation Zone 4 that serve existing customers. Construction of the water conveyance system and any conservation activities may require relocation of SMUD facilities as described in Impact UT-6 and UT-8, respectively. DWR would be responsible for obtaining any easements and resolving any environmental issues. Also see comment 5 above regarding relocation costs.	Any utility relocation will be coordinated with all appropriate utility providers and local agencies to integrate with other construction projects and minimize disturbance to communities, as required by California Water Code §11590. See also Response to Comment 1678-13.
1678	20	Sacramento Municipal Utility District (SMUD) has not yet completed its System Impact Study that would determine any infrastructure needs required to provide electrical service to the BDCP project. Impact UT-7 states that construction of the permanent transmission lines would not require improvements to the existing physical power transmission system and that operation of the project would not result in disruption or relocation of facilities (page 20-128, lines 37-41). This statement does not mention construction of the water conveyance system (energy demands from tunnel construction) which may adversely impact SMUD's ability to provide service to existing customers without improvements. SMUD will not be able to determine whether this is likely to occur and whether any additional mitigation may be needed to continue to provide electricity to existing customers until the System Impact Study is complete. Accordingly, the Final EIS/EIR should identify the potential impacts due to such improvements as well as the appropriate mitigation measures, if any.	Project plans have not advanced yet to the point where engineering and design work are complete. Environmental review is typically conducted based on less complete plans, because complete engineering and design work is not required for impact assessment, and most project proponents are reluctant to invest in complete engineering and design work before they know that their projects have received the entitlements and permits needed to proceed towards construction. The scope of the impacts analysis has been developed to be broad enough to cover all anticipated design elements, including the transmission lines. At the conclusion of the design phase, DWR will determine if additional environmental review is required based on the circumstances. DWR will incorporate SMUD's studies in its engineering and design work. Please see Master Response 2 for further information regarding the level of detail provided in the EIR/EIS Analysis.
1678	21	Chapter 22, Air Quality Sacramento Municipal Utility District (SMUD) may not have the equipment required to comply with the environmental commitments that DWR has proposed and as described	The Construction Equipment Exhaust Reduction Plan was revised in the RDEIR/SDEIS and includes a performance standard of model year 2013 engines for offroad equipment (greater than 50 break-horsepower). The performance standard applies to all construction sites and activities, rather than only at specific features (e.g., intakes). The mitigation plan provides flexibility in that the performance

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		on page 22-229, lines 6-12 for its portion of the project, but is willing to work with DWR to reduce generation of criteria pollutants resulting from project construction.	standard (average of model year 2013 engines) may be achieved through a variety of different control strategies, including Tier 3 or 4 equipment, engine electrification, or diesel particulate filters.
1678	22	Chapter 23, Noise Sacramento Municipal Utility District (SMUD) is willing to work with DWR to ensure that the proposed noise cancelling and vibration reducing mitigation measures are indeed feasible.	The Lead Agencies appreciate the opportunity to work with SMUD on this project, including related to noise and vibration mitigation measure implementation.
1678	23	Chapter 24, Hazards and Hazardous Materials Please ensure that Sacramento Municipal Utility District (SMUD) will be included in the preparation of all plans for this project with which it will be required to comply, including but not limited to the stormwater pollution prevention plans, hazardous materials management plans, spill prevention, containment, and countermeasure plans, SAPs and a barge operations plan stated along with HAZ-1a and HAZ -1b, UT-6a and UT-6c, and TRANS-1a. (Note: It does not appear that SAP is defined in the document).	As necessary, SMUD will be included in the preparation of plans for which the proposed project is required to comply. "SAP" is defined at the first occurrence of the acronym in the 2013 Public Draft EIR/EIS Chapter 24.
1678	24	Chapter 25, Public Health Impact PH-4 -- As discussed above under comments on Appendix 3B, Sacramento Municipal Utility District (SMUD) would abide by the California Public Utilities Commission (CPUC) seven interim measures regarding Electro Magnetic Field (EMF) from its November 1993 decision, which was affirmed on January 27, 2005. The CPUC EMF Design Guidelines for Electrical Facilities have not been adopted by the CPUC and are, therefore, considered recommendations.	The Lead Agencies thank the commenter for providing this information. The CPUC developed the recommended EMF design guidelines, which are intended for new construction or major reconstruction of electric utility transmission, substation, and distribution facilities. Based on this, utility companies are required to consider the "low-cost, no-cost" EMF design guidelines in order to reduce potential health risks associated with power lines. The Lead Agencies thank SMUD for providing a commitment to abide by the CPUC seven interim measures regarding Electro Magnetic Field (EMF) from its November 1993 decision, which was affirmed on January 27, 2005. Please see Final EIR/EIS Appendix 3B, Section 3.B.2.3 regarding an environmental commitment to avoid/minimize exposure of the public to new sources of EMF as a result of implementing the project.
1678	25	Sacramento Municipal Utility District (SMUD) would like to continue to be kept apprised of the planning, development, and completion of this project. We aim to be partners in the efficient and sustainable delivery of the proposed project. Please ensure that the information included in this response is conveyed to the project planners and the appropriate project proponents.	The Lead Agencies will continue to coordinate with SMUD on the proposed project.
1678	231	Sacramento Municipal Utility District (SMUD) is preparing a Habitat Conservation Plan for operation and maintenance activities and our proposed permit area overlaps with a portion of the BDCP area. SMUD is interested in working collaboratively with DWR to minimize discrepancies between mitigation measures required by the separate conservation plans.	The Lead Agencies will continue to coordinate with SMUD on the proposed project. The preferred alternative, Alternative 4A, no longer includes an HCP. 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), a response is provided generally referring the commenter to relevant information.

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1679	1	<p>During the past year, Plumas has participated in the Contract Extension Project negotiations with SWC Inc. and DWR over the governance structure and cost allocation of outstanding debt, continuing maintenance, and future expansion for the SWP.</p> <p>In good faith, Plumas (and Butte County) brought forth Objective 4 early in the SWP Contract Extension Project, thus:</p> <p>Original Objective (April 29, 2013) Butte/Plumas Objective:</p> <p>To ensure that contractors shall have the option and right to opt out of the cost and burdens and benefits of the Bay Delta Conservation Plan and any implementing and related projects.</p> <p>Revised Objective (July 9, 2013)</p> <p>Objective 4: BDCP and DHCCP Participation</p> <p>The Department and some State Water Project contractors are directly participating in the development of the Bay Delta Conservation Plan (BDCP) and the associated Delta Habitat Conservation and Conveyance Program (DHCCP). The details of the financing and repayment, specifically how the Department will charge each SWP contractor for future costs for implementation of the BDCP and DHCCP, has not been determined. Each contractor's participation in the implementation and financing of the BDCP and DHCCP should be voluntary. The Agreement in Principle and subsequent contract amendments should limit each contractor's obligation to fund any implementing and related BDCP and DHCCP projects to only to those contractors that agree to participate in those projects. Butte and Plumas shall not be responsible for any costs incurred by the Department for the BDCP and DHCCP unless each of them agrees to pay for such costs in the Agreement in Principle and subsequent contract amendments to the Statement of Charges.</p> <p>Notwithstanding the fact that, following July 9, 2013, some 18 additional public negotiating sessions were available to publicly discuss and evaluate Revised Objective No. 4, the Public Negotiation participants of the Contract Extension Project -over the clear objections of Butte County and Plumas County -did not include Objective 4 in the draft Agreement in Principle (AIP) document that is now being circulated to the SWP Contractors for signature.</p> <p>The AIP will form the basis for the description of the project in the DEIR for the SWP Contract Extension Project. It is an essential financing assurance for the BDCP. Plumas has been invited to join a future negotiation on cost allocations for the BDCP among SWP Contractor beneficiaries, a process that is presently scheduled to commence sometime in December 2014.</p> <p>Unfortunately, the schedule proposed for continued cost allocation negotiations among State Water Contractors will prevent even successful outcomes from being analyzed either in this EIR- EIS or in the DEIR that will be circulated for the SWP Contract Extension Project. Furthermore, agreements among the SWP Contractors that may be reached in this future process may not be binding either on DWR or on the Federal CVP contractors.</p> <p>Accordingly, there is confusion how and when the public will be able to participate in the cost allocation analysis for the BDCP project. Without an opportunity to fully participate in the cost allocation analysis, how can the public influence the final determination of</p>	<p>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. Please see Master Response 5 regarding the estimated costs of the 2013 public draft BDCP and its funding strategy. The preferred alternative, Alternative 4A, includes only the cost of the constructing and operating the proposed water conveyance facility, and its associated mitigation. Cost allocation discussions are ongoing among DWR, Reclamation, and the participating state and federal water contractors.</p>

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1679	2	<p>BDCP project costs and benefits?</p> <p>Fair Taxation Concerns:</p> <p>Plumas is dismayed to read in the BDCP draft EIS/EIR, as discussed in the attached comments, that the newly released Implementation Plan fails to disclose the real costs of the entire project and how those costs will be apportioned among the State and Federal Contractor "beneficiaries" as well as what costs will be borne by the public through bonds or property tax increases in the export service areas for the SWP and the Central Valley Project CVP. This omission is discussed in the attached comments on Page 9 in the section titled, "Failure to Ensure Adequate and Reliable Sources of Funding".</p> <p>Plumas also attaches and incorporates a letter by the Howard Jarvis Taxpayers Association that supports Plumas's position that costs be clearly described, cost allocations be affirmed by the beneficiaries in a public process, and that liabilities associated with unforeseen and underestimated costs be clearly described and addressed.</p> <p>As a local government that is bound by the requirement that new taxes be supported by a vote of the beneficiaries/taxpayer, Plumas is concerned that this lack of clarity of costs and cost allocations amounts to a blank check for the proposed "Authorized Entity Group" (AEG).</p> <p>A vote on the BDCP Tunnels Project by the taxpayers of California is not required. Instead, the California State Legislature created the Delta Stewardship Council in 2009 by enacting SBX7 1, the Delta Reform Act. The Council's primary mission is to adopt a comprehensive management plan for the Sacramento-San Joaquin Delta (the "Delta Plan") that achieves the "co-equal goals" of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem.</p> <p>Therefore, Plumas recommends that the final EIR/DEIS fully disclose and integrate compliance with the cost of service requirements of the California Constitution Article XIII A and C (Propositions 13, 26, and 218) with the "co-equal" goals for the BDCP Tunnels Project. This has not been accomplished to date, and deferring such decisions to the AEG in the Implementation Agreement does not allow the Delta Stewardship Council to escape their delegated legislative responsibility to uphold California constitutional financing standards.</p>	<p>Please see Master Response 5 regarding the adequacy of the cost estimates and their conservative assumptions and the adequacy of funding for the purposes of the state and federal regulatory requirements for the issuance of incidental take permits. The funding chapter of BDCP is not required to be a financing plan. The Lead Agencies would prepare separate financing plans to implement BDCP.</p> <p>The preferred alternative, Alternative 4A, no longer includes an HCP. Numerous comments were received that focused on various elements of the BDCP. 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.</p>
1679	3	<p>Senior Water Rights Concerns:</p> <p>The Authorized Entity Group has also been given the authority in the Implementation Agreement (IA) for the draft BDCP EIR/EIS to use "adaptive management" to amend the mitigations and conservation measures CM2-22. Plumas is deeply concerned that this authority could be used to overturn existing water rights priorities in California, by granting the junior water rights CVP and SWP Contractors immunity from state and federal endangered species and water quality inflow and outflow requirements in the Bay-Delta Estuary. A foreseeable result of new and potentially unlawful authority granted to the AEG in the IA for the BDCP EIR/EIS is that this adaptive management authority could be used to make senior water rights holders, especially in the Sacramento River and in-Delta portions of the Bay-Delta watershed responsible for providing flows to meet fishery, environmental habitat, and water quality requirements in the Bay-Delta Estuary. Under existing CVP and SWP contracts, the junior water rights holders with contracts to</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>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</p>

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		<p>use CVP and SWP project water are responsible for meeting ESA and Water quality standards in the Bay-Delta Estuary that are associated with their water export operations in the Bay-Delta. As discussed in the attached comments on Page 25, "Although the BDCP and the EIR/EIS simply assume that the project will be benign for holders of water rights, the State Board 's comments on the administrative draft EIR/EIS reveal a problem persisting in the latest draft: 'implementation of the BDCP project will require changes to water rights and water right requirements. Further, the proposed project may affect other legal users of water through changes in salinity and flows.' "</p> <p>The risk of this outcome is unacceptable, unlawful, and is not avoided by simply ignoring it in the EIR/EIS. Plumas strongly recommends that a clear discussion of the IA and the CM-1 's effects on senior water rights be included or the EIR/EIS analysis is fatally deficient and vulnerable to legal challenge.</p>	<p>alternatives analyzed in the Final 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>Please refer to Master Response 32 regarding water rights issues. For more information regarding changes in delta exports please see Master Response 26.</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/EIS for the project.</p>
1679	4	ATT1: ATT1: Agenda Item Submittal Form, Board of Supervisors	This comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in comment referencing the attachment or the Final EIR/EIS.
1679	5	ATT1: ATT2: Presentation Regarding the Public Draft Bay Delta Conservation Plan (BDCP), Adoption of a Resolution Reaffirming San Joaquin County's Opposition to the BDCP, Approving the County's Comments to the BDCP and the Related EIR/EIS and Implementing Agreement for BDCP, and Authorizing the Submission of those Comments to the Appropriate State and Federal Agencies	This comment describes the title of an attachment to the comment letter. See Response to Comments 1679-6 through 1679-23.
1679	6	The Bay Delta Conservation Plan, or BDCP, labels itself as "a comprehensive conservation strategy aimed at protecting dozens of species of fish and wildlife, while permitting the reliable operation of California's two biggest water delivery projects". In reality, the BDCP is an almost incomprehensively massive and expensive water delivery project thinly green-washed as a conservation strategy. It has been called the largest public works project in the history of the United States. It has also been called a gigantic boondoggle. Whatever its label, based upon any real and objective analysis of the scientific and economic data, as well as plain common sense, it is evident that the BDCP's twin tunnels will effectively destroy the Delta as it exists today and forever alter and negatively impact the economy and citizens of San Joaquin County.	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. The preferred project, Alternative 4A, no longer includes an HCP. For detailed responses 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.
1679	7	The Sacramento-San Joaquin Delta is the keystone in the State's water delivery system. The Federal Central Valley Project (CVP) and the State Water Project (SWP) have operated for over 50 years diverting water out of the South Delta near Tracy and exporting it to farms and cities which are largely south of the Delta. Unfortunately, the Statewide build-out of water supplies for the CVP and SWP was never completed as originally planned, so the entire system is short approximately 5 million acre feet per year of needed water. Compounding this shortage of water, the water actually available has been heavily oversubscribed by the State and Federal operators of the water projects. As a result, the quality of the water in the Delta has been degraded over time.	As described in Chapter 1, Introduction, Chapter 5, Water Supply, and Appendix 3A, Identification of Water Conveyance Alternatives Conservation Measure 1, of the Final EIR/EIS, the ability of the SWP and CVP to deliver water contract amounts has been modified over the past 60 years due to increased use of senior water rights upstream of SWP and CVP water service area and changes in surface water availability due to regulatory criteria that limited use of existing and planned facilities.
1679	8	The ever-increasing volume of water being pumped out of the Delta by the State and Federal water projects has threatened endangered fish and wildlife populations to such an extent that water deliveries have been legally curtailed.	This comment is consistent with information presented in Final EIR/EIS Section 1.4.1 of Chapter 1, Introduction.
1679	9	For years, water export interests, most of who have water rights that are junior to in-Delta users and other users, have explored ways to increase both the quantity and quality	The preferred alternative, Alternative 4A, no longer includes an HCP. Please see Master Response 5 for more information on BDCP costs and funding and Master Response 36 regarding the Peripheral Canal.

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		<p>of the water that they pump out of the Delta through the CVP and SWP. Over 30 years ago, those efforts focused on a Peripheral Canal to take water out of the North Delta area and send it around the Delta through massive canals. In 1982, the voters of California soundly rejected the Peripheral Canal.</p> <p>Now, the export interests are back for another try. The goal this time is to not just maximize and unilaterally control the amount of water exported from the Delta, but also to achieve what they term "a stable regulatory framework". In other words, they also seek to prevent reductions in water exports due to negative impacts on endangered species in the Delta. In order to achieve their goal of a "stable regulatory framework", water export interests are attempting to recast their massive water conveyance project as a habitat conservation plan under State and Federal environmental laws. This habitat conservation plan, albeit with the twin tunnels project as its central feature, if approved by State and Federal regulatory agencies, will give the operators and beneficiaries of the project a 50-year "take permit" for endangered species. This will effectively insulate those who benefit from the twin tunnels from their legal obligations to avoid economic and ecological harm to the Delta and to the citizens of San Joaquin County, and will effectively shift those obligations and risks to others, primarily those in the Delta.</p>	<p>The Cumulative Impact Analyses that was 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 designed to minimize effects to the Delta and its inhabitants and mitigate for loss of habitat to the ecosystem and its species.</p> <p>For more information please see Section 5 Revisions to Cumulative Impact Analyses of the RDEIR/SDEIS, and Chapter 11 Fish and Aquatic Resources, Chapter 12 Terrestrial Biological Resources, and Appendix 3B Environmental Commitments, AMMs, and CMs of the Final EIR/EIS.</p>
1679	10	<p>One would naturally assume that such a massive and expensive project (current estimates range from \$25 to \$60 billion) with such far-reaching negative consequences for an entire region of California would be subject to meaningful Legislative and regulatory oversight and perhaps even a vote of the taxpayers and ratepayers who will ultimately be responsible for the financing of the project. However, the BDCP process has been designed by its promoters to minimize and streamline regulatory approvals, to avoid any vote of the people, or to require any further Legislative action in order for it to be implemented. While political and legal strategies remain viable options for the future, the most immediate method by which the people of San Joaquin County and the Delta region can express their opinions on the BDCP and the twin tunnels is through the public comment procedures under State and Federal environmental laws (CEQA and NEPA). The action being recommended to the Board of Supervisors today will authorize the submission of formal comments on behalf of San Joaquin County regarding the BDCP by the current comment deadline of July 29, 2014.</p>	<p>The proposed project, Alternative 4A which is the new preferred alternative, is estimated to cost significantly less relative to the former preferred alternative, Alternative 4. 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.</p> <p>The construction of the Alternative 4A water delivery facilities is estimated to cost \$14.9 billion, an amount that would be paid for by the state and federal water contractors who rely on Delta exports. The range of costs for water vary widely among contractors south of the Delta. Costs depend on the source of water, transport facilities, energy requirements, among other factors. For the agricultural customers of the CVP, prices range from \$100 per acre-foot to more than \$400 per acre-foot. The Metropolitan Water District of Southern California, which buys water from the SWP, estimates that the cost of the proposed project would translate into about \$5.00 extra per household, per month in its service area. The final cost of water from the new conveyance facilities would be determined by numerous factors. A number of these significant factors, such as the project yield and allocation of costs, have yet to be determined. Please see Master Response 5 for information regarding funding and costs.</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 7 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</p>

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			<p>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. See Master Response 41 for information on transparency of the process.</p>
1679	11	There is no question that the Delta is troubled in many ways. Salinity and other water quality issues are ever present. Endangered fish populations are dwindling and threatened. Most of these issues are the result of insufficient fresh water flows through the Delta and over-pumping in the South Delta by the State and Federal water projects.	No issues related to the adequacy of the environmental impact analysis in the EIR/EIS were raised in the comment.
1679	12	Much of the needed fresh water flows that are vital for the health of the Delta must come from the Sacramento River because the San Joaquin River's water is highly impaired by up-river uses. In spite of these seemingly irrefutable facts, the BDCP is designed to intercept large quantities of the Sacramento River's flow south of Sacramento, and ship it under the Delta and directly to the Tracy pumps through twin tunnels rather than canals as proposed over 30 years ago. How such a substantial diversion of vital fresh water will help attain the co-equal goal of "protecting, restoring and enhancing the Delta" under the 2009 Delta Reform Act is highly questionable to say the least.	<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. The preferred project, Alternative 4A, no longer includes an HCP. For detailed responses 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> <p>For information regarding the proposed project's compliance with the Delta Reform Act please see Master Response 31 and Final EIR/EIS Appendices 3I and 3J.</p>
1679	13	A critical component of the BDCP includes conversion of prime agricultural land in San Joaquin County to habitat, resulting in significant impacts to agricultural production in the County. The BDCP currently calls for approximately 140,000 acres of productive Delta land to be converted to natural habitat. As detailed in the peer-reviewed analysis of the economics of the Delta by the Delta Protection Commission (DPC) through its Economic Sustainability Plan (ESP), Delta agriculture will be the economic sector most affected by the BDCP. The negative economic impact on agriculture ranges from \$62 to \$227 million in revenue loss per year. This represents an 8% to 29% decline in revenue from Delta agriculture. Additionally, the construction of the twin tunnels themselves will result in significant negative impacts to agriculture in the Delta for a minimum of 10 years while the project is under construction.	Agricultural-related economic impacts related to the conservation measures or environmental commitments are discussed in Impact ECON-18. Please also note that the new preferred alternative, Alternative 4A, does not include an HCP or a 50-year permit and would impact far less agricultural acreage compared to Alternative 4. Because implementation of habitat enhancement and restoration activities would be anticipated to lead to reductions in crop acreage and in the value of agricultural production in the Delta region, this is considered an adverse effect. Mitigation Measure AG-1, described in Chapter 14, Agricultural Resources, Section 14.3.3.2, Impact AG-1, would reduce these effects by preserving agricultural productivity and compensating offsite.
1679	14	Much of the political pressure to implement the BDCP is driven by the theory that an earthquake could cause massive levee collapse in the Delta. It is theorized that such an event could allow large amounts of seawater to enter the Delta from the West and render the Delta's water supply unusable to the CVP and SWP for months or years. Yet, the public drafts of the BDCP documents themselves do not show any compelling evidence that earthquakes are a significant threat to water supply reliability. The latest and best authoritative study on the benefits of a resilient Delta levee system is the Delta Economic Sustainability Plan (ESP). The ESP concludes that the risk of levee failure is best addressed by improving Delta levees, which would cost a fraction (\$1 to \$2 billion in base construction costs) compared to the funding required for the BDCP and the tunnel project	<p>Delta levees and the infrastructure they protect are at risk from earthquake damage, continuing land subsidence, and rising patterns. While the cost to repair the Delta levees has been estimated as noted in the comment, this initial investment does not include the long-term maintenance costs associated with on-going repair of the Delta levees due to continual subsidence of the islands and levees.</p> <p>The proposed project does not purport to protect existing levees from seismic ground shaking. The proposed project does intend to reduce the vulnerability of the water delivery system by making it less reliant upon the Delta levee system (and associated risks thereto). For more information on levee stability and seismic risk please see Master Response 16.</p>

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		(\$25 to \$60 billion).	
1679	15	The San Joaquin County Board of Supervisors has played an active role in the Delta and BDCP-related issues for many years. In 1982, the San Joaquin County Board of Supervisors approved a resolution opposing the authorization, funding and construction of the then-proposed Peripheral Canal or similar isolated water transfer facility to carry Sacramento River Water around the Delta to the State and Federal pumps. The County's opposition to an isolated water conveyance project has been re-asserted by the Board several times since the days of the Peripheral Canal, including through the CALFED process in the 1990's and Delta Vision process in the early 2000's. Most recently, the Board approved Resolution R-12-278 adopting a position of opposition to the then-draft BDCP proposal to build a major isolated conveyance system in the Delta and adopting a statement of principles regarding the BDCP.	See Response to Comments 1679-1 and 1679-2.
1679	16	While the Board of Supervisors [of Plumas County and Plumas Flood Control and Water Conservation District] has been steadfast in its opposition to an isolated water conveyance system such as the twin tunnels, the Board has clearly recognized the need to work cooperatively with other groups to address the legitimate water supply needs of the citizens of the State of California. For example, in conjunction with the California Partnership for the San Joaquin Valley, the Board adopted Resolution R-12-332, supporting regional projects to safeguard and enhance water quality and water supply for a twelve- county work group encompassing the majority of counties in the San Joaquin Valley and Sacramento-San Joaquin Delta region. Through the Delta Counties Coalition (DCC), which consists of the Five Delta Counties (San Joaquin, Sacramento, Solano, Contra Costa and Yolo), there have been on-going efforts to reach out to others including Sacramento Valley, the Rural-Mountain Counties, and Southern California interests including the San Diego County Water Authority, to find common ground and solutions to the water needs of California.	The comment does not raise any environmental issue related to the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS. 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.
1679	17	San Joaquin County and the Delta Counties Coalition have developed a Statement of Principles and a Policy Framework designed to redirect the BDCP in ways that would truly achieve the co-equal goals of water reliability and protection and enhancement of the Delta. The DCC has worked tirelessly to shape water-related legislation including, most recently, efforts to structure a more balanced water bond which includes funding for investments in California's water supply including investments in ground water and surface water storage.	For detailed responses 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. A Recirculated Draft EIR/Supplemental Draft EIS (RDEIR/SDEIS) was released on July 10, 2015. The Final EIR/EIS analyzes all alternatives, including the new preferred alternative, Alternative 4A.
1679	18	Independently, and through the Delta Counties Coalition, San Joaquin County has also communicated its significant concerns regarding the governance structure for the BDCP. As currently proposed, the State and Federal water regulators and the water exporters will constitute the "Authorized Entity Group". This Group will have all the real authority and power regarding the design, implementation and ultimately the operation of the BDCP. As we have seen in response to the current drought, the water export interests will inevitably seek to operate the twin tunnels in a manner which will maximize water exports. In turn, the State and Federal regulators will inevitably be subjected to intense political pressure to set aside regulatory standards to enable those exports. Local interests, such as San Joaquin County, will be shunted to the side. In the current BDCP, the Delta Counties are all relegated to a "Stakeholder Council". That Council will be made up of representatives of a large number of diverse special interest groups and local government entities. In addition to being a very large, multi-agency body, the Council is only required to convene quarterly as an advisory body with its purpose limited to	Please see Master Response 5 for a discussion of the governance structure in the BDCP. The Final EIR/EIS analyzes all alternatives, including the new preferred alternative, Alternative 4A.

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		exchanging information and providing input and recommendations to the Program Manager for the BDCP. The Council has no actual decision-making authority or direct influence over the various phases of the BDCP. Under the BDCP governance structure as proposed the Delta Counties effectively have no voice. This is simply unacceptable for a project with such immense potential impacts on the County and its citizens.	
1679	19	Despite your Board's efforts to find solutions which are beneficial to all, the economic and political interests driving the BDCP continue to push their twin tunnel plan which will simply sacrifice one region of California for the benefit of another. It pits farmers in one region against farmers in another. It will saddle the taxpayers with debt for decades and effectively exhaust all the available funds which could have been used to find reasonable and effective solutions to a State-wide water supply problem. In a critique prepared by Dr. Jeff Michael, Director of the University of the Pacific Business Forecasting Center, the BDCP could cost rate payers and perhaps all California taxpayers between \$1.90 and \$3.36 for every \$1 gained in economic benefit.	Please see Master Response 5 regarding costs of implementation and funding for the proposed project. Please note that the preferred alternative is now Alternative 4A, which reduces the cost of the proposed project and shifts all financial responsibility to state and federal water contractors receiving exported water. See also Response to Comment 1679-10.
1679	20	The current Public Draft BDCP EIR/EIS fails to achieve the legal goal and purpose of a valid EIR/EIS to provide meaningful review and public input into the BDCP and the twin tunnel project.	Please refer to Chapter 32 of the Final EIR/EIS as well as Master Response 40 for information pertaining to public outreach and meaningful public review during the CEQA/NEPA process.
1679	21	A key part of the documentation, the Implementing Agreement (IA) was recently released for public review. As indicated previously, the IA contains most of the detailed information necessary to understand how the BDCP will actually be implemented, operated and funded. The failure to release the IA in conjunction with the other BDCP documents is contrary to the 2006 Planning Agreement between State and Federal Agencies and the Water Contractors for the development of the BDCP. The Planning Agreement required that the IA be made available for public review and comment along with the public review draft of the BDCP. This failure, along with the general inadequacy of the IA are in violation of NEPA, CEQA, Natural Community Conservation Planning Act (NCCPA) and the Endangered Species Act (ESA).	This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). For more information on the primary issues being raised with regard to Alternative 4 and the IA, as well as a discussion of the current status of the IA, please see Master Response 5.
1679	22	Attached to this Board Letter is a Resolution for your consideration. This Resolution approves and authorizes submission of the County's comments to the BDCP and the EIR/EIS, and to the Implementing Agreement. If adopted by the Board of Supervisors, the Resolution along with the comments will be transmitted to the appropriate agencies in accordance with NEPA, CEQA, NCCPA and the Endangered Species Act.	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1679	23	Approval of the recommended action to submit comments on the BDCP will not have an immediate fiscal impact on the County, although alteration of the course of the BDCP will potentially have tremendously positive fiscal impact on San Joaquin County in the future.	See Response to Comment 1679-10.
1679	24	ATT1: ATT3: Resolution adopting and reaffirming San Joaquin County's opposition to the BDCP, approving the County's comments to the BDCP and the related EIR/EIS and Implementing Agreement for BDCP, and authorizing the submission of those comments to the appropriate state and federal agencies	This comment describes the title of an attachment to the comment letter. See Response to Comments 1679-25 through 1679-37.
1679	25	WHEREAS, the Sacramento - San Joaquin Delta (hereinafter Delta) is a unique natural and geographic feature of the State of California, and is the largest estuary on the Pacific Coast of the United States encompassing an area of over 730,000 acres with islands and tracts of rich fertile soil surrounded by miles of sloughs and winding channels protected	No issues related to the adequacy of the environmental impact analysis in the EIR/EIS were raised in the comment.

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1679	26	WHEREAS, the Delta is one of the most productive agricultural regions in the United States, with approximately 80% of the Delta classified as Prime Farmland, as contrasted with 20% for all of California, and Delta agriculture has an economic impact of roughly 9,700 jobs and \$1.4 billion in economic output in the five Delta counties, but when value-added manufacturing such as wineries, canneries and dairies are included, has a total Statewide economic impact of approximately 25,000 jobs and \$5.372 billion in economic output	No issues related to the adequacy of the environmental impact analysis in the EIR/EIS were raised in the comment. For an analysis of Agricultural impacts please refer to the Final EIR/EIS, Chapter 14.
1679	27	WHEREAS, the islands and waterways of the Delta provide habitat for many species of plants and animals, including several listed as either threatened or endangered under State and Federal endangered species laws	No issues related to the adequacy of the environmental impact analysis in the EIR/EIS were raised in the comment. For an analysis of aquatic impacts please see Chapter 11 and terrestrial Chapter 13.
1679	28	WHEREAS, recreation in the Delta generates roughly 12 million visitor days of use and approximately \$250 million in visitor spending each year, with Delta recreation and tourism supporting over 3,000 jobs in the five Delta counties	No issues related to the adequacy of the environmental impact analysis in the EIR/EIS were raised in the comment. Please refer to Final EIR/EIS Chapter 16, Socioeconomics, regarding socioeconomic impacts on the Delta from the project.
1679	29	WHEREAS, the Delta is a critical infrastructure and transportation hub for the regional and State economy, with important east-west highway and rail facilities, major electrical transmission lines connecting California to the Pacific Northwest, and gasoline and aviation fuel pipelines crossing the Delta supplying large portions of Northern California and Nevada	No issues related to the adequacy of the environmental impact analysis in the EIR/EIS were raised in the comment. The Lead Agencies recognize the critical importance of the Delta for transporting people and goods in and across the state and to adjacent states.
1679	30	WHEREAS, two-thirds of the legal Delta is located within San Joaquin County and the Delta comprises one-third of this County's total area, meaning that the health and vitality of the Delta is critically important to the economic health, culture and social fabric of San Joaquin County and its citizens	No issues related to the adequacy of the environmental impact analysis in the EIR/EIS were raised in the comment.
1679	31	WHEREAS, the Delta is also the key conveyance point for California's two largest water projects, the Central Valley Project (CVP) and the State Water Project (SWP) with massive pumps in the Southern Delta near Tracy, California which transport water from the Delta primarily to farms in Central California and municipalities in Southern California	No issues related to the adequacy of the environmental impact analysis in the EIR/EIS were raised in the comment. This comment is consistent with information presented in Section 5.1.2 of Chapter 5, Water Supply, in the Final EIR/EIS.
1679	32	WHEREAS, because of the failure to complete the ultimate build-out of water supplies for the CVP and SWP, leaving the system approximately 5 million acre-feet short of water per year, coupled with oversubscription by the water contractors and the water system's State and Federal operators of the water that is available, this has resulted in degradation of both the quality and quantity of water in the Delta and harm to the ecology and economy of the Delta	No issues related to the adequacy of the environmental impact analysis in the EIR/EIS were raised in the comment. As described in Chapter 1, Introduction, Chapter 5, Water Supply, and Appendix 3A, Identification of Water Conveyance Alternatives Conservation Measure 1, of the Final EIR/EIS, the ability of the SWP and CVP to deliver water contract amounts has been modified over the past 60 years due to increased use of senior water rights upstream of SWP and CVP water service area and changes in surface water availability due to regulatory criteria that limited use of existing and planned facilities. As described in Chapter 1, and in Chapter 8, Water Quality, of the Final EIR/EIS, Delta water quality has declined over the past years due to a number reasons, including discharge of constituents and diversions of freshwater in the Delta watershed.
1679	33	WHEREAS, the water contractors and the State and Federal operators of the CVP and SWP have over the years sought to find ways to transport water directly from the Sacramento River to the pumps near Tracy in order to obtain a greater quantity and quality of water than they could pump out of the South Delta, which efforts would result in further degradation and destruction of the Delta and economic and social harm to the citizens of San Joaquin County	No issues related to the adequacy of the environmental impact analysis in the EIR/EIS were raised in the comment. As described in Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1, of the Final EIR/EIS, the State and federal governments have analyzed a wide range of methods to convey water from northern California (which receives the majority of the State's precipitation) to the San Francisco Bay Area and areas located to the south of the Delta. As discussed in Appendix 3A, some of these methods would result in adverse impacts in the Delta.
1679	34	WHEREAS, those water interests proposed a Peripheral Canal which the voters voted	As described in Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1, of

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		down in 1982, but are now promoting a new twin-tunnels project which is capable of diverting huge quantities of fresh water directly from the Sacramento River to the Tracy pumps, but this time the proponents of the twin-tunnels project have attempted to hide their massive and incredibly expensive water project inside a so-called conservation plan known as the Bay Delta Conservation Plan (BDCP)	the Final EIR/EIS, the action alternatives were developed to include actions to improve water supply reliability and ecosystem conditions based upon the results of analyses completed under the CALFED Program and the Delta Vision Program. See also Response to Comment 1679-2.
1679	35	WHEREAS, for the reasons set forth in the documents attached hereto and adopted herein as the County's comments to the draft BDCP and its related EIR/EIS, and to the draft Implementing Agreement (IA), the BDCP fails, among its other legal deficiencies, to meet the legal requirements for a valid Habitat Conservation Plan (HCP) under the Federal Endangered Species Act (ESA) or a Natural Community Conservation Plan (NCCP) under the California Natural Community Conservation Planning Act, and also fails to meet the co-equal goals of water supply reliability for the State and restoration of the health of the Bay-Delta ecosystem as required by the Delta Reform Act of 2009	The preferred alternative, Alternative 4A (i.e., the California WaterFix Project) no longer includes an HCP, thus it no longer includes an Implementing Agreement. 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. Please see Master Response 31 and Final EIR/EIS Appendices 3I and 3J for information on project compliance with the Delta Reform Act.
1679	36	There are less expensive and more effective ways than the twin tunnels and the BDCP to address the legitimate water needs of the various water interests in the State of California without needlessly sacrificing the Delta and San Joaquin County, or pitting Northern California against Southern California and farmer against farmer.	<p>The proposed project is one component, among many, of the California Water Action Plan. 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>By establishing a point of water diversion in the north Delta the proposed project is designed to improve native fish migratory patterns while securing reliable water deliveries. Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1, Final EIR/EIS, describes the range of conveyance alternatives considered in the development of the EIR/EIS. Appendix 1B, Water Storage, Final EIR/EIS, describes the potential for additional water storage and Appendix 1C, Water Demand Management, Final 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. For more information regarding purpose and need please see Master Response 3. For more information regarding cost please see Master Response 5.</p>
1679	37	<p>Now, therefore, be it resolved that this Board of Supervisors:</p> <p>Does hereby reaffirm its opposition to any isolated water conveyance system in the Delta such as the twin-tunnels project, and further specifically opposes the Bay Delta Conservation Plan; and</p> <p>Does hereby approve and adopt the documents attached hereto as San Joaquin County's official comments to the draft BDCP and its related Environmental Impact Report (EIR) and Environmental Impact Statement (EIS), and to the Implementing Agreement (IA); and</p> <p>Does hereby authorize submission of these adopted comments to the appropriate State and Federal agencies, both as comments from San Joaquin County and as joint comments with the Central Delta Water Agency and the South Delta Water Agency; and</p> <p>Does hereby join in any comments which will be filed by the Central Delta Water Agency and South Delta Water Agency, and further that County staff is authorized to supplement the County's comments between today and July 29, 2014, to the extent that the comments submitted by others or other information comes to light which in staff's discretion should be included in the County's comments; and</p>	The commenter's opposition to the BDCP is acknowledged. See Response to Comments 1679-25 through 1679-36.

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		<p>Does hereby direct staff to take all necessary and appropriate actions to carry out the direction and intent of this Resolution.</p> <p>Passed and adopted this 8th day of July, 2014.</p>	
1679	38	<p>ATT1: ATT4: The Bay-Delta Conservation Plan and EIR/EIS: Summary of Foundational Issues</p> <p>Report on December 2013 Public Review Drafts</p>	<p>This comment describes the title of an attachment to the comment letter. See Response to Comments 1679-39 through 1679-318.</p>
1679	39	<p>BDCP cannot proceed without a lawful Implementing Agreement.</p> <p>On May 30, 2014, several state and federal agencies involved in developing or reviewing the Bay Delta Conservation Plan (including the Department of Water Resources and federal and state fisheries agencies) finally released a draft Implementing Agreement (IA). A "note to reviewers" in the IA's first paragraph indicates that the "level of agency signatory" for this agreement remains to be determined.</p> <p>The release of the IA more than five months after the final draft BDCP for a perfunctory two-month comment period docs not fulfill the state and federal agencies' prior commitment to allow for public review of the IA concurrently with the BDCP public review draft. In October 2006, the same agencies--along with the California Resources Agency and the United States Bureau of Reclamation, among others--executed the Planning Agreement Regarding the Bay Delta Conservation Plan (Planning Agreement, or PA). The signatories retained and amended the agreement in 2009. Section 7.8 of this agreement commits to provide "[a]n Implementing Agreement that includes specific procedures for the implementation, monitoring and funding of the BDCP," and provides that "[a] draft of the IA will be made available for public review and comment with the final public review draft of the BDCP." (PA, 18-19 (emphasis added).)</p>	<p>Please see Response to Comment 1679-21.</p>
1679	40	<p>The Implementing Agreement must provide crucial details about the BDCP and its environmental consequences beyond those covered elsewhere in the public review drafts. The Natural Community Conservation Planning Act (NCCPA) expressly requires an approved plan to "include an implementation agreement" that "contains all" of a lengthy list of requirements. (Fish and Game Code, [Section] 2830(b)(listing the required elements of an Implementation Agreement).) The BDCP's Planning Agreement therefore represented that the IA "will contain provisions for" the following:</p> <ul style="list-style-type: none"> --Conditions of species coverage; --Long-term protection of any habitat resources other measures that provide equivalent conservation; --Implementation of mitigation and conservation measures; --Adequate funding to implement the plan; --Terms for suspension or revocation of the proposed Incidental Take Permit; --Procedures for amendment of the BDCP, the IA, and take authorizations; --Implementation of monitoring and adaptive management; 	<p>For more information on the primary issues being raised with regard to Alternative 4 and the IA, as well as a discussion of the current status of the IA, please see Master Response 5.</p>

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		<p>--Oversight of BDCP allocations and funding;</p> <p>--Periodic reporting.</p> <p>(PA, pp. 18-19.)</p> <p>As the Planning Agreement anticipated, the IA must provide essential information illuminating the details of project conditions and the assignment of responsibility for project construction, implementation, adequate funding, mitigation, monitoring, and adaptive management. This information is particularly crucial for a project such as the BDCP, which purports to rely heavily on adaptive management, and leaves 21 of its 22 ostensible "conservation" measures (all except for the proposed construction of a new north Delta twin tunnel system) unanalyzed except, and if at all, at the programmatic level. BDCP's public review draft prospectively relies upon its future IA when it generically denies that the project will operate in violation of the law. (See, e.g., BDCP, chapter 6 (Plan Implementation), chapter 7 (Implementation Structure) and chapter 8 (Implementation Costs and Funding Sources).)</p>	
1679	41	<p>In addition to being required for NCCPA compliance, the Implementing Agreement is crucial for compliance with the federal Endangered Species Act (ESA), which requires conservation plans to include steps, and available funding, to "monitor, minimize and mitigate" impacts. (40 C.F.R. [Section] 222.3070J)(5)(iii).) Moreover, the IA's content is also closely related to the environmental review provided in the EIR/EIS. Reliance on a faulty IA would also fatally distort environmental review, because the IA provides an indispensable source of information about the project and its environmental consequences. Under CEQA, reviewing agencies are bound to "scrupulously" enforce CEQA's mandates. (Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova (2007) 40 Cal.4th 412, 435 (quoting Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 564).) In CEQA review, "[t]he preparation and circulation of an EIR is more than a set of technical hurdles for agencies and developers to overcome. The EIR's function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences, and equally important, that the public is assured those consequences have been taken into account." (Id. at 449-450.)</p>	Please see Response to Comment 1679-21.
1679	42	<p>For the BDCP, the Implementing Agreement is necessary to understand, and establish accountability for, these environmental consequences. Without the IA, the project's review cannot fully achieve CEQA's mandate for public agencies to "mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so." (Pub. Res. Code, [Section] 21002.1.) In light of its major role within BDCP, the IA must necessarily be considered as part of the "whole" of the action as CEQA requires. (14 Cal. Code Regs., [Section] 15368; sec section III, infra.)</p>	Please see Response to Comment 1679-21.
1679	43	<p>Under NEPA, excluding full consideration of the Implementing Agreement would unlawfully piecemeal the project's proposed Incidental Take Permit from essential terms of project implementation (40 C.F.R. [Section] 222.307(b)(5)(3)), and would undermine the EIS's ability to fully address the "environmental impacts of the proposed action" (42 U.S.C. [Section] 4332(C)(i).) An EIS "shall provide full and fair discussion of significant environmental impacts and shall inform decision-makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts" (40 C.F.R. [Section] 1502.1.)</p>	Please see Response to Comment 1679-21.

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1679	44	<p>Careful consideration of the Implementing Agreement (IA) is also crucial in light of the extensive role that the BDCP proposes for federal and state water contractors, from project financing to participation in an "Authorized Entity Group" tasked with extensive powers in the management and implementation of the BDCP. (BDCP, pp. 7-8 to 7-12.) Recent reports suggest that in a May 6, 2014, memorandum to its employees, DWR recognized that a "more detailed financing plan" for the BDCP has yet to be developed. Nonetheless, DWR announced that it is already establishing a separate BDCP Office to coordinate project implementation, and a Delta Conveyance Facility Design and Construction Enterprise (DCE) that will include unspecified local water agencies and private consulting firms as well as DWR. (See http://blogs.esanjoaquin.com/san-joaquin-river-delta/files/2014105/BDCPJPA.pdf)</p> <p>This puts the cart before the horse.</p> <p>Rather than proceeding as if BDCP implementation were a foregone conclusion, the reviewing agencies should take the time needed to consider the IA's serious deficiencies and their implications for BDCP and the EIR/EIS. The BDCP is widely recognized as "the most complex HCP/NCCP permit application ever attempted." (See https://watershed.ucdavis.edu/files/biblio/FINAL-BDCP-REVIEW-for-TNC-and-AX-Sept-2013.pdf.) Only through an accurate view of the project may the public and interested parties balance the proposed project's benefits against its environmental cost, consider appropriate mitigation measures, be assured of the feasibility and funding for necessary mitigation measures, and assess the advantages of terminating the proposal and properly weigh other alternatives. (<i>San Joaquin Raptor Rescue Center v. County of Merced</i> (2007) 149 Cal.App.4th 645, 672 [2007].)</p>	Please see Response to Comment 1679-21.
1679	45	<p>The Implementing Agreement Underscores Major Gaps in Accountability for Project Implementation, Mitigation and Financing</p> <p>Despite its length, the IA docs little more than make undocumented assertions of BDCP's compliance with the NCCPA's mandatory requirements for permitting listed in IA section 4.2.1. Rather than realistically addressing the major challenges BDCP implementation faces and clearly assigning responsibility, the current draft IA relies heavily on a morass of elliptical phrases, vague assurances, and deferrals of responsibility to the future decisions and actions of project proponents. Unfortunately, the IA's liberal use of reassuring phrases such as "regulatory assurances" and "adaptive management" cannot paper over BDCP's major problems establishing accountability for project implementation, mitigation and financing. These problems undermine BDCP's compliance with the related legal requirements noted above under the ESA, CEQA and NEPA, as well the IA's ability to live up to its own asserted purposes. These purposes include the duties to ensure that terms and conditions are "properly implemented," delineate the implementing entities' "responsibilities, financial or otherwise (including the commitment and management of resources" and "set forth the remedies and recourse" should any party to the IA fail to perform its obligations. (IA, section 2.2, at 4.) Without providing any secure foundation for meeting these objectives, the IA appears to place a far higher premium on offering "assurances and protections" to a select group of "authorized" entities compromising BDCP's major proponents. (Id.) Indeed, despite previous criticisms of deficiencies in BDCP governance, the IA confirms that a small group of "authorized" entities--including DWR, the Bureau of Reclamation, and unnamed representatives of the State Water Project (SWP) and Central Valley Project (CVP) contractors--are slated to receive sweeping and unprecedented authority to implement (and in some cases to modify) plan requirements.</p>	Please see Response to Comment 1679-21.

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		Several of the IA's central defects are highlighted here.	
1679	46	<p>Conclusory and Unscientific Findings</p> <p>The Implementing Agreement relics prospectively on the still-unmade findings of U.S. Fish and Wildlife Service and National Marine Fisheries Service required for ESA compliance (Section 4.1) and the still-unmade findings of the Department of Fish and Wildlife (DFW) required for NCCPA compliance (Section 4.2). Although the IA correctly notes that these findings are legally required, it contains only bare assertions of compliance, without any analysis that would support findings of compliance. That analysis cannot be complete until these agencies have the full-benefit of public review and comment. The same is the case with respect to Section 4.2.2, in which DFW summarily announces without analysis that BDCP and its EIR comply with the Delta Reform Act. (Wat. Code, [Section] 85320, et seq.) Although these agencies have not yet even purported to provide the legally required findings, the IA elsewhere misleadingly asserts that the fish and wildlife agencies "have found that the BDC P fulfills" the requirements of the ESA and NCCPA for the issuance of take authorizations. (Section 8.0.)</p> <p>As explained in the remaining sections of this summary, BDCP and the EIR have not come close to complying with the NCCPA, ESA, CEQA and NEPA. The asserted findings of "compliance" in these placeholder sections of the IA arc markedly at odds with the detailed criticisms of leading scientists charged with reviewing BDCP under the Delta Science Program. These criticisms raise fundamental doubts about the advocacy-driven scientific case for BDCP, and confirm that failure to address these deficiencies may well undermine BDCP's ability to meet key requirements of the Delta Reform Act, including the "coequal" goal of the protection, enhancement and restoration of the Delta ecosystem (See section II, infra.)</p>	Please see Response to Comment 1679-21.
1679	47	<p>Defective Governance and Implementation Structure</p> <p>The IA underscores major defects in BDCP's implementation structure, confirming and compounding problems evident earlier in Chapter 7 of the plan. For many of the key decisions involved in implementing BDCP (BDCP, Table 7-1), the IA assigns major decision-making responsibilities to the extremely small "authorized entity group" (AEG), consisting of "the Director of DWR, the Regional Director for Reclamation, a representative of the S\VP contractors and a representative of the CVP contractors." (IA, Section 15.3.1, at 58; see also section 3.7, at 5 (defining "authorized entity group").) The AEG provides state and federal water contractors with combined representation equivalent to that of the state and federal lead agency, while providing no representation to others, including the Delta's own counties and communities. (Id.)</p> <p>The IA thus assigns an extraordinarily high level of responsibility to a group dominated by project proponents who have incentives to maximize BDCP's commitment to water supply deliveries, and minimize liability for project costs. Under the IA, the AEG "will engage" in decisions on numerous matters relating to administration, oversight, monitoring and funding, but is not even "limited to" those powers. (IA, section 15.3.1, at 58-59.) In addition, the AEG selects BDCP's program manager (section 15.2.4.1, at 56-57). The AEG-appointed program manager will, in turn, select and supervise BDCP's science manager (section 15.2.4.2, at 57).</p> <p>That same program manager also makes staffing decisions for the Implementation Office, which "shall be responsible for planning, implementation and design" of BDCP's</p>	Please see Response to Comment 1679-21. See Master Response 5 for information on the BDCP Governance structure.

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		<p>conservation measures (section 15.2.4.3, at 58). The "authorized entities" retain the "ultimate responsibility" for actions undertaken by the Implementation Office. In addition to DWR and some other state entities, state and federal water contractors will staff the implementation office. (id.) In short, the IA undermines genuine responsibility for implementation of BDCP—a task critically in need of scientific candor and public accountability—with repeated reliance on a self-interested entity group that seems structured to minimize obstacles to BDCP's twin tunnel conveyance system. Missing from the IA, as well as the BDCP and the EIR- EIS, is any meaningful recognition of how the BDCP would centralize and transform key aspects of the SWP and CVP in the Implementation Office, with ultimate responsibility retained by the four-member AEG with two water contractor representatives. None of the BDCP documents come to terms with a major proposed revision in the nature of the projects, made without legislative approval, contract amendments, or approval by the California Water Commission.</p>	
1679	48	<p>Further evidence of the water contractor-friendly Authorized Entity Group's excessive authority over BDCP implementation is evident in the IA's provisions addressing the role of the fish and wildlife agencies' Permit Oversight Group (POG), whose representatives are the U.S. Fish and Wildlife Service director, the National Marine Fisheries Service regional administrator, and the DFW director (section 15.4.1, at 60). Under the IA, key decisions of the POG must be approved jointly with the AEG, including those relating to such crucial matters as adaptive management, mitigation monitoring, funding, operations planning, and approval of progress reports (Id at 61).</p> <p>Moreover, even very basic questions about the nature of AEG's decision-making remain unanswered. The IA assumes that the AEG will express a "single position" on matters under its consideration, without explaining how dissent is addressed. (IA, section 15.3.3, at 60.) It opaquely asserts that "the entity(ies)" (sic.) with "vested statutory or regulatory authority over the matter" will make the final determination, without explaining to the reader who possesses that authority in specific situations (Id) It never explains how SWP and CVP contractors, groups whose history is replete with major internal disagreements and who have expressed widely differing opinions on BDCP, will manage to appoint a single "representative" apiece to the AEG. (IA, section 15.3.1, at 58.)</p>	Please see Response to Comment 1679-21.
1679	49	<p>Despite a deluge of prior criticism, the IA improperly marginalizes the role of Delta counties and their constituencies, excluding them from any meaningful role in BDCP governance and decision-making even though they will bear the brunt of BDCP's adverse consequences for decades to come. The IA notes that "representatives of the counties of San Joaquin, Sacramento, Solano, Yolo and Contra Costa" will serve--along with dozens others representing Non-Governmental Organizations, professional organizations, and other constituencies--on a Stakeholder Council conspicuously lacking in decision-making responsibilities. (IA, section 15.6.2, at 63- 64.)</p> <p>The Stakeholder Council functions simply as an advisory entity, which meets quarterly to exchange information and provide non-binding "input" to the Authorized Entity Group-selected BDCP program manager on the "current significant issues at hand." (IA, section 15.6.3, at 64.) The IA's exclusion of Delta counties from any more substantive role is especially noteworthy in light of their years of efforts to secure a more consequential role. A cryptic "note to reader" in section 7.2.8 of the BDCP asserts that the Resources Agency is "working with" representatives of Delta counties to involve them in plan implementation, and announces an "intention" to later incorporate unspecified revisions</p>	Please see Response to Comment 1679-21.

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		addressing their participation in the plan's final iteration (BDCP, at 7-26).	
1679	50	<p>The Implementing Agreement notably does not incorporate the alternative governance proposal advanced by the Delta Counties Coalition. Unlike the IA, that proposal would secure each Delta county a voting role on any decision-making body having oversight, implementation and approval authority over the BDCP's conservation measures. The proposal, unlike the IA, would provide full funding for the counties' participation, recognizing that the counties lack the effective means to otherwise cover their participation costs from customers or ratepayers. Providing for the counties' effective participation is necessary to ensure consistency with county planning, as well as six regional conservation plans within the BDCP's plan area that the IA notes are "being implemented or are under development." It would also help ensure fairness to those most directly affected by BDCP, and honor the Delta counties' need to protect their residents' health, safety, and welfare.</p>	Please see Response to Comment 1679-21. See Master Response 5 for information on the BDCP Governance structure.
1679	51	<p>Avoidance of Conservation Measures</p> <p>Although the IA is labeled an "implementation" agreement, it also provides opportunities for BDCP decision-makers, using unprecedented loopholes, to avoid responsibility for implementing its purported conservation measures. Divorcing "adaptive management" from scientific rigor and institutional accountability, the IA reverses the traditional role of such agreements in NCCPA compliance, allowing decision-makers to reduce, expand, delete or relocate the conservation and mitigation measures specified in BDCP and its EIR/EIS. (IA, section 10.3.1, at 29.) Using this method, the IA enables the AEC to secure removal or change of the plan's Conservation Measures 2-22 (those other than the twin tunnel conveyance system itself), whether or not the plan's Adaptive Management Team (AMT) recommends this change. In the IA's euphemistic language, it provides flexibility to allow the "addition to or elimination of" BDCP's conservation measures and biological objectives. (Id.) In other provisions of the IA, the AMT receives extensive authority to make changes in BDCP, couched in such terms as performance measures, effectiveness monitoring, and monitoring results. (See IA, section 3.1, at 5.)</p> <p>BDCP even confers on the AMT the opportunity to decide whether, or if, science review is to be included in these decisions at all. (BDCP, at 7-15.) Likewise, the IA not only allows decision-makers to change conservation measures and biological objectives under the rubric of adaptive management; it authorizes them to do so without requiring an amendment to BDCP or its regulatory authorizations. (IA, section 10.3.6, at 36 (emphasis added).) The IA specifics an unusually protracted process for permit revocation, which add additional leeway for permittees to evade conservation requirements.</p>	Please see Response to Comment 1679-21. See Master Response 33 regarding adaptive management and monitoring.
1679	52	<p>Another ominous provision buried within the IA's discussion of adaptive management is section 10.3.7.3 ("The Supplemental Adaptive Management Fund"), which in vague language records the parties' anticipation that the referenced funds could be used "to acquire water to supplement flows . . ." (Id. at 38.) If "additional outflow" is found to be necessary, "supplemental water may be acquired from voluntary sellers." (Id.) The reader is left to speculate when such additional outflow may be necessary, or the conflicts that may arise if voluntary sellers do not materialize, or if the ostensibly voluntary transactions harm other water users. Between the lines, this language may amount to an implicit recognition that the combined provisions of BDCP may well not meet water exporters' expectations for deliveries, and that BDCP funds should be reserved for water purchases that enable additional exports at the new BDCP intakes. If BDCP ultimately could involve</p>	Please see Response to Comment 1679-21. See Master Response 33 regarding adaptive management and monitoring.

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		<p>the public in underwriting the costs of transfers that could deplete existing aquifers, that suggestion should be fully analyzed and debated on the merits, not hidden within the implementation provisions of a "conservation" plan.</p> <p>Taken together, these provisions render the plan itself a moving target, undermining the certainty accountability required for NCCPA compliance. Moreover, because they turn BDCP's ultimate provisions and protections into a cipher that may remain unknown until years after project decisions are made, they also disable the consistent project definition and commitment to effective mitigation required for compliance with CEQA and NEPA.</p>	
1679	53	<p>Failure to Ensure Adequate and Reliable Sources of Funding</p> <p>As the IA concedes, the NCCPA requires a legally adequate conservation plan to ensure "adequate funding to carry out the conservation actions identified in the BDCP." (IA, section 4.2.1, at 12 (discussing Fish & Game Code, [Section] 2820).) Likewise under the ESA, approval of a legally adequate HCP requires identification of sufficient sources of funding, and specification of the sources relied upon to mitigate impacts to covered species. (16 U.S.C. [Section] 1539(a)(2); see also Southwest Center for Biological Diversity v. Bartel (S.D. Cal. 2006) 457 F. Supp.2d 1070, 1105.) Failure to include this required analysis and disclosure in an EIR/EIS also fatally compromises its ability to fully inform the reader of the project's environmental consequences, vitiating compliance with NEPA and CEQA. Nonetheless, the IA, like the BDCP itself and its EIR/EIS, thoroughly fails to ensure that the plan is supported by adequate and reliable sources of funding. Section 8.3 of BDCP purports to provide such sources. Moreover, under the IA, only measures other than the twin tunnel conveyance (CM-1) are to be cut back, beginning with terrestrial species. Sacramento County extensively detailed the speculative and unstable nature of BDCP's funding sources in its May 28, 2014 comments. Unfortunately, the IA does not improve on the paucity of reliable funding addressed in those comments.</p>	Please see Response to Comment 1679-21.
1679	54	<p>The EIR/EIS Failed to Use "Good Enough" Science to Meet the Project's Environmental Review Requirements.</p> <p>On May 15, 2014, the Delta Independent Science Board submitted a detailed report reviewing the BDCP and the EIR/EIS (Science Board Report) to the Delta Stewardship Council (DSC) and California Department of Fish and Wildlife (DFW), as directed under the 2009 Delta Reform Act (Wat. Code, [Section] 85320(c).) This report follows a similar one prepared by the Delta Science Program's Independent Science Review Panel (Panel), which analyzed the "Effects Analysis" (BDCP, chapter 5) prepared in connection with requirements of endangered species law. (See sections III and V, infra.) Both the Science Board and the Panel were sharply critical of the tendency in BDCP and its review documents to tilt the analysis in favor of the proposed project and avoid sound science.</p> <p>The Science Board examined "the science in the DEIR/DEIS" and the BDCP, focusing on "how well the statements and conclusions are supported by current scientific information; how science is applied to proposed actions; how completely actions and their potential consequences have been assessed; and how science is communicated." (Science Board Report, p. 4.) Examining whether the BDCP's EIR-EIS used the "best available science" in analyzing project alternatives and their effects, the Science Board answered in the negative, concluding that the EIR/EIS failed to use science that was "good enough, and use it well enough" to meet the requirements of project review. (Id., p. 4.) The Science Board summarized its major concerns:</p>	<p>Please refer to comment letters 1448 and 2546 to see responses to the Delta Independent Science Board's comments. Please refer to the comment/response index to locate the response to comments for those letters identified the comment.</p> <p>See Master Response 19 for information on climate change and GHG. See Master Response 30 for information on modeling. For more information regarding the proposed project's compliance with the Delta Reform Act please see Master Response 31 and Final EIR/EIS Appendices 3I and 3J. See Master Response 33 regarding adaptive management and monitoring.</p>

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		<p>1. Many of the impact assessments hinge on overly optimistic expectations about the feasibility, effectiveness, or timing of the proposed conservation actions, especially habitat restoration.</p> <p>2. The project is encumbered by uncertainties that are considered inconsistently and incompletely; modeling has not been used effectively to bracket a range of uncertainties or to explore how uncertainties may propagate.</p> <p>3. The potential effects of climate change and sea-level rise on the implementation and outcomes of BDCP actions are not adequately evaluated.</p> <p>4. Insufficient attention is given to linkages and interactions among species, landscapes, and the proposed actions themselves.</p> <p>5. The analyses largely neglect the influences of downstream effects on San Francisco Bay, levee failures, and environmental effects of increased water availability for agriculture and its environmental impacts in the San Joaquin Valley and downstream.</p> <p>6. Details of how adaptive management will be implemented are left to a future management team without explicit prior consideration of (a) situations where adaptive management may be inappropriate or impossible to use, (b) contingency plans in case things do not work as planned, or (c) specific thresholds for action.</p> <p>7. Available tools of risk assessment and decision support have not been used to assess the individual and combined risks associated with BDCP actions.</p> <p>8. The presentation . . . makes it difficult to compare alternatives and evaluate the critical underlying assumptions.</p> <p>(Science Board Report, p. 3.)</p> <p>The Science Board warned that leaving its concerns unaddressed "may undermine the contributions of BDCP to meeting the co-equal goals for the Delta." (Science Board Report cover letter, p. 1; see Wat. Code, [Section]85054 (defining the Delta Reform Act's "coequal goals" as "providing a more reliable water supply for California" and "protecting, restoring, and enhancing the Delta ecosystem".)) To comply with the Delta Reform Act enacted in 2009 (Delta Reform Act), the coequal goals "shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place." (Water Code, [Section] 85054; see also Wat. Code, [Section] 85900, listing other specific goals for the Delta inherent in these goals, including restoration of the Delta ecosystem.)</p>	
1679	55	The BDCP "shall not" be incorporated into the Delta Stewardship Council's Delta Plan, and make its public benefits qualify for state funding, unless the BDCP complies with the NCCPA and CEQA. (Wat. Code, [Section] 85320(b).)	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.
1679	56	<p>The Legislature has noted that CEQA compliance for the BDCP requires "comprehensive review and analysis" of the following:</p> <p>A reasonable range of flow criteria, rates of diversion, and other operational criteria required to satisfy the criteria for approval of a natural community conservation plan as</p>	See Master Response 4 for discussion of the scope of the proposed project and alternatives (such as water storage) that were not carried forward for analysis in this document due to the fact that required actions beyond the scope of the proposed project. The alternatives included in the 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 specific proposals that were considered but ultimately rejected by the Lead

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		<p>provided in subdivision (a) of Section 2820 of the Fish and Game Code, and other operational requirements and flows necessary for recovering the Delta ecosystem and restoring fisheries under a reasonable range of hydrologic conditions, which will identify the remaining water available for export and other beneficial uses.</p>	<p>Agencies are discussed in Final EIR/EIS Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1.</p> <p>Consideration of the specific determination contained in the Delta Flow Criteria Report, which identified 75% of unimpaired net Delta outflow for January through June, would not have been feasible to include as an alternative in the EIR/EIS. A letter from the Executive Director of the State Water Board to the deputy secretary of the Natural Resources Agency on April 19, 2011 recognized that the determination did not consider the competing needs for water or other public trust resource needs, such as the need to manage cold-water resources in tributaries to the Delta. Further, implementation of these flows would also likely affect water users beyond those receiving CVP and SWP deliveries south of the Delta. As described in Section 3A.3.5 of Appendix 3A, alternatives requiring impairment of senior water rights held by entities not participating in the proposed project were eliminated from full consideration in the EIR/EIS, as such rights could not be infringed by CDFW, USFWS, or NMFS through those agencies' actions or through "ESA Section 7 consultation" with Reclamation.</p> <p>For more information regarding modeling results comparisons please see Appendix 5F of the Final EIR/EIS.</p> <p>The Lead Agencies will make the final decisions regarding the selection of an alternative (and therefore, an operational scenario) for the purposes of CEQA and NEPA. USFWS and NMFS have authority under the federal Endangered Species Act to determine whether the Proposed Project meets the regulatory standard of ESA Section 7, and CDFW, a CEQA responsible agency, has authority to determine if the Proposed Project meets the regulatory standards of CESA. Please see Section 4.1.2, Description of Alternative 4A, RDEIR/SDEIS for additional information on Proposed Project operations.</p> <p>Please see Master Responses 28 and 5 for more information regarding operational scenarios and compliance with ESA respectively.</p>
1679	57	<p>The Legislature has noted that CEQA compliance for the BDCP requires "comprehensive review and analysis" of the following:</p> <p>A reasonable range of Delta conveyance alternatives, including through- Delta, dual conveyance, and isolated conveyance alternatives and including further capacity and design options of a lined canal, an unlined canal, and pipelines.</p>	<p>See Response to Comment 1679-56.</p>
1679	58	<p>The Legislature has noted that CEQA compliance for the BDCP requires "comprehensive review and analysis" of the following:</p> <p>The potential effects of climate change, possible sea level rise up to 55 inches, and possible changes in total precipitation and runoff patterns on the conveyance alternatives and habitat restoration activities considered in the environmental impact report.</p>	<p>Please see Master Response 19 for information on climate change and GHG.</p>
1679	59	<p>The Legislature has noted that CEQA compliance for the BDCP requires "comprehensive review and analysis" of the following:</p> <p>The potential effects on migratory fish and aquatic resources.</p>	<p>Final EIR/EIS Chapter 11 includes a description of the effects on key migratory fish species.</p>
1679	60	<p>The Legislature has noted that CEQA compliance for the BDCP requires "comprehensive review and analysis" of the following:</p> <p>The potential effects on Sacramento River and San Joaquin River flood management.</p>	<p>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> <p>Please see Appendix 6A, Section 6A.6, Final EIR/EIS, for a summary of potential project impacts on flood protection on the Sacramento and San Joaquin Rivers.</p>

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1679	61	<p>The Legislature has noted that CEQA compliance for the BDCP requires "comprehensive review and analysis" of the following:</p> <p>The resilience and recovery of Delta conveyance alternatives in the event of catastrophic loss caused by earthquake or flood or other natural disaster.</p>	<p>Chapter 9 of the 2013 Draft EIR/EIS and Appendix A of the RDEIR/SDEIS describes the geology and seismicity of the study area. Impact GEO- 1 and GEO-7 discusses the possibility of loss or damage resulting from strong seismic activity during construction and operation of water conveyance features. For more information regarding tunnel design please see the 2013 Conceptual Engineering Report.</p> <p>Please see Appendix 3E, Potential Seismic and Climate Change Risks to SWP/CVP Water Supplies, of the Final EIR/EIS for discussion of potential consequences of an earthquake to exports under a No Action scenario.</p> <p>Please see Master Response 16 for more information regarding seismic impacts.</p> <p>See also Response to Comment 1679-60.</p>
1679	62	<p>The Legislature has noted that CEQA compliance for the BDCP requires "comprehensive review and analysis" of the following:</p> <p>The potential effects of each Delta conveyance alternative on Delta water quality.</p> <p>(Id.)</p>	<p>Please see Chapter 8, Water Quality of the Final EIR/EIS and Master Response 14 regarding water quality.</p>
1679	63	<p>The EIR/EIS makes perfunctory claims in an appendix to have covered these BDCP-related environmental review issues (EIR/EIS, Table 31-1.) However, as detailed further, the Science Board Report demolishes the scientific basis for that analysis and undermines the current BDCP and EIR/EIS's ability to meet the environmental review requirements of CEQA and the Delta Reform Act. Unless these errors are corrected before the Final EIR/EIS, the review's major "mass of flaws" will fatally undermine the EIR/EIS's ability to inform decision-making as CEQA requires, and require recirculation after the major shortcomings of the EIR-EIS are corrected. (San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1994) 27 Cal.App.4th 713, 741-742.) If left uncorrected, these errors would preclude informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR/EIS process. (Berkeley Keep jets Over the Bay Com. V. Board of Port Cmrs. (2001) 91 Cal.App.4th 1344, 1355.)</p>	<p>Please see the Response to Comment 1679-54.</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 proposed project, as evidenced in the RDEIR/SDEIS. The lead agencies readily acknowledge, however, that the document addresses a number of topics for which some scientific uncertainty exists. Such uncertainty can give rise to differing opinions as to what conclusions may be reached.</p>
1679	64	<p>Expectations for the effectiveness of BDCP's conservation actions are too optimistic.</p> <p>The Science Board found that "the DEIR/DEIS, the BDCP actions, as supplemented by Avoidance and Minimization Measures and Mitigation Measures, are assumed to produce the anticipated benefits when they are needed to offset any impacts of BDCP actions. In essence, it is often argued that Conservation Measures (CMs) 2-22 will have sufficient positive benefits for covered species to counterbalance any negative impacts of water diversions and changes in flow caused by proposed alternatives (CM1). This is an implausible standard of perfection for such a complex problem and plan, as noted in our reviews of Chapters 11 and 12 (Appendix B). It would be better to begin with more realistic expectations that include contingency or back-up plans." (Science Board Report, at 5.)</p>	<p>Please see responses to comment letters 1448 and 2546 for a comprehensive response to the comments raised by the Independent Scientific Review Panel. Please refer to the comment/response index to locate the response to comments for those letters identified the comment.</p> <p>The preferred alternative, Alternative 4A, no longer includes an HCP or Conservation Measures. The Final EIR/EIS analyzes all alternatives, including Alternative 4A. Restoration would still occur under 4A in the form of environmental commitments, but on a more limited scope than the conservation measures.</p> <p>Implementation of conservation measures and environmental commitments will be informed through compliance and effectiveness monitoring, and adaptive management, as described in Master Response 33, Adaptive Management.</p>
1679	65	<p>Uncertainties are inconsistently and incompletely addressed.</p> <p>The Science Board found that the Draft EIR/EIS's (DEIR /DEIS's) conclusions or comparisons among alternatives or the impacts of the Conservation Measures were often "encumbered by unaddressed uncertainties. Uncertainties accompany every action and consequence discussed in the DEIR/DEIS, ranging from the designations of habitats for individual species, to projections of entrainment, to modeling results used in the analyses.</p>	<p>Please see responses to comment letters 1448 and 2546 for a comprehensive response to the comments raised by the Independent Scientific Review Panel. Please refer to the comment/response index to locate the response to comments for those letters identified the comment.</p> <p>See Response to Comment 1679-64. Additionally, please refer to Master Response 2 and Final EIR/EIS Section 4.1.2 of Chapter 4, Approach to the Environmental Analysis, for more details on how the project is</p>

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		<p>When combined, these uncertainties will be compounded and propagate. Although the Draft BDCP discusses some of these uncertainties, they are treated inconsistently in the DEIR/DEIS and are largely ignored in the Executive Summary." (Science Board Report, p. 5.)</p> <p>Notably, the Science Board sharply criticized the tendency in the EIR/EIS to overuse the mantle of avoiding "speculation" to avoid addressing key uncertainties relating to the success of BDCP's proposed Conservation Measures (CMs). Criticizing the misunderstandings stemming from this tendency, the Science Board noted that "avoiding clear articulation of uncertainties is not the same as avoiding speculation. By inadequately addressing uncertainties, the documents may fail to prepare those charged with implementing the Plan to deal with surprises. Unaddressed, uncertainties can pose major and significant risks to the project as a whole and lead to false expectations from managers and stakeholders." (Science Board Report, p.6.) By contrast, if uncertainties are acknowledged, "expectations of the outcomes and benefits of BDCP actions will be more realistic, enabling a more reasoned assessment of how the actions align with NEPA and CEQA standards." (Id.)</p> <p>Criticizing the frequent assumption in the EIR/EIS that the uncertain benefits Conservation Measures 2-22 will somehow counterbalance the "more certain impacts" of the proposed conveyance (Conservation Measure 1), the Science Board found it "important to recognize that Conservation Measures 2-22 are likely to have values in their own rights and are worth implementing regardless of which alternative (if any) is eventually selected." (Science Board Report, p.6.) However, the adequacy of CM 2-22 "to offset the negative impacts of Conservation Measure 1, as assumed in the DEIR/DEIS, is uncertain, in part because they are given only program rather than project-level analysis. . . .these measures are hypotheses to be tested, or perhaps broadly defined adaptive-management experiments. They need to be treated as such." (Id. (emphasis added); see also pp. B-37-45 (applying problem to analysis of fish and aquatic resources).)</p>	<p>analyzed on a project level and the CMs and Environmental Commitments are analyzed on a program level.</p>
1679	66	<p>The Potential Effects of Climate Change and Sea-Level Rise are Underestimated.</p> <p>The Science Board described future climate change and sea-level rise as "perhaps the greatest sources of uncertainty affecting BDCP." (Science Board Report, p. 6.) The Science Board criticized the EIR/EIS's failure to account for how "the speed, magnitude, and intermittent nature of these changes may alter the outcomes of BDCP actions from what is planned. The potential direct effects of climate change and sea-level rise on the effectiveness of actions, including operations involving new water conveyance facilities, are not adequately considered." (Science Board Report, p.6; see also pp. B-52-54, B-82-88 (addressing EIR/EIS chapters 12 and 29.) Moreover, the Science Board found that similar exclusion of analysis also casts doubt upon conclusions drawn elsewhere in the EIR about "other disrupting factors, such as floods, levee failures, earthquakes, or invasive species, any of which could profoundly alter the desired outcomes of BDCP actions." (Science Board Report, p.6 (emphasis added).)</p> <p>In light of this defective analysis, the Science Board singled out for criticism an evasive response of DWR to the panel's earlier criticism of the EIR/EIS's inconsistent and incomplete climate change analysis, which avoided analysis based on the inapposite premise that "the scope of an EIR/EIS is to consider the effects of the project on the environment, and not the environment on the project." (Science Board Report, p.6.) Describing DWR's response as "dangerously unrealistic," the Science Board observed that</p>	<p>Please see responses to comment letter 1448 for a comprehensive response to the comments raised by the Independent Scientific Review Panel. Please refer to the comment/response index to locate the response to the comments for those letters identified the comment.</p> <p>See Master Response 19 regarding climate change and GHG.</p>

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		<p>CEQA requires impacts to be assessed "in order to provide decision makers enough information to make a reasoned choice about the project and its alternatives. Surely this choice should also include consideration of factors that may substantially alter the outcomes of the project." (Id. (emphasis added); see also pp. B-82 ("because of the changing conditions, the Draft BDCP actions may not develop as anticipated. Uncertainties in the effectiveness of conservation measures due to the effects of climate change and sea-level rise must be given greater consideration), B- 86-88 (criticizing the EIR/EIS's avoidance of analysis based upon a false dichotomy between climate change and the project).)</p>	
1679	67	<p>Interactions Among Species, Landscapes, and the Proposed Actions are Insufficiently Considered.</p> <p>The Science Board noted that because the Delta is a "complex, interacting system," failure to meet the expectations for BDCP actions "will have cascading effects. If the competitive or predatory effects of one species on another or the effects of habitat restoration in one place on upstream or downstream restoration projects are not fully considered, the effectiveness of actions may be compromised." (Science Board Report, p. 7.) By contrast, the EIR/EIS often focuses on individual species, particular places, or specific actions that are "considered in isolation from other species, places, or actions. In particular, potential predator-prey interactions and competition between covered and non-covered fish species are not fully recognized." (Id.) The EIR/EIS's failure to "treat the Delta as a fully functioning and integrated ecosystem" resulted in its overlooking "interactions that may enhance or undermine the effectiveness" of BDCP actions. (Id.)</p>	<p>Please see responses to comment letters 1448 and 2546 for a comprehensive response to the comments raised by the Independent Scientific Review Panel. Please refer to the comment/response index to locate the response to comments for those letters identified the comment.</p> <p>The EIR/EIS uses the best available information to assess impacts to species and their habitats. There are limited tools to assess the complexities of the Delta. However, the RDEIR/SDEIS was revised to include new and/or updated analyses pertaining to sediment loading, operations-related contaminants exposure and risk, habitat restoration effects, among other ecosystem effects to capture the available analytical tools and information.</p>
1679	68	<p>The EIR/EIS defined the project's geographic scope "to exclude San Pablo Bay and San Francisco Bay. The consequences of BDCP actions undertaken within the Plan Area, however, will extend downstream to affect these bays. Changes in sedimentation in the Delta associated with BDCP actions, for example, will not be confined to the Delta. Likewise, changes within the bays (e.g., tidal wetland restorations) will affect tidal fluxes and salinity intrusion into the Delta. Many fish species also migrate into or through these areas." (Science Board Report, p. 7.)</p>	<p>Chapter 11 of the Final EIR/EIS was revised to include a robust discussion of the potential effects on the bays downstream of the Delta, relevant to both operations and the habitat restoration proposed for some alternatives.</p>
1679	69	<p>The discussion of levees in BDCP and the EIR/EIS, while extensive, is "disconnected and incomplete. In particular, neither the consequences of levee failures on the effectiveness of BDCP actions nor the financial implications of demands for levee maintenance receives adequate attention. The assumption that most levee breaches will be repaired seems unrealistic." (Id.)</p>	<p>Please see Appendix 6A, Section 6A.6, Final EIR/EIS, for a discussion on levees modified by construction of the California WaterFix (CWF/Alternative 4A), including responsibilities of the project proponents.</p> <p>Before and/or during construction of the CWF water conveyance facilities, project proponents will explore opportunities with local reclamation districts and the Central Valley Flood Protection Board (CVFPB) to address potential conflicts regarding levee maintenance, inspection, and flood fighting activities on project and non-project levees. DWR will look to enter into agreements with local reclamation districts with jurisdiction in the Delta to ensure levee management activities by both government and local agencies are not interrupted during construction of the water conveyance facilities. In addition, DWR will comply with all applicable flood protection requirements and regulations to ensure flood neutrality during construction and operations of the CWF.</p> <p>Please refer to Master Response 16 for information on potential operations under a levee failure situation.</p>
1679	70	<p>The EIR/EIS lacks analysis of the environmental consequences of water reliability produced by BDCP (if successful). While the document mentions economic benefits, "there is no parallel discussion of possible environmental impacts that might arise as increased reliability affects which crops are planted, how fertilizers and pesticides are</p>	<p>While it may be true that factors affecting water supply availability and reliability (such as climate change, water supply shortages, water quality concerns, flood management, and environmental protection regulations) may influence future cropping patterns, an analysis of the environmental consequences of improved water supply reliability in the context of agricultural resources, water quality, or even hazards and</p>

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		used, or how these changes might affect agricultural runoff and water quality." This all relates to the "whole" of the action. (Id.)	public health (due to changes in pesticide use) would be too speculative. To the extent that the lack of sufficient, reliable water supplies currently poses a constraint to agricultural production, increased reliable supplies have the potential to support increased agricultural production. Increased reliability of supplies (e.g., increased supplies to agricultural contractors during dry years) may also support additional agricultural production..
1679	71	The Science Board criticized the incorrect assumption of "speculation" used to exclude analysis of environmental impacts from the EIR/EIS and to limit the boundaries used for EIR study. The Science Board concluded: "We do not believe that the processes used to determine these boundaries have been made explicit, nor are the boundaries scientifically justified. We know that there is a high likelihood of future levee breaches and that farmers will adjust their crops and management in response to changing water availability. Although we may not be able to anticipate these changes in detail, to ignore them is to pretend that they will not happen. Sufficient information exists to construct and evaluate future scenarios. These potential effects merit more careful consideration." (Id., p. 8.)	<p>Please see responses to comment letters 1448 and 2546 for a comprehensive response to the comments raised by the Independent Scientific Review Panel. Please refer to the comment/response index to locate the response to comments for those letters identified the comment.</p> <p>An EIR/EIS should not be speculative. CEQA specifically directs an agency not to speculate and to terminate discussion of an impact where it is too speculative for evaluation. 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. These agencies readily acknowledge, however, that the document addresses a number of topics for which some scientific uncertainty exists. Such uncertainty can give rise to differing opinions as to what conclusions may be reached. Resource areas are addressed separately in the EIR/EIS 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, and others. Where impacts are determined to be significant, environmental commitments and mitigation measures will be implemented to avoid and/or offset these effects, where possible.</p>
1679	72	The Science Board found major deficiencies in the EIR/EIS's assessment of water quality. The report decried the "general lack of knowledge" displayed in the analysis of water quality constituents, particularly in the analysis of dioxins and contaminants of emerging concern (CECs). (Id., pp. B-22-23.) Among other criticisms, the authors criticized the EIR/EIS's overreliance on model outputs and "cavalier" treatment of detection limits for analytes. (Id., p. B-24.)	<p>Please see responses to comment letters 1448 and 2546 for a comprehensive response to the comments raised by the Independent Scientific Review Panel. Please refer to the comment/response index to locate the response to comments for those letters identified the comment.</p> <p>The water quality assessment was conducted by regional experts in Central Valley and Delta water quality using accepted modeling and assessment tools. The methods, assessments and conclusions are appropriate to meet the requirements of CEQA and NEPA. See Master Response 14 regarding water quality and Master Response 30 regarding modeling.</p>
1679	73	The Science Board also criticized serious deficiencies in the EIR/EIS's analysis of BDCP's public health consequences. (Science Board Report, p. B-73-77.) The analysis evaded potentially serious problems with mosquito abatement, mercury accumulation, bioaccumulation of toxic compounds, and fish contamination. (Id.)	<p>Please see responses to comment letters 1448 and 2546 for a comprehensive response to the comments raised by the Independent Scientific Review Panel. Please refer to the comment/response index to locate the response to comments for those letters identified the comment.</p> <p>The Final EIR/EIS provides an analysis of potential impacts to public health consistent with the requirements of CEQA and NEPA. This analysis, which appears primarily in Chapter 25, Public Health, describes the potential effects on public health from the proposed project, a No Action Alternative, and multiple action alternatives. The chapter includes discussion of the potential effects on public health related to vector-borne diseases, bioaccumulation of toxicants in fish and aquatic organisms that are consumed by humans, drinking water quality, pathogens in recreational waters, and electromagnetic fields from constructing and operating water conveyance facilities, as well as effects that could occur from the implementation of other conservation measures geared toward preserving, enhancing, and restoring habitat in the Plan Area. Measures would be implemented that are consistent with practices presented in the California Department of Public Health's "Best Management Practices for Mosquito Control in California". Implementation of these measures would help control mosquitoes. DWR would consult and coordinate with the mosquito vector control districts in the potentially affected counties in the study area when designing and implementing Mosquito Management Plans of which these measures would be a part.</p> <p>For updated water quality analysis please see Section 4.3.4 of the RDEIR/SDEIS. For more information</p>

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			regarding vector control please see Appendix A Chapter 25 of the RDEIR/SDEIS.
1679	74	"[A]lthough adaptive management is mentioned frequently in the DEIR/DEIS, details about how it will be designed and done are left to a future Adaptive Management Team. As a result, it is unclear how adaptive management will be integrated into the implementation of BDCP, whether the scientific skills needed to plan and oversee adaptive management will exist in the Implementation Office and on the Adaptive Management Team, and whether the capacity to conduct the monitoring and analysis needed for adaptive management will be available." (Science Board Report, p. 8.)	Please refer to responses to comment letters 1448 and 2546 for a comprehensive response to comments from the Independent Scientific Review Panel. Please refer to the comment/response index to locate the response to comments for those letters identified the comment. See Master Response 33 for information on adaptive management. For detailed responses 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.
1679	75	"Because conditions in the Delta and responses to BDCP actions may change quickly, the adaptive-management process must be nimble and flexible, yet the organizational structure may delay rather than expedite needed adjustments. Although the Draft BDCP has an extensive listing of performance measures linked to its Biological Goals and Objectives, the measures needed to evaluate actions and make adjustments are not addressed substantively in the DEIR/DEIS. Neither are there any indications of the criteria that might be used to establish "trigger points" at which adaptive management procedures would be initiated. This becomes particularly problematic if certain species are benefitting from actions and others are doing worse." (Id.)	See Response to Comment 1679-74.
1679	76	"Because BDCP actions will not likely play out as planned, it may be useful to view them as planned experiments or hypotheses to be tested. Consequently, it would be prudent to have contingency plans generally outlined before discovering that actions are not working as expected. Yet contingency plans are rarely mentioned in the documents we (Plumas County Board of Supervisors) reviewed. We are not yet convinced that the process of actually doing adaptive management (rather than creating an organizational infrastructure for it) has received the thoughtful development it requires, given its central role in implementing BDCP and ensuring that impacts and benefits balance. Consequently, we have substantial misgivings about how well the proposed adaptive management process, as proposed, will actually function as a key component of BDCP." (Id.)	See Response to Comment 1679-74.
1679	77	The BDCP's decision-making structure--including the delegation of extensive authority to the "Authorized Entity Group" drawn from DWR, the Bureau of Reclamation and water contractors--"does not seem to bring enough authority and resources for adaptive management to be implemented in a decisive and timely way." (Id., p. A-19.)	See Response to Comment 1679-74.
1679	78	The BDCP lacks funding specifically earmarked for adaptive management, and the total budget for monitoring and research is "small" relative to BDCP's total cost.	See Response to Comment 1679-74.
1679	79	Risks are Not Modeled or Fully Evaluated. The Science Board suggested that available risk-management tools could assist in fully evaluating BDCP's vulnerability to "high-consequence risks," and aid in preparing contingency plans. However, the Science Board found "no indications that the available scientific approaches to risk assessment were used to any great extent in the development of BDCP. Given the concerns over uncertainty and the proposed adaptive-management plan, it would be worthwhile to consider incorporating structured decision-making into the process." (Science Board Report, p. 9; see also Appendix A (listing proposed tools to assist in decision-making).)	See Response to Comment 1679-74.

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1679	80	<p>Descriptions of the Alternative Conveyance Structures, Operations, and Environmental Impacts Do Not Facilitate Informative Comparisons.</p> <p>The Science Board pointed out that "a central purpose of an EIR/EIS is to clearly describe the alternative options--in this case, water-conveyance operations--and their relative impacts." (Science Board Report, p. 9.) In the BDCP's EIR/EIS, "because no overall framework is provided to draw together the specifics of the alternatives in a clear way, it is difficult to compare alternatives. Consequently, it is challenging to develop a rigorous assessment of the relative strengths and weaknesses of the alternatives . . ." (Id.; see also Appendix A (discussing "clarity").) Treating all alternatives in exactly the same way "ignores the reality that these factors affect the alternatives and conclusions about their impacts in different ways, further confounding comparisons." (Science Board Report, p. 9.)</p>	<p>The size and complexity of the project documents reflect an unprecedented effort to analyze a proposed project under both state and federal laws for endangered species along with 17 other action alternatives. For more information regarding the document's length and complexity please see Master Response 38.</p> <p>Please refer to comment letters 1448 and 2546 to see responses to the Delta Independent Science Board's comments. Please refer to the comment/response index to locate the response to comments for those letters identified the comment.</p> <p>The lead agencies believe that the 2013 Draft EIR/EIS and 2015 RDEIR/SDEIS are complete in their evaluation of impacts (using the best available science and modeling), direct and cumulative, that project description is complete and satisfies the requirements of NEPA, and that the project objectives are also precise and complete and satisfy the requirements of CEQA. The lead agencies believe that the 2013 Public Draft EIR/EIS and 2015 RDEIR/SDEIS provided the public and decision-makers with sufficient information on which to make informed comments which have been considered and incorporated into the Final EIR/EIS.</p>
1679	81	<p>The BDCP and the EIR/EIS rely on a shifting, inconsistent and inaccurate project definition.</p> <p>Legal Requirements for Environmental Review</p> <p>Under CEQA, the project must include "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment . . ." (14 Cal. Code Regs., [Section] 15368; see also <i>Nelson v. County of Kern</i> (2010) 190 Cal.App.4th 252, 271.) The project description must address "not only the immediate environmental consequences of going forward with the project, but also all 'reasonably foreseeable consequence[s] of the initial project'." (<i>Communities for a Better Environment v. City of Richmond</i> (2010) 184 Cal.App.4th 70, 82.)</p> <p>CEQA cases have long established that "[a]n accurate, stable and finite project description" is "the sine qua non of an informative and legally sufficient EIR." (<i>County of Inyo v. City of Los Angeles</i> (Inyo III) (1977) 71 Cal.App.3d 185, 199.) Reliance on a "curtailed, enigmatic or unstable definition of the project" stands as the paradigm of legal error under CEQA, because it "draws a red herring across the path of public input." (Id. at 199.)</p>	<p>For more information regarding project and program level analysis please see Master Response 2. For more information regarding purpose and need of the proposed project please see Master Response 3.</p>
1679	82	<p>NEPA requires federal agencies to articulate the "purpose and need" for a proposed action for which environmental review is required. (40 C.F.R. [Section]1502.13.) That articulation is crucial for the "heart" of NEPA, the alternatives analysis, which enables the EIS to provide "a clear basis for choice among options by the decision- maker and the public." (40 C.F.R. [Section]1502.14.) NEPA prohibits the use of a truncated "purpose and need" statement, in which the articulation of objectives is defined in a manner that curtails full assessment of the project and alternatives. (<i>City of Carmel-by-the-Sea v. United States Department of Transportation</i> (9th Cir. 1997) 123 F.3d 1147, 1155; <i>Friends of Southeast's Future v. Morrison</i> (9th Cir. 1998) 153 F.3d 1059, 1066.)</p>	<p>The proposed project is a joint EIR/EIS 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 2013 Draft EIR/EIS, and RDEIR/SDEIS 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.</p> <p>For more information regarding purpose and need of the proposed project please see Master Response 3.</p>
1679	83	<p>Faulty Definition of CM1 as a Conservation Measure</p> <p>The EIR/EIS is fundamentally misleading in portraying the BDCP as a "comprehensive conservation strategy for the Sacramento-San Joaquin Delta (Delta) to advance the planning goal" of "restoring" the Delta's ecological functions. (EIR-EIS, ES-1.) Conservation Measure CM1 (Table ES-3) provides "for the construction and operation of a new north Delta water conveyance facility to bring water from the Sacramento River in</p>	<p>Please see Master Response 5 regarding CM1 as a conservation measure. The new preferred alternative, Alternative 4A, no longer includes an HCP. Alternative 4A has been developed in response to public and agency input.</p>

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		<p>the north Delta to the existing water export pumping plants in the south Delta, as well as for the operation of existing south Delta export facilities." This Conservation Measure serves as a euphemism for the twin tunnel system, whose specific physical facilities are buried in the descriptions.</p> <p>The EIR/EIS offers no credible analysis of why CM1 qualifies as a Conservation Measure addressing ESA and NCCPA compliance. Far from contributing to the protection or restoration of ecosystem health in the Delta, this measure would take large quantities of additional water out of the Delta and compound ecological risks. Indeed, facilitating additional exports can in no sense be considered a conservation strategy. Overwhelming critiques vitiate the notion that CM1 is a Conservation Measure, and point to the failure to meaningfully analyze BDCP's speculation that the remaining measures can overcome the damage from implementation of CM1.</p>	
1679	84	<p>In March 2014, the Independent Scientific Review Panel (Panel) studied the Effects Analysis (EA) in the BDCP (Chapter 5). The Panel's report (ISRP-3) identified four broad themes emerging from its review. First, the Panel found the EA riddled with fragmented analysis and inconsistencies that made it "difficult to review and comprehend." Second, the Panel identified an "apparent disconnect" between the treatment of uncertainty in BDCP Chapter 5 and in the EA's technical appendices. Third, the Panel noted the continued absence of an integrated or quantitative assessment of net effects. Finally, the Panel concluded that the EA underplayed major uncertainties in the achievement of beneficial effects attributed to the BDCP's Conservation Measures, slanting the "net effects" analysis in the BDCP's favor (ISRP-3, pp.1-2).</p>	<p>Please see responses to comment letters 1448 and 2546 for a comprehensive response to comments from the Independent Scientific Review Panel. Please refer to the comment/response index to locate the response to comments for those letters identified the comment.</p>
1679	85	<p>In March 2014, the Pacific Fishery Management Council submitted comments concluding that the BDCP will "negatively impact essential fish habitat" for Council-managed species, including all varieties of Chinook salmon, and noted it is "highly concerned" that the project's water withdrawals will unreasonably constrain the flow of fresh water through the Delta.</p>	<p>The EFH analysis and consultation under Magnusson-Stevens Act will be completed in coordination with the Section 7 consultation. With the operational criteria and mitigation measures proposed, the Lead Agencies have concluded that there would not be adverse effects on Pacific Salmon EFH. Numerous comments were received that focused on various elements of the BDCP. 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.</p>
1679	86	<p>In February 2014, the California Advisory Committee on Salmon and Steelhead Trout (Advisory Committee) submitted its required recommendations to the Department of Fish and Wildlife regarding the BDCP under Fish and Game Code section 6920. Concluding that the BDCP "promotes the unproven scientific hypothesis that habitat restoration can substitute for flow," the Advisory Committee recommended that DFW deny an incidental take permit (ITP) for the BDCP project (Alternative 4) as a Natural Communities Conservation Plan (NCCP). The Advisory Committee also concluded that the BDCP "does not meet the requirements of Fish and Game Code section 2820 for an NCCP and cannot legally be approved because it will contribute to the further decline of Sacramento River Winter Run and Spring Run Chinook Salmon." (Id, p. 1.).</p>	<p>For detailed responses 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>
1679	87	<p>As the Advisory Committee pointed out, the effects analysis in BDCP Chapter 5 concedes that project operation using CM-1's proposed conveyance will reduce winter run and spring Chinook salmon smolt survival. (Id) Under these circumstances, the BDCP is incapable of meeting key requirements of the NCCP Act or CESA. (Id., p. 4; see, e.g., Fish & Game Code, [Sections] 2081 (c)(lack of contribution to recovery, continued jeopardy),</p>	<p>For detailed responses 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>

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		2081 (b)(2)(c); 220(e.)	
1679	88	<p>These comments follow still-unheeded concerns of the State Water Resources Control Board that Delta outflows and inflows are already insufficient to help listed species recover, even without the huge quantities of additional water the project would take out of the Delta. They also follow still-unheeded "red flag" comments of the federal fisheries agencies (National Marine Fisheries Service and U.S. Fish and Wildlife Service), as well as major concerns of Environmental Protection Agency and the Bureau of Reclamation about the project's unmitigated environmental consequences.</p> <p>In short, the integration of CM-1 with the other measures depends upon the strained and discredited premise that aggressive re-engineering of the Delta can somehow outweigh the extensively documented importance of flow to species already nearing extinction. That sleight of hand distorts the project's potential impacts on existing and senior water users, and species (including humans) depending on flows through the Delta. It also sidesteps the protection of areas of origin rights and beneficial uses in the Delta region.</p>	<p>For detailed responses 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. With regards to agency comments on draft environmental documents, all comments were resolved either through changes in subsequent documents of through additional details and discussions. To review specific comment response to those submitting comment letters like EPA, please refer to the Response to Comment index of letters. The Lead agencies included a number of Master Responses that provide overall responses to common issues followed by specific response tables. The subjects covered in Master Responses include area of origin and water rights as well as beneficial uses.</p>
1679	89	<p>The EIR/EIS's division of project and program components creates a major obstacle to ensuring timely consideration of the "whole" of the project in accordance with CEQA and NEPA. Only the non-conserving "conservation" measure CM1 is slated for project-level analysis, while the remaining measures (CM 2-22) are consigned to program-level review, with the caveat that further environmental review may be needed prior to implementation. This creates an untenable imbalance in which approval of the conveyance based on project-specific review may well go forward while essential details of the remaining conservation measures, as well as their funding and implementation status, remain unstudied and unknown. Under these circumstances, it is clear that conservation is far from "coequal" with conveyance. The project-specific review of conveyance and highly opaque program review of conservation also amount to unlawful segmentation and piecemealing, undermining the ability of the EIR/EIS to serve as decision-making documents under CEQA and NEPA.</p>	<p>Please see Master Response 2 regarding project-level vs. program-level analysis and the sufficiency of the level of analysis for CMs 2 – 22. Also see Master Response 22 regarding specificity of the Conservation Measures.</p>
1679	90	<p>"Paper Water" Assumption in Project Objectives</p> <p>The BDCP provides the basis for regulatory compliance with the ESA and the NCCPA for a range of activities related to the operation of the SWP and CVP, including the diversion and export of water from the Delta and its tributaries. (BDCP, p. 1-6.) But BDCP's statement of project objectives and project purpose rely upon the legally erroneous direction to "restore and protect" the SWP and CVP's nonexistent ability to deliver "up to full contract amounts." The BDCP cannot credibly base a conservation plan on institutionalizing the same "aura of unreality" on contract deliveries evaluated and discredited in PCL v. DWR (Planning and Conservation League v. Department of Water Resources (2000) 83 Cal.App.4th 892, 915.) Moreover, neither the BDCP nor the EIR/EIS seriously address expectations stemming from overreliance on "interruptible" sources of water referenced in the project contracts.</p> <p>In San Luis & Delta-Mendota Water Authority v. Jewell, (2014) 747 F.3d 581, 44 ELR 20056 (9th Cir. 2014) (San Luis v. Jewell) a Ninth Circuit majority held that the U.S. Fish and Wildlife Service (USFWS) and Bureau of Reclamation (BOR) acted within their discretion in approving a 2008 Biological Opinion (2008 BiOp), and that nothing in the CVP contracts or other federal law creates an "inconsistency" with ESA compliance. (Id. at fn. 45.) Jewell serves as an important reminder that expectations of deliveries in project contracts</p>	<p>For detailed responses 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> <p>The 2013 public draft BDCP is designed to meet the regulatory standards of the ESA and the NCCP Act while also meeting water supply reliability needs. One of the dual goals of BDCP is to improve water supply reliability, not to restore water supplies to levels seen in the past.</p> <p>The Lead Agencies will make the final decisions regarding the selection of an alternative (and therefore, an operational scenario) for the purposes of CEQA and NEPA. USFWS and NMFS have authority under the federal Endangered Species Act to determine whether the proposed project meets the regulatory standard of ESA Section 7, and CDFW, a CEQA responsible agency, has authority to determine if the proposed project meets the regulatory standards of CESA. Please see Section 4.1.2, Description of Alternative 4A, RDEIR/SDEIS for additional information on proposed project operations.</p> <p>Please see Master Responses 28 and 5 for more information regarding operational scenarios and compliance with ESA, respectively.</p>

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		cannot be counted on to justify an end-run around ESA requirements. Respondents' recent decision to seek rehearing of the Ninth Circuit's decision will not change the need, under state and federal law, to avoid facilitating reliance on paper water sources. But it hardly inspires confidence that those responsible for implementing BDCP can be counted on to pursue ecosystem restoration in the Delta with the same zeal applied to "restoring and protecting" delivery of the amounts referenced in water supply contracts.	
1679	91	<p>Rote Assumption of Regulatory Compliance</p> <p>The description of project operation improperly assumes the protection of beneficial uses and meeting of other regulatory requirements, without consistently analyzing hydrologic constraints over the project term. (See, e.g., ES-7.) The project assessment improperly seeks to insulate permit holders from further responsibility to meet federal and state environmental laws, as well as other legal standards and permit requirements. (See Chapter 6.4.2 and following).</p> <p>That disconnect is also evident in the EIR/EIS's statements suggesting the need to "strike a reasonable balance" addressing both water supply and endangered species objectives. (EIR/EIS, p. 2-1.) Although the discussion is vague, it appears to contemplate precisely the sort of balancing rejected by Congress in the ESA. (See <i>Tennessee Valley Authority v. Hill</i> (1978) 437 U.S. 153, 174.) Moreover, even if Congress had permitted the general approach to balancing described in the BDCP, it would fail in light of the overwhelming scientific evidence that the twin tunnel-driven project will not meaningfully protect endangered and threatened species, and will likely harm them instead.</p>	<p>The commenter cites page ES-7 of the Executive Summary chapter of the Draft EIR/EIS for the proposition that "[t]he description of project operation improperly assumes the protection of beneficial uses and meeting of other regulatory requirements, without consistently analyzing hydrologic constraints over the project term." The Lead Agencies can find nothing on page ES-7 that supports this assertion. Nor would the description of a project be the proper place for "analyzing hydrologic constraints" that might prevent the protection of beneficial uses and meeting other regulatory requirements." To the extent that the commenter attempts to provide specific examples of these alleged failings later on in the Draft EIR/EIS, the Lead Agencies respond separately to all such later comments. The Lead Agencies do note, however, that they intend to continue to operate the SWP and CVP consistent with DWR's and Reclamation's existing water rights and have no intention of abridging the water rights of others, or to violate any water quality objectives or other statutes, regulations, plans, or policies that protect existing beneficial uses.</p> <p>It is true that, for purposes of satisfying California Law, and in particular the Delta Reform Act of 2009, the Lead Agencies intend to strike a reasonable balance between the competing statutory objectives of restoring the Delta and stabilizing California's water supply. The Lead Agencies are well aware, however, of the mandatory requirements of the Endangered Species Act, the California Natural Community Conservation Planning Act, and the California Endangered Species Act. To the extent that such statutes do not permit a balancing of economic interests against environmental concerns, the Lead Agencies are determined to, and must, operate within the parameters of such laws.</p>
1679	92	<p>BDCP and the EIR/EIS rely upon a defective analysis of the project baseline.</p> <p>Legal Requirements for Environmental Review</p> <p>Baseline selection is a foundational requirement under CEQA serving the EIR's "fundamental goal" to "inform decision makers and the public of any significant adverse effects a project is likely to have on the physical environment." (<i>Neighbors for Smart Rail v. Exposition Metro Line Const. Authority</i> [2013] 57 Cal.4th 439, 505 [citing <i>Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova</i> [2007] 40 Cal.4th 412, 428].) Reliance on a faulty baseline distorts an agency's ability to assess project impacts and benefits, and provide effective mitigation. (See <i>Bakersfield Citizens for Local Control v. City of Bakersfield</i> [2004] 124 Cal.App.4th 1184, 1217.) CEQA analysis must employ a realistic baseline that will give the public and decision makers the most accurate picture practically possible of the project's likely impacts." (<i>Neighbors for Smart Rail</i>, 57 Cal.4th at 507; see also <i>Communities for a Better Environment v. South Coast Air Quality Management District</i> [2010] 48 Cal.4th 310, 322, 325, 328.)</p>	See Master Response 1 for information on environmental baseline.
1679	93	NEPA regulations require an EIS to describe the "affected environment" of a proposed action and alternatives, placing a premium on brevity and clarity. The EIS "shall succinctly describe the environment of the area(s) to be affected or created by the alternatives under consideration." (40 C.F.R. [Section] 1502.15.) NEPA also incorporates baseline review by requiring analysis of "the alternative of no action." (40 C.F.R. [Section] 1502.14[d].) The no-action analysis "provides a benchmark, enabling decision-makers to compare the magnitude of environmental effects of the action alternatives." (CEQ, Forty	See Master Response 38 for information about the length of the environmental document.

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		Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations, 46 Fed. Reg. 18026 [March 23, 1981].)	
1679	94	<p>Baseline problems in the BDCP and the EIR/EIS: failure to fully account for existing conditions.</p> <p>The EIR/EIS discusses Neighbors for Smart Rail, noting its holding that "any sole reliance on a future baseline is only permissible where a CEQA lead agency can show, based upon substantial evidence, that an existing conditions analysis would be 'misleading without informational value'." (BDCP EIR/EIS, 3D-2 (quoting Neighbors, 57 Cal..4th at 457).) But none of the baselines either fully accounts for existing conditions or meets the Supreme Court's standards for refusing to analyze existing conditions.</p>	Please refer to Master Response 1 regarding the environmental baseline.
1679	95	<p>Reliance upon multiple inconsistent baselines</p> <p>The existing conditions baseline "has been developed to assess the significance of impacts of the BDCP alternatives in relation to existing conditions at the time of the most recent Notice of Preparation (NOP) and Notice of Intent (NOI) to prepare an EIS" (February 13, 2009) "that could affect or be affected by" implementation of the BDCP and alternatives. (BDCP EIR/EIS, 3D-2.) Yet in "some instances", the EIR/EIS concedes, "certain assumptions were updated", including some (but not all) of the standards noted in National Marine Fisheries Service's June 2009 Biological Opinion for salmonids (notably, it did not include the "Fall X2" salinity standard challenged in water users' litigation). Many of the most important details are buried in an appendix disclosing assumptions for State Water Project and Central Valley Project. (See BDCP EIR/EIS, Table 3D-1 and Appendix 5A.) Other still-pending events or judicially challenged events -- for example, renewal of the Federal Energy Regulatory Commission (FERC) license for the Oroville project, or operation of the SWP under the Monterey Amendments -- are simply assumed as part of existing conditions. (Sec, e.g., BDCP EIR/EIS, 3D-6 and Appendix 5.A, B-68, B-138.)</p>	Please refer to Master Response 1 regarding the environmental baseline. The Existing Conditions assumptions were based upon ongoing SWP and CVP operations at the time of the publication of the Notice of Intent in 2009. At that time (and continuing forward), DWR operated Lake Oroville in accordance with an annual agreement that is similar to the proposed FERC agreement that is awaiting final approvals. Also, in 2009 and continuing forward, DWR operated the SWP in accordance with the Monterey Agreement. As of 2009, DWR and Reclamation had not implemented operations under Component 3 of 2008 USFWS Biological Opinion Reasonable and Prudent Alternative.
1679	96	The no-action baseline includes the existing conditions baseline's programs, actions and policies, including many of the same assumptions relating to continued operation of the SWP and CVP. Unlike the existing conditions baseline, the no-action baseline docs include implementation of the Fall X2 salinity standard in the 2008 USFWS Biological Opinion, "as well as changes due to climate change that would occur with or without the proposed action or alternative." (BDCP EIR/EIS, 4-5.) It also includes facilities under construction at the time of the Notice of Preparation/Notice of Intent, and programs, projects and policies with "clearly defined management and / or operational plans" deemed likely to occur by 2060. (BDCP EIR/EIS 4-6.) Although the no-action baseline was developed for NEPA purposes, the EIR/EIS concedes that it is also used to explain many of the CEQA conclusions. (Id.)	Please refer to Master Response 1 regarding the environmental baseline. The same "Existing Conditions" baseline defined in the Draft EIR/EIS applies to Alternatives 4A, 2D, and 5A, for the purposes of CEQA impact analysis. Therefore, all CEQA conclusions associated with Alternative 4A, 2D, and 5A are made in comparison to the same Existing Conditions baseline applied for all other alternatives. However, because of the different approach for ESA compliance envisioned under Alternatives 4A, 2D, and 5A, the No Action Alternative, as applied to these new alternatives only, has been modified for the purposes of making NEPA determinations with respect to Alternatives 4A, 2D, and 5A in the RDEIR/SDEIS. Specifically, this RDEIR/SDEIS includes revisions made to the No Action Alternative required under NEPA and for the purpose of providing a logical point of comparison for the NEPA analysis of Alternatives 4A, 2D, and 5A. Because Alternatives 4A, 2D, and 5A, contemplate a shorter permit period for project implementation than the other alternatives, the new "No Action Alternative Early Long-Term" (No Action Alternative ELT) is used as the NEPA point of comparison for these alternatives.
1679	97	The existing biological condition baseline used for the BDCP's effects analysis reflects the environmental conditions of the Study Area at the time of BDCP approval (BDCP, chapter 2) as well as the anticipated ecological effects of implementing most (but not all) of the actions in the BiOps developed by U.S. Fish and Wildlife Service for delta smelt (2008) and National Marine Fisheries Service (2009) for salmonids and green sturgeon for the long-term operations of the SWP/CVP facilities. (BDCP, Table 5.2-2.) These actions were added to the regional water operations objectives (i.e., rules) previously required under D-1641 provisions of the State Water Resources Control Board (1999), including the	<p>Please refer to Master Response 1 regarding the environmental baseline. It should be noted that this comment addresses the analysis contained within the 2013 Draft BDCP and not the EIR/EIS. In response to comments received during the 2013-2014 public comment period, a modified proposed project (Alternative 4A/California WaterFix) and Alternatives 2D and 5A are being considered to provide modified conveyance facilities for the SWP and CVP and do not include Conservation Measures 2 through 21. Please see Master Response 5 related to the status of the BDCP.</p> <p>In the Draft EIR/EIS, RDEIR/SDEIS, and Final EIR/EIS, the No Action Alternative and all action alternatives</p>

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		<p>Vernalis Adaptive Management Program. This baseline does not include future effects that may result from climate change, or the effects of water operation agreements that are currently being negotiated. Nor does it explain why it does not reference numerous other obligations outside of D-1641.</p>	<p>include assumptions related to climate change, sea level rise, and population growth that would occur with or without the Project, as described in Chapter 5 and Appendix 5A, Section A of the Final EIR/EIS.</p> <p>In the Draft EIR/EIS, RDEIR/SDEIS, and Final EIR/EIS, the Existing Conditions, No Action Alternative, and all action alternatives include assumptions related to numerous regulatory actions in addition to SWRCB Decision 1641, as described in Chapter 5 and Appendix 5A, Section B of the Final EIR/EIS.</p>
1679	98	<p>The existing conveyance scenario is part of the BDCP's August 2013 statewide economic report. It was introduced to bolster the purported economic analysis claiming significant benefits to BDCP (BDCP, Chapter 9). This baseline assumes that water deliveries from the Delta will be dramatically lower without the BDCP, far lower (by approximately 1 million acre-feet) than assumed in the EIR/EIS. Although this scenario would appear to reduce environmental damage of north Delta intakes while placing environmentally beneficial restrictions on south Delta plumbing, neither the BDCP nor the EIR/EIS provide environmental analysis for this scenario. Notably, when a Metropolitan Water District director asked David Sunding, the BDCP economic report's author, whether the project would be cost-effective using the baseline in the EIR/EIS, his answer was an unequivocal "no". http://mavensnotebook.com/2013/07/29/dr-sunding-makes-his-case-for-the-bdcp-to-metropolitans-special-committee-on-the-bay-delta/</p> <p>Overall, these internally inconsistent and confusing scenarios reinforce a continuing concern that, as the National Research Council concluded of an earlier iteration, "much of the BDCP appears to be a post-hoc rationalization of the water supply elements of the BDCP." (2011 report, p. 13.) They underscore the need for a genuine existing conditions analysis to supplement the efforts to project future conditions. As the Bay Institute aptly noted in a February 29, 2012 briefing paper that remains unheeded, "[c]omparing the BDCP to recent actual conditions (conditions that are already driving the collapse of the Delta ecosystem) would reveal that the BDCP would substantially increase water exported from the Delta while severely degrading environmental conditions." That genuine comparison has still not been made in the BDCP and its EIR/EIS.</p>	<p>As described in Appendix 3D, Defining Existing Conditions, No Action Alternative, No Project Alternative, and Cumulative Impact Conditions, in the Final EIR/EIS, the Existing Conditions assumptions were developed in accordance with the requirements under CEQA.</p> <p>With regard to the August 2013 statewide economic report, the No Action Alternative used in the EIR/EIS differed from the baseline used in the economic report. There are very strict criteria that govern how to consider a CEQA or NEPA No Action Alternative. For this kind of an economic analysis, it was necessary to develop the best assumptions about what would be future regulations if the proposed project were not implemented. Therefore, the approach taken in the economic report was to not define the criteria. Instead, the fish agencies defined what they would need in the Delta including the necessary environmental flow targets to permit the project. The economic report used those parameters in addition to existing conditions to define their baseline. Please review Master Response 1 regarding baseline analysis.</p>
1679	99	<p>Reliance upon speculative No Action Alternative</p> <p>The no-action alternative strays well beyond the boundaries of reasonably foreseeable future conditions appropriate for inclusion in NEPA's No Action Alternative or CEQA's No Project alternative. The EIR/EIS purports to make informed judgments about future conditions consistent with existing planning that are half a century away. (See BDCP EIR/EIS, 3D-3, 4; ES-25.) However, the EIR-EIS provides no foundation for the predicted judgments. A similar problem affects the cumulative impacts analysis. Moreover, the EIR/EIS errs in projecting operation under dead pool conditions in around 10 percent of water years, without considering foreseeable efforts of water managers to take steps attempting to avoid levels of depletion approaching a dead pool.</p>	<p>Please see Final EIR/EIS Appendix 5A, Section B.2 for a detailed explanation about the assumptions used in developing the CALSIM II and DSM2 model simulations for Existing Conditions and the No Action Alternative. As explained in Section B.2.2 of Appendix 5A, the CLASIM II simulation does not consider any adaptation measures for future climate change, which may result in managing the SWP and CVP system in a different manner than today to reduce climate impacts. A more detailed discussion on the climate change modeling is included in the Section A and Sections D.2 and D.3 of Appendix 5A. See also Master Responses 19 and 30 regarding climate change and modeling, respectively.</p>
1679	100	<p>Inconsistent and arbitrary assumptions about compliance with laws and regulations</p> <p>The baseline scenarios make inconsistent and arbitrary assumptions about which existing laws and regulatory requirements will be met in the absence of the project. Cherry-picking these in advance, without analyzing the physical conditions relating to compliance, is a particularly glaring error in light of critiques from the State Board, Science Board, and federal agencies expressing concern that compliance is already heavily challenged without the additional pumping anticipated by Conservation Measure CM-1.</p>	<p>For detailed responses 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> <p>The No Action Alternative (ELT) includes most of the assumptions used for the No Action Alternative Late Long Term (LLT) as described in Appendix 3D of the Draft EIR/EIS including continued SWP/CVP operational assumptions used in CALSIM II modeling and on-going programs, projects and polices that would continue in the absence of action alternatives. Two exceptions include planned Yolo Bypass improvements and habitat restoration required by the USFWS BiOp. Because Alternatives 4A, 2D, and 5A do not include these Yolo Bypass and habitat restoration actions they are now assumed for the No Action Alternative (ELT); they are</p>

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		<p>This manipulation and inconsistency underscore the legal inadequacies of the BDCP as a conservation plan. Under the ESA, "[a]n agency may not take action that will tip a species from a state of precarious survival to 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 (9th Cir. 2007) 524 F. 3d 917, 930.)</p> <p>The EIR/EIS has failed so far to establish the foundation for compliance with requirements of the Delta Reform Act that are mandatory for BDCP to proceed and receive state funding. (See, e.g., Wat. Code, [Section] 85320 (including NCCPA compliance, reasonable range of flow criteria, reasonable range of Delta conveyance alternatives, and potential effects of climate change and effects on migratory fish and aquatic resources).)</p>	<p>actions that would be required to occur with or without implementation of Alternatives 4A, 2D, or 5A.</p> <p>Other programs, projects, and policies assumed for the No Action Alternative (LLT) are also assumed for the No Action Alternative (ELT) but the ELT period assumes a shorter time horizon of approximately 15 years following project approval. These programs, projects and policies are presented in Draft EIR/EIS Tables 3D-1 and 3D-2 in Appendix 3D, Defining Existing Conditions, No Action Alternative, No Project Alternative, and Cumulative Impact Conditions and include those with clearly defined management and/or operational plans, including facilities under construction as of February 13, 2009.</p> <p>For more information regarding the proposed project's compliance with the Delta Reform Act please see Master Response 31 and Final EIR/EIS Appendices 3I and 3J. See Master Response 1 for information on the environmental baseline.</p>
1679	101	<p>Failure to analyze potential water rights conflicts</p> <p>Although the BDCP and the EIR/EIS simply assume that the project will be benign for holders of water rights, the State Board's comments on the administrative draft EIR/EIS reveal a problem persisting in the latest draft: "implementation of the BDCP project will require changes to water rights and water right requirements. Further, the proposed project may affect other legal users of water through changes in salinity and flows."</p> <p>Moreover, the EIR/EIS fails to illuminate major potential conflicts with water rights users that may well arise if "no surprises" benefits become available to permittees in return for the BDCP's highly uncertain and tenuous "conservation" benefits. (Sec BDCP, p. 6-29 (discussing the "no surprises" rule).) Assurances to permittees must be proportional to the certainty that the BDCP's conservation measures will succeed (See Fish & Game Code, [Section]2820(f)(1).) Here, the independent scientific critique of BDCP casts major doubt on the BDCP's ability to live up to the conservation benefits attributed to the EIR/EIS. Unfortunately, the existing analysis fails to illuminate the likely "Plan B" if these benefits fail to materialize, who may lose water, money, or both, and the resulting ecological and economic consequences. The BDCP and its EIR/EIS conceal the risk of major conflicts with existing holders of water rights, existing water users, and areas of origin protected under California law.</p>	<p>DWR and Reclamation operate with water rights issued by the State Water Resources Control Board that are junior in priority to many senior water rights holders in the Delta watershed. Under the project alternatives, senior water rights holders would continue to receive the same amount of water as under the No Action Alternative. The project modeling analysis delivers the same amount of water to the senior water rights holders in the Delta watershed, including diversions in the Delta, under the proposed project and all other action alternatives as under the No Action Alternative. However, as described in Final EIR/EIS Chapter 8, Water Quality, Delta salinity increases under several of the alternatives and decreases under other alternatives as compared to the No Action Alternative due to changes in SWP and CVP water supply operations related to climate change, sea level rise, and population growth that would occur with or without the project.</p> <p>As indicated in Chapter 5, Water Supply, the State Water Resources Control Board, not DWR or Reclamation, is responsible for decisions relating to water rights. DWR and Reclamation operate under water rights issued by the State Water Resources Control Board. DWR and Reclamation do 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. For more information regarding changes in delta exports please see Master Response 26.</p> <p>The proposed project (Alternative 4A/California WaterFix) does not involve Conservation Measures 2 through 22; please see Master Response 5.</p> <p>See Master Response 32 regarding water rights issues.</p>
1679	102	<p>Fundamentally flawed cost-benefit analysis.</p> <p>The BDCP bases purported project benefits on a fundamentally flawed cost-benefit analysis that distorts the project baseline and undermines the integrity of the environmental review. Ignoring a deluge of earlier criticism, the analysis retains errors that repeatedly result in exaggeration of the BDCP's benefits and understatement of the BDCP's costs. Without these distortions, the BDCP's costs are highly likely to outweigh benefits. Dr. Jeffrey Michael's detailed assessments of BDCP's costs and benefits (including the socioeconomic analysis appended to as Exhibit I to Sacramento County's comments) identify severe errors, as did the Legislative Analyst in an earlier review.</p> <p>Baseline errors cast major doubt upon the required assessment of mitigation and project alternatives, and leave accountability for major costs and risks mired in doubt. Fatal errors in the cost-benefit analysis also undermine the BDCP's ability to comply with the required assessment of the project and alternatives to "take" under the Endangered</p>	<p>The preferred alternative, Alternative 4A, no longer includes an HCP. For detailed responses 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>

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		Species Act. The full measure of BDCP's costs remains unknown and potentially severe, while all its proposed funding sources remain speculative and uncertain.	
1679	103	To comply with CEQA, an EIR must examine a range of reasonable alternatives that would feasibly obtain most of the project objectives, but avoid or substantially lessen any significant adverse effects of the project (14 Cal. Code Regs. [Section]15126.6.) In its screening and review of alternatives, the EIR must provide more than " cursory" analysis. (PCL v. DWR, 83 Cal. App. 4th at 919.) It should not construe project objectives so tautologically that only the proposed project could conceivably be capable of achieving them.	Please see Master Response 4 for more information regarding alternatives to the proposed project. The alternatives included in the 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 specific proposals that were considered but ultimately rejected by the Lead Agencies are discussed in Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1, Final EIR/EIS. Appendix 3A thoroughly explains why various proposals were not analyzed in the EIR/EIS.
1679	104	The NEPA process is intended to help public officials make decisions that are based on an informed understanding of environmental consequences (40 CFR [Section] 1500.1[c]). This requires a clear comparison of the impacts of the project alternatives.	The EIR/EIS provides an analysis of the preferred alternative and its alternatives' negative and beneficial impacts on the human environment, and actions to avoid or minimize negative impacts.
1679	105	CEQA Guideline section 15126.4(a) requires lead agencies to consider feasible mitigation measures to avoid or substantially reduce a project's significant environmental impacts. As illustrated in a recent appellate ruling, general statements about the adequacy of mitigation incorporated into a project cannot substitute for rigorous project-specific analysis. (Lotus v Department of Transportation (2014) 233 Cal.App.4th 645.)	The effectiveness of environmental commitments to reduce potential effects is presented in Final EIR/EIS Appendix 3B.
1679	106	BDCP Problems With Assessment of Alternatives and Mitigation The EIR/EIS does not come close to providing a legally adequate assessment of mitigation or alternatives. It erroneously assumes that amendment or revision of project contracts are beyond the authority of DWR and the federal lead agencies, even though project contracts are presently being renegotiated. As just one illustration, the BDCP fails to consider the effects of reasonable modification of or repeal of the Monterey Amendments. Endangered Species Act requires a review of "alternative courses of action," which is defined to mean all alternatives and is not limited to the original project objectives and agency jurisdiction. The BDCP fails to review the full range of alternatives for survival and recovery of affected species. Remarkably, despite years of scientific evidence documenting the importance of water flow through the Delta to species recovery, the BDCP's EIR/EIS fail to explore alternative approaches that would not rely on the ability to increase Delta exports.	The proposed project does not propose any changes to the guidelines by which water deliveries are allocated among those entities receiving water from the SWP. Please see Master Response 34 regarding the potential uses of water delivered via the conveyance facilities. As stated in the Introduction to the Monterey Plus FEIR, "the Monterey Amendment resulted from a package deal of negotiated concessions that required achieving all of the above objectives in order to settle significant disputes among the contractors. Both agricultural and M&I contractors gave up rights or benefits to make the agreement work. Both had to also gain new rights or benefits or there would have been no reason to sign the agreement." The proposed project aims 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 about the same as the average 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. Please also see Master Response 4 regarding the selection of alternatives.
1679	107	As proposed, the BDCP's extraordinarily narrow, conveyance-dependent approach to water supply reliability is fundamentally at odds with the broader outlook that California has taken in other settings, including the recent California Water Action Plan and its evolving attempts to harmonize water policy with climate change adaptation.	For detailed responses 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.
1679	108	The EIR/EIS renders complete analysis of alternatives and mitigation impossible by confining project-specific assessment to the conveyance portion of the project (CM-1), while providing only nebulous "programmatic" review of all the remaining Conservation Measures (CM 2-22.) All of the alternatives screening described in Section 3.2.1 focused entirely on water conveyance alternatives (CM-1). Further, the "Proposed Project" described in Section 3.2.3 only addresses water conveyance. As stated on p. 3-21 of the EIR/EIS, "A total of 65,000 acres of tidal habitat would be restored under all action alternatives except Alternative 5 (25,000 acres). There is no indication that any of the	Please refer to Master Response 2 which addresses project-level versus program-level analyses in the EIR/EIS. Please refer to Final EIR/EIS Appendix 3G, which provides information on the background and process of developing the BDCP conservation measures. Table ES-8 of the Draft EIR/EIS Executive Summary provides an overview comparison of restoration acreages for various alternatives. Alternative 5 would have less restoration acreage and Alternative 7 would have greater restoration acreages. Alternatives 4A, 2D and 5A would provide less restoration acreage than the BDCP action alternatives.

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		alternatives were designed to reduce impacts of the project associated with CMs 2-22.	
1679	109	Even if it could be shown that CMs 2-22 adequately reduce impacts, as required by CEQA, their implementation is fundamentally uncertain, because their funding source would be separate from that of CM-1 (conveyance). CMs 2-22 would be funded by the State, with some federal contributions. The State would need to pass a bond measure to provide funding for CMs 2-22, which is far from assured.	For detailed responses 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.
1679	110	As detailed in section I, infra, the BDCP implementation structure described in Chapter 7 reveals numerous deficiencies in governance that make the effectiveness of mitigation measures even more uncertain and remote, empowering water contractors to exercise numerous opportunities to thwart the Delta protection component of the coequal goals. The BDCP's governance structure slights the essential role of San Joaquin and other Delta counties, while involving a large and vaguely-defined council of stakeholders. Moreover, both BDCP and the EIR/EIS fail to effectively analyze the role of the Bureau of Reclamation. Mitigation is also thwarted by the BDCP's heavy reliance upon the assumed future actions of third parties rather than the project's permittees, and improper deferral of mitigation to future decision-making.	Please see Master Response 5 for a discussion of the governance structure. Please also see Master Response 2 regarding the adequacy of the analysis and mitigation for the programmatic conservation measures.
1679	111	The EIR/EIS fails to sharply distinguish between alternatives and evaluate their comparative merits, as required under 40 CFR 1502.14(b). A central deficiency in the alternatives analysis is that BDCP and the EIR/EIS rely upon a narrow and outmoded conception of water supply reliability, which presumes in favor of using water exports to meet the contract amounts referenced in the SWP and CVP contracts. Indeed, the alternatives heavily focus on meeting this narrow conception of reliability, while avoiding the other 21 of 22 Conservation Measures. However, a far wider range of options can be utilized to meet supply needs in the future, including water conservation, reoperation, water markets, alternative conveyance, wastewater reuse, water storage, desalination, and efforts toward achieving regional self-sufficiency. Reports of the National Research Council, the Delta Plan (2013), and the California Water Action Plan (2013), among others, discuss a far broader range of available options.	<p>The preferred alternative, Alternative 4A (i.e., the California WaterFix Project), no longer includes an HCP. Although components such as desalination plants 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 proposed project. The lead agencies cannot impose obligations on third parties that are not applicants under proposed project.</p> <p>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. For more information regarding water demand management please see Master Response 6.</p> <p>The alternatives included in the 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 specific proposals that were considered but ultimately rejected by the Lead Agencies are discussed in Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1. Appendix 3A thoroughly explains why various proposals were not analyzed in the EIR/EIS, including the NRDC Portfolio-Based Proposal, Congressman Garamendi's Water Plan, and other similar concepts that would require actions that are beyond the scope of the proposed project.</p> <p>See Master Response 4 for discussion of the scope of the proposed project and alternatives (such as water storage) that were not carried forward for analysis in this document due to the fact that required actions beyond the scope of the proposed project.</p> <p>A comparison table of all alternatives is included in the Executive Summary of the FEIR/EIS.</p>
1679	112	The March 2014 report of the Independent Science Review Panel (ISRP-3) identifies major deficiencies in the "Effects Analysis" required for ESA compliance. Problems identified there also thoroughly undermine the basis for the EIR/EIS's conclusions about alternatives and mitigation. In essence, the BDCP leaves so much undefined and unanalyzed about Conservation Measures that its implementation hinges centrally on adaptive management. But what the BDCP and the EIR/EIS label "adaptive management" fails to meet scientific standards, and largely serves as a euphemism for unlawfully deferred	See Response to Comment 1679-74.

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		<p>mitigation.</p> <p>The EA's analysis of the project's effects must provide "the best scientific assessment of the likely effects of the BDCP actions on the species of concern and ecological processes of the Bay-Delta system." (ISRP-3, p. 11.) The EA therefore serves as a "critical component" of the BDCP. (Id.) The Delta Reform Act requires science-based adaptive management for all of the Delta's ecosystem and water management programs. (Wat. Code, [Section]85308(E).) Under other requirements as well, adaptive management efforts must incorporate sound science and institutional accountability, rather than opaque commitment (See, e.g., U.S.Fish and Wildlife Service/National Marine Fisheries Service five-point policy on adaptive management, 65 Fed. Reg. 35241-35257; NCCPA requirements for monitoring and adaptive management programs (Fish & Game Code, [Section]2820(a)(7).)</p>	
1679	113	<p>Noting that "the foundation of the BDCP is weak in many respects," the Panel's Phase Three review observed that "default burden" to ensure that covered species benefit, if not recover, "depends on adaptive management." (ISRP-3, p. 6.) However, instead of rigorously applying adaptive management, the BDCP uses it "as a silver bullet but without clear articulation about how key assumptions will be vetted or uncertainties resolved to the point that the BDCP goals and objectives are more assured." (Id., p. 9.) Because of the "extensive uncertainties" surrounding the BDCP's assumptions and predictions, the Panel "strongly emphasizes institutionalizing an exceedingly rigorous adaptive management process. This is critical in order to avoid the high risk associated with ecological surprises that will be difficult or impossible to reverse once they have occurred. BDCP must make a commitment to the fundamental process, and specifically the required monitoring and independent science review, not just the concept of adaptive management" (ISRP-3, p. 9.)</p>	See Response to Comment 1679-74.
1679	114	<p>The Independent Scientific Review Panel's new assessment of the BDCP's approach to adaptive management suggests that criticisms of the BDCP offered several years ago by the National Academy of Sciences's National Research Council (NAS-NRC) still have not been heeded. For example:</p> <p>"If there is one area of general scientific consensus among the Panel about the implementation of the Bay Delta Conservation Plan is that its outcomes remain highly uncertain. As such, one would expect that the Effects Analysis would reflect this general conclusion by stressing a high level of uncertainty around all of its conclusions. There is also general consensus among stakeholders that the high level of uncertainty should not be an impediment to any action in the restoration of the Bay Delta ecosystem. The only way to address the highly uncertain outcomes of BDCP implementation is through rigorous monitoring and adaptive management." (ISRP-3, pp. 18-19.)</p> <p>"Approximately 72% of the objectives for covered fish could not be fully evaluated at this time due to insufficient information. The overall net effects conclusion for each species seemed to be based on the judgment of the authors, rather than a systematic ranking of attribute importance, change in response to the BDCP, and uncertainty in the rankings." (ISRP-3, p. 21.)</p>	See Response to Comment 1679-74.
1679	115	<p>The BDCP fails to address other significant problems with the review and uses of the EIR/EIS.</p> <p>The latest iteration of the BDCP fails to heed overwhelming scientific and agency criticism</p>	No response to this comment is presented because it is unclear what is meant by cumulative impacts compounded by climate change. The analyses of project alternatives include modeling assumptions for climate change and sea-level rise that are taking into consideration as part of the alternatives contribution to

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		that followed prior iterations. Although superficially addressing climate change in a discrete chapter, the EIR/EIS also fails to account for cumulative impacts compounded by climate change.	cumulative impacts.
1679	116	The BDCP's ability to live up to its conservation promises is greatly compromised by its failure to ensure the preparation of biological assessments and opinions before framing a draft plan highly focused upon the proposed conveyance. (See, e.g., Western Watersheds Project 11. Kraayenbrink (9th Cir. 2010) 620 F.3d 1187, 1210 ("any possible effect" triggers consultation requirement).) Under the ESA, regulations 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 . . ." (50 C.F.R. [Section] 402.14(a).) As explained by EPA 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.)	For detailed responses 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.
1679	117	The environmental review of the BDCP is compromised by the assumption that project alternatives must increase flow out of the Delta, without requiring consideration of the State Board's flow analysis. 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 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." (Water Code [Section] 85086 (c)(1).)	For detailed responses 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. See Master Response 31 and Final EIR/EIS Appendices 3I or 3J for information on compliance with the Delta Reform Act.
1679	118	The State Board's flow analysis is related to water quality standards, which EPA reviews for Clean Water Act compliance. The BDCP would pre-commit to develop major new conveyance infrastructure without first considering, in light of the State Board's flow analysis, whether the additional pumping it contemplates would be consistent with regulatory requirements. In doing so, it undermined the EIR/EIS's ability to meaningfully consider the projects consequences for water supply and water quality. (See, e.g., Vineyard Area Citizens, 40 Cal.4th at 430-441.)	Please see Master Response 31 and Final EIR/EIS Appendices 3I and 3J for a discussion of the SWRCB flow criteria. The SWRCB's flow criteria recommendations and how they were used to inform the proposed project planning process are discussed in detail in Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure I, and in Appendix 3I, BDCP Compliance with the 2009 Delta Reform Act. See Master Response 14 for information on water quality.
1679	119	Numerous other problems also severely compromise the EIR/EIS: The BDCP prioritizes and elevates the goal of water reliability over the co-equal goal of protection and enhancement of the Delta and related Delta activities in violation of the requirements of the Delta Reform Act.	For more information regarding the proposed project's compliance with the Delta Reform Act please see Master Response 31 and Final EIR/EIS Appendices 3I and 3J.
1679	120	Numerous other problems also severely compromise the EIR/EIS: The BDCP inconsistently and evasively applies hydrologic projections, failing to consistently incorporate the consequences of foreseeable climate change.	The No Action Alternative and the action alternatives include assumptions for climate change and sea level rise in year 2060 in the Draft EIR/EIS. Comparison of the results of the No Action Alternative and the Existing Conditions model runs indicate changes that would occur by 2060 due to climate change, sea level rise, and increased water demands in the Delta watershed. Comparison of the results of the action alternatives and the Existing Conditions indicate the changes due to the BDCP alternative as well as climate change, sea level rise, and projected growth. See also Master Response 19 regarding climate change.

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1679	121	<p>Numerous other problems also severely compromise the EIR/EIS:</p> <p>The EIR/EIS fails to take into account and analyze the effects of the California Water Action Plan.</p>	<p>The California Water Action Plan actions are considered in the cumulative impact analysis in the Final EIR/EIS. For more information regarding impacts please see each individual resource area chapter in the Final EIR/EIS.</p>
1679	122	<p>Numerous other problems also severely compromise the EIR/EIS:</p> <p>The BDCP fails to incorporate the requirements of law preventing Delta diversion unless adequate supplies are first provided for in-Delta use. The BDCP and the EIR/EIS fail to analyze the effects of incorporating these legal requirements into the plan.</p>	<p>The CALSIM II model runs for the Existing Conditions, No Action Alternative, and the action alternatives include continuing diversions for in-Delta water users with prioritization over SWP and CVP water contract deliveries, as described in Appendix 5A, Section B, CALSIM II and DSM2 Model Simulations and Assumptions, in the Final EIR/EIS.</p>
1679	123	<p>Numerous other problems also severely compromise the EIR/EIS:</p> <p>The BDCP fails to analyze the effects of water transfers and diversions on groundwater basins within the area of impact of the BDCP.</p>	<p>For a discussion on potential changes in the frequency and volume of water transfers under the proposed project, please see Chapter 5 (Water Supply) in the Final EIR/EIS. Also, refer to Master Response 43 regarding water transfers. Final EIR/EIS Chapter 30, Section 30.3.6 discusses potential environmental effects related to water transfers.</p> <p>Because specific agreements have not been identified for water transfers and other non-project voluntary water market transactions, project-level analysis of impacts are highly speculative and this EIR/EIS does not constitute the CEQA/NEPA coverage required for any specific water transfer transaction. Rather, it provides an analysis of how transfers relate to the BDCP/CWF facilities. Any future water transfers will require separate approvals, independent of the BDCP/CWF permitting process.</p> <p>Transfers requiring export from the Delta are done at times when pumping and conveyance capacity at the CVP or SWP export facilities is available to move the water. As such, operations to accomplish these transfers must be carried out in close coordination with SWP and CVP operations, such that the capabilities of the projects to exercise their own water rights or to meet their legal and regulatory requirements are not diminished or limited in any way. Parties to water transfers are responsible for providing for any incremental changes in flows required to protect Delta water quality standards. All transfers must be in accordance with all existing regulations and requirements. See Final EIR/EIS Section 5.1.2.7 for more information on water transfers.</p>
1679	124	<p>Numerous other problems also severely compromise the EIR/EIS:</p> <p>The BDCP's modeling is poorly explained, and assumes levels of water exports that are both historically unjustified and unsustainable.</p>	<p>Appendix 5A, Modeling Technical Appendix, in the Final EIR/EIS presents the assumptions for CALSIM II and DSM2. The SWP and CVP operations are analyzed with prioritization of senior water rights, in-Delta water use, water quality requirements per the State Water Resources Control Board criteria, environmental requirements (by alternative), and Delta outflow requirements (by alternative) over SWP and CVP water contract deliveries in accordance with the available SWP and CVP water rights.</p> <p>The range of alternatives includes alternatives which result in reductions in SWP and CVP water deliveries south of the Delta as compared to the Existing Conditions and the No Action Alternative. The No Action Alternative and Alternatives 4H1, 4H2, 4H3, 4H4; 5; 6A, 6B, 6C; 7; 8; and 9 would result in less SWP and CVP water deliveries south of the Delta than under Existing Conditions (shown in Tables 5-5 and 5-8). Similarly, Alternatives 6A, 6B, 6C; 7; 8; and 9 would result in less SWP and CVP water deliveries south of the Delta than under the No Action Alternative (shown in Tables 5-6 and 5-9).</p> <p>The Final EIR/EIS includes model results specifically for Alternative 4A as compared to Existing Conditions and No Action Alternative. These results indicate that total Delta exports under Alternative 4A are up to 9 percent higher in wet and above normal years and up to 3 percent lower in dry and critical dry years as compared to the No Action Alternative. The results also indicate that total Delta exports under Alternative 4A are similar in wet and above normal years and up to 18 percent lower in dry and critical dry years as compared to the Existing Conditions which includes changes due to climate change, sea level rise, and population growth.</p>

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			<p>Under Alternative 2D, total exports are up to 25 percent higher in wet and above normal years and similar in dry and critical dry years as compared to the No Action Alternative. The results also indicate that total Delta exports under Alternative 2D are up to 16 percent higher in wet and above normal years and up to 16 percent lower in dry and critical dry years as compared to the Existing Conditions which includes changes due to climate change, sea level rise, and population growth.</p> <p>Under Alternative 5A, total exports are up to 14 percent higher in wet through dry years and similar in critical dry years as compared to the No Action Alternative. The results also indicate that total Delta exports under Alternative 5A are up to 6 percent higher in wet and above normal years and up to 16 percent lower in dry and critical dry years as compared to the Existing Conditions which includes changes due to climate change, sea level rise, and population growth.</p>
1679	125	<p>Numerous other problems also severely compromise the EIR/EIS:</p> <p>The BDCP, with its complex morass of over 40,000 pages of supporting documents and inadequate summaries, thus far fundamentally fails the duty of environmental review to meaningfully inform the reader of the project's environmental consequences.</p>	<p>For information on the length of the EIR/EIS refer to Master Response 38 and for information on the public outreach refer to Master Response 40.</p>
1679	126	<p>ATT1: ATT5: Exhibit A - Comments on the BDCP EIR/EIS prepared by Amy Skewes-Cox and Robert Twiss. Date June 22, 2014.</p>	<p>This comment describes the title in an attachment to the comment letter. See Response to Comments 1679-127 through 1679-318.</p>
1679	127	<p>Topic:</p> <p>Incorrect use of Program and Project EIRs</p> <p>Piecemealing</p> <p>Inadequate project-level mitigation measures</p> <p>Comments: Project Level vs. Program Level: The project is basically piecemealed because the actual impacts/precise impacts of CM 2-22 are not addressed at a project level of analysis and thus one cannot determine the true cumulative impacts of the water conveyance facilities. The impacts of the mitigation measures are basically not addressed, because much of CM2-22 refers to basic mitigation measures of the water conveyance facilities (CM1). Specific locations of CM2-2 are not clarified (as stated on page 14-26, Line 5); thus, the full project is not truly defined.</p>	<p>Please refer to Master Response 2 regarding project level vs program level analysis. For detailed responses 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>
1679	128	<p>Topic:</p> <p>Programmatic mitigation measures used when project- level required</p> <p>Comments: Because Conservation Measures (CMs) 2-22 are used as mitigation to offset many of the impacts of CM1, the EIR throughout uses program-level mitigation measures to reduce project-level impacts of CM-1 to less than significant levels. In order to assure mitigation, the document must specifically show how the program mitigation reduces the project impacts to a less-than-significant level, bridging the analytical gap from program to project level with clear, specific measures. Further, impacts of each of the mitigation measures for CM-1 must be clearly and precisely identified. It fails to do that. Re-write the EIR to include either detailed explanations showing how the programmatic mitigation measures reduce impact significance to less-than-significant levels, and/or provide project-level mitigation measures that are enforceable and clearly monitorable, and reduce impacts to the extent feasible. Numerous examples of this problem are presented</p>	<p>For detailed responses 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> <p>CMs2-21 are conservation measures designed to achieve specific biological outcomes as described in Chapter 3 of the BDCP. While some CMs would offset impacts of CM1, mitigation measures to reduce or avoid the impacts of implementing CM1 are included in the resource Chapters 5-30 of the Final EIR/EIS. Each chapter clearly articulates the impact and identifies mitigation measures to reduce the impact or impacts. Mitigation measures appropriately match the level of the impact- project or program-level. For more information regarding project and program level analysis please see Master Response 2.</p> <p>The significant and unavoidable impacts identified in the Draft EIR/EIS are not “unmitigated.” Under CEQA, an agency may not approve a project with significant environmental impacts if there are feasible mitigation measures available which would substantially lessen those impacts. (Pub. Resources Code, § 21081, subd. (a); CEQA Guidelines, § 15092, subd. (b); see Santa Clarita Organization for Planning the Environment v. City of Santa Clarita (2011) 197 Cal.App.4th 1042, 1052-1053.) Thus, for every significant impact identified in an</p>

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		in the Recreation and other comments below.	EIR, the agency must adopt all feasible mitigation measures that would substantially reduce the impact.
1679	129	<p>Topic:</p> <p>Incomplete impact analysis</p> <p>Incomplete project information and mapping</p> <p>Comments: Project Components: In addition to the tunnels, the water conveyance facilities include a variety of ancillary elements such as transmission lines, reusable tunnel material, borrow/spoils areas, concrete batch plants, siphons, new fire stations, dredging areas, barge unloading facilities and other elements. The impact analysis needs to address each of these components at a project and site-specific level and this has not been done.</p>	See Master Response 2 explaining why the EIR/EIS has successfully achieved project-level analysis for the new water conveyance facilities.
1679	130	<p>Topic:</p> <p>Misleading title</p> <p>Inappropriately defined project</p> <p>Use of "wordframing" to misconstrue project as a "mitigation project"; obfuscation of main project which is permission for the water conveyance facility</p> <p>General: The overall title of the EIR/EIS is very misleading. To call this project a "Bay Delta Conservation Plan" is misleading to the reader who needs to know that this project is actually primarily the proposed construction of major water conveyance structures, which will largely be undertaken within the boundaries of San Joaquin County. It would be much clearer if the entire project had been entitled "Peripheral Canal Revised with Conservation Components" or "Peripheral Canal II and BDCP" or "Water Conveyance Facility with Ecological Enhancement Program." The entire populace of the State is being misled by spin throughout the document and in the "word framing" that has been so consistently used to bury and obfuscate the true project.</p>	The BDCP included a large conservation component beyond the development and operation of the conveyance facility. It is typical for HCPs and NCCPs to address development projects and their impacts, and NCCPs are required to provide conservation beyond what is needed to mitigate for project impacts. The proposed project (Alternative 4A) no longer includes the BDCP, so the project is no longer being framed as a conservation plan and no longer includes the conservation component beyond mitigation for project impacts.
1679	131	Why is CM1 referred to as a Conservation Measure? Its main purpose is water supply/conveyance with some but not all alternatives having benefits for fish; but it is not primarily a conservation project. This nomenclature misleads the public and decision makers. The EIR/EIS must replace the nomenclature for "CM1".	Please see Master Response 5 regarding CM1 as a conservation measure.
1679	132	<p>Topic:</p> <p>Unreadable document</p> <p>Not a user-friendly document</p> <p>Unreadable Document. At more than 30,000 pages, this entire EIR/EIS is totally unreadable, and especially for the lay person who has not had extensive experience with CEQA/NEPA. The table of contents alone is 235 pages long! That alone should be enough proof that this is not user-friendly or even "User Accessible." The other elements that make it unreadable are:</p> <p>1) the number of alternatives and the "sub-alternatives" within each alternative (none of which are specifically aimed at meeting CEQA's requirements that alternatives mitigate project impacts) 2) the lack of a concrete set of project objectives which would help to</p>	Please see Master Response 38 regarding the length of the environmental document. It explains that the Draft EIR/EIS is the result of many years of collaboration and analysis necessary to review a project that would impact the Delta and water supplies for millions for Californians. The size and complexity of the document reflect an unprecedented effort to analyze a proposed project and 18 alternatives under both state and federal laws for special status species protection. Please also see Master Response 3, which explains the purpose and need for the proposed project and Section 1.1.4 of the RDEIR/SDEIS.

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		<p>define the need for the project or the "Environmentally Superior" Alternative; 3) the lack of graphics that add to the text in a location that is useable (e.g. one has to go to one of multiple appendices to find applicable graphics and to search endlessly for base information that is not located correctly; 4) the lack of a clear project description for the "Preferred Alternative" that is supposedly evaluated at a project level (instead, one has to search through Appendix 3C to learn of all the components that are part of the Preferred Alternative. Any document that is 30,000 plus pages long is not user-friendly. This is almost twice the length of the Keystone Pipeline EIS and the project is far smaller in geographic extent than the Keystone Pipeline.</p>	
1679	133	<p>Topic:</p> <p>Inadequate impact analysis</p> <p>Applicable to recent "Lotus v. Caltrans" case</p> <p>Inadequate mitigation measures</p> <p>The EIR/EIS applies general "Environmental Commitments" (ECs) and CMs 2-22 to reduce the impacts of CM1 to a less than significant level. However, it fails to show how those program-level ECs and CMs reduce the impacts to less than significant. Equally significant, the assumption of ECs and CMs as mitigation eliminates the rigorous review of impacts and mitigation possibilities required under the recent (January 20, 2014) Trisha Lee Lotus v. Department of Transportation appellate court decision, which expressly prohibits the approach used in this document. This is especially egregious in this case because the project-level impacts of up to 65,000 acres of new wetland construction, which is claimed as mitigation for many of the project impacts, are not analyzed. This document must be re-written to clearly identify the impacts, evaluate a range of mitigation measures, and select the most effective feasible measures.</p>	<p>Please refer to Master Response 2 regarding project level vs program level analysis.</p> <p>Please refer to Master Response 22 regarding mitigation.</p>
1679	134	<p>Topic:</p> <p>Inappropriate use of future baseline year of 2060</p> <p>Inappropriate methodology for cumulative analysis; not meeting CEQA requirements</p> <p>Lack of foreseeable future per CEQA requirements</p> <p>Lack of reasonable time horizon</p> <p>No Action Alternative and Cumulative Analysis: The EIR/EIS is flawed in assuming that the cumulative analysis considers the project alternatives as compared to the No Action Alternative in 2060. First of all, the time horizon is so far into the future that any impact analysis is rendered meaningless. While the Incidental Take Permit may extend to 2060, there is no reason that the CEQA/NEPA analysis cannot have a mid-point year of 2030 or 2035. CEQA is very clear on how cumulative analyses should be done and this can be by either using a General Plan or other planning document, or using a list of identified proposed, approved or pending projects. This EIR/EIS has done neither. Instead, the No Action Alternative conditions for 2060 are predicted without any justification as to how such future conditions were determined. How the year 2060 was chosen has not been explained.</p>	<p>Please see Master Response 1 for a discussion of the environmental baseline and No Action Alternative.</p>

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1679	135	<p>The EIR/EIS needs to explain how only 2060 was chosen as the "future baseline" year; why was no intervening year selected in addition to 2060? How can effectiveness of mitigation measures be evaluated when such a future baseline is being used.</p> <p>2060 as a future baseline is mean less and highly speculative. This is 46 years from today! In perspective, if one goes back 46 years....this is what you would find. It was 1968. In 1968, there was no NEPA, no CEQA, no discussion of sea level rise, no discussion of toxics in the environment, no knowledge of what climate change would do to the environment. How can we possible predict what conditions will be in 2060? The California Dept. of Finance does not project population for that year? Why would the EIR/EIS assume to predict environmental conditions in that year?</p>	<p>For detailed responses 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. As described in the BDCP, Chapter 3, Conservation Strategy, the conservation strategy is divided into near-term and long-term implementation stages. Implementation of the BDCP CMs will generally begin in year 0, the year in which regulatory authorizations are issued by the federal lead agencies and CDFW pursuant to the BDCP, and will be completed within 50 years. Since the BDCP alternatives sought 50-year permit terms, it was appropriate to choose a No Action Alternative that looked at conditions 50 years into the future (at 2060).</p> <p>Additionally, modeling was done at 2025 and at 2060 in developing the Draft EIR/EIS and where a significant impact occurred at the earlier time period, this discussion was called out (e.g., see Chapter 12, Terrestrial Biological Resources).</p> <p>In the 2015 RDEIR/SDEIS, a new No Action Alternative (ELT) was considered since Alternatives 4A, 2D and 5A were no longer seeking 50-year permit terms. This new No Action Alternative baseline examines conditions at 2025.</p>
1679	136	<p>Topic:</p> <p>Inadequate funding of mitigation measures</p> <p>Lack of assurance of mitigation for project level impacts</p> <p>Inadequate Funding for Project Level Mitigation Measures: Even if it could be shown that CMs 2-22 adequately reduce impacts, as required by CEQA, there is no certainty that they would actually be implemented because their funding source would be separate from that of CM-1. CM-1 would be funded by the state and federal water contractors, while CMs 2-22 would be funded by the State, with some federal contributions. The State would need to pass a bond measure to provide funding for CMs 2-22, which is far from assured. Absent this funding, the mitigation effects of CM2-22 cannot be assumed for CM-1. See: http://blog.aklandlaw.com/2006/05/articles/ceqa/impact-fee-programs-as-effective-tools-for-ceqa-mitigation-an-update/</p>	<p>Portions of some of the conservation measures are identified in the 2013 public draft BDCP as mitigation required to offset the impacts of the construction or operation of the proposed water conveyance facility (see Table 8-41 in Chapter 8). Funding for the mitigation component of these conservation measures would be paid for by the participating state and federal water contractors, not the public.</p> <p>Please also see Master Response 5 regarding the BDCP funding strategy.</p>
1679	137	<p>Topic:</p> <p>Inadequate project description</p> <p>Piecemealing</p> <p>Lack of analysis for whole of the project</p> <p>Whole of action not considered. CEQA defines a project as "the whole of an action ..." For Conservation Measure (CM) 1, a major part of the construction action is storage/disposal/reuse of the spoils from 70+ total miles of approximately 42- foot tunnel bores, yet the impacts of transporting, storing, and disposal disposing of upwards of 25 million cubic yards of tunnel and other construction spoils are not adequately analyzed at a project level. The EIR cites the volume of spoils to be generated - but then provides open-ended flexibility alter the amount and timing stating merely:</p> <p>"In the course of constructing project features, substantial quantities of material may be removed from their existing locations based on their properties or the need for excavation of particular features. These materials will require handling, storage, and</p>	<p>Please refer to Master Response 2 regarding project level vs program level analysis.</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. For additional information regarding Reusable Tunnel Material, please see Master Response 12.</p> <p>The comment about air quality is a summary of the EIR/EIS language.</p>

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		<p>disposal, as well as chemical characterization, prior to any reuse. It is anticipated that one or more of the disposal and reuse methods could be implemented on any individual spoil, reusable tunnel material (RTM), or dredged material site. Depending on which combination of these approaches is selected, implementation of material reuse plans could create environmental impacts related to ground disturbance, noise, release of hazardous materials, traffic, air quality, water quality, and Important Farmland or farmland with habitat value for covered species." (DEIS/EIR p. 31-20)</p> <p>Apparently, some or all of this earth is intended for use in implementing wetlands restoration under CMs 2-22, however, as there is no project-level analysis of impacts of these CMs, and no specific permanent locations identified for the "reusable materials"., The EIR fails to assess the project- level impacts of this essential component of CM-1 (CM-1 cannot be constructed without storage/disposal/reuse of the tunnel spoils). Section 31.5.1.4 provides general EC's that are entirely unenforceable and whose effectiveness cannot be determined due to the lack of specifics. Mitigation measures are equally vague and deferring of any actual analysis. For example, in Section 31.5.2.1, the portion of the MM Soils 2b discussion regarding air quality for handling and storing the massive spoils quantities states:</p> <p>Air Quality</p> <p>Increased GHGs and criteria pollutant emissions would result from the operation of excavation equipment, both at the excavation site and the application site, and haul trucks. These effects are expected to be further evaluated and identified in subsequent project-level environmental analysis. Mitigation Measure AQ-2 through AQ-4, AQ-15 and AQ-18, as well as related AMMs and environmental commitments, as described in Section 31.5.1.2, would be available to address criteria pollutant and GHG emissions.</p>	
1679	138	<p>Topic:</p> <p>Inadequate Alternatives analysis</p> <p>Alternatives do not reduce impacts of preferred project</p> <p>The "Project" and the associated range of alternatives do not meet CEQA's requirement that the alternatives be designed to reduce or eliminate one or more project impacts. In fact, many have greater impacts on a wide range of resources than the "preferred project", Alternative 4. Alternatives seem to have been selected based on engineering possibilities, resulting in the EIR's function being relegated to that of a constraints analysis of a group of options rather than the requisite investigation into feasible alternatives that would reduce project impacts while still achieving most of the project objectives.</p>	<p>The Final EIR/EIS analyzes all alternatives, including Alternative 4A. Please see Master Response 4 for more information regarding alternatives to the proposed project. The alternatives included in the 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 specific proposals that were considered but ultimately rejected by the Lead Agencies are discussed in Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1, Final EIR/EIS. Appendix 3A thoroughly explains why various proposals were not analyzed in the EIR/EIS.</p>
1679	139	<p>Topic:</p> <p>No alternatives for CM2-22</p> <p>Inadequate Alternatives analysis</p> <p>Inappropriate use of project and program analysis in one document</p> <p>The alternatives are deficient because they address only EC-1, and not ECs 2-22. In fact, all of the alternatives screening described in Section 3.2.1 focused entirely on water conveyance alternatives (Conservation Measure (CM) 1). Further, the "Proposed Project"</p>	<p>Potential impacts from conservation measures are analyzed in every alternative, usually towards the end of each alternative after discussions of the proposed project, or CM1. Also, the analysis for CMs 2-22 was completed at a programmatic level, as described in Section 4.1.2 of Final EIR/EIS Chapter 4, Approach to the Environmental Analysis.</p> <p>For more information regarding project and program level analysis please see Master Response 2. See Master Response 4 for more information regarding alternatives to the proposed project.</p>

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		<p>described in Section 3.2.3 only addresses water conveyance. As stated on p. 3-21 of the DEIS/EIR, "A total of 65,000 acres of tidal habitat would be restored under all action alternatives except Alternative 5 (25,000 acres). There is no indication that any of the alternatives were designed to reduce impacts of the project associated with CMs 2-22, despite CEQA's requirement that alternatives be designed to reduce project impacts. It is imperative to revise the project alternatives to reduce impacts associated with implementation of CMs 2-22, including, but not limited to, reducing the loss of agricultural lands, reducing construction-related impacts of the wetland restoration projects, and reducing loss of upland foraging habitat. Further, the EIR/EIS should be revised to include and assess two sets of alternatives, one set for the program (CMs 1-22) and the other a project-specific set for the conveyance facility (CM-1). A project-specific EIR/EIS that does not include project-specific alternatives is inadequate, and the same is true for a program EIR. The current hybrid approach is doubly inadequate.</p>	
1679	140	<p>Topic:</p> <p>Inadequate alternatives description</p> <p>Inappropriate characterization of alternatives' components</p> <p>Under the description of alternatives, the diversions are always characterized in terms of maximum cubic feet per second (cfs). That description would only be important if the project were premised on maximum diversion. Otherwise, acre-foot diversions/month plus cfs limits are a more important metric from which to determine impacts. In fact, many of the impacts of the project are far more dependent on low flow commitments than high-flow diversions. The document must revise the alternatives to clearly describe a range of water management options that would reduce impacts of the proposed project in addition to maximum diversion capacities.</p>	<p>All of the conveyance facility operational scenarios presented for the alternatives include rules that determine when Sacramento River water supply could be diverted at new Intake facilities. Please refer to Final EIR/EIS Chapter 3, Description of Alternatives, Sections 3.4.1.2 and 3.6.4.</p>
1679	141	<p>Topic:</p> <p>Mischaracterization of project</p> <p>Lack of adequate project description in Executive Summary</p> <p>Page ES-1, Line 23.: The Executive Summary states "The BDCP is a comprehensive conservation strategy for the Sacramento-San Joaquin Delta (Delta) to advance the planning goal of restoring ecological functions of the Delta and improving water supply reliability in the state of California." Instead of immediately following this statement with a statement that the project also includes the development of major water conveyance facilities, the paragraph continues to focus on the "conservation strategy" component of the project. It is not until line 33 on this page that we even see mention of "water conveyance facilities" and even then, there is no description of what this means, no description of tunnels, intake structures and other water conveyance elements. Where is the first mention and full description of the water conveyance facilities including clear mapping of such facilities?</p>	<p>The Final EIR/EIS Executive Summary provides background before describing the project objectives and purpose and need. Section ES. 1.1.1 of this Final EIR/EIS states; "DWR's fundamental purpose in proposing the proposed project is to make physical and operational improvements to the SWP/CVP 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". Details describing the water conveyance facilities are provided and maps of the proposed project are provided in Chapter 3, of this Final EIR/EIS.</p>
1679	142	<p>Topic:</p> <p>Misuse of program-level analysis</p>	<p>For more information regarding project and program level analysis please see Master Response 2. See Master Response 4 for more information regarding alternatives to the proposed project. 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</p>

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		<p>Confusion of mitigation measures with program-level project</p> <p>Inadequate evaluation of mitigation measures</p> <p>Lack of assurance that CMs 2-22 can be approved in future</p> <p>Page ES-3, Line 35: There is a statement that the goal of the EIR/EIS is to provide sufficient evaluation of alternatives so that project-level assessment of the potential effects of selected modified and/or new conveyance facilities is possible. Then, Line 37 mentions that for BDCP Conservation Measures (CMs) 2-22, the EIR/EIS intends to present a program level analysis, and that further environmental review may be needed prior to implementing conservation measures. Thus, it appears that the EIR/EIS is both a project level and program level EIR/EIS as partly defined in CEQA Sections 15161 and 15168. It appears that the EIR/EIS might be specific about the conveyance facilities and then not specific about the conservation measures. This raises an immediate concern that if the conservation measures (which are assumed to help mitigate some of the impacts of the project) are addressed at a programmatic level, how can there be certain assurances of their implementation? And it raises the additional concern that if water conveyance facilities are addressed at a project level, no opportunities for future CEQA review may occur as related to those components of the project that may have the greatest impact.</p>	<p>Endangered Species Act (CESA) Section 2081(b). However, restoration actions that are independent of the 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>
1679	143	<p>Topic:</p> <p>Lack of adequate project description</p> <p>On page 3-24, Line 15: The EIR/EIS states that the water conveyance facility components are analyzed at a project level in the EIR/EIS. It would seem that the EIR/EIS should clearly list which components are addressed at a project level and which are addressed at a programmatic level, and this should occur very early in the Executive Summary as the reader has no idea what components are to be covered in the overall document.</p>	<p>Section 3.5.16.2 in Chapter 3, Description of Alternatives, in the Final EIR/FEIS describes in detail which components of the alternatives are described at a program level of detail. For additional detail regarding the level of detail of the analysis, please see Master Response 2.</p>
1679	144	<p>Topic: No clarification on permitting agencies</p> <p>Page ES-4, Line 36: Mention is made of how the EIR/EIS is intended to provide sufficient detail to allow U.S. Fish and Wildlife Service and National Marine Fisheries Service to make an informed decision on action of considering issuance of an Incidental Take Permit (ITP) under Section 10 of the Endangered Species Act. And the second main project component is identified as the Natural Community Conservation Plan (NCCP). Finally, Line 40 of this same page mentions the intent of the EIR/EIS to provide project-level assessment of the potential effects of modified and/or new water conveyance facilities, water supply contract amendments and/or funding agreements. And Conservation Measure 1 is also intended to be addressed at a project level. Nowhere is there mention of which agency will take responsibility for permitting the water conveyance facilities, whether they be new and/or modified. However, the title of this section is "Intended Uses of the BDCP EIR/EIS and Agency Roles and Responsibilities". The document must clarify any agency associated with permitting the project elements that are addressed at a project level.</p>	<p>Chapter 1 of the Final EIR/EIS has been revised to address the roles and actions of all of the lead, responsible and cooperating agencies.</p>
1679	145	<p>Topic: Inappropriate lead agency</p> <p>Page ES-6, Line 1 shows the responsible and lead agencies for both CEQA and NEPA. However, the main project is defined as the Incidental Take Permit (ITP) and the Natural</p>	<p>The preferred alternative, Alternative 4A (i.e., the California WaterFix Project), no longer includes an HCP or NCCP. The RDEIR/SDEIS Executive Summary, ES.1, identifies and updates from the 2013 Draft EIR the lead and cooperating agencies that will use the EIR/EIS as part of their decision-making process. Reclamation will act as the sole federal Lead Agency of the proposed project (under NEPA) while DWR will continue to act as</p>

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		<p>Community Conservation Plan (NCCP). If the NCCP is a main component requiring the action of the California Dept. of Fish and Wildlife, (CDFW), why is CDFW not the lead agency? As stated in Section 15051 (b) of the CEQA Guidelines, "the Lead Agency shall be the public agency with the greatest responsibility for supervising or approving the project as a whole." If DWR is shown as the lead agency, the EIR/EIS has been very unclear up to this point of the document why DWR has the greatest responsibility. DWR has no responsibility over the NCCP, which is the EIR's stated State "Project". One could infer by the fact that DWR is the lead agency that the water conveyance facilities are truly the most significant element of the proposed project. This fact contradicts all the statements on page ES-1 emphasizing that the major components of the project include the ITP and NCCP. The EIR/EIS needs to clarify: why DWR is identified as the lead agency. From Section 15051(c) of the CEQA Guidelines, it would appear that DWR was selected because it was going to act first on the project (vs. CDFW), and that the water conveyance facilities approval will be the first approvals far before the ITP and NCCP. Again, there is obfuscation of the true project and the true order of priorities.</p>	<p>the state Lead Agency (under CEQA). The USFWS and NMFS will act as NEPA Cooperating Agencies. The regulatory agencies – USFWS, NMFS, CDFW, USACE, and the State Water Board – are participating to provide technical input and guidance in support of planning efforts to complete the proposed project.</p>
1679	146	<p>Topic: Inadequate description of agency responsibilities</p> <p>Page ES-6, Line 8 states that the California Department of Fish and Wildlife is "considering whether to approve the BDCP as an NCCP...." What does this mean by the use of the word "considering"? Is an NCCP to be adopted or is the NCCP itself only being considered? Also, Section ES1.1.1.1 mentions DWR responsibilities but never mentions DWR responsibilities as to water conveyance facilities. It is not clear whether DWR has any discretionary approvals related to water conveyance, and there is no explanatory text as there is for Reclamation per text on page ES-7, Line 8-13.</p>	<p>See Response to Comment 1679-145.</p>
1679	147	<p>Topic: Inadequate project description</p> <p>Page ES-7, Lines 8-13 finally explain the conveyance facilities in very shaded terminology using the words "provide for diversion, storage, and conveyance of CVP water consistent with applicable law and contractual obligations." It is as if there were no choice but to allow for the massive new conveyance facilities (which still have not been explained in the document to this point) because it's merely compliance with legal obligations.</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>
1679	148	<p>Topic: Inadequate analysis of full capacity of water conveyance facilities</p> <p>Page ES-10, Lines 17-22 includes the text "It is not intended to imply that increased quantities of water will be delivered under the BDCP. As indicated by the "up to full contract amounts" phrase, alternatives need not be capable of delivering full contract amounts on average in order to meet the project purposes. Alternatives that depict design capacities or operational parameters that would result in deliveries of less than full contract amounts are consistent with this purpose." This text fails to explain that the EIR/EIS must look at the "full project" and if the water conveyance facilities are designed/planned for conveying up to a certain amount of water, that full conveyance must be addressed. For an analogy, an environmental document on a new college facility must address full occupancy based on the capacity of the school; a water treatment</p>	<p>The Department of Water Resources released in 2013 the Conceptual Engineering Report that describes design details of the modified pipeline/tunnel option (MPTO). For more information regarding tunnel research and design please see http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx.</p> <p>The conveyance facilities are analyzed for each of the alternatives in the resource topic analysis, as the Executive Summary of the Final EIR/EIS states. 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>

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		<p>facility must be addressed based on the full capacity of the system. Our future comments will address whether this has been done appropriately for the BDCP. Explain where in the EIR/EIS the full capacity of the water conveyance system has been adequately addressed.</p>	
1679	149	<p>Topic:</p> <p>Inadequate project description</p> <p>Page ES-13, Lines 16-24: In two summary paragraphs, the BDCP is defined. First, the text says the "BDCP is a joint HCP/NCCP and then later, the text states that the "BDCP is also proposed to provide for the conservation and management of covered species ...through a conservation strategy that includesconservation measures, including the construction and operation of new Delta water conveyance facilities ..." What are the conservation measures contained in construction and operation of water conveyance facilities?</p>	<p>The proposed project (Alternative 4A) no longer includes the BDCP, therefore it no longer includes an HCP or NCCP component. The construction and operation of the water conveyance facilities is Conservation Measure 1. Please see Master Response 5 regarding CM 1 as a conservation measure.</p>
1679	150	<p>Topic:</p> <p>Deceptive terminology defining the project</p> <p>Page ES-19 Table ES-3: What a twist in terminology to refer to the water conveyance facility as a "conservation measure". The document must explain why this term would apply to this element of the project.</p>	<p>Please see Master Response 5 regarding CM1 as a conservation measure.</p>
1679	151	<p>Topic:</p> <p>Lack of clarity on phasing of project</p> <p>Page ES-19: Lines 3-6: It would seem from this section that it is assumed that the water conveyance facilities would be constructed over a 10-year period. From years 11 to 15, the "early long-term" implementation measures would be undertaken and from years 16 through 50, the "late long-term" implementation measures would be undertaken. The document must clarify that this is correct in terms of phasing as this issue may arise later in the EIR/EIS. (Note: In the analyses that follow, by topic, these 3 phases are not always addressed separately. The construction [10-year] phase is addressed and then the operation phase is addressed).</p>	<p>The preferred alternative, Alternative 4A, no longer includes an HCP or Conservation Measures. The Final EIR/EIS analyzes all alternatives, including Alternative 4A. Under this alternative, it is assumed that construction would last 14 years.</p> <p>Additionally, Final EIR/EIS Appendix 3C, Construction Assumptions, provides details regarding construction for all alternatives and alignments.</p>
1679	152	<p>Topic:</p> <p>Incorrect use of "No Project" Alternative</p> <p>Inappropriate baseline</p> <p>Confusion of "cumulative" with future baseline</p> <p>Inappropriate use of 2060 as future baseline year</p> <p>Page ES-25, Lines 16-35: Issue of No Action Alternative and Environmentally Superior Alternative and Baseline. The issue of "No Project" is not correctly explained. The statement that "Under CEQA, the No Project Alternative is not the baseline for assessing the significance of impacts of the Proposed Project." Is taken out of context and not fully correct. Section 15126.6 (e)(1) of the CEQA Guidelines state that "The no project alternative analysis is not the baseline for determining whether the proposed project's</p>	<p>This comment is an opinion that the No Project/No Action Alternative (Late Long Term) should not be used as a baseline because the 50 year timeframe is not foreseeable. The analyses presented in the EIR/EIS for certain alternatives include reasonable assumptions for no Project/No Action conclusions. The RDEIR/SDEIS also includes alternatives evaluated at the Early Long Term time period (2025) which provides an estimate of shorter term alternative effects. Please refer also to Master Response 1, which addresses comments received related to baseline conditions.</p>

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		<p>environmental impacts may be significant, unless it is identical to the existing environmental setting analysis which does establish that baseline (see Section 15125)."</p> <p>While it is true, as stated, that the "No Project conditions may include some reasonably foreseeable changes in Existing Conditions and changes that would be reasonably expected to occur in the foreseeable future if the project were not approved", the EIR/EIS fails to mention that Section 15126.6 (e)(2) that this "future scenario" must be discussed in addition to existing conditions at the time of the notice of preparation.</p> <p>It is critical to note that the words "foreseeable future" and "reasonably expected" to occur are used in the CEQA Guidelines. Using 2060 as the year of assessing the No Project Alternative would not be considered the "foreseeable future" or a time in which anyone could determine what would be "reasonably expected". For example, the Agricultural section addresses in Section 14.3.3.1 the Cumulative Effects of the No Action Alternative, and in this section states that projects assumed to be constructed by 2060 are included in the analysis.</p>	
1679	153	<p>The use of 2060 as a "future baseline" seems to fly in the face of the recent CEQA lawsuits that have clearly stated that present (time of Notice of Preparation) conditions must also be addressed if a future baseline is to be considered. And how can anyone know 2060 conditions? That is 46 years from now. That would not be defined as the "foreseeable future" as we know the term. Just as an example, no one was discussing sea level rise and climate change 46 years ago (Year 1968). And in 1968, all the Best Management Practices to prevent soil erosion and sedimentation were not known. These are just a couple of examples to point out the 2060 is not the foreseeable future. A Merriam Webster definition of "foreseeable" is "lying within the range for which forecasts are possible". Forecasts have to be made based on current knowledge, current technologies, and known elements. Forecasts are not just conjecture.</p>	Please refer to Master Response 1 regarding the environmental baseline.
1679	154	<p>Section 3D.2.3 of the EIR/EIS states that the future No Project condition is allowed by NEPA; however, CEQA requires, as stated in 30.2.3, that if a future baseline is assessed, then the "existing conditions" baseline must also be assessed. The EIR/EIS appears to consistently violate this by addressing cumulative conditions as the "No Project 2060" condition, and foregoing a comparison of the project to cumulative conditions that are present day. By doing this, the project's impacts can be woefully understated.</p>	Please refer to Master Response 1 regarding the environmental baseline. Cumulative impacts are addressed for each EIR/EIS resource chapter following the impact analysis of Alternative 5A.
1679	155	<p>Topic:</p> <p>Lack of adequate project description</p> <p>Lack of impact analysis for all project components being addressed at project level of detail (vs. program)</p> <p>Pages ES-27 through 31: Project components are diverse and require being addressed throughout the EIR/EIS. From the brief project description, it appears that the following elements could have associated environmental impacts:</p> <p>--Intakes</p> <p>--Pumping plants (which include sedimentation basins, substations, access roads)</p>	Please refer to the mapbooks for a detailed depiction of conveyance features, and to Final EIR/EIS Chapter 3 and Appendix 3C for descriptions of the conveyance features and construction assumptions.

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		<p>--Pipelines</p> <p>--Tunnels</p> <p>--Canals (unlined or lined with concrete which means transport of concrete needs to be addressed)</p> <p>--Forebays: possible expansion of Clifton Court Forebay and division of this forebay</p> <p>--Fixed and operable barriers</p> <p>--New levees or levee modifications (these alone have issues related to import of soil materials, etc.</p> <p>--Culvert siphons</p> <p>--Gates or similar structures</p> <p>--Concrete batch plants (requires source of clean water; location not shown; acreage not shown)</p> <p>--Temporary barge unloading facilities</p> <p>--Other facilities: Bridges, road, utilities, local drainage systems</p> <p>Locations and acreage of each of the above components need to be identified and mapped.</p>	
1679	156	<p>Topic:</p> <p>Unclear and onerous project description</p> <p>Page ES-34: There are 16 alternatives evaluated in the EIR/EIS and then this page addressed 15 operational scenarios. 16x15 results in 240 variations that one has to track. The "project" becomes convoluted to the point of indecipherable as the multiple variations are explained. There is no way that a reader can make sense and track all the components of this many variations on a project. And this does not even account for the variations in Conservation Components addressed on page ES-37!</p>	<p>Although the science and analyses that support the EIR/EIS are complex, the lead agencies have made every attempt to present the information in plain language and in a clear format with emphasis on the information that is useful to the public, agencies, and decisionmakers. Both CEQA and NEPA also recommend summarizing information to reduce paperwork and to make the environmental document understandable to the public and decisionmakers. Chapter 32 and the Executive Summary of the Final EIR/EIS provide an overall guide and background to the documents and history of public meetings and outreach efforts over the past 7 years. See also Master Response 38 regarding the length of the environmental document.</p> <p>The Lead Agencies (DWR for CEQA and Reclamation for NEPA) will make the final decisions regarding the selection of an alternative (and therefore, an operational scenario) for the purposes of CEQA and NEPA. USFWS and NMFS have authority under the federal Endangered Species Act to determine whether the Proposed Project meets the regulatory standard of ESA Section 7, and CDFW, a CEQA responsible agency, has authority to determine if the Proposed Project meets the regulatory standards of CESA. Please see Section 4.1.2, Description of Alternative 4A, RDEIR/SDEIS for additional information on proposed project operations.</p>
1679	157	<p>Topic:</p> <p>Issue of translation into Spanish given demographic makeup of counties impacted</p> <p>Page ES-40, Section ES.6.2.4: This addresses environmental justice; however, nowhere is there an explanation of how the entire BDCP EIR/EIS has been made "workable" for minority populations. For example, has there been a translation into Spanish? Almost 40% of the population of San Joaquin County alone is Hispanic.</p>	<p>Please refer to Section 28.3 of Final EIR/EIS Chapter 28, Environmental Justice, which describes the outreach and noticing activities that occurred to reach environmental justice communities. These activities were consistent with EO 12898 and the obligations described under Section 28.4, Regulatory Setting, of this chapter, including Reclamation's NEPA guidance in the Draft NEPA Handbook requirements. Public outreach documents are available in six languages (in addition to English), on the website, located at: http://baydeltaconservationplan.com/2015PublicReview/2015PublicReviewInformationalMaterials/2015_Multi-Lingual.aspx. Additionally, project proponents have provided translators at public scoping meetings; the BDCP Website in Spanish; and a multi-lingual information hotline for project information in English, Spanish,</p>

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			Tagalog, Vietnamese, or Chinese (Mandarin).
1679	158	<p>Topic:</p> <p>Lack of clarification on Notice of Determination (NOD)</p> <p>Page ES-41 : Lines 1-11: The text does not clarify that the NOD is filed after approval of the project. DWR must certify the EIR portion as meeting the requirements of CEQA. This can happen completely separately from the filing of the NOD. The NOD just sets the time period during which a challenge can be made. The text needs to clarify this.</p>	See Section ES.1.5 regarding a discussion on the Final EIR/EIS review and project approval process.
1679	159	<p>Topic:</p> <p>Inadequate clarification on agency overseeing implementation of mitigation measures</p> <p>Lack of mitigation monitoring and reporting program</p> <p>Page ES-48, Section ES.8.3.2, Lines 29-38: Mitigation measure responsibilities are addressed and it is clarified that a number of parties will be responsible for ensuring implementation of mitigation measures. Nowhere is it clarified who will have overall responsibility. For example, if DWR is relying on California Department of Fish and Wildlife to implement a measure, who will have the power to ensure that happens? These agencies operate quite independently and the Mitigation Monitoring and Reporting Program (not included to our knowledge in the EIR/EIS and required prior to approval of project) should identify how the ultimate decisions about effective mitigation will be made. The document must clarify who the entity will be to ensure effective mitigation measures.</p>	<p>A Mitigation Monitoring and Reporting Plan (MMRP) is not required to be circulated with a draft EIR. CEQA requires the adoption of feasible mitigation measures to reduce the severity and magnitude of potentially significant environmental impacts. Section 21081.6 of the California Public Resources Code (PRC) requires a Lead or Responsible Agency to adopt a MMRP when approving or carrying out a project. The purpose of the MMRP is to ensure that when either an EIR or a negative declaration identifies mitigation measures that those measures are implemented as detailed in the EIR or negative declaration.</p> <p>The MMRP for the EIR/EIS lists each mitigation measure identified in the document, describes the methods for implementation and verification, and identifies the responsible party or parties. The MMRP for the project will be available with this Final EIR/EIS.</p>
1679	160	<p>Topic:</p> <p>Inconsistent listing of alternatives</p> <p>Table ES-11: This table has a variety of alternatives that do not match those shown on page ES-24. The document must explain this.</p>	This table has been removed from the Executive Summary of the Final EIR/EIS.
1679	161	<p>Topic:</p> <p>Inadequate Summary</p> <p>Unbalanced evaluation of topics</p> <p>Inadequate mitigation measures, even for those impacts determined to be significant and unavoidable</p> <p>Table ES-9: This table summarizes impacts and mitigation measures. However, it comes after Table ES-11 on page ES-61 of the EIR/EIS. None of the topics are identified and there is no legend to explain the topic. For example, the rows should be labeled as to whether the topic is Agriculture; Hydrology; Geology; etc. The legend does not explain what SW, WS, or other initials stand for.</p> <p>The table shows a total of 628 impacts. Of these, 6 are related to Land Use and 4 are related to Agriculture, while 217 are related to aquatic species. This alone exemplifies how the EIR/EIS is unbalanced in its evaluation of the true impacts associated with the</p>	<p>The resource areas or “topics” (e.g., water supply, agriculture, surface water, etc.) are identified in the Executive Summary table as centered headers in shaded rows preceding the impacts for those resources. The acronyms in the impact titles in the table are consistent with those in each resource chapter.</p> <p>The number of impacts associated with any resource (e.g. water quality, agriculture, land use, etc.) does not correlate with the level of detail of the impact analysis for each resource. As described in Chapter 4 (Approach to the Environmental Analysis) of the Final EIR/EIS, for each resource area CM1 elements are analyzed at a project-level of detail, whereas CM2-CM21 are analyzed at a program-level of detail. The resource chapters (Chapters 5–30) each include an evaluation of the direct and reasonably foreseeable indirect impacts associated with implementation of the action alternatives. Throughout the EIR/EIS, impacts are identified as temporary or permanent. These terms apply differently to different resources and are defined, where relevant, in each individual resource chapter. For some resources, the types of changes anticipated would occur only in one of the defined geographic regions that make up the overall project area; in others, changes would occur in more than one region (i.e., Upstream of the Delta, Delta (corresponding to the BDCP Plan Area and Areas of Additional Analysis), and SWP and CVP Export Service Areas). Chapters 5–30 each describe the rationale for evaluating specific geographic regions in their introductory Environmental Setting sections. The study area defined in the setting for each resource considers the</p>

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		<p>water conveyance facilities which are the only element addressed at a project level.</p> <p>It appears that there are at least 89 significant unavoidable (SU) impacts as identified for CEQA. It is very unclear how there can be significant impacts after mitigation. If this is the case, the impact is normally significant and unavoidable. This matter must be fully explained and justified.</p> <p>Of the 89 SU impacts, many of these are related to the CM1 element which is the water conveyance facilities, either as related to construction or operation. The water conveyance facilities are evaluated at a project level, and not a programmatic level. Therefore, it is imperative that mitigation measures be clear and concise and that they not be deferred to a future time or a future discretionary approval time. Simply making the impacts SU because the mitigation measure cannot be guaranteed or is outside the control of the lead agency does not mean that the analysis is adequate.</p>	<p>geographic areas involved in implementation of all the action alternatives. The impact analysis for each resource has been prepared in accordance with NEPA and CEQA.</p> <p>Also, please see Master Response 10 for a discussion of significant and unavoidable impacts, and Master Response 2 regarding level of detail and uncertainty in the impact analyses.</p>
1679	162	<p>Topic:</p> <p>Inadequate objectives</p> <p>Inadequate definition of purpose of project</p> <p>Page 2-3 of the EIR/EIS lists the objectives for the project. The elements of the physical developments associated with the project (e.g., the Tunnels) are not even mentioned until the end of the list of objectives as highlighted below. All the emphasis from the very beginning of the EIR/EIS is upon use of the words "improve", "conservation", "recovery of the species", "protecting", "enhancing certain aquatic, riparian and associated terrestrial natural communities and ecosystems". As stated in Section 15124 of the CEQA Guidelines, "The statement of objectives should include the underlying purpose of the project." It is very clear that the "underlying purpose" of the project is to construct water conveyance structures to move water from northern California to southern California. The protection of species and restoration of habitat is not the underlying purpose; rather, these are the associated actions to be taken to mitigate/offset the impacts of the underlying water conveyance structures. At a minimum, the list of objectives should be reordered to highlight the conveyance facilities as the main objectives, followed by the restoration activities. Even when physical development is listed, it's referred to as "physical improvements" as highlighted below. The actual main component of the proposed tunnels (and the word "tunnels" isn't even used) occurs as the very last objective as " To identify new operations and a new configuration for conveyance of water entering the Delta from the Sacramento River watershed to the existing SWP and CVP pumping plants in the southern Delta....." Use of obfuscating language such a "new configuration for conveyance of water" entirely misleads the public who are reviewing the EIR. What is the true project? And what is the underlying purpose of the project as required by Section 15124 of the CEQA Guidelines?</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>The Lead Agencies do not agree that the project objectives are in any way inadequate or misleading. Although the CEQA preferred alternative/proposed project and some other alternatives include tunnel components, other alternatives do not. All action alternatives in the Draft EIR/EIS also include very substantial habitat restoration components. All of these elements are captured in "DWR's fundamental purpose in proposing the BDCP," which 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-Delta, and water quality within a stable regulatory framework, consistent with statutory and contractual obligations." (DEIR/EIS, p. 2-2.) In this context, "physical improvements" refers to tunnels or canals and habitat restoration.</p> <p>See Master Response 3 regarding the project purpose and need. Lead agencies have very broad discretion in formulating their project objectives. "CEQA does not restrict an agency's discretion to identify and pursue a particular project designed to meet a particular set of objectives. CEQA simply requires the agency to thereafter prepare and certify a legally adequate EIR that provides the agency and the public alike with detailed information regarding the proposed project's significant environmental impacts, as well as reasonable alternatives that 'would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen [those impacts].'" (California Oak Foundation v. Regents of the University of California (2010) 188 Cal.App.4th 227, 276-277.) DWR's project objectives, as set forth in the Final EIR/EIS, meet these standards.</p> <p>For detailed responses 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>
1679	163	<p>List of objectives as per page 2-3 of the EIR/EIS (underlining added to emphasize physical changes)</p> <p>--Respond to the applications for incidental take permits 2 for the covered species that</p>	<p>See Project Purpose and Need, Final EIR/EIS Chapter 2 and Master Response 3.</p> <p>For detailed responses 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>

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		<p>authorize take related to:</p> <ol style="list-style-type: none"> 1. The operation of existing SWP Delta facilities and construction and operation of facilities for the movement of water entering the Delta from the Sacramento Valley watershed to the existing State Water Project (SWP) and Central Valley Project (CVP) pumping plants located in the southern Delta; 2. The implementation of any conservation actions that have the potential to result in take of species that are or may become listed under the ESA, pursuant to the ESA at [Section]10(a)(1)(B) and its implementing regulations and policies; 3. The diversion and discharge of water by Mirant LLC for power generation in the Western Delta <p>--To improve the ecosystem of the Delta by:</p> <ol style="list-style-type: none"> 1. Providing for the conservation and management of covered species through actions within the BDCP Planning Area that will contribute to the recovery of the species; and 2. Protecting, restoring, and enhancing certain aquatic, riparian, and associated terrestrial natural communities and ecosystems. 3. Reducing the adverse effects to certain listed species of diverting water by relocating the intakes of the SWP and CVP; <p>--Restore and protect the ability of the SWP and CVP to deliver up to full contract amounts, when hydrologic conditions result in the availability of sufficient water, consistent with the requirements of State and federal law and the terms and conditions of water delivery contracts and other existing applicable agreements.</p> <p>--To ensure that the BDCP meets the standards for an NCCP by, among other things, protecting, restoring, and enhancing aquatic and terrestrial natural communities and ecosystems that support covered species within the Plan Area.</p> <p>--To make physical improvements to the conveyance system in anticipation of rising sea levels and other reasonably foreseeable consequences of climate change.</p> <p>--To make physical improvements to the conveyance system that will minimize the potential for public health and safety impacts resulting from a major earthquake that causes breaching of Delta levees and the inundation of brackish water into the areas in which the SWP and CVP pumping plants operate in the southern Delta.</p> <p>--To develop projects that restore and protect water supply and ecosystem health and reduce other stressors on the ecological functions of the Delta in a manner that creates a stable regulatory framework under the ESA and NCCPA.</p> <ol style="list-style-type: none"> 1. To identify new operations and a new configuration for conveyance of water entering the Delta from the Sacramento River watershed to the existing SWP and CVP pumping plants in the southern Delta by considering conveyance options in the north Delta that can reliably deliver water at costs that are not so high as to preclude, and in amounts that are sufficient to support, the financing of the investments necessary to fund construction and operation of facilities and/or improvements. 	

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1679	164	<p>Topic:</p> <p>Lack of adequate project description</p> <p>The Purpose Statement found in Section 2.4 on page 2-4 is slightly better in that "construction and operation of facilities ...for the movement of water" is mentioned as number 1b. However, again, there is no description of the type of facility being discussed.</p>	<p>For more information regarding project and program level analysis please see Master Response 2. See Master Response 3 regarding the project purpose and need.</p>
1679	165	<p>Topic:</p> <p>Lack of adequate project description</p> <p>Section 2.5, Project Need: Again, the actual underlying project is hidden behind the "habitat protection veil". The section states, "There is an urgent need to improve the conditions for threatened and endangered fish species within the Delta. Improvements to the conveyance system are needed to respond to increased demands upon and risks to water supply reliability, water quality and the aquatic ecosystem."</p>	<p>For more information regarding purpose and need of the proposed project please see Master Response 3.</p>
1679	166	<p>Topic:</p> <p>Alternatives fail to reduce project impacts</p> <p>Failure to identify how alternatives relate to "Preferred Project"</p> <p>Page 3-2, Lines 1-5: This chapter describes the Alternatives to the Project. However, CEQA (Section 15126.6) is very clear that an EIR shall describe a "range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the project objectives of the project but would avoid or substantially lessen any of the significant effects of the project". It is not until the 3rd page of Chapter 3 that one finds the Preferred Alternative (which for the purposes of CEQA would be the "proposed project") and then it is difficult to see how the 15 alternatives would be considered a "range of reasonable" alternatives, and how the alternatives would compare to the Preferred Alternative. While NEPA does not necessarily require alternatives to offer some environmental benefit (as stated on page 3-5, line 33), it is very clear that CEQA does require this. At a minimum, the EIR/EIS needs to state which alternatives to Alternative 4 would offer environmental benefits, or reduced impacts.</p>	<p>Please see Master Response 4 for more information regarding alternatives to the proposed project. The alternatives included in the 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 specific proposals that were considered but ultimately rejected by the Lead Agencies are discussed in Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1, Final EIR/EIS. Appendix 3A thoroughly explains why various proposals were not analyzed in the EIR/EIS.</p> <p>A comparison table of all alternatives is included in the Executive Summary of the Final EIR/EIS.</p>
1679	167	<p>Topic:</p> <p>Failure to meet CEQA requirements as related to Project Description and Alternatives</p> <p>"Environmentally Superior" Alternative required by CEQA has not been identified</p> <p>Page 3-3, Section 3.1.1 clearly states that the Preferred Alternative is Alternative 4 as defined in the BDCP. However, nowhere is that Alternative described or mapped for the reader in this section of Chapter 3. One long paragraph is provided for Section 3.1.1, totally not meeting the requirements of the CEQA Guidelines, Section 15124, which describe the Project Description requirements. The following elements are not included in Section 3.1.1:</p> <p>--Location and boundaries of the project;</p>	<p>As mentioned in Chapter 31 of the Final EIR/EIS, where the environmentally superior alternative is the "no project" alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives. However, because the environmentally superior alternative is not the No Project Alternative, DWR is not required to identify one of the action alternatives as the environmentally superior alternative.</p> <p>Chapter 3 of the Final EIR/EIS fully describes the action alternatives including Alternative 4A, the new preferred alternative. Chapter 1, Introduction, of the Final EIR/EIS, includes a discussion of the intended uses of the EIR/EIS and agency roles and responsibilities in Section 1.6, as well as the permits/approvals required.</p>

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		<p>--Description of project's technical, economic and environmental characteristics;</p> <p>--Statement of the intended uses of the EIR;</p> <p>--List of permits/approvals required;</p> <p>--All the future decisions subject to CEQA such as state, regional, or local permits.</p> <p>CEQA does not have a concept or term of a "Preferred Alternative". That is NEPA parlance and concept. CEQA requires that an EIR evaluate the impacts of a "Proposed Project" and alternatives to that project that would reduce one or more impacts while achieving most of the project's goals. This section instead states that Alternative 4 is a tentative Preferred Project. What does this mean in a CEQA context? This does not provide the reader with essential CEQA information. The document must revise this discussion to; 1) identify the proposed project, and 2) identify the environmentally superior alternative, as mandated by CEQA.</p>	
1679	168	<p>Section 31-3 on the Environmentally Superior Alternative. This section fails to identify an environmentally superior alternative. This is because the alternatives were not designed to mitigate impacts, as required by CEQA. The document must develop a true environmentally superior alternative that reduces impacts compared to Alternative 4, which appears to be the Proposed Project for CEQA review.</p>	<p>The Environmentally Superior Alternative section in Chapter 31 of the Final EIR/EIS provides a summary overview of the pros and cons of the action alternatives, each of which have positive and negative effects that are noted in the discussion. The alternatives included in this Final EIR/EIS represent a reasonable range of alternatives and the scope of the analysis of alternatives fully complies with both CEQA and NEPA. See also Response to Comment 1679-167.</p>
1679	169	<p>Topic:</p> <p>Cumbersome reading</p> <p>Lack of clear project description</p> <p>Information hidden in appendices that should be in main text</p> <p>Page 3-6 to 3-8: The reader is referred at the top of the page to three appendices that describe how alternatives were selected. The appendices are cumbersome and should only be used to supplement the main document. Again, the readability of the document is compromised. Section 3.2.1.3 describes how 15 conveyance alternatives were narrowed down to seven. The EIR/EIS does not refer to any specific maps that would define the location of the alternatives; nor are the conveyance alternative described in detail. Instead, each conveyance alternative is described with one or two sentences.</p>	<p>See Response to Comment 1679-167.</p>
1679	170	<p>Topic:</p> <p>Inadequate description of alternatives</p> <p>Incomprehensible to lay reader</p> <p>Pages 3-8-3-10, Section 3.1.2.4. The operation alternatives are not described in terms comprehensible to the layperson in this EIR, but rather are characterized as different locations of the mysterious X2, and the cryptic 2008 BiOps. This does not serve to inform the public. The document must provide a simple description of the actual operations alternatives.</p>	<p>The description of alternatives operational scenarios evaluated for action alternatives is presented in Chapter 3, Description of Alternatives at a level of detail needed to perform adequate impact analyses for resources dependent on changes in hydrodynamics and water quality. These scenario descriptions and the alternatives analyses do require some understanding of CALSIM/DSM2 and other modeling used to represent operational scenarios and analyze impacts. A more conceptual description of the project alternatives and their operations is also included in the Bay Delta Conservation Plan Highlights document (December 2013) starting on page 26. Please also refer to the California Water Fix website: https://www.californiawaterfix.com/.</p>
1679	171	<p>Topic:</p>	<p>The Lead Agencies do not agree that the Project Description in the EIR/EIS is legally inadequate. Chapter 3 provides details of all the alternatives, and Section 4 of the RDEIR/SDEIS provides details of the new</p>

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		<p>Unclear project description</p> <p>On page 3-12, we are told more specifically what the project is! And then, it is not until page 3-27 that we get any idea of what the proposed tunnels would look like. Finally, we understand that the preferred alternative in 2012 was framed to include water intake facilities with a total capacity of 9,000 cubic feet per second (cfs), phased operations, and gravity flow conveyance system. However, again, we are left without any clear maps to show where these might occur and the ancillary facilities that would go along with the conveyance facilities. And just when we get our arms around the preferred project, Table 3-1 comes along to show a complex web of 15 variations on the theme, again with no accompanying maps. No description is provided about the length of the tunnels or pipelines, what is meant by "intakes", etc. It is not until page 3-24 that the reader is then referred to Section 3.6.1 where the project is expected to be described in more detail.</p>	<p>sub-alternatives. For figure alignments of all tunnel alternatives please refer to the 2013 Public Draft EIR/EIS Chapter 3 Mapbook Figures as well as the RDEIR/SDEIS Mapbooks. Additionally, the Department of Water Resources released in 2013 the Conceptual Engineering Report that describes design details of the modified pipeline/tunnel option (MPTO). For more information regarding tunnel research and design please see http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Conceptual_Engineering_Report-Modified_Pipeline_Tunnel_Option.sflb.ashx.</p> <p>Additionally, Final EIR/EIS Appendix 3C, Construction Assumptions, provides details about the conveyance facilities. The 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, 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. This statement shall include, to the extent that the information is known to the Lead Agency,</p> <ul style="list-style-type: none"> • A list of the agencies that are expected to use the EIR in their decision making, and • A list of permits and other approvals required to implement the project. • 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>The EIR/EISS and RDEIR/SDEIS project description, and accompanying figures and mapbooks, provide this information.</p> <p>For more information regarding the document's length and complexity please see Master Response 38.</p>
1679	172	<p>Topic:</p> <p>Inadequate project description</p> <p>Page 3-12, Section 3.2.3. This section discusses development of DWR's "Proposed Project", and implies that the CEQA Project is, in fact, Alternative 4A. It states, "The proposed project, as embodied in the draft BDCP document published together with the EIR/EIS, will form a major portion of the HCP and NCCP...." This is puzzling because the HCP/NCCP is the stated subject of the EIR/EIS. Therefore, the entire HCP/NCCP should be the subject of the EIR, not just "a major portion of it". The document must revise this discussion to tell the reader which parts of the HCP/NCCP are addressed in this EIR/EIS and which are not.</p>	<p>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 Draft EIR/EIS. Alternative 4 (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 EIR/EIS may be utilized by other programs for implementation of the long term conservation efforts.</p>
1679	173	<p>Topic:</p>	<p>For more information regarding project and program level analysis please see Master Response 2.</p> <p>For detailed responses on the primary issues being raised with regard to the BDCP or Alternative 4, as well as</p>

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		<p>Misconstrued project level definition</p> <p>Program level vs. project level</p> <p>Inadequate project definition</p> <p>Page 3-24, Line 15: The EIR/EIS states that the water conveyance facility components are analyzed at a project level in the EIR/EIS. Does this include the proposed forebays, or only the canals and/or tunnels? Does this include the proposed concrete batch plants, which could range in size from 2 acres to 40 acres (page 3-29, line 38). CEQA Guidelines, Section 15161 clearly defines a Project EIR to be one that examines all phases of the project, including planning, construction and operation. This is very different from a Program EIR (Section 15168) that address a series of actions early in the process so that an agency can get an overview of cumulative impacts associated with a series of action. Given the very obvious lack of detailed information on the water conveyance systems, and the fact that the EIR/EIS in Chapter 3 clearly states that Alternative 4 may be revised, it is very unclear why this EIR/EIS is addressing the water conveyance systems at a project, vs. programmatic level. The document must define why the entire EIR/EIS is not a Program EIR.</p>	<p>a discussion of the current status of the draft BDCP Effects Analysis, please see Master Response 5.</p>
1679	174	<p>Pages 3-24 through 3-37. The entire description of the water conveyance alternatives is at a program level, and not a project level. You must revise to include specific designs for each of the project facilities including, but not limited to, pumping plants, diversion facilities, wharfs, forebays, barriers, roads (temporary and permanent), temporary spoils storage areas, permanent spoils disposal areas, concrete plants, bridges, laydown areas, etc. The document must also describe all construction activities including months and hours of construction operations for each type of construction activity, number of construction workers for each site and activity, construction haul routes for each phase/type/location of activity, number of trucks associated with each phase/location/type of activity, number of barges associated with various construction activities, throughput and other operational considerations for each batch plant and spoils storage facility, locations and volumes of borrow areas, etc. Absent this information, it is impossible to either conduct the impact assessment at a project level or evaluate the adequacy of that assessment.</p>	<p>See Response to Comment 1679-173. Additional construction details are included in the Conceptual Engineering Report—Dual Conveyance Facility Modified Pipeline/Tunnel Option —Clifton Court Forebay Pumping Plant (MPTO/CCO). (California Department of Water Resources 2015) which is a referenced document to the Final EIR/EIS. Volume 1 of the CER is posted on the project website.</p> <p>Detailed assumptions about the construction timeline and construction activity are located in Appendix 3C, Construction Assumptions for Water Conveyance Facilities, and Appendix 22B, Air Quality Assumptions, of the Final EIR/EIS.</p>
1679	175	<p>Topic:</p> <p>Failure to disclose each Action Alternative's potential for Adaptive Management</p> <p>Page 3-40 Lines 15-41, Section 3.5. The document should include in its description of action alternatives their relative capacity to be accomplished using adaptive management and the best available science. The EIR/EIS' consideration of adaptive management as applying solely to conservation measures is not sufficient.</p>	<p>See Section 3.6.4.4 of this Final EIR/EIS and Master Response 33 for a discussion on the proposed project's Adaptive Management and Monitoring Program.</p>
1679	176	<p>Topic:</p> <p>Failure to compare environmental effects of the Action Alternatives</p> <p>Page 3-40, Section 3.5 should provide or point to a comparison of all Action Alternatives' effects. The EIR/EIS contends that environmental effects can be found under each factor heading (e.g., agriculture, water quality) but those chapters do not uniformly permit comparison across all alternatives. For example, they may compare one alternative to</p>	<p>See Final EIR/EIS Section ES.4.2, for a summary impact table that compares impacts across all alternatives.</p>

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		existing conditions or to no- project, but not to all other alternatives. Chapter 31 provides a brief discussion of each alternative's pros and cons but the EIR/EIS does not give a succinct comparison.	
1679	177	<p>Topic:</p> <p>Failure to determine and disclose the environmentally superior alternative</p> <p>Page 3-40, Section 3.5 the EIR/EIS should give a good-faith summary of how the 15 action alternatives compare against important CEQA and NEPA criteria. Chapter 31 tries to explain why no environmentally superior alternative has been identified; but this does not relieve the lead agency of the responsibility to do so.</p>	<p>As mentioned in Chapter 31 of the Final EIR/EIS, where the environmentally superior alternative is the “no project” alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives. However, because the environmentally superior alternative is not the No Project Alternative, DWR is not required to identify one of the action alternatives as the environmentally superior alternative.</p> <p>To help readers more easily compare impacts across the alternatives, the Final EIR/EIS includes a summary comparison of impacts in text and graphic form in the Executive Summary and individual resource chapters, which more easily allows readers compare impacts across all alternatives. The summary tables were developed to help readers identify the major changes and provide a reference guide to the information contained in each chapter.</p>
1679	178	<p>Topic:</p> <p>Phasing of action alternatives: Phasing vs. all-or-nothing</p> <p>Page 3-40, Section 3.5 should but does not disclose the relative capacity of each action alternative to be accomplished in phases, so as to permit reasonable and scientifically defensible projections and assurances. Phasing is an essential component of adaptive management and science-based management under high uncertainty.</p>	<p>Please see the Conceptual Engineering Reports for additional detail on how construction of the alternatives might be phased. Additionally, detail regarding the construction schedule is included in Final EIR/EIS Appendix 22B.</p> <p>The phases of adaptive management are laid out in Chapter 3 of the Final EIR/EIS.</p>
1679	179	<p>Topic:</p> <p>Failure to disclose the time required to gain results.</p> <p>Page 3-40, Section 3.5 should disclose and compare the time required to: 1) begin to see effects of the action alternatives, and 2) to reach completion. For example, no results of Alternative 4 would be realized for a decade or more, while Alternative 9 could result in improvements starting immediately with incremental improvements over the short, middle, and long run. The EIR/EIS comments only on the Conservation Measures, but not on the action alternatives.</p>	<p>The Draft BDCP does provide a time frame for implementing conservation measures. For example early implementation actions would occur before conveyance facility construction is constructed. Descriptions of the alternatives and their components are included in Final EIR/EIS Chapter 3, Description of Alternatives, Since the time of the Draft EIR/EIS, the preferred CEQA and NEPA alternative has been changed to Alternative 4A, which does not include an HCP/NCCP. For detailed responses 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>
1679	180	<p>Topic:</p> <p>Failure to disclose that a 50 yr. ITP may not be required for one of the alternatives</p> <p>Page 3-14, Table 3-1 is in error in its implication that Alt. 9 per se would require a 50-year Incidental Take Permit (ITP). In fact, unlike the other 14 action alternatives, Alternative 9 could be phased and monitored, and the ITP given in more predictable and scientifically defensible shorter, say 10- or 15- year increments. The EIR/EIS should explain that Alternative 9 could be phased, and the action alternative itself (not just the conservation measures) subject to adaptive management.</p>	<p>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 Draft EIR/EIS. 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 Draft EIR/EIS may be utilized by other programs for implementation of the long term conservation efforts (Chapter 3, Description of Alternatives in the Final EIR/EIS). The three new sub-alternatives (4A, 2D, and 5A) developed by the Lead Agencies embody a different implementation strategy that would not involve a 50-year HCP/NCCP approved under ESA Section 10 and the NCCPA, but rather would achieve incidental take authorization for a much shorter period (between 11 and 15 years) under ESA Section 7 and California Endangered Species (CESA) Section 20181(b).</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</p>

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			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.
1679	181	<p>Topic:</p> <p>Failure to treat the action alternatives even-handedly</p> <p>Page 3-79, Line 10, Section 3.5.16. The EIR/EIS should explain that Alternative 9 is the only conveyance alternative that taken as a complete system can be done using Adaptive Management (AM) and the application of best available science. All other alternatives require "Yes/No" full-scale implementation, with adaptive management and best science applied only to small portions of the system's operations, or applied only to the mitigation measures and stressor reductions. Unlike the other all-or-nothing action alternatives, Alternative 9 can be phased, tested, altered, refined, and perfected as management experiments yield answers, science progresses, and the extraordinarily high level of uncertainties surrounding management actions and environmental responses can be reduced. Failure to so comment gives a false picture of the advantages of Alternative 9.</p>	According to CEQA case law, where the alternatives analyzed in the EIR allow for a wide range of choices with varying degrees of environmental impacts, the document may support the ultimate approval not only of the fully developed alternatives, but also what might be called "hybrid" alternatives whose features and impacts occur within the analytical continuum between the "bookends" created by the least-impacting and most-impacting alternatives, respectively. Although the requirements regarding the analysis of alternatives under NEPA are somewhat broader than what is required under CEQA, the scope of alternatives that are required under NEPA, like CEQA, is not unlimited. For additional detail on the alternatives that were analyzed and how an alternative will ultimately be chosen, please see Master Response 4.
1679	182	<p>Topic:</p> <p>Failure to explain the inflexibility of all alternatives except Alt. 9</p> <p>Page 3-80, Lines 1-31 should disclose that the 13 separate parts of the Alternative 9 system that can be operated flexibly in response to the system's environmental and water-conveyance performance, and altered as monitoring shows the degree to which promises and modeled targets are actually being achieved.</p>	Please see Response to Comment 1679-181.
1679	183	<p>Topic:</p> <p>Failure to develop and propose action alternatives that can utilize adaptive management and best science</p> <p>Page 3-80, Lines 2-4 [as a component of Alternative 9]. "Operable barriers on the Mokelumne River..... To provide a path for fish migration ..." The key word here is "operable" which provides for changing the extent and timing of interruption of flows, and the option of simply leaving the barrier open if it does not perform as planned. The EIR/EIS should disclose the importance of this aspect in meeting BDCP's responsibility to use adaptive management and the best available science.</p>	Please see Response to Comment 1679-181.
1679	184	<p>Topic:</p> <p>Failure to treat inflexibility as an environmental impact in comparing alternatives (non-adaptive = non science-based)</p> <p>Page 3-80, Lines 9-11 [as a component of Alternative 9]. "An operable barrier at Three Mile Slough to reduce salinity in the San Joaquin River during low delta outflow And reduce fish movement into the San Joaquin River...." The EIR/EIS should disclose the importance of this aspect in meeting BDCP's responsibility to use adaptive management and the best available science. It should note this as an advantage to Alternative 9 and a serious disadvantage to the preferred and other alternatives.</p>	Please see Response to Comment 1679-181.

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1679	185	<p>Topic:</p> <p>Alt. 9 is the environmentally superior alternative</p> <p>Section 3.5.16 the EIR/EIS should declare Alternative 9 as the "environmentally superior" alternative; given that it is the only Action Alternative that can be implemented and managed so as to utilize Adaptive Management and the best available science; and to respond positively to the admonitions of independent science reviews.</p>	<p>As mentioned in Chapter 31 of the Final EIR/EIS, where the environmentally superior alternative is the "no project" alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives. However, because the environmentally superior alternative is not the No Project Alternative, DWR is not required to identify one of the action alternatives as the environmentally superior alternative.</p>
1679	186	<p>Topic:</p> <p>Project vs. Program</p> <p>Chapter 3 General Comment. The EIR/EIS has missing parts. It fails to adequately analyze and disclose the impacts of Conservation Measures 2 through 21.</p>	<p>For more information regarding project and program level analysis please see Master Response 2. For more information regarding CMs please see Master Response 5.</p>
1679	187	<p>Topic:</p> <p>Project vs. Program</p> <p>Chapter 3 General Comment. The EIR/EIS lists and describes CMs 2-21, and lists magnitudes and general locations. But given that these measures create substantial impacts, they deserve adequate analysis.</p>	<p>For more information regarding project and program level analysis please see Master Response 2. For more information regarding CMs please see Master Response 5.</p>
1679	188	<p>Topic:</p> <p>The effectiveness of Conservation Measures is unsupported by science</p> <p>Chapter 3 General Comment. CMs 2-21 should be presented individually or as alternative packages and analyzed for cost/effectiveness as per comments from Independent Science Boards (including that of the Delta Stewardship Council Independent Science Board "Review of the Draft BDCP EIR/EIS and Draft 8DCP", May 15, 2014).</p>	<p>The originally proposed BDCP habitat restoration measures and related Conservation Measures (CMs) (i.e., CM2 through CM21) would not be included as parts of Alternatives 4A, 2D, and 5A, 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). Alternative 4A would still include restoration in the form of Environmental Commitments, but on a more limited scale than the conservation measures under Alternative 4.</p> <p>Conservation Measures and Environmental Commitments will minimize and mitigate, to the maximum extent practicable, impacts to Covered Species associated with Covered Activities, as well as those actions that contribute to the recovery of those species. 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>For more information regarding BDCP, including how realistic the restoration goals are, please see Master Response 5. For more information regarding project versus program level planning please see Master Response 2.</p> <p>The proposed project, Alternative 4A, is estimated to cost significantly less relative to the former preferred alternative, Alternative 4. 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 is \$24.7 billion in undiscounted 2012 dollars. For additional information on the cost of the proposed project, please see Master Response 5.</p>

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1679	189	<p>Topic:</p> <p>Negative effects of conservation measures should be analyzed, reported, and minimized (not just listed)</p> <p>Chapter 3 General Comment. CMs [Conservation Measures] 2-21 individually or as packages should be developed so as to evaluate and minimize their impacts on affected parties, such as the individual local governments including San Joaquin County.</p>	<p>The effects of the implementation of all conservation measures, both positive and negative, are analyzed and described in the 2013 Public Draft BDCP Chapter 5 (Effects Analysis) as they relate to the covered species and natural communities. The effects of the implementation of all conservation measures on all other resource topics (again both positive and negative effects) are analyzed and described in the Final EIR/EIS.</p>
1679	190	<p>Topic:</p> <p>Lack of science support for conclusions</p> <p>Chapter 3 General Comment. The magnitude of CM 3, 4, 5, & 10's land alterations purported to be required should be justified by adequate models and science-based documentation.</p>	<p>The analysis in the 2013 public draft BDCP of the effects of habitat restoration in Conservation Measures 3, 4, 5, and 10 are based on an overlay of a hypothetical restoration footprint on models of the distribution of habitat for each of the covered species. This GIS overlay approach is an accepted and common methods of evaluating the impacts of covered activities on covered species. Descriptions of and rationale for this modeling approach are found in the 2013 public draft BDCP in Chapter 5, Section 5.2.</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).</p> <p>For more information regarding CMs please see Master Response 5.</p>
1679	191	<p>Topic:</p> <p>Project vs. Program</p> <p>Chapter 3 General Comment. CM 3, 4, 5, & 10 should be evaluated at the same level of detail as CM-1.</p>	<p>For more information regarding project and program level analysis please see Master Response 2. For more information regarding CMs please see Master Response 5.</p>
1679	192	<p>Topic:</p> <p>Conservation Measure's impacts should be the minimum necessary</p> <p>Chapter 3 General Comment. It is stated that CM 3, 4, 5, & 10 will be sized differently for different alternatives. The EIR/EIS should compute and disclose the minimum needed for each action alternative; so as to minimize the impacts on affected sectors such as the agricultural economy of San Joaquin County.</p>	<p>See Response to Comment 1679-188.</p> <p>The size and scope of the Conservation Measures under the BDCP alternatives and the Environmental Commitments under the sub-alternatives do vary by alternative, as described in Chapter 3, Project Description, of the Draft EIR/EIS, and in Section 4 of the RDEIR/SDEIS. For more information regarding agricultural impacts and its mitigation measures please see Chapter 14 of the Final EIR/EIS and Master Response 18.</p>
1679	193	<p>Topic:</p> <p>Project vs. Program</p> <p>Chapter 3 and EIR/EIS as a whole. The document fails to explain why CM-1's sub-parts are treated as Action Alternatives and sub-parts of CM-2-21 are simply listed as components. If BDCP is really intended to be an Incidental Take Permit/NCCP/HCP, all components should be treated equally.</p>	<p>The preferred alternative, Alternative 4A, no longer includes an HCP. For more information regarding project and program level analysis please see Master Response 5. For more information regarding CMs please see Master Response 5.</p>
1679	194	<p>Topic:</p> <p>Unclear impact analysis for all relevant project components</p> <p>It appears that with Alternative 4, a 40-acre concrete batch plant would be constructed (along with a 2-acre fuel station) near Twin Cities Road and Interstate 5 and this same</p>	<p>All relevant impacts of the action alternatives are presented in the Final EIR/EIS. Potential traffic impacts of constructing conveyance facilities and other alternative components are addressed in Chapter 19, Transportation. Air quality and Noise impacts are addressed in Chapters 22 and 23, respectively.</p>

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		<p>location would be used to store reusable tunnel material, which is a by-product of tunnel excavation. Another 40-acre concrete batch plant would be located between Byron Highway and Italian Slough for Alternative 4. Have traffic impacts of using Byron Highway, which flows right through the middle of the Mountain House Community, been evaluated in the EIR/EIS? Have impacts (noise, traffic, air quality, etc.) upon the Consumnes River Preserve, located just south of Twin Cities Road and I-5 been addressed? If so, the document must clarify where in the EIR/EIS.</p>	
1679	195	<p>Topic:</p> <p>Lack of adequate mitigation measures</p> <p>Deferral of mitigation measures</p> <p>Lack of project-specific impact analysis for all project components, especially for San Joaquin County</p> <p>Inadequate land use impact analysis</p> <p>Chapter 13. Land Use</p> <p>These comments are directed at Alts. 1B, 2B, & 6B. All of the three East Side alternatives have the same implications for San Joaquin County. Issues are treated most fully under Alt. 1B; but some are embedded under 6B. Alt. 4 has much less of a direct impact on land use designations and uses, but the comments on the East Side alternatives apply to Alt. 4 as well but to a lesser degree.</p> <p>The EIR/EIS gives separate treatment to: 1) incompatibilities with County designations and policies, and 2) impacts on current land uses.</p> <p>The EIR/EIS admits that the water conveyance facilities will cause numerous incompatibilities with County policies and designations, and impacts on existing land uses. BDCP's proposed water conveyance facilities will receive no further environmental review because they would be covered at the Project Level in this EIR/EIS. However, critical measures that would avoid or mitigate these impacts and incompatibilities are not disclosed because they are covered only at the Programmatic Level. They are deferred, and will not be disclosed until possible environmental review at some time after BDCP approval.</p> <p>Page 13-71, Lines 18-21 admits to an array of incompatibilities.</p> <p>"Table 13-6 displays the temporary and permanent structures associated with the water conveyance facility, the local land designations on which they would occur, and the number of acres that would be affected. Mapbook Figure M 13-2 displays relevant generalized land use designations where they could overlap with proposed water conveyance structures and temporary work areas. Note that not all of these structures would be built under any individual alternative. For further description of the locations of various structures, refer to Chapter 3, Description of Alternatives."</p> <p>Specifically relating to incompatibility with County designations and policies, the EIR/EIS admits to an array of serious impacts to San Joaquin County, but does so only at very gross scale. Serious impacts would arise from projects, each of which taken alone would</p>	<p>Environmental commitments, mitigation measures, and conservation measures are discussed at a different level of detail than the proposed project. Per CEQA Guidelines, § 15126.4[a][1][D] "[EIRs must discuss significant effects of mitigation measures, "but in less detail than the significant effects of the project as proposed". The potential environmental effects of Environmental Commitments and Mitigation Measures are analyzed in Final EIR Chapter 31, Section 31.5. Also, the analysis for CMs 2-21 was completed at a programmatic level, as described in Section 4.1.2 of Chapter 4, Approach to the Environmental Analysis.</p> <p>The preferred alternative, Alternative 4A, no longer includes an HCP or Conservation Measures, and would not affect the same areas as the eastern alignment.</p> <p>Table ES-9 (now ES-8) is correct. As discussed under Impact LU-2 in Alternative 4A, conflicts with existing land uses do not constitute a physical impact under CEQA. The removal of existing structures would be considered an environmental impact, and might also entail economic impacts. Environmental impacts would only be considered significant if the structures qualified as "historical resources" or the removal of structures led to physical effects on certain other resources. Such effects are discussed in other sections of the document. The removal of a substantial number of existing permanent structures as a result of constructing the water conveyance facility would be considered a direct, adverse socioeconomic effect of this alternative under NEPA. When required, the project proponents would provide compensation to property owners for losses due to implementation of the alternative, which would reduce the severity of economic effects related to this physical impact.</p>

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		<p>normally be subject to a full environmental review:</p> <p>Page 13-72 Table 13-6 (abbreviated here) [TABLE INCLUDED IN COMMENT]</p> <p>In the text of Ch. 13, the majority of impacts referenced above are treated only by mention and listing of the impact. However, the accompanying maps shown in Mapbook M13 are highly specific. Fuel stations, pumping plants, concrete batch plants, bridges, siphons, and disposal areas, all of which are direct impacts of the East Alignment are clearly sited in specific locations.</p> <p>The underlying and adjacent land uses are or can be identified, if not by simple reference to public maps and GoogleEarth®, then by more rigorous analysis if needed to provide basic information to the public and land owners who should not have to conduct such research. For example: Figure M13-2: Sheet 3 Of 7 clearly shows that the footprint of the canal and a bridge will completely replace and cover the intersection of Walnut Grove Rd. I Blossom Rd. and adjoining land uses. Reference to GoogleEarth® shows that direct impacts will fall on farm structures that are clearly in use, several new and substantial single-family residences, a thriving vineyard and other features that will be obliterated.</p> <p>It should also be noted that the Summary Table, Table ES-9, only identifies 6 land use impacts. And of those, it is shown that there are no land use conflicts with existing land uses (page ES-110). This points to a woefully inadequate land use impact analysis.</p>	
1679	196	<p>Topic:</p> <p>Inadequate impact analysis</p> <p>Inadequate mitigation measures</p> <p>Conflicts with adopted policies and no mitigation measures proposed</p> <p>Inappropriate definition of "temporary"</p> <p>Timeframe of construction too vague</p> <p>Indirect impacts of "clouding" use of lands due to "unknowns" not addressed, especially related to economic and agricultural losses for San Joaquin County</p> <p>Page 13-72. The EIR/EIS fails to analyze and disclose the impacts associated with sub-components of the project (bridges, batch plants, fuel stations, borrow pits etc.) that would normally be required to obtain NEPA or CEQA compliance. This needs to be done not by brief mention or gross acreages, but by substantive discussion with reference to the specific locations and effects of disturbance. This is a project-level EIR for these components. Means for avoiding, reducing, minimizing or mitigating these impacts should be provided. References to other Chapters in the EIR/EIS are not sufficient unless those cited discussions include analysis of specific sub- projects and components at known locations (which is not the case).</p> <p>Specifically,</p> <p>Page 13-75, Lines 1-6 admit:</p>	<p>Please refer to Final EIR/EIS Section 13.3.1 for an explanation of the methods used in Chapter 13, Land Use. Project proponents have included as much detail as possible in the chapter to inform the reader of impacts, and have included mitigation wherever feasible. This level of detail and mitigation satisfies CEQA and NEPA requirements. Please refer to Chapter 16, Socioeconomics, for a discussion of economic losses, and Chapter 14, Agriculture, for a discussion of agricultural impacts.</p>

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		<p>"San Joaquin County</p> <p>The footprint of water conveyance facilities constructed under Alternative 1B would be incompatible with land designated as Agriculture/General, Residential/Very Low Density, Elementary School, and Open Space/Resource Conservation in San Joaquin County primarily due to borrow and/or spoil areas, canal segments, RTM areas, bridges, siphons, transmission lines, and an intermediate pumping plant."</p> <p>The EIR/EIS should explain how these incompatibilities with land use designations and policies are to be avoided, minimized, or mitigated. Explain actual actions to be taken, not future studies.</p> <p>Page 13-75, Lines 11-18 admit:</p> <p>"Conversion of agricultural lands would be incompatible with general plan policies, including Agricultural Land Policy 5, which reserves agricultural areas principally for crop production, ranching and grazing. Conversion of agricultural lands and project conflicts with the Agriculture land use are described in Chapter, Agricultural Resources. The placement of canals, where constructed over or adjacent to lands designated under the San Joaquin County General Plan as Open Space/Resource Conservation, would be incompatible with this land use designation and related Open Space Policies 3 and 4 because they would diminish the amount of land dedicated to open space and conservation of natural habitat and resources."</p>	
1679	197	<p>Topic:</p> <p>Inadequate impact analysis</p> <p>Inadequate mitigation measures</p> <p>Conflicts with adopted policies and no mitigation measures proposed</p> <p>Inappropriate definition of "temporary"</p> <p>Timeframe of construction too vague</p> <p>Indirect impacts of "clouding" use of lands due to "unknowns" not addressed, especially related to economic and agricultural losses for San Joaquin County</p> <p>Page 13-75. The EIR/EIS should enumerate and account for these losses and deduct them from the acreage claimed to be created by BDCP's conservation measures. The document should explain where and to what extent lost lands can be replaced, and whether like-for-like replacement can be possible. If the San Joaquin County tax base would be affected by transfer to uses shifted to other jurisdictions, this should be disclosed, and mitigation measures ensured.</p> <p>Page 13-75, Lines 21-32 admit:</p> <p>"Temporary project features in San Joaquin County associated with the construction of water conveyance facilities would include a barge unloading facility, three concrete batch plants, three fuel stations, transmission lines, and various work areas for other water conveyance features. These features would occupy lands designated as Agriculture/General, Residential/Very Low Density, and Open Space/Resource</p>	<p>Tax base is discussed in Impact ECON-4 of Final EIR/EIS Chapter 16, Socioeconomics. Under Alternative 4A, publicly-owned water conveyance facilities would be constructed on land of which some is currently held by private owners. Property tax and assessment revenue generated by lands that would be transferred from private to public is estimated to total \$6.7 million over the construction period. Typically, decreases in revenue could potentially result in the loss of a substantial share of some agencies' tax bases and particularly for smaller districts affected by a project. However, California Water Code (Section 85089 subdivision 9b) specifies that the entities constructing and operating a new Delta conveyance facility will fully mitigate for the loss of property tax revenues or assessments levied by local governments or special districts. This Water Code requirement will ensure that tax revenues forgone as a result of transferring land from private to public ownership will be fully offset.</p> <p>The use of "temporary" in Chapter 13, Land Use, is accurate, although some impacts would last through the construction period. However, those impacts would not be permanent.</p> <p>Several mitigation measures would minimize impacts to agriculture, including Mitigation Measures AG-1, 1a, 1b, and 1c. Please refer to Chapter 14, Agriculture, for more information related to agricultural impacts.</p>

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		<p>Conservation, as shown in Table 13-6. Many of these temporary features would likely be in place for nine or more years of project implementation (i.e., during the near-term implementation or the nine-year project construction period). During that period, lands designated under agricultural zones would be temporarily converted to non-agricultural use, as described in Chapter 14, Agricultural Resources. Construction during this period would be incompatible with Agricultural Lands Policy 5, which reserves agricultural areas principally for crop production, ranching and grazing, and with Open Space Policies 3 and 4, which restrict development in open space resource areas".</p> <p>Their definition of "temporary" fails to disclose the true meaning of the term. First, nine or more years' loss of use can destroy or damage the economic viability of a parcel of land; whether in residential, commercial, or agricultural use. Further the EIR/EIS' mention of "nine or more" implies that impacts could extend for an undisclosed additional period of time. Further, the nine or more years "clock" would not start until construction were to be commenced. Given BDCP's complexity, enormity, permit requirements, and potential legal and legislative hurdles, construction would not likely start for some years. In the meantime, private lands subject to potential impact would be under a cloud of uncertainty, making land sales, investment, securing of loans, and crop- planting decisions, all virtually impossible. Further still, since the lands potentially subject to expropriation or impact are mapped with such a broad brush, vast acreages that may never be needed will nonetheless be under this cloud. Indeed, the mere threat of BDCP being implemented may well have begun to cloud the economy and future of Delta lands in San Joaquin County and the other Delta jurisdictions.</p> <p>The acreages given in Table 13-6 and elsewhere reference a huge impact upon thousands of acres of land which by themselves deserve proper treatment in the EIR/EIS; but the EIR/EIS fails to consider or disclose the impacts on parcels adjoining or nearby that will be exposed to lack of access, noise, and visual disturbance. Thus, even the large acreage disclosed fails to compute and disclose the true extent of impacts.</p>	
1679	198	<p>Topic:</p> <p>Lack of adequate impact analysis</p> <p>Issue of lands being under a "cloud of unknowns"</p> <p>Page 13-75, Lines 21-32. The EIR/EIS should address the impact of disruption caused by the placement of a cloud of uncertainty over more than hundreds of parcels of private land subject to impacts of the project or conservation measures. Lands that lie under alternatives that may not be selected may nonetheless be under this cloud for a period of years. The document must compute and report the magnitude of these impacts and explain how these impacts are to be minimized, avoided, or mitigated.</p>	<p>The Final EIR/EIS adequately discloses all potential impacts under each resource area for each alternative, including the preferred alternative, Alternative 4A. Therefore, the current analysis meets NEPA and CEQA requirements.</p>
1679	199	<p>Topic:</p> <p>Incorrect definition of "temporary"</p> <p>Deferral of both impact analysis and development of mitigation measures due to lack of specificity regarding areas of known land use changes</p> <p>Page 13-75, Lines 21-32 The document should replace the term "temporary" with one which more fairly and accurately describes a period of roughly 9-15 years; for example:</p>	<p>Final EIR/EIS Chapter 13 uses two terms to describe timeframes – temporary and permanent. As described in Section 13.3, temporary effects are defined as those occurring during the construction period and not continuing substantially beyond the construction period (in some cases, temporary land use effects created during the nine-year construction period could last beyond the completion of construction activities, as in the cases of reestablishing natural communities or agricultural production). Permanent effects are those effects that would be expected to last considerably beyond the construction period, for the duration of the permit term. The analysis for CMs 2-21 was completed at a programmatic level, as described in Section 4.1.2 of Chapter 4, Approach to the Environmental Analysis, and meets CEQA and NEPA requirements. See also</p>

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		<p>"impermanent", which compares to the use of "permanent" for other features.</p> <p>Page 13-133, Lines 5-14 Admit:</p> <p>NEPA Effects: Effects related to incompatibility with applicable land use designations, goals, and policies resulting from implementation of BDCP Conservation Measures 2-21 would be the same under Alternative 6B as those described under Alternative 1B. Because the locations for the implementation of these conservation measures are unknown at this time, a conclusion about the compatibility of this alternative with local land use regulations cannot be made. These issues would be addressed in detail in site-specific environmental documents for restoration proposals. However, implementation of this alternative may result in substantial incompatibilities with local land use regulations due to the amount of land area targeted for restoration actions.</p>	<p>Master Response 2 regarding project level versus program level analysis.</p>
1679	200	<p>Topic:</p> <p>Lack of project-specific impact analysis for component that is specifically being addressed at project level</p> <p>Inadequate evaluation of land use impacts</p> <p>Summary table (ES-9) does not agree with main EIR/EIS text</p> <p>Page 13-133, Lines 5-14. Explain how the actions that cause impacts can be covered at the Project Level and permitted without further review, yet the means for avoiding, minimizing or mitigating these admitted impacts can be prospective, located in only vague terms, and studied and funded only after the impact-producing actions are permitted? How does the approach used in this EIR/EIS differ from the following scenario?</p> <p>Developer asks for a permit to build a hotel on the California Coast and admits that it would block public access, cause traffic problems and noise, conflict with zoning and adopted plans and policies, interfere with the public's use of the public beach, but nonetheless should be approved under CEQA without having to disclose the location of the project.</p> <p>Explain how this EIR/EIS is any different from the above case.</p> <p>The EIR/EIS admits to conflicts with existing land uses as shown below. However, the Summary Table (ES-9) shows "No Impact" related to conflicts with existing land uses. The document must clarify why this has happened. The following text is from the EIR/EIS:</p> <p>Page 13-133, Lines 27-43, and Page 13-134, Lines 1-6.</p> <p>Impact LU-5: Conflicts with Existing Land Uses as a Result of Implementing the Proposed Conservation Measures 2-21</p> <p>NEPA Effects: Effects related to conflicts with existing land uses under Alternative 6B would be the same as those described for Alternative 1B because the proposed CM2-CM21 would be the same under both alternatives. As with Alternative 1B, implementation of CM2-CM21 could create temporary or permanent conflicts with existing land uses where they would require the removal of structures or sever critical access routes. When required, the BDCP proponents would provide compensation to</p>	<p>Environmental commitments, mitigation measures, and conservation measures are discussed at a different level of detail than the proposed project. Per CEQA Guidelines, § 15126.4[a][1][D] [EIRs must discuss significant effects of mitigation measures, "but in less detail than the significant effects of the project as proposed". The potential environmental effects of Environmental Commitments and Mitigation Measures are analyzed in Final EIR/EIS Chapter 31, Section 31.5. Also, the analysis for CMs 2-21 was completed at a programmatic level, as described in Section 4.1.2 of Chapter 4, Approach to the Environmental Analysis. See also Master Response 2 regarding project level versus program level analysis.</p> <p>Impact LU-5 has been rewritten since the Draft EIR/EIS; changes are shown in the RDEIR/SDEIS. Because the locations for the implementation of these environmental commitments are unknown at this time, there is some uncertainty about whether new land uses related to these environmental commitments would be incompatible with existing land uses. Therefore, a definitive conclusion about the compatibility of this alternative with local land uses cannot be made. Table ES-9 in the Executive Summary shows this impact as having No Determination.</p>

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		<p>property owners for losses due to implementation of the alternative, which would reduce the severity of economic effects related to this physical impact, but would not reduce the severity of the physical impact itself. Implementation of this alternative would be anticipated to result in substantial conflicts with current land uses due to the amount of land area targeted for restoration actions. (Bolding added)</p> <p>CEQA Conclusion: Because the locations and types of restoration to be implemented are unknown at this point, no definitive conclusion can be made about the potential for restoration actions to result in the permanent conversion of land uses (including displacement of existing structures and residences) due to the construction of permanent features of the facility. Nor can a conclusion be made with regard to the degree of indirect impacts, which could occur primarily as a result of incompatibility with adjacent land uses or the loss or increased difficulty of access to parcels. However, implementation of this alternative would be anticipated to result in substantial conflicts with current land uses due to the amount of land area targeted for restoration actions. Where applicable, the BDCP proponents will provide compensation to property owners for losses due to implementation of the alternative. This would reduce the severity of economic effects related to this physical impact, but would not reduce the severity of the physical impact itself.</p>	
1679	201	<p>Topic:</p> <p>Inadequate impact analysis</p> <p>Page 13-133, Lines 27-43, and Page 13-134, Lines 1-6. The document must disclose and explain the impacts of interrupting access on the County's agricultural road network essential to viable agricultural use. The EIR/EIS admits that farm access has not been fully accounted for; so this shortcoming should be corrected.</p>	<p>Please refer to Final EIR/EIS Chapter 14, Agriculture, for impacts to agriculture in the plan area, and to Chapter 19, Transportation, for impacts related to delays, roadway conditions, or level of service. Chapter 14 includes the implementation of Mitigation Measure AG-1a: "Promote Agricultural Productivity of Important Farmland," which maintains a means of convenient access to these agricultural properties as part of project design, construction, and implementation where the construction or operation of a facility could limit access to ongoing agricultural operations. Chapter 19 also includes several mitigation measures that would help reduce impacts to roads and transportation.</p>
1679	202	<p>Topic:</p> <p>Inadequate impact analysis</p> <p>Disclose and explain the impacts of fragmenting lands available for agricultural use.</p>	<p>Mitigation Measures Ag-1, 1a, 1b, and 1c, as described in Final EIR/EIS Chapter 14, Agriculture, would be implemented to reduce impacts to agriculture and protected farmlands. Mitigation would include design measures so as to optimize contiguous parcels of agricultural land of a size sufficient to support their efficient use for continued agricultural production. Also, where choices are possible among or between particular parcels or lands that are available for a project, project proponents would look at the characteristics of the different parcels or lands to determine whether one choice would be better from an agricultural resource perspective.</p>
1679	203	<p>Topic:</p> <p>Inadequate impact analysis</p> <p>Disclose and explain the impacts of reduction of parcel sizes and splitting of related uses of essential viable farming by breaking contiguous operations into smaller, separated parcels.</p>	<p>See Response to Comment 1679-202.</p>
1679	204	<p>Topic:</p> <p>Misuse of project-level and program-level analyses</p> <p>Explain how the actions that are admitted to cause direct and indirect impacts to existing uses can be covered at the Project Level and permitted without further review, yet the means for avoiding, minimizing or mitigating these admitted impacts can be prospective,</p>	<p>See Response to Comment 1679-199.</p>

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		located in only vague terms, and studied and funded only after the impact-producing actions are permitted? Explain how this can be justified under CEQA.	
1679	205	<p>Topic:</p> <p>Inadequate evaluation of agricultural land impacts, especially for San Joaquin County</p> <p>Chapter 14. Agricultural Resources</p> <p>Page 14-7, Table 14. 2 is misleading in that the totals by County and by crop type are not shown. If San Joaquin County alone were shown with totals it would appear as follows:</p> <p>Table 1</p> <p>Crop Acreages for San Joaquin County as Compared to Total Crop Acreages in Plan Area (in acres) [TABLE INCLUDED IN COMMENT]</p> <p>By addressing the above percentages, one can see that San Joaquin has a very large share of the acreage in the Plan Area that is farmland and row crops, field crops, orchards and mixed agriculture. Five other counties make up what is not shown for San Joaquin County. Table 14. 2 should be revised to reflect the percentages by County for the various categories of agricultural production. By doing so, the reader would get a clearer picture of how San Joaquin County's agricultural production may be impacted by what is proposed within the Plan Area.</p>	<p>Final EIR/EIS Table 14A-1 (Appendix 14A) provides estimates of the temporary (and short-term) and permanent impacts to individual types of crops as a result of construction of the water conveyance facility under each alternative. Analysis relating to the economic effects on agriculture in the Plan Area and Areas of Additional Analysis in Chapter 16, Socioeconomics, relies on individual crop data. Because crop selection varies on a season-to-season and year-to-year basis, these data should be considered estimates based on an individual time period.</p> <p>Neither NEPA nor CEQA requires that impacts on agricultural resources be presented by county. For the agricultural resources impact analysis, a methodology looking at total acreage of agricultural land converted was used to ensure a "worst-case" assessment, assuming that if a county-level only impact analysis was done, it may have resulted in some agricultural impacts being considered as less than significant.</p> <p>See also Master Response 18 regarding agricultural impact mitigation.</p>
1679	206	<p>Topic:</p> <p>Impacts by County need to be shown to ensure adequate mitigation for farmland loss</p> <p>Mitigation measures need to be directed to specific counties</p> <p>Page 14-10, Section 14.1.1.5 discusses Important Farmland. However, there is no table clarifying acreage of Prime Farmland by County within the overall Plan Area. If 512,000 acres of the total 825,487 acres in agricultural production are considered Prime Farmland, then 62% of the overall agricultural acreage is Prime Farmland. The EIR/EIS needs to show percentage of Prime Farmland by County in order to more fully assess potential impacts to such Prime Farmland and to identify appropriate mitigation measures for each County. Farmland losses in San Joaquin County should not be mitigated in Sacramento County due to the direct and indirect economic impacts associated with such losses.</p>	<p>The Lead Agencies acknowledge the commenter's opinion that the agricultural resources impact analysis should show important farmland conversion by county, however, they disagree that this would alter the impact analysis in terms of the mitigation discussed. Neither NEPA nor CEQA requires that impacts on agricultural resources be presented by county. For the agricultural resources impact analysis, a methodology looking at total acreage of agricultural land converted was used to ensure a "worst-case" assessment, assuming that if a county-level only impact analysis was done, it may have resulted in some ag impacts being considered as less than significant.</p> <p>Final EIR/EIS Section 14.1.1.5 provides acreages for Prime Farmland, Farmland of Statewide Importance, Unique Farmland, and Farmland of Local Importance in the study area, as well as Grazing land, Semi-Agricultural and Rural Commercial Land, and Farmland of Local Potential, categories that are not included in estimates of Important Farmland.</p> <p>Please refer to Master Response 18 regarding agricultural impact mitigation.</p>
1679	207	<p>Topic:</p> <p>Inadequate impact analysis</p> <p>Page 14-26, Line 14: Text describes that analysis related to groundwater and impacts on agriculture as related to water conveyance facilities is "qualitative in nature". Again, this brings into question, the ability for this EIR/EIS to be a project-level analysis. The text also states, "location-specific effects cannot be identified."</p>	<p>Location-specific effects for conservation measures other than CM1 cannot be identified. Where location-specific information regarding changes to agricultural drainage patterns can be identified, these effects are discussed.</p> <p>See Master Response 2 for further discussion of project- vs. program-level of analysis.</p>
1679	208	<p>Topic:</p> <p>Inappropriate definition of "short-term" and "temporary"</p>	<p>Final EIR/EIS Chapter 14, Agricultural Resources, assesses the loss in farmland and crop types that would occur as a result of constructing and operating the water conveyance facilities. Regardless of the time period that agricultural land would be affected, the impact analysis assumed a worst case analysis and concluded that the loss of agricultural land was considered significant and unavoidable. The EIR/EIS reported that</p>

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		<p>Inadequate evaluation of agricultural impacts and associated economic impacts for counties that rely heavily on agricultural economy</p> <p>Page 14-27, Lines 2-3: How was it determined that four or fewer years constituted "temporary" construction activities and that between 4 and 10 years constituted "short-term" construction activities? This seems a rather arbitrary and capricious determination of defining construction impacts, and may underestimate the true impacts associated with the project. It would be much clearer if the EIR/EIS just referred to "construction impacts" vs. "operation impacts". Downplaying impacts because of the timing as "temporary" or "short-term" would not be justified and should be explained. On Page 14-28, Lines 15-17, the text states that "where impacts are temporary or short-term in nature, and the impacted land can be restored to productive agricultural status after the completion of construction, impacts are considered less severe than those that will be permanent in character, and mitigation obligations would be diminished accordingly." The document must explain why this is the case. A farmer cannot necessarily be out of commission for 4- 10 years and expect to be financially stable in what the EIR/EIS defines as "short term". This many years of lost agricultural production could mean financial ruin for some farming establishments.</p>	<p>conclusion but has also proposed an extensive agricultural mitigation program that could compensate for the loss of farmland. The statement that lands may be temporarily impacted was an acknowledgement that some of the elements of the project that would affect farmland may be completed in a shorter time period than the entire estimated construction period allowing some farmland to be placed back into production before construction is completed. In addition some farmland may be affected during the entire construction period and the potential for those lands to be placed back into production would not occur until construction is completed. The time periods that lands would be out of production would be determined during the final design phase of the project.</p>
1679	209	<p>Topic:</p> <p>Vague mitigation measures</p> <p>Page 14-28, Lines 25-29: This entire paragraph would be better placed in the Mitigation Measures section as it refers to BDCP proponents (undefined) working with agencies on "design features" to benefit agricultural and natural resources. Why is this statement located here?</p>	<p>The commenter's opinion is acknowledged.</p> <p>Please refer to Master Response 22 for additional information related to mitigation and Master Response 18 agricultural impacts.</p>
1679	210	<p>Topic:</p> <p>Inadequate impact analysis tied to ineffective mitigation measures</p> <p>Page 14-35, Table 14-8: This table shows that 4,975 acres of important farmland would be permanently lost under Alternative 4, while up to 18,875 acres of such lands could be permanently lost under Alternatives 1B and 6B. Again, the analysis does not break down the impacts by category, which is very important when it comes time to identify mitigation measures. Each county has varying programs for agricultural mitigation and each county may or may not have a land trust who can help to implement and manage agricultural easements.</p>	<p>Table 14-8 displays a summary of temporary and short-term acreage and permanent acreage of Important Farmland, by category, that could be converted to non-agricultural uses under implementation of each alternative. Table 14A-1 (Appendix 14A) provides estimates of the temporary (and short-term) and permanent impacts to individual types of crops as a result of construction of the water conveyance facility under each alternative. Overall agricultural impacts of each alternative is presented in aggregate form to avoid dividing impacts up in a way that could imply impacts are less than significant. Please refer to Master Response 18 regarding agricultural impact mitigation.</p>
1679	211	<p>Topic:</p> <p>Inconsistent information across topics</p> <p>Lack of information on agricultural impacts by specific county</p> <p>No information on how conclusions were reached</p> <p>Reader forced to review multiple, disparate sections of EIR/EIS to understand how conclusions reached</p> <p>Page 14-59, Lines 6-10: For Alternative 18, the text shows that up to 2,144 acres of Important Farmland could be impacted "temporarily" and the permanent conversion</p>	<p>Neither NEPA nor CEQA requires that impacts on agricultural resources be presented by county. For the agricultural resources impact analysis, a methodology looking at total acreage of agricultural land converted was used to ensure a "worst-case" assessment, assuming that if a county-level only impact analysis was done, it may have resulted in some ag impacts being considered as less than significant.</p>

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		<p>would occur for about 18,875 acres of Important Farmland. Borrow/spoils areas alone would convert more than 10,500 acres under 1B. However, this acreage does not get shown by County or by specific percentage so that it more closely matches Table 13-6 in the Land Use section. Table 13-6 shows that San Joaquin County alone would have 14,340 acres impacted where the proposed use would be incompatible with the County's designation for this acreage as "Agriculture-General". It's hard to imagine that 4,535 acres (18,875 minus 14,340 acres) are designated for the industrial type uses proposed for the project. The document must explain why a table similar to Table 13-6 could not have been prepared in the Agricultural section of the EIR/EIS to show specific County impacts (San Joaquin, Sacramento, etc.) and for each project component. The reader has no idea how the acreages were identified in terms of Important Farmland without such a table.</p>	
1679	212	<p>Topic:</p> <p>Inadequate impact analysis; no idea of acreage impacts by specific project components</p> <p>Page 14-109, Section 14.3.3.9: This section is the beginning of the impact analyses for Alternative 4 as related to agricultural impacts. Lines 3-13 summarize the types of facilities associated with the water conveyance facilities. However, no mention is made of new bridges, local drainage systems, fixed/operable barriers, canals, culvert siphons, or temporary barge unloading facilities. While some of these project components may not impact agricultural lands, they need to be mentioned as components of the project to be consistent with the Project Description, especially if water conveyance facilities are to be addressed at a project level. The document must identify all project-related facilities and describe what types of physical impacts such facilities may have in terms of general acreage for each or land-related alterations related to each. This paragraph also has an incomplete sentence on Line 13. To just list the types of facilities is not adequate for a project level analysis. The reader has no idea of the physical ramifications of the facilities. The roadway locations/lengths/widths have not been identified; the transmission corridors and pole locations have not been identified; the acreage of spoils/Reused Tunnel Material storage have not been identified, etc. Without this information, the conclusions about agricultural acreage impacts are suspect.</p>	<p>Please refer to Master Response 2 for a discussion of why the EIR/EIS has successfully achieved project-level analysis for Conservation Measure 1.</p> <p>Also, 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> <p>The Mapbook figures referred to in Chapter 14 show all of the construction features (including temporary work areas) associated with the proposed water conveyance facility alignments along with Important Farmland.</p>
1679	213	<p>Topic:</p> <p>Lack of project-specific information that leads to inaccurate impact analysis and underestimating of impacts</p> <p>Page 14-109, Line 21: The construction impacts to agricultural land are identified as "temporary or short-term conversion". The components with such impacts are identified as follows:</p> <ul style="list-style-type: none"> --Forebays: 860 acres --Reused Tunnel Material areas: 3,160 acres --Intake pumping plant sites: 240 acres --Borrow and spoil areas: 200 acres <p>The total mentioned on page 14-109 is 4,975 acres for Alternative 4. However, the total above is 4,460 acres. What constitutes the undefined acreage? And what about acreage</p>	<p>The acreages for the features that the commenter has identified are provided in the Alternative 4 impact analysis and are presented as approximate values, as stated in the analysis. Further, the four features identified in the comment are not the only construction features (including temporary work areas) of the Alternative. As indicated, Mapbook Figure M14-7 shows all of the construction features (including temporary work areas) associated with this proposed water conveyance facility alignment along with Important Farmland.</p> <p>Chapter 14, Agricultural Resources, has been revised since the public draft of the EIR/EIS (e.g., approximate acreages of Important Farmland converted under Alternative 4 have been updated). See Chapter 14 in the Final EIR/EIS.</p> <p>Acreages of converted Important Farmland in the impact analysis in Chapter 14 were calculated by relying on spatial data from the California Departments of Conservation and Water Resources, as well as project-specific data describing the location of project components. Project-specific data also determined whether features would create footprint effects that would be temporary/short-term or permanent in nature. Where any feature associated with CM 1 would either temporarily or permanently "overlap" important farmland, the acreages were tallied and included in the total. It was not necessary for the impact analysis to list every feature and the associated approximate acreages of important farmland those features</p>

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		<p>of other facilities such as barge unloading, transmission lines, roads, etc. as listed below.</p> <p>A project level EIR must include a clear table identifying ALL elements of the project in the left column and acreages impacted by the project, by County. It appears that the following elements have not been addressed as compared to project elements identified on page 3-64 of the EIR/EIS:</p> <p>--Intakes: Page 3-66 says 90 acres each and 3 total which would be 270 acres (not 240 as stated above on page 14-109); however, it should be</p> <p>noted that Table 3C-1 in Appendix 3C says "Intake facilities including pumping plants....average approximately 60 acres per site" except for Alternative 4 which would be 90 acres; thus the acreage in the Alternative 4 analysis is not correct.</p> <p>--Land area excavated (if any surface disturbance) for pipelines from intakes to intake pumping plants;</p> <p>--Solids handling facilities;</p> <p>--Intake pumping plants associated facilities (access road; electrical substation with transformers; switching equipment and surge towers);</p> <p>--Land area excavated (if applicable) for discharge pipelines (water from intake pumping plants to initial tunnels);</p> <p>--Vent shafts (page 3-65 is not clear about size and area needed for these); Table 3-11 mentions 9 shafts for Tunnel 2 and 4 for Tunnel 1A, and an additional 3 for Tunnel 1B; thus, there are a total of 16 tunnel shafts; page 3C-19 says that each ventilation shaft may have a temporary work area ranging from 10 to 40 acres;</p> <p>--Valve and flowmeter vaults (page 3-65 is not clear on size of these);</p> <p>--Transition structures (not defined on page 3-65);</p> <p>--Forebay acreage: Page 14-109 says 860 acres; Table 3-11 says 245 acres for intermediate forebay and 2,030 acres for dredging are of expanded Clifton Court Forebay; [footnote 1: The underlined/bolded text emphasizes critical text that has not been included in the agricultural analysis.] however, Page 3c-21 says that surface area of intermediate forebay would be 925 acres; which is true? It appears that the 245 acres applies to Alternative 4.</p> <p>--Transmission lines: Table 3-11 identifies the total MW load but does not identify acreage or length associated with new transmission facilities, nor is this explained on page 3-65;</p> <p>Intake pumping plants: Page 14-109 mentions 240 acres for these; Page 3C-7 says 60 acres per intake pumping plant for the modified pipeline/tunnel alignment which applies to Alternative 4; and there are 5 for Alternative 4; that would result in 300 acres (not 240 acres); And then page 3C-10 says that each intake pumping plant would range from 60 acres to 150 acres in terms of general construction area; where is this calculated?</p> <p>--Clearing and grubbing is mentioned on page 3C-3 but no acreage is provided; every facility is likely to have an "area of impact" that exceeds the actual footprint of the facility. Page 3-66, Footnote "a" says that acreage estimates refer to permanent surface</p>	<p>would disturb.</p> <p>Please refer to Master Response 2 for a discussion of why the EIR/EIS has successfully achieved project-level analysis for Conservation Measure 1.</p> <p>Also, 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>

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		<p>footprints which may far underestimate the area of impact, and this acreage does NOT account for non-permanent, "temporary" acreage impacts that must be considered in the analysis, especially related to removal of important farmland.</p> <p>--Tunneling and pipe placement: Page 3C-6 mentions that open-cut method may be undertaken which would impact agricultural lands to some degree; this has not been addressed.</p> <p>--Page 3C-7 mentions 2,800 cubic yards of riprap to be placed around the perimeter of cofferdam/intake foundations; nowhere is the acreage of riprap storage mentioned.</p> <p>--No mention is made of acreage for sedimentation basins, which are clearly identified on page 3C-8. The basins alone could be 0.23 acres in size, but this does not include the area of disturbance.</p> <p>--Solids lagoons: Page 3C-8 mentions 3 of these at each intake pumping plant, and each would be about 0.32 acres in size, not including the area of disturbance. There should be 9 of these if there are 3 intake pumping plants. That is about 3 acres of impact or more.</p> <p>--Pumping plant building would be about 10,200 square feet in size. No mention of this is included in the agricultural land impacts analysis. And there would be pipes outside of the footprint area.</p> <p>--Transition structures would be about 14,700 square feet as mentioned on page 3C-9. Again, no mention of this is made.</p> <p>--Page 3C-11 mentions 69 kV substations with footprints at each intake pumping plant of 22,500 square feet to 122,500 square feet (2.81 acres). And a 69 kV or 230 kV transmission line would be constructed, depending on the alternative. About 500 permanent poles would be constructed for these transmission lines and 509 temporary poles would be constructed. There is no mention of agricultural impacts from this construction.</p> <p>--Parking areas have not been mentioned; these would be for temporary construction facilities, temporary staging areas. Clearing and grubbing and surfacing would be done for these; and they may need to be relocated as construction proceeds as stated on page 3C-13.</p> <p>--Roads: Nothing is provided in terms of location of roads, widths of roads, or lengths of new roads. As stated on page 3c-58 and 59, both wet weather and dry weather roads are needed. Table 3C-8 in Appendix 3C fails to identify which Alternatives apply to road needs. The only data provided is total acreage of roads, which is meaningless when addressing a project-level EIR that has to be site specific.</p> <p>--Relocation of Byron Hwy.: Table 3C-8, page 3C-59 addresses the need to temporarily relocate the Byron Hwy.; no mention of this is made in relation to agricultural land impacts.</p> <p>--Temporary Barge Unloading Facilities: Page 3C-60 mentions that anywhere from 30 acres to 180 acres may be needed for such facilities.</p> <p>--Concrete batch plants; may vary from 2 acres to 40 acres; up to four could be locate in</p>	

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		San Joaquin County. --Fuel stations: would be located adjacent to batch plants and may be 2 acres each.	
1679	214	Topic: Incorrect reference to table Page 14-110, Line 21: An incorrect reference is made to a Table M14-7, which does not describe any of the features as related to important farmland.	This editorial mistake has been corrected.
1679	215	Topic: Incorrect reference to table Page 14-110, Line 42: Again, an incorrect reference is made to Table M14-8 which does not show any acreage by Alternative related to Williamson Act lands or Farmland Security Zones. And, it does not show project features as the text alludes to. This is Table M14-9. But again, project specific features are not addressed. A list of all the above features (see comment above) should be identified and the acreage for each to determine true impacts to agricultural lands.	This editorial mistake has been corrected.
1679	216	Topic: Inadequate impact analysis Page 14-111, Line 40: Nowhere is there a table showing how this acreage was determined. This is needed for all facilities associated with Alternative 4.	See Final EIR/EIS Chapter 14, Agricultural Resources, Section 14.3.1, Methods for Analysis, for a description of acreages of potentially converted farmland were quantified.
1679	217	Topic: Inadequate mitigation measures for loss of agricultural lands "Notification" is not a mitigation measure Vague, unenforceable and unworkable mitigation measures Pages 14-112 to 121: The mitigation measures for loss of agricultural land are deficient in a number of areas as follows: --Mitigation is deferred to a future date which is not permitted for a project- specific EIR; --No specific standards are identified for the recommended Agricultural Lands Stewardship Plan (ALSP); --The responsibility for preparing and managing ALSPs is not clarified; --Measures to promote agricultural productivity appear aimed at CM2-22; not CM-1, the water conveyance facilities; and because of this, the mitigation is not adequate and especially not adequate for the project level analysis; --All of the bulleted items on page 14-113 should have been done as part of this EIR; for example, there appears to have been no effort to avoid prime agricultural lands and there	As used in the EIR/EIS, the references to notification (of the intent to acquire land in an agricultural preserve for a public purpose) are presented in the "CEQA Conclusion" sections of Chapter 14, but not as a mitigation measure. However, it could be an element of mitigation, since the purpose of notification is not merely to "check off" an administrative duty; it also serves to ensure that the County Board of Supervisors and the Departments of Conservation and Food and Agriculture have an opportunity to point out considerations related to land acquisitions and suggest measures that could reduce the effects on agricultural preserves. To the extent such feedback holds the possibility of reducing impacts on agricultural preserves, it could serve as part of a comprehensive suite of mitigation measures. The proposed mitigation measures are intended to result in a set of actions that would prevent, reduce or ameliorate the adverse environmental effects identified in the EIR/EIS, and to commit to actions intended to eliminate or minimize those effects. If adopted as mitigation measures, actions would be enforceable, and adapted to provide the most effective measures to each affected location in the project area.

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		<p>has been no effort to adequately offset such losses;</p> <p>--Keeping lands in private ownership (see Line 5 on page 14-115) does nothing to protect agricultural viability;</p> <p>--Making wetlands "viable living managing wetlands" as stated on page 14-115, Line 21, does nothing to offset losses of agricultural lands and there is no connection between the identified impact and the mitigation measure.</p> <p>--The loss of Important Farmlands and Williamson Act lands is a significant, unavoidable impact and the text should clearly state this. While "SU" is mentioned on page ES-111, there is no mention in the main body of the EIR/EIS as to why this would remain a significant unavoidable impact.</p> <p>--There is no mention of purchasing agricultural easements and the indirect impacts of doing this. This needs to be addressed. Case law for CEQA has recently confirmed (Masonite Corporation v. County of Mendocino (2013)218 Cal. App.4th 230) that purchase of agricultural easements should be considered as potentially feasible mitigation for loss of agricultural lands. The EIR/EIS needs to address the feasibility of purchasing easements and where these would be located; then, the EIR/EIS needs to address the availability within each County where impacts would occur and if easements would be available for "like" lands that are lost (in terms of soils, irrigation, crops able to be grown). Finally, the potential for needed acreage of Ag. Mitigation lands needs to be assessed as related to habitat mitigation lands needed for project, and if there is acreage for both within specific counties. Specifically, impacts in San Joaquin County need to be addressed.</p> <p>--Nothing in Mitigation Measure AG-1 b would mitigate for the loss of Important Farmland and Williamson Act lands. Every measure uses the word "notify". Notification is not mitigation.</p> <p>--Mitigation Measure AG-1c assumes that setting aside habitat lands for habitat would also mitigate for loss of agricultural lands. This is highly dependent on what types of uses would be allowed on habitat lands. Also, this mitigation measure proposes a lot of communication with multiple entities and references the "Conventional Mitigation Approach" of establishing easements "where necessary and feasible" as stated on line 43 of Page 14-117. This is not mitigation. Who determines what is necessary and feasible?</p> <p>--All of the bulleted measures on pages 14-118 and 119 are vague and generalized, using words such as "investigate," "provide technical and financial assistance;" "work with others;" "work with counties." Strategy 11 (not sure where these numbered strategies are from) states, "Provide for Agricultural Conservation Easements". Nowhere does the text explain how, where, and with what specific funding such easements would be created; nor is the acreage of such easements, by County, specified.</p> <p>--Page 14-120: line 13: Only after all other generalized approaches such as consensus for an Operational Agricultural Land Stewardship Approach have failed, does the EIR/EIS mention "Conventional Mitigation Approach" as if this were stale and irrelevant. This conventional approach would be purchase of agricultural easements, an accepted form of mitigation ever since CEQA/NEPA were adopted.</p> <p>--Page 14-120 mentions the need for purchasing agricultural easements but does not</p>	

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		<p>identify the availability of known funding sources for such. Line 44 of this page mentions that easements should not be obtained on lands that may be needed for BDCP conservation strategies/habitat purposes up until the Year 2060! How is anyone to know what lands might be needed 46 years into the future? Again, the mitigation measure is worded in such general ways and with so many limiting conditions to make it basically meaningless.</p>	
1679	218	<p>Topic:</p> <p>Impacts to San Joaquin County suggested to be mitigated in Sacramento metropolitan area</p> <p>Page 14-121, Line 16 mentions that if lands to offset agricultural land lost cannot be found within the county where conversion would occur, that agricultural land conservation can take place in another county. However, the text states that preference would be within the greater Sacramento metropolitan area. Explain why and how this has been determined. Explain why ag land losses in San Joaquin County, which has a huge percentage of its income reliant on agricultural production, should be offset by provision of conservation lands near Sacramento.</p>	<p>Please see Master Response 18 for more information regarding agricultural impact mitigation.</p>
1679	219	<p>Topic:</p> <p>Inadequate impact analysis</p> <p>Page 14-122, Lines 1-7 and previous page: Impacts of excess, elevated levels of groundwater on crops in the vicinity of the enlarged Clifton Court Forebay are not quantified or mapped.</p>	<p>Changes to groundwater elevation are discussed in terms of the interaction between crops and the water table. This section assesses whether groundwater level changes due to new water conveyance facilities or the other conservation measures would occur at a magnitude or time period that would affect crop root zones, thereby affecting crop viability and/or irrigation practices.</p> <p>Please refer to Master Response 2 for a discussion of why the EIR/EIS has successfully achieved project-level analysis for Conservation Measure 1.</p>
1679	220	<p>Topic:</p> <p>Unreadable information</p> <p>Inadequate impact analysis and lack of mitigation measures</p> <p>Stating that impact is significant and unavoidable does not mean that no mitigation measures should be suggested</p> <p>Page 14-123, Lines 1-17: Reference is made to Table 14-6 about crops tolerances of soil and irrigation water salinity. However, Table 14-6 is totally unreadable for the lay person. The measurement used for salinity is not explained. The table mentions dS/m but that abbreviation is not defined. Then, the text on page 14-123 talks about percentage changes in salinity but does not relate to the measurement limits shown in Table 14-6. The EIR/EIS does not clarify how many acres and what crops, and what locations could be impacted by increased salinity. This results in not allowing any specific mitigation measures that would be applicable.</p>	<p>Please see Master Response 10 regarding “significant and unavoidable” determinations and mitigation. Table 14-6 has been revised such that “dS/m” is defined. Clarification was added to the table to indicate what the percentages were conveying (yield potential). “EC” has been defined in the table. Regarding percentage change in salinity, the reader is referred to Final EIR/EIS Chapter 8, Water Quality, and Master Response 14 for further discussion of the water quality constituent.</p>
1679	221	<p>Page 14-125, Lines 1-21: Conclusions state that impacts would be significant and unavoidable as associated with water quality, groundwater elevation changes, increased salinity, and disruptions to agricultural drainage facilities. However:</p> <p>--No feasible mitigation measures are identified;</p>	<p>Please see Master Response 10 regarding “significant and unavoidable” determinations and mitigation.</p> <p>Please refer to Master Response 2 for a discussion of why the EIR/EIS has successfully achieved project-level analysis for Conservation Measure 1.</p> <p>Neither NEPA nor CEQA requires that impacts on agricultural resources be presented by county. For the agricultural resources impact analysis, a methodology looking at total acreage of agricultural land converted</p>

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		<p>--No specific acreage, by County, of affected ag lands is addressed;</p> <p>--No time duration is provided as to how long such impacts could be experienced.</p> <p>It is not adequate to just say the impact is significant and unavoidable without a more precise impact analysis for what is supposed to be a Project level EIR.</p>	<p>was used to ensure a “worst-case” assessment, assuming that if a county-level only impact analysis was done, it may have resulted in some ag impacts being considered as less than significant. See also Master Response 18 regarding agricultural impact mitigation.</p>
1679	222	<p>Topic:</p> <p>CM2-22 are part of CM-1 and as such should be evaluated for impacts to agricultural lands</p> <p>Page 14-126, Lines 12-41; Again, the EIR is shown as a piecemeal analysis of the project's true impacts. The CM2-22 measures are addressed (or portions thereon as related to farmland impacts. However, these are not just mitigation measures. These are integral to the project and the impact of farmland acreage should be addressed as a whole - the conveyance facilities with the associated habitat restoration. The EIR/EIS does not identify the full acreage, by location and by County of agricultural land impacts. This lack of information makes any mitigation measures useless. Restoring habitat (83,800 acres) as mentioned on page 14-127, is not related to the true impact. Establishing new habitat has its own agricultural land impacts and this to be assessed fully .</p>	<p>CM2 – CM21 (there is no longer a CM22) are not part of CM-1; please see Chapter 3 of the Draft EIR/EIS for a description of the BDCP conservation measures.</p> <p>Please refer to Master Response 8 regarding how the proposed project was evaluated as a whole.</p> <p>Please refer to Master Response 18 regarding mitigation for impacts on agricultural resources.</p> <p>As appropriate, project-level implementation of the currently program-level conservation actions would be subject to additional environmental review. Presently, because locations have not been selected for many of these habitat restoration and enhancement activities, the precise extent of effects on agricultural resources is unknown.</p> <p>Neither NEPA nor CEQA requires that impacts on agricultural resources be presented by county. For the agricultural resources impact analysis, a methodology looking at total acreage of agricultural land converted was used to ensure a “worst-case” assessment, assuming that if a county-level only impact analysis was done, it may have resulted in some ag impacts being considered as less than significant.</p> <p>Please see Section 5.2.1.10, Agricultural Resources, in the RDEIR/SDEIS, for an overview of concurrent project effects (i.e., effects due to CM1 and CMs 2-21 combined, where activities under each occur concurrently).</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>
1679	223	<p>Topic:</p> <p>Summary of insufficient analysis for agricultural impacts</p> <p>The overall CEQA/NEPA analysis of agricultural land impacts is insufficient and does not meet CEQA/NEPA requirements for the following reasons:</p> <p>a) All components of CM-1 are not addressed</p> <p>b) Without addressing all components of CM-1, impacts are understated</p> <p>c) Habitat restoration (CM2-22) is an integral element of CM-1 and by addressing these elements separately, the project analysis is piecemealed and the whole of the action is not addressed; both should be addressed at a project level</p> <p>d) Impacts are not adequately assessed: a) areas and footprints are not defined; b) impacts by County are not defined; c) acreages for some project components are evaluated, but not for all components;</p> <p>e) Impacts are generalized which makes mitigation measures inadequate (e.g., impacts from removal of agricultural drainage canals/irrigation systems that could impact large</p>	<p>Acreages of converted Important Farmland in the impact analysis in Final EIR/EIS Chapter 14 were calculated by relying on spatial data from the California Departments of Conservation and Water Resources, as well as project-specific data describing the location of project components. Project-specific data also determined whether features would create footprint effects that would be temporary/short-term or permanent in nature. Where any feature associated with CM 1 would either temporarily or permanently “overlap” important farmland, the acreages were tallied and included in the total. It was not necessary for the impact analysis to list every feature and the associated approximate acreages of important farmland those features would disturb. The Mapbook figures referred to in Chapter 14 show all of the construction features (including temporary work areas) associated with the proposed water conveyance facility alignments along with Important Farmland.</p> <p>Please refer to Master Response 8 regarding how the project was evaluated as a whole.</p> <p>Please refer to Master Response 2 for a discussion of why the EIR/EIS has successfully achieved project-level analysis for Conservation Measure 1.</p> <p>Also, 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> <p>The law concerning CEQA’s consideration and protection of agricultural land continues to evolve, and the</p>

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		<p>acres of cropland)</p> <p>f) Mitigation measures are not specific and are deferred. Mitigation measures cannot be deferred for a project level analysis. If they are deferred, specific standards need to be identified. For example, setting up ALSPs is not an adequate mitigation measure as it is not specific; funding is not identified; standards are not identified.</p> <p>G) Conclusions of significant and unavoidable ignore the need for specificity.</p>	<p>EIR/EIS carefully considers the impacts of farmland conversion and the options available for responding to those impacts. Please refer to Master Response 18 regarding agricultural impact mitigation.</p> <p>Please refer to Master Response 10 regarding “significant and unavoidable” conclusions and mitigation.</p>
1679	224	<p>Topic:</p> <p>Outdated information</p> <p>Inappropriate baseline information</p> <p>Chapter 15. Recreation Issues</p> <p>Pages 15-20, Table 15-3 (and accompanying text) , page 15-21, Line 20. Boating and fishing use data are from 1997 and 1997. This 17-18 year old data may be substantially out of date. For a project that could affect the entire Delta and beyond for generations, the EIR must have accurate baseline information. Therefore, the EIR/EIS authors should have conducted new studies of these recreation activities. The document must be based upon new use studies and be revised to identify baseline conditions.</p>	<p>Please see Final EIR/EIS Section 15.3.1 “Methods of Analysis” regarding baselines used in the Recreation chapter. Please also see Chapter 4, Section 4.2.1.1 “CEQA and NEPA Baselines” regarding explanations of each baseline used in the document. Please see Master Response 1 regarding baselines.</p>
1679	225	<p>Topic:</p> <p>Inadequate impact analysis</p> <p>Page 15-59. The document must add discussion of potential impacts to river recreation to the bullet points on p. 15-59, and add discussion of these potential impacts to the impact analyses.</p>	<p>River recreation is covered in the two bullets on page 15-59. River recreation, such as fishing, swimming, boating, and wakeboarding, are included in the impact analysis.</p>
1679	226	<p>Topic:</p> <p>Inappropriate baseline</p> <p>Need full impact for each baseline year assessed</p> <p>No Project Alternative must address existing year baseline (or NOP date baseline)</p> <p>Page 15-60, Table 15-12a on p. 15-88 and all associated impact assessments. The DEIR includes two baselines for recreation - existing conditions and a 2060-without-the-project baseline. Per the <i>Neighbors for Smart Rail v. Exposition Metro Rail Construction Authority</i> (2013) decision, the appropriate baseline for CEQA analyses is existing conditions unless that baseline would be misleading or deprive the reader of important information, in which case dual baselines must be used. The 2060-without the project is the CEQA no-project alternative, not the setting. If the EIR uses both baselines, it needs to address impacts under each of the baselines and apply mitigation measures to each situation, as applicable. The document must revise the text accordingly.</p> <p>Further, the analyses also attempt to distinguish which impacts would result from the project and which would result from climate change. These two factors are not separable. For example, the operational criteria for reservoirs and pipelines would be dependent on</p>	<p>Please refer to Master Response 1 regarding the environmental baseline.</p> <p>Impacts to recreation are found in Final EIR/EIS Chapter 14.</p> <p>For concerns regarding climate change, please see Master Response 19.</p>

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		<p>the climactic and weather conditions, both long-term and in any specific year, but there would just be a single set of these criteria, not separate criteria for climate change and project impacts. In fact, CM1's primary purpose is to provide water supply in response to changing climatic conditions. Therefore, this appears to be a false dichotomy aimed at reducing the appearance of project impacts and reducing the project's mitigation obligations. It is misleading to ascribe certain impacts to changes in climate and others to the project. The EIR, in fact, acknowledges this on p15-66 (among others, i.e. p. 15-87, lines 19-20; p. 15-274, lines 34- 37), where it states,</p> <p>"The CALSIM II modeling results show that, overall, future opportunities for boating-related recreation under the No Action Alternative conditions at these reservoirs would be less than under the Existing Conditions. However, as noted above and discussed in Section 15.3.1, Methods for Analysis, these changes in SWPICVP reservoir elevations are caused by sea level rise, climate change, and future no action conditions. It is not possible to specifically define the exact extent of the changes due to future no action operations using these model simulation results." [emphasis added]</p> <p>You must revise the EIR impact analyses and mitigation measures to address all changes in future conditions with the project.</p>	
1679	227	<p>Topic:</p> <p>Inadequate significance criteria</p> <p>Pages 15-62 and 63 - Significance Criteria. Certain significance criteria are not sufficiently protective of the environment, counter to the purpose of CEQA. Specifically, the first criterion, which considers only permanent displacement of recreational facilities as significant, should be revised to also include long-term (more than one season) temporary displacement of these facilities, and the analyses revised to address this long-term temporary impact. Similarly, what is the supporting documentation for the 8-year change to reservoir or river flow criteria? This seems arbitrary. Why not use a more conservative 4 or 5 years, which would be more protective of the environment? Also, this entire criteria, and associated impact assessment, focuses on reservoir levels. The document must add river flows and impacts to river recreation to the analyses.</p>	<p>As described in Final EIR/EIS Section 15.3.1.1, "long-term" effects last more than two years and "short-term" effects last two years or less. Only Impact REC-1 uses permanent displacement as its significant criterion, and this is based on Appendix G of the CEQA Guidelines Checklist, as described in Section 15.3.2. Each impact uses significance criteria as established by those CEQA Guidelines.</p> <p>As described in the Determination of Effects section of Chapter 15, the Final EIR/EIS uses an 8-year change to reservoirs as an impact threshold because this time period was previously established by the U.S. Fish and Wildlife Service and Bureau of Reclamation (cited in Section 15.3.2 as U.S. Fish and Wildlife 1999) as part of a previous environmental assessment. Regarding the impact of causing a change in river flows or reservoir elevations that would result in substantial reductions in water-based recreation opportunities, for the purposes of this analysis, effects on water-dependent and water-enhanced recreation activities at reservoirs are considered substantial or adverse if there would be a 10 percent or greater (more than 8 years) reduction in the frequency of recreation facility availability, using the reservoir recreation thresholds (Table 15-9), attributable to action alternative operations (U.S. Fish and Wildlife Service et al. 1999:3-281–3-282). An increase or decrease in the frequency at which reservoir levels exceed the recreation reservoir elevation threshold of less than 10 percent (8 years or fewer), attributable to action alternative, operations would not be adverse. The threshold used is 10 percent of the 82-year hydrologic period used in the CALSIM II model; therefore, approximately 8 years. For more information, please see Section 15.3.2 "Determination of Effects", which describes the process and methodology of determining significance criteria such as 8-year changes in reservoir levels and permanent displacement of recreational facilities. As stated in Chapter 15, Recreation, Section 15.3.3, CALSIM modeling results indicate that effects, if any, to river flows are so minor as to have no effect and are therefore not discussed further in the chapter.</p>
1679	228	<p>Topic:</p> <p>Inappropriate impact analysis</p> <p>Pages 15-64 and 65. This discussion focuses on impacts of projects other than the proposed project. It is inappropriate in this section, which is supposed to analyze the project impacts. Rather, it is a cumulative impact discussion that should be moved to that section of the EIR. This discussion should be moved.</p>	<p>This section is correct because it describes the No Action Alternative, which includes projects that are already approved and/or in place. For more information on the No Action Alternative, please see Final EIR/EIS Chapter 4, Section 4.2.1.1 "CEQA and NEPA Baselines."</p>

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1679	229	<p>Topic:</p> <p>Peak recreation use times not evaluated</p> <p>Inadequate impact analysis</p> <p>Page 15-66, Table 15-10a; Page 15-86, Line 32; 15-274, Lines 12-16, and other similar references in impact analyses. The reservoir recreation analyses are based on late September reservoir levels. However, as acknowledged in the EIR, most reservoir use is in the summer months, from June through August. Therefore, the late September analysis does not appear to be the correct metric for assessment of project impacts to reservoir (and river) recreation. The document must add July and/or August analyses of project impacts to lake (and river) levels so that potential impacts at the time of peak recreational activity can be determined.</p>	<p>As described under Impact Rec-6, “Generally, the peak recreation season at the reservoirs falls between May to September. Reservoirs are usually at maximum storage volume and surface water elevation in May and decline over the course of the summer through September. This analysis compares the results of the CALSIM II end-of-September reservoir water surface elevations because typically there are more instances in which reservoir elevations fall below key surface water elevation thresholds (hereafter referred to as “recreation thresholds”) (i.e., number of years out of the 82 simulated when the September end-of-month storage is less than the recreation elevation threshold).”</p>
1679	230	<p>Topic:</p> <p>Use of existing conditions in impact discussion; not related to project impacts</p> <p>Inadequate impact analysis</p> <p>Page 15-67, Lines 10-29; page 15-68, Lines 1-2. Why are Catastrophic Risks described in the impact discussion? This is an existing condition, which should be considered as part of the setting. It should be removed from this section.</p>	<p>The No Action Alternative considers changes in recreation that would occur due to the continuation of existing plans, policies, and operations by federal, state, and local agencies as of the year 2060. Therefore, catastrophic risks are considered as risks that may occur by 2060. For more information on the No Action Alternative, please see Final EIR/EIS Chapter 4, Section 4.2.1.1 “CEQA and NEPA Baselines.”</p>
1679	231	<p>Topic:</p> <p>Inadequate mitigation measures</p> <p>Unfounded conclusions that mitigation measures would be adequate without backup data or substantial evidence</p> <p>Lotus v. Caltrans case</p> <p>Lack of analytical nexus</p> <p>Page 15-68, Lines 7-14, Page 15-76, Lines 32-35, and similar analyses throughout the impact section. The impact assessment relies on the program-level CM's 3 and 11 as mitigation for the project-specific impacts of CM1. As described in my general comments above, these program-level CMs are neither sufficiently described nor is their funding sufficiently assured for them to serve as reliable mitigation measures for the project-level activities. Further, these analyses fail to provide any actual analyses as to how the program CMs will mitigate the project impacts. They are just listed, followed by a conclusion that they will mitigate the impact the impact to a less-than-significant level. The analytical nexus is absent. In addition, this approach fails to comply with the court's direction in the Trisha Lee Lotus v. Department of Transportation decision.</p>	<p>Please refer to Master Response 4 regarding alternatives development.</p> <p>For a description regarding mitigation and environmental commitments, please see Master Response 22.</p>
1679	232	<p>Topic:</p> <p>Inadequate mitigation</p> <p>Program-level mitigation when project-level warranted</p>	<p>Please refer to Appendix 3B of the RDEIR/SDEIS for more information regarding the effectiveness of mitigation measures, environmental commitments, and conservation measures.</p>

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		<p>Missing information</p> <p>Page 15-77, MM REC-2 (and Rec 2 discussions in other alternatives, i.e., Page 15-255, Lines 37-40; Page 15-263, Lines 20-36). The mitigation is vague and not at a project level. It states that the project proponents "will enhance nearby formal fishing access sites" and "ensure adequate signage will be placed at informal sites ..." but provides no information on which sites will be enhanced or specifics about signs, nor what the enhancements will be. The p. 15-255 discussion relies on programmatic mitigation measures in other resource chapters to mitigate these impacts with no analysis as to what impacts would occur at each site, how those mitigations would be applied to these sites or how effective they would be. Given this absence of information, there is no way to determine what the impacts after mitigation will be. Revise the document to include all of the missing information/analysis listed above.</p>	
1679	233	<p>Topic:</p> <p>Inadequate mitigation for project-level analysis</p> <p>Deferral of mitigation</p> <p>Page 15-79, Lines 31-39, Page 15-80, Lines 27-31, Page 15-83, Lines 20-23, and similar analyses throughout the impact section. This analysis relies on Mitigation Measure TRANS-1a to reduce impacts to a less than significant level. However, this mitigation measure defers the development of actual mitigations to a future plan. Such deferral may be appropriate for a program-level document, but is inadequate for the project-level evaluation/mitigation for CM1. Identify which specific mitigation actions are proposed for all CM1 impacts.</p>	<p>The preferred alternative no longer includes an HCP or conservation measures. The originally proposed BDCP habitat restoration measures and related Conservation Measures (CMs) (i.e., CM2 through CM21), and a 50-year permit would not be included as parts of Alternatives 4A, 2D, and 5A, 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). Alternative 4A would still include restoration, but on a more limited scale than the conservation measures under Alternative 4.</p> <p>Please also refer to Chapter 32 of the Final EIR/EIS and Master Response 40 for an extensive account of the outreach that was conducted.</p> <p>As described in Chapter 1, Introduction, of the Final EIR/EIS, Reclamation District 999 is a NEPA cooperating agency; therefore, consultation is required regarding the easement/right of way.</p>
1679	234	<p>Topic:</p> <p>Inadequate mitigation and lack of substantial evidence that mitigation would be adequate</p> <p>Page 15-80, Lines 7-10. This discussion relies on Environmental Commitments to reduce project impacts. However, the discussion includes no analyses as to how and to what extent those ECs will actually reduce these impacts. The document must add that discussion and analyses.</p>	<p>Please refer to Appendix 3B of the RDEIR/SDEIS for more information regarding the effectiveness of mitigation measures, environmental commitments, and conservation measures.</p>
1679	235	<p>Topic:</p> <p>Lotus v. Caltrans case</p> <p>Pages 15-80, Lines 7-10. Per the Trisha Lee Lotus v. Department of Transportation decision, You must evaluate other mitigations as appropriate.</p>	<p>Please refer to Master Response 22 regarding mitigation.</p>
1679	236	<p>Topic:</p> <p>Deferral of mitigation</p> <p>Lack of substantial evidence that mitigation would be adequate</p> <p>Page 15-82, Lines 10-24; Page 15-269, Lines 21-23. This analysis relies on Mitigation Measure TRANS-1a to reduce impacts to a less than significant level. However, as discussed above, this mitigation measure defers the development of actual mitigations to</p>	<p>Please refer to Appendix 3B of the RDEIR/SDEIS for more information regarding the effectiveness of mitigation measures, environmental commitments, and conservation measures.</p>

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		<p>a future plan. It further relies on recommendations in the Delta Plan as mitigation. These recommendations have no force of law and cannot be assumed to be implemented; therefore, they do not assure any mitigation. Similarly, it relies on vague Environmental Commitments, whose applicability and effectiveness to the identified impacts are not discussed. The document must add an analysis of how these mitigations would be applied to the project impacts and to what degree they would be effective in reducing impacts to a less than significant level.</p>	
1679	237	<p>Topic:</p> <p>Inadequate impact analysis</p> <p>Vague mitigation measures</p> <p>Lack of substantial evidence</p> <p>Page 15-84, Lines 12-15 and 25-40; Page 15-260, Lines 1-11, and similar statements throughout the EIR/EIS. These impacts discussions state that certain mitigation measures "would be available" (see, for example, line 13). It also relies on some of the programmatic Environmental Commitments. This is not a commitment to mitigate. You should revise this terminology throughout the EIR to read, "would be implemented". Further this discussion relies on a large number of vague, noncommittal programmatic mitigation measures for visual impacts, noise impacts, and aquatic biology impacts to reduce this impact, but never analyzes the actual effectiveness of these measures at a project level. It just references them and then states, "The effect would not be adverse". (Line 41). This is an inadequate CEQA evaluation. The document must revise to include a detailed evaluation of what the impacts would be, how the measures would reduce impacts, and to what extent.</p>	<p>Please refer to Appendix 3B of the RDEIR/SDEIS for more information regarding the effectiveness of mitigation measures, environmental commitments, and conservation measures. Additionally, please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or conservation measures. Aspects of Alternative 4 (i.e., CM 3, 4, 6-12, 15, 16) are included in the preferred alternative as environmental commitments.</p>
1679	238	<p>Topic:</p> <p>Inadequate impact analysis</p> <p>Unsubstantiated conclusions</p> <p>Lack of project-level analysis</p> <p>Page 15-86, Impact REC-5 (and other Impact REC-5 discussions throughout the chapter). This "analysis" consists of a single sentence under the CEQA conclusion stating, "The potential impact on covered and non-covered sport-fish species ...would be considered less than significant because any impacts to fish and, as a result, impacts to recreational fishing, are anticipated to be isolated to certain areas and would not impact the species population of any popular sportfishing species overall." This is a conclusion with no actual impact analysis. The conclusion fails to reference or comport with any of the Recreation section's listed criteria of significance. Further, Chapter 11 focuses on special status fish species and includes mitigation measures to reduce or eliminate non-native predatory fishes, which include several popular species of sport fishes. The document must be revised to include a project-level impact assessment of the impacts of reducing or eliminating certain sport fish populations on popular fishing sites throughout the Delta.</p>	<p>Because the proposed project is not anticipated to affect any species as a whole, or would only significantly alter fishing opportunities in specific areas of the Delta, it is not considered a significant impact.</p> <p>Please see Final EIR/EIS Appendix 5F regarding submerged aquatic vegetation and fish populations. Please also see Master Response 17 regarding striped bass.</p>
1679	239	<p>Topic:</p>	<p>Operational impacts are discussed in separate impacts, such as in Impact REC-7. The operational impacts are</p>

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		<p>Lack of impact analysis for operational impacts</p> <p>Page 15-253, Line 9. This line refers to Table 15-15 as providing the reader with a summary of recreation sites that might be affected by Alternative 4; however, the table addresses only construction impacts and not operational impacts. The document must provide a similar table summarizing operation impacts to recreational facilities.</p>	<p>in similar locations to the construction areas and are described in that section.</p>
1679	240	<p>Topic:</p> <p>Unsubstantiated conclusions</p> <p>Inadequate impact analysis</p> <p>Page 15-255, Line 6. This line states that recreational access could occur in the future. Will access be restored or not?</p>	<p>New embankments would be built post-construction so access to recreation areas would be restored.</p>
1679	241	<p>Topic:</p> <p>Inappropriate use of future baseline</p> <p>Inadequate impact analysis</p> <p>Page 15-255, Lines 16-21. This discussion is a speculative argument as to why water skiing facilities should not be considered "long term" and therefore the Project's impacts to them are not significant. The analysis compares the Project impacts to a future baseline where the water skiing no longer exists. Use of this future baseline is impermissible under CEQA. The facilities exist (setting), have existed for a long period of time, and would be affected by the project (impact). Therefore the impact should be considered potentially significant and mitigation should be required. The document must revised as required by CEQA.</p>	<p>Please see Section 15.3.1 "Methods of Analysis" regarding baselines used in the Recreation chapter. Please also see Chapter 4, Section 4.2.1.1 "CEQA and NEPA Baselines" and Master Response 1 regarding explanations of each baseline used in the document.</p>
1679	242	<p>Topic:</p> <p>Inappropriate use of program- level mitigation measures for project-level analysis</p> <p>Lotus v. Caltrans case</p> <p>Inadequate mitigation</p> <p>Page 15-255, Line 24. The reliance on program Environmental Commitments (ECs) as mitigation for CM1 project impacts is impermissible under the Trisha Lee Lotus decision and also fails to explain how the EC's would mitigate the project's specific impacts.</p>	<p>Please refer to Master Response 22 regarding mitigation. Also see Master Response 2 for information on the project level versus program level analysis.</p>
1679	243	<p>Topic:</p> <p>Inadequate project-level mitigation measures</p> <p>Page 15-256, Lines 22-30; page 15-258, Lines 3-16 . Issue with using generic Environmental Commitments (ECs) and program-level CMs 3 and 11 to mitigate for project specific impacts. See previous comments on the problems with this approach - it is impossible to see how they would be applied and how well they would work. Revise to explain how these CMs and ECs will be applied to the project, and provide a project-level</p>	<p>Please refer to Appendix 3B of the RDEIR/SDEIS for more information regarding the effectiveness of mitigation measures, environmental commitments, and conservation measures. Also refer to Master Response 22. Numerous comments were received that focused on various elements of the BDCP. 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.</p> <p>See Master Response 2 for information on the project level versus program level analysis.</p>

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		analysis of the impacts. Add project-level mitigation measures as needed.	
1679	244	<p>Topic:</p> <p>Inadequate project description</p> <p>Inadequate impact analysis</p> <p>Page 15-256, Lines 35-38; page 15-257, Lines 48-53. These lines provide a general statement that project spoils may be reused, which involves a wide range of uses anywhere in the Delta. Revise to inform the reader how those spoils (which result from the Project-level CM1) are proposed for reuse, and what the impacts of that reuse would be, at a project level.</p>	Please refer to Master Response 12 regarding reusable tunnel material.
1679	245	<p>Topic:</p> <p>Inadequate impact analysis</p> <p>Page 15-260, Lines 14-19. The document must assess the impacts of operating the operable barrier to fisheries upstream and downstream of the barrier, not just at the barrier.</p>	Clarifying text has been added to the chapter to further describe the operable barrier, the boat lock usage, its impacts, and mitigation.
1679	246	<p>Topic:</p> <p>No analysis of mitigation measures</p> <p>Lack of project-level mitigation measures</p> <p>Page 15-261, Lines 10-46; page 15-262, Lines 1-42. The references text is a litany of generic mitigation measures, and programmatic Environmental Commitments and CMs, leading to a conclusion (on p. 15-263). There is no analysis as to how these measures would be applied to project impacts or to what degree they would be effective. In fact, there is no analysis at all. Revise to include the missing analyses and add project-specific mitigation measures as applicable.</p>	See Response to Comment 1679-243.
1679	247	<p>Topic:</p> <p>Inadequate impact analysis</p> <p>Lack of project-specific mitigation measures</p> <p>Page 15-266, Lines 29-32. Relies on generic Environmental Commitments to mitigate project specific impacts. Needs nexus and actual analysis.</p>	See Response to Comment 1679-243.
1679	248	<p>Topic:</p> <p>Inadequate impact analysis</p> <p>Page 15-267, Lines 30-43. This "analysis" fails to identify the number of barges to be used, daily barge activity, routes of barges, size of barges, duration of barging, what will be barged, etc. Absent this information, it is not possible to identify impacts of the barges on recreation (or air quality, noise, water quality, biotic resources, etc.). The document must provide the necessary detail to assess the project-level impacts of CM1 and reevaluate all</p>	Details have been added to the chapter. Additionally, details are already included under Impact TRANS-4 for each alternative in Final EIR/EIS Chapter 19.

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		barge-related impacts.	
1679	249	<p>Topic:</p> <p>Inadequate recreation-related impact analysis</p> <p>Impact REC-3, General Comment. Nowhere in this assessment are the impacts of changes in delta currents, either locally (e.g. associated with intakes or barge terminals) or regionally (e.g. associated with changes in Delta flows, ecological restoration projects that may include levee breaching and/or major changes in tidal prisms) on recreational boating, including marina access, boating safety and overall boating suitability discussed. Impacts of changes in flows and currents on fishing also have not been addressed. The document must add a discussion of all of these issues to this chapter, including impacts to access at all marinas.</p>	<p>As stated in Final EIR/EIS Chapter 15, Recreation, Section 15.3.3, CALSIM modeling results indicate that effects, if any, to river flows are so minor as to have no effect and are therefore not discussed further in the chapter. Please refer to Chapter 8, Water Quality, regarding salinity or electrical conductivity impacts in the project area. Please see Master Response 17 regarding striped bass.</p> <p>Operations of Alternative 4 and the new preferred alternative, 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, Final 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>
1679	250	<p>Topic:</p> <p>Inadequate impact analysis</p> <p>Page 15-271, Lines 2-3. The document must describe fishing impacts from changes in flows, salinity, and other hydrologic and water quality effects associated with the Project (CM1) and Program (CM2-22) activities, in addition to barge facilities.</p>	<p>As stated in Chapter 15, Recreation, Section 15.3.3, CALSIM modeling results indicate that effects, if any, to river flows are so minor as to have no effect and are therefore not discussed further in the chapter. Please refer to Chapter 8, Water Quality, regarding salinity or electrical conductivity impacts near the project area. Please see Appendix 5F regarding submerged aquatic vegetation and fish populations. Please see Master Response 17 regarding striped bass.</p> <p>Impacts related to constructing the water conveyance facilities, including barge unloading facilities, can be found in Impact REC-4 in Chapter 15.</p> <p>Additionally, the preferred alternative is now Alternative 4A and no longer includes an HCP or conservation measures.</p>
1679	251	<p>Topic:</p> <p>Lack of definition of level of impact</p> <p>Page 15-271, Lines 12-14. What's the significance level of this impact?</p>	<p>A significance conclusion for this impact has been added. The summary at the end of the impact discussion provides the total conclusion for the impact as a whole.</p>
1679	252	<p>Topic:</p> <p>Inadequate mitigation measures</p> <p>Page 15-271, Lines 20-22. Mitigation REC-2 does not address the reduction in fishes, which is the impact stated above. Therefore, this impact is not mitigated. You must revise text accordingly.</p>	<p>Impact REC-4 examines the long-term reduction of fishing opportunities. The analysis looks at the Delta as a whole. The proposed project is not anticipated to affect any species as a whole, or would only significantly alter fishing opportunities in specific areas of the Delta. Mitigation Measure REC-2, when combined with the other mitigation measures listed, would reduce the impact of a reduction in fishing opportunities to a less-than-significant level. Please see Appendix 5F regarding submerged aquatic vegetation and fish populations. Please also see Master Response 17 regarding striped bass.</p>
1679	253	Topic:	See Response to Comment 1679-243.

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		<p>Lack of project-level analysis</p> <p>Inadequate mitigation</p> <p>Page 15-271, Lines 29-46, continuing on p. 15-272. This mitigation discussion once again relies on program-level CMs and Environmental Commitments to mitigate project-level impacts without describing the impact at a project level or the nexus between the impacts and mitigation measures. Revise to fully describe the impacts then specify detailed mitigation measures and residual effects.</p>	
1679	254	<p>Topic:</p> <p>Inadequate impact analysis</p> <p>Lack of project-specific analysis</p> <p>Page 15-273, Lines 34-35, and 15-274, Lines 1-2. This impact "analysis" concludes that the project would not result in long-term reductions in fishing opportunities because impacts would be "typically limited to specific rivers and not the population of the species as a whole." First, this conclusion is not consistent with the Recreation section's stated criteria of significance; second, it is unclear why, if an entire river is affected, why fishing impacts would not be significant; third, there's no project-level analysis of the potential impacts on loss of fisheries to the CM1 project. The document must address each of these deficiencies in a revised text.</p>	See Response to Comment 1679-243.
1679	255	<p>Topic:</p> <p>Inappropriate use of future baseline</p> <p>Page 15-275, Lines 9-16 and 38-39. These conclusions rely on a comparison of the Project impacts with a future (2060) baseline. You must add a comparison of the post-project conditions with the existing baseline and identify appropriate mitigation measures for each of these impacts.</p>	Please see Final EIR/EIS Section 15.3.1 "Methods of Analysis" regarding baselines used in the Recreation chapter. Please also see Chapter 4, Section 4.2.1.1 "CEQA and NEPA Baselines" regarding explanations of each baseline used in the document. Please see Master Response 1 regarding baselines.
1679	256	<p>Topic:</p> <p>Vague mitigation measures</p> <p>Page 15-275, Line 28. This impacts discussion states that certain mitigation measures "would be available". It also relies on some of the programmatic Environmental Commitments. This is not a commitment to mitigate. This terminology must be revised throughout the EIR/EIS to read, "would be implemented".</p>	See Response to Comment 1679-243.
1679	257	<p>Topic:</p> <p>Vague mitigation measures</p> <p>Page 15-276, Lines 5-8. This mitigation states that DWR and Reclamation "will work with DPR ...". Working with agencies does not assure mitigation. The document must be revised to describe what actual mitigation will be conducted and how that would/would not mitigate the project's impacts.</p>	See Response to Comment 1679-243..

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1679	258	<p>Topic:</p> <p>Inadequate impact analysis</p> <p>Lack of substantial evidence for conclusions reached</p> <p>Pages 15-277-283, Impact REC-9. Long-Term Reduction in Fishing Opportunities as a Result of Implementing Conservation Measures 2- 21: The document must provide a detailed analysis of how specific Submergent Aquatic Vegetation removal and turbidity increases resulting from the project may affect sport- fishing species. The document must also discuss the changes in flows and salinity with the project (combined CM1-22) in 2060 may affect these species.</p> <p>The conclusion that, "In the long term, the impact on fishing opportunities would be considered beneficial because the 35 conservation measures are intended to enhance aquatic habitat and fish abundance", is not supported by the analysis in Chapter 11, which focuses on special-status species and specifically states that one of the goals of the CMs is to adversely affect many of the non-native, predatory sportfishing species.</p>	<p>Because the proposed project is not anticipated to affect any species as a whole, or would only significantly alter fishing opportunities in specific areas of the Delta, it is not considered a significant impact. As stated in Final EIR/EIS Chapter 15, Recreation, Section 15.3.3, CALSIM modeling results indicate that effects, if any, to river flows are so minor as to have no effect and are therefore not discussed further in the chapter. Please see Appendix 5F regarding submerged aquatic vegetation and fish populations. Please also see Master Response 17 regarding striped bass. Please refer to Final EIR/EIS Chapter 8, Water Quality, regarding salinity or electrical conductivity impacts in the project area.</p>
1679	259	<p>Topic:</p> <p>Inadequate recreation-related impact analysis</p> <p>Pages 15-285-289, Impact REC-10. This section fails to address impacts to boating from changes in currents, tidal prisms and flow patterns resulting from CMs2-22. The document must revise the analysis to address these issues. It must include both Delta and upstream rivers that may have altered flows associated with the CMs.</p>	<p>As stated in Final EIR/EIS Chapter 15, Recreation, Section 15.3.3, CALSIM modeling results indicate that effects, if any, to river flows are so minor as to have no effect and are therefore not discussed further in the chapter. Additionally, the preferred alternative is now Alternative 4A and no longer includes an HCP or conservation measures.</p>
1679	260	<p>Topic:</p> <p>Inadequate recreation-related impact analysis</p> <p>Page 15-291, Lines 5-15. This discussion fails to describe the degree of increase in inundation in the Yolo Bypass compared to existing conditions. It is impossible to assess the severity of the impacts to recreation absent this information. The document must provide this essential information and reassess as necessary.</p>	<p>Alternatives 1A-8 presented in this Final EIR/EIS include Yolo Bypass improvements as Conservation Measure 2 of the BDCP conservation strategy. The Lead Agencies acknowledge the commenter's opinion about the potential effects of CM 2 on recreation. Additional Alternatives 4A, 2D and 5A, do not include Yolo Bypass as a project component. These improvements are assumed instead under the No Action Alternative.</p>
1679	261	<p>Topic:</p> <p>Inadequate mitigation measures</p> <p>Inadequate impact analysis</p> <p>Page 15-291, Lines 32-36; page 15-292, Lines 2-3. This vague discussion states, "Additionally, environmental commitments are available to reduce the effects of inundation on upland recreational opportunities" and "Depending on the acquisition strategy implemented through this measure, recreational access for upland activities could be expanded or diminished". This provides no information as to what the impacts would be or what will be done to mitigate the impacts. The document must be revised to state what assures that monitoring measures will be implemented.</p>	<p>See Response to Comment 1679-243.</p>
1679	262	<p>Topic:</p>	<p>See Response to Comment 1679-243.</p>

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		<p>Inadequate recreation impact analysis</p> <p>Page 15-291, Lines 8-24. There will be a large-scale transition in habitats, which will result in a large-scale transition in species, affecting hunting. This needs to be assessed in detail to determine what recreation opportunities will be lost and/or gained as a result of the project, not just types of effects that may occur. This section must be revised to inform the reader as to the net benefit or loss of each type of recreation activity associated with the conversion of up to 65,000 acres of upland habitat to wetlands and other associated habitats. We suggest separate discussions for each type of recreation use that may be affected, with specific mitigation for impacts to each use. Issues to be addressed should include, but not be limited to: Would access be provided to wetland areas for recreational use? How would the areas be managed? What would be the tradeoffs in terms of recreation uses?</p>	<p>Aspects of Alternative 4 (i.e., CM 3, 4, 6-12, 15, 16) are included in the preferred alternative as environmental commitments. Table ES.2.2-2 of the Executive Summary Compares the ECs under the new sub-alternatives. Please see Impacts REC-9, REC-10, and REC-11 which provide a discussion of the impacts on recreation occurring under CM-2 through CM-22. As noted in the FEIR, the analysis of impacts occurring under CM-2 through CM-22 was conducted at the program level. The lead agencies acknowledge that additional impact assessment may be required in the event a BDCP alternative is selected and as the conservation measures are implemented.</p>
1679	263	<p>Topic:</p> <p>Inadequate mitigation measures</p> <p>Page 15-294, Lines 26-40. This discussion remarkably concludes that "These impacts [from construction and operation of CMs 2-22] on upland recreation opportunities would be considered less than significant because the BDCP would include environmental commitments (ECs) that would require the BDCP proponents to consult with CDFW to expand wildlife viewing, angling, and hunting opportunities, as described in Recommendation DP R14 of the Delta Plan." This conclusion is unsupported and possibly in error because:</p> <p>a) DP14 is a recommendation and not a requirement; thus, this mitigation is not assured to occur.</p> <p>B) Consultation with California Department of Fish and Wildlife does not necessarily result in any mitigation; consultation is just talking, not acting.</p> <p>C) The ECs are vague and unenforceable. Further, the EIR provides insufficient information as to how the Environmental Commitments would be applied to this program to assure mitigation.</p> <p>Given the potential for large-scale landscape-level impacts to recreation as a result of the project, this discussion provides no evidence that the impacts would be reduced to a less-than-significant level. The document must be revised to describe how the mitigations would be implemented, enforced, and monitored. Identify what proportion of each type of impact is expected to be mitigated by each type of mitigation measure.</p>	<p>Please refer to Appendix 3B of the Recirculated Draft EIR/Supplemental Draft EIS for more information regarding the effectiveness of mitigation measures, environmental commitments, and conservation measures. Additionally, the preferred alternative is now Alternative 4A and no longer includes an HCP or conservation measures. Aspects of Alternative 4 (i.e., CM 3,4, 6-12, 15, 16) are included in the preferred alternative as environmental commitments.</p>
1679	264	<p>Topic:</p> <p>Incorrect cumulative analysis</p> <p>Incorrect baseline</p> <p>Misuse of future baseline</p> <p>Future Baseline Year of 2060 highly speculative</p>	<p>Please refer to Section 4.2.1.1 of Final EIR/EIS Chapter 4, Approach, and Master Response 1, regarding baselines, which explains why the CEQA analysis compares the potential impacts to existing conditions while the NEPA analysis compares the potential impacts to the No Action Alternative.</p> <p>The cumulative impact assessment has been updated with additional projects, and includes a cumulative impact analyses for Alternatives 2D, 4A, and 5A in Section 4 4.3.12 of the RDEIR/SDEIS and carried forward to the FEIR/EIS. Additionally, Section 5.2.1 of the RDEIR/SDEIS examines concurrent project effects, considering potential additive effects of project components that are constructed during the same time period. Then, Section 5.2.2 describes the revisions to the cumulative analysis under each resource topic and the effects of these revisions on the cumulative impact analysis when considered in concert with the effects</p>

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		<p>Chapter 16. Socioeconomics</p> <p>Page 16-39, Lines 23-25: The EIR states that the cumulative analysis is based on comparing all the "development" alternatives to the "No Action Alternative" for Year 2060. This is an extremely erroneous way of evaluating cumulative analysis for a variety of reasons. First of all, the cumulative analysis needs to evaluate the geographic area for which the cumulative analysis is done; for each topic that may vary such as airsheds, viewsheds, etc. Then, the cumulative analysis under CEQA requirements requires that cumulative conditions identified by relevant General Plans or other similar plans be considered or a "project list" approach can be done (see Section 15130 of CEQA Guidelines).</p> <p>Section 16.3.3 address the No Action Alternative. Rather than project what conditions are likely to exist in 2060 under that No Action Alternative, the text on page 16-50 refers to the reader back to the Environmental Setting section. This section DOES NOT identify conditions that are likely to exist in 2060. Instead, this section addresses conditions as of the time of writing the EIR/EIS.</p> <p>The cumulative analysis needs to compare future cumulative conditions to the baseline year. This has not been done and is a major inadequacy of the EIR/EIS. In addition, how can 2060 economic conditions possibly be determined in this Project Level EIR/EIS for the conveyance facilities? No General Plan of the affected counties covers this great a time period. For example, the update of the San Joaquin County General Plan is currently underway. This General Plan only goes to the year of 2035. One only has to look at the economic conditions of 2008-10 that so severely affected the Central Valley economy to know that one could not have predicted that phenomenon. Explain how a meaningful cumulative analysis of socio- economic impacts can be done in this manner and how it meets the requirements of CEQA/NEPA?</p>	<p>of the project effects described in Section 5.2.1. References have been made to specific sections of the chapter that have been revised.</p>
1679	265	<p>Topic:</p> <p>Inadequate identification of significance criteria</p> <p>Inadequate evaluation of impacts related to potential displacement of housing</p> <p>Nowhere does this section address the significance criteria used to evaluate impacts related to population and housing. A search was done for all of Chapter 16 for the word "criteria" and it was not found. And the same applies to "criterion". Without identified CEQA/NEPA significance criteria, the analysis does not follow the CEQA/NEPA requirements. For example, CEQA very clearly states that displacement of housing must be addressed. Where has this been done specifically for all the components of CM1 as well as CM2- 22? An extremely generalized statement is made on page 16-177, Lines 34-35, but there is no specificity as to number of households or business, or where these would be located that would be displaced. The EIR/EIS needs to provide specificity on this impact.</p>	<p>As described under Section 16.3.2, "Determination of Effects," for the purposes of this analysis, a concentrated, substantial increase in population or new housing associated with project activities would constitute an adverse socioeconomic effect. Impact ECON-2 describes impacts to population and housing during construction. Under this impact for Alternative 4A, the preferred alternative, it states that construction of water conveyance facilities under Alternative 4 would conflict with approximately 19 residential structures. The physical footprints of the three intake facilities, along with associated work areas, are anticipated to create the largest disruption to structures, conflicting with 12 of these residences. The construction workforce would most likely commute daily to the work sites from within the five-county region; however, if needed, there are about 53,000 housing units available to accommodate workers who may choose to commute to on a workweek basis or who may choose to temporarily relocate to the region for the duration of the construction period, including the estimated 730 workers who may temporarily relocate to the Delta region from out of the region. In addition to the available housing units, there are recreational vehicle parks and hotels and motels within the five-county region to accommodate any construction workers. As a result, and as discussed in more detail in Chapter 30, Growth Inducement and Other Indirect Effects, Section 30.3.2.1, Direct Growth Inducement, construction of the proposed conveyance facilities is not expected to substantially increase the demand for housing within the five-county region. Impact ECON-8 addresses population and housing during operation and maintenance; Impact ECON-14 addresses it as a result of implementing the CMs, or Environmental Commitments under 2D, 4A, and 5A. None of them are expected to result in adverse or significant impacts.</p>
1679	266	<p>Topic:</p>	<p>Please refer to Final EIR/EIS Sections 16.3, and 16.3.1.4, regarding the methodology and approach for the analysis, in particular about crops and agricultural economics, used in Chapter 16. Please note that the</p>

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		<p>Lack of substantial evidence</p> <p>Page 16-52, Lines 10-12: The CEQA Conclusion for the No Action Alternative is that ongoing programs and plans would result in crop acreages and crop values similar to those under Existing Conditions. There is no substantial evidence showing that by 2060, 46 years after 2014, that crop values would be the same as in 2014. If one goes back to evaluate the history of crop values, there have been significant changes over time. For example, orchards and vineyards have replaced row crops as more economic value per acre has been found by these conversions. The document must provide substantial evidence to justify this conclusion.</p>	<p>cumulative and No-Action projects have been updated in the RDEIR/SDEIS and carried forward to the FEIR/EIS.</p>
1679	267	<p>Topic:</p> <p>Inadequate impact analysis and lack of backup data</p> <p>Page 16-163, Line 53: Nowhere is there a table identifying where (in terms of communities/counties) the 53,000 units of available housing are to accommodate the projected peak of 3,937 workers during the 8-year construction period. And nowhere is there an explanation of how it was determined that only 1,180 workers would require housing within the 5-county region of the BDCP water conveyance facilities. The EIR/EIS does not identify the likely wages of these workers as related to local housing costs.</p>	<p>Please note that the numbers under Alternative 4, such as the 1,180 workers, have changed and are reflected in the RDEIR/SDEIS. As described in Section 16.3.1, estimates of housing demand, for the construction phase and the operation phase of each alternative, were calculated based on changes in employment. The employment impact data were drawn from the analysis of Delta regional employment and income (see Section 16.3.1.2 for a description of that methodology). Available permanent housing was determined by estimating the number of vacant housing units using the total housing units and vacancy rates for each of the five counties. Available temporary housing for the construction crews, e.g., recreational vehicle [RV] parks, was evaluated through internet searches of RV parks in each of the five counties. Please also refer to Chapter 30, Growth Inducement and Other Indirect Effects, regarding housing and the number of workers that would relocate to the Delta for the project. Delta employment related to the project was calculated using the IMPLAN model, as described in detail in Section 16.3.2.</p>
1679	268	<p>Topic:</p> <p>Inadequate impact analysis related to job losses</p> <p>Page 16-164, Lines 13-15: It is explained that a much larger (87%) percentage of agricultural workers are of Hispanic origin, while only 54 percent of construction laborers claim Hispanic origin. The EIR/EIS does not assess the impact of Hispanic agricultural workers losing work due to the removal of agricultural lands from production. And because most of these workers are not trained in construction skills, the EIR/EIS needs to address what happens to these workers who may lose agricultural employment.</p>	<p>The disproportionate loss of jobs to the Hispanic population is discussed in Chapter 28, Environmental Justice, under the Socioeconomics section for each alternative. Please refer to Master Response 27 for additional discussion of environmental justice.</p>
1679	269	<p>Topic:</p> <p>Inadequate project description</p> <p>Page 16-166: The EIR/EIS on Line 30-31 states "Access would be maintained to all existing recreational facilities, including marinas throughout construction." Why is this not addressed in the Project Description? If the water conveyance facilities are to be evaluated at a project level, this kind of information needs to be clearly spelled out and illustrated in the Project Description.</p>	<p>Access to marinas is not discussed in the project description because maintaining access to marinas and various other locations are not considered part of the project itself, and are therefore described in their applicable resource chapters. Please see Chapter 15 Recreation in the Final EIR/EIS for more information.</p>
1679	270	<p>Topic:</p> <p>Unreadable tables</p> <p>Page 16-168, Table 16-43 is totally unclear. First, it does not define the columns. Does Column 2 refer to acreage lost? The last column shows minus numbersare these percentages lost from existing acreage? Finally, the information needs to be shown by County. The table is totally meaningless unless one knows where the economic impacts</p>	<p>The commenter's suggestion related to adding county detail to Table 16-43 is acknowledged, and will be considered in the decision-making process. The socioeconomic impact assessment was based in part on the IMPLAN. The IMPLAN model used for the EIR/EIS was constructed for the plan area by combining the counties falling within the area. The IMPLAN model, by definition recognizes that goods and services are exchanged between the counties in the plan area. Isolating each county would not fully account for either the adverse or positive socioeconomic impacts attributable to each alternative. Units of measurement have been added to the columns.</p>

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		<p>are occurring. Just above the table, text refers to 5,600 acres of irrigated cropland declining. Then, the table immediately below shows 478,100 total acres but no line item shows the 5,600 acres referred to in the text. The table does not clarify which items refer to irrigated crops.</p>	
1679	271	<p>Topic:</p> <p>Unreadable tables</p> <p>Page 16-170, Table 16-44 is very unclear as related to employment impacts. By "Impacts" in the second column, is this referring to jobs lost? Is the "Labor Income" lost and to what counties? The IMPLAN results are extremely generalized and do not assist individual counties in commenting on this EIR/EIS.</p>	<p>Units of measurement have been added to the table.</p>
1679	272	<p>Topic:</p> <p>Missing information</p> <p>Chapter 19. Transportation</p> <p>The transportation analysis identifies the following main roads within the jurisdiction of San Joaquin County or cities within the County: Walnut Grove Road; Peltier Road; Tracy Blvd.; Byron Highway; Mountain House Parkway; Eight Mile Road; and Tracy Blvd. These are all the roads within the study area that may be impacted by construction traffic over the 9-year construction period. However, Table 19-7 fails to include Byron Highway for San Joaquin County.</p>	<p>The section of Byron Highway in San Joaquin County is labeled with Segment ID SJ 05. This segment is included under Mountain House in Table 19-7.</p>
1679	273	<p>Topic:</p> <p>Inadequate and inappropriate mitigation measure</p> <p>Deferred mitigation</p> <p>Vague mitigation</p> <p>Page 19-171, Table 19-25: Bryon Hwy. is shown has having significant construction-related transportation impacts for the analysis period of 6 AM to 7 PM. However, the mitigation measures basically state the following:</p> <ul style="list-style-type: none"> --Implement a site-specific traffic management plan (TMP) --Limit hours or amount of construction activity on congested roadway segments --Make good faith efforts to enter into mitigation agreements to enhance capacity of congested roadway segments <p>These mitigation measures are woefully inadequate. First of all, Mitigation Measure TRANS-1 a addresses this impact but goes into details totally unrelated to the impact such as in-water work areas (this impact is related to road vehicles) and notification of boating organizations and marinas; no-wake zone (again the impact is about road vehicles); coordination with rail providers; coordination with transit providers. The impact states "TRANS-1: Increased Construction Vehicle Trips Resulting in Unacceptable LOS</p>	<p>The proposed mitigation measures were designed to reduce significant impacts to the extent possible. Section 15126.4 of the CEQA statutes defines the requirements for mitigation measures, and states they must be fully enforceable. There is nothing in CEQA law stating that signage, barricades, flagging, notification, outreach, or other similar measures would not suffice as mitigation. Therefore, the lead agencies believe the mitigation measures proposed are adequate. Mitigation Measure TRANS-1a was developed used to address several impacts, including Impact TRANS-4, Disruption of Marine Traffic during Construction. Additionally, traffic management plans are intended to comprehensively address multiple modes, including waterborne travel. The lead agencies will adopt a Mitigation, Monitoring and Reporting Program for the proposed project upon approval. Per CEQA Code 15097, in order to ensure that the mitigation measures and project revisions identified in the EIR are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects.</p> <p>Regarding growth, growth-inducing impacts are analyzed in Chapter 30 of the Final EIR/EIS.</p>

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		<p>Conditions." Why is this TMP mentioning anything related to boating facilities?</p> <p>The mitigation is also woefully inadequate for the following reasons and the following elements of the suggested mitigation measure:</p> <ul style="list-style-type: none"> -Signage is not mitigation -Barricades are not mitigation -Use of flag people may be somewhat helpful but not much, and detouring traffic just moves the problem elsewhere -Notification is not mitigation, especially for cycling organizations and marinas as this does nothing to mitigate the congestion -Outreach is not mitigation -Alternative access routes just relocate the problem but don't solve it -Describing construction staging areas does nothing to relieve traffic congestion; -Designating areas where nighttime construction will occur does not provide mitigation (the impact is related to 6 AM to 7 PM time period) -Plans to relocate school bus drop-off zones does nothing and this issue wasn't even addressed in the impact discussion -Directing construction vehicle drivers to pull over in the event of an emergency is not a mitigation measure; this is required by law (CA Vehicle Code 2180()) and has nothing to do with relieving construction vehicle traffic congestion -Designating offsite vehicle staging does not mitigate congestion -Posting information for emergency contact does not mitigate congestion -Coordinating with rail providers or transit providers does not mitigate congestion -Posting information on 511.org does not mitigate for congestion. <p>The most egregious item in the list is "Other actions to be identified and developed as may be needed by the construction manager/resident engineer to ensure that temporary impacts on transportation facilities are minimized."</p> <p>The mitigation measures are deferred, ineffective, and not directed to the identified impact. Revise to include measures that are able to be monitored; identify the responsible parties and the timing; and identify how the measures would relieve the construction vehicle traffic congestion that has been identified as the impact where LOS impacts were significant.</p> <p>Additionally, the other two mitigation measures suggest limiting hours of construction on congested roadway segments. Do you really think this would happen? You have a long route; a truck travels through segments that are fine and ones that have been identified as congested. You can be assured that this will not happen. In addition, TRANS-1 b starts out with the words "Where feasible"this is deal killer from the start. The impact</p>	

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		<p>analysis has not even identified when congestion is not acceptable because the entire period of 6 AM to 7 PM was assessed. LOS for peak hours for intersections was not assessed as the EIR/EIS stated that routes cannot be known at this time. Without such an analysis, this so called "project-specific" mitigation measure is totally unworkable.</p> <p>The third and final mitigation measure for construction vehicle congestion is to "Make Good Faith Efforts to Enter into Mitigation Agreements to Enhance Capacity of Congested Roadway Segments". Making a good faith effort is totally unenforceable. If "capacity enhancements" are ever funded, then the growth inducing impacts of such have to be assessed and this has not been done in the EIR/EIS. The document must address what types of enhancements may occur, where and when. This is only appropriate for a project-specific EIR/EIS which this is for CM-1.</p> <p>Stating that any traffic models to be used to determine fair share costs shall be mutually agreed upon by BDCP proponents and the affected agencies creates the risk of never having such modelling done. The agency determining the models shall be the appropriate transportation agency and BDCP should have nothing to say about the models. This mitigation measure must be revised.</p>	
1679	274	<p>Topic:</p> <p>Admission that impact analysis is not complete</p> <p>Page 19-173, Line 20-21, at beginning of Mitigation Measure TRANS-1a states: "...environmental commitments identified in this EIR/EIS. This will include potential expansion of the study area identified in this EIR/EIS to capture all potentially significantly affected roadway segments." This statement implies that the impact analysis has not been complete, and that additional analysis is necessary which is not appropriate for the Project level component of the analysis. Clarify what this sentence means and why study area would need to be expanded.</p>	<p>The Lead Agencies understand that plans may evolve and want to ensure that changes are evaluated appropriately. This statement is in reference to the traffic management plans, and it is included to ensure that additional affected areas identified as part of these plans are evaluated.</p>
1679	275	<p>Topic:</p> <p>Inadequate and unworkable mitigation measure</p> <p>Page 19-181, Lines 21-17: The mitigation measure for impacts to paving conditions of roads used for construction are not adequate. Prohibitions again construction traffic using roadway segments with pavement conditions below thresholds is totally unenforceable. Mitigation Measures TRANS-2a and 2b are not workable; Only TRANS-2c might be workable. But again, as stated in Line 10 on page 19-182, making a "good faith effort" is not an enforceable mitigation measure. San Joaquin County could be saddled with the burden of worsened roads and the cost of repaving roads used for the BDCP project.</p>	<p>Please see the Response to Comment 1679-273.</p>
1679	276	<p>Topic:</p> <p>Inadequate and unworkable mitigation measure</p> <p>Impact TRANS-3: Mitigation measure TRANS-1c does not solve the problem of interference with emergency routes during construction. As stated above, "making a good faith effort" for anything is not an enforceable mitigation measure. The document must revise this mitigation measure so that it is enforceable and identify who is to do what and</p>	<p>The Lead Agencies acknowledge that Mitigation Measure TRANS-1c will not address all impacts on emergency routes and note that this impact may be significant and unavoidable (Draft EIR/EIS Chapter 19, Transportation, page 19-70). The Lead Agencies believe this measure is enforceable as written.</p>

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		when it's to be done.	
1679	277	<p>Topic:</p> <p>Inadequate and unworkable mitigation measures</p> <p>Impact TRANS-6: The mitigation measures related to transit interruptions just refer back to Mitigation Measure TRANS-1 a, b, and c. As stated above, these are woefully inadequate and unenforceable.</p>	<p>The Lead Agencies acknowledge your concerns about transit impacts and seek to avoid delays or detours to transit. Mitigation Measure TRANS-1a includes provisions to develop, where feasible, daily construction time windows during which transit operations would not be either detoured or significantly slowed. However, the agencies acknowledge that in some cases disruption may not be possible to avoid.</p>
1679	278	<p>Topic:</p> <p>Impact analysis fails to address significance criteria as required by CEQA Guidelines</p> <p>Inadequate coverage of CEQA Significance Criteria: The EIR/EIS fails to address the following criteria as required by the CEQA Guidelines:</p> <ul style="list-style-type: none"> -Conflict with applicable plan or policy related to effectiveness of the performance of the circulation system -Conflict with an applicable congestion management program -Increase in hazards due to a design issue -Conflict with adopted plan/policies related to bike use, transit, or pedestrian facilities or decrease the safety of such facilities. <p>This entire section must address the required significance criteria.</p> <p>In addition, it must analyze and disclose increased traffic and congestion on I-5, I-205, I-580, and I-80 that will occur because of admitted heavy construction traffic on Delta highways: SR-12 and SR-4.</p>	<p>Under CEQA, proposed projects' inconsistency with applicable plans, absent related physical effects, are not "environmental" effects cognizable under CEQA. Thus, adopted plans are relevant to CEQA analyses only to the extent that they indirectly relate to the occurrence of actual effects on the physical environment. Although the significance thresholds set forth on pages 19-36 and 19-37 of the EIR/EIS Transportation Chapter do not use the precise wording mentioned by the commenter, the chapter does cover the subject matter addressed by that wording: traffic levels of service, public safety, bicycle usage, transit service, and pedestrian facilities. For example, impact analyses concerned with effects on local and state "level of service" policies address consistency with plans or policies related to the effectiveness of the circulation system, as is evident from Table 19-7 on pages 19-37 through 19-39, which lays out the LOS policies of various local jurisdictions as well as Caltrans. Notably, Impact TRANS-11 addresses the compatibility of proposed water conveyance facilities and conservation measures with a host of relevant plans and policies. To the extent that affected bicycle and transit routes are affected by the proposed alternatives and mitigation measures, the analyses of impacts on those routes account for any physical effects that might be related to plan inconsistencies. The Lead Agencies are unaware of any Congestion Management Plans in the affected areas by project-related traffic with which the proposed action alternatives or proposed mitigation measures would be inconsistent.</p> <p>As discussed in Appendix 19A, Traffic Study, page 31, segments were selected as follows. Beginning in January 2012, agencies were first contacted regarding the general approach and methodology intended for both the traffic operations and pavement conditions assessment related to construction impacts. Agencies were sent the list of study segments for review and comment. In one case, study segments were adjusted within a jurisdiction to be consistent with current truck routing practices. Subsequently, agencies were requested to supply readily available existing pavement condition information to populate Table 5 in the previous section. Agency representatives were also asked about potential mitigation approaches to address potential pavement condition impacts. Through this outreach, sample mitigation approaches used for similar projects were obtained. Table 6 in Appendix 19A identifies all agencies contacted as part of this outreach effort.</p>
1679	279	<p>Topic:</p> <p>Inadequate impact analysis;</p> <p>Lack of substantial evidence</p> <p>Impact TRANS-8: The EIR/s fails to provide substantial evidence of why traffic generated during project operations would be less than significant. There is no data on number of workers, number of trips, or times/days of trips. The document must provide this important information.</p>	<p>The analysis presumed a worst-case scenario, applying all construction truck and employee trips to each analysis hour from 6 AM to 7 PM. Details of how construction trips were calculated are provided in Final EIR/EIS Appendix 19A. This appendix references Appendix 22A, which discusses matching of the schedule with construction activities.</p>
1679	280	<p>Topic:</p>	<p>Please refer to Master Response 2 regarding program level and project level analysis in the EIR/S. Also, please note that the new preferred alternative, 4A, no longer includes large-scale habitat restoration and will not be implemented as an HCP. Instead, restoration will be included as environmental commitments to</p>

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		<p>Inadequate impact analysis</p> <p>Piecemealing of project</p> <p>Impact TRANS-10: This impact analysis fails to provide any information related to traffic impacts associated with CM2-22. Doing a qualitative analysis for project elements that are intricately linked with the success of CM1 is another example of piecemealing the project and failing to adequately assess all project impacts.</p> <p>Restoration efforts; creating wetlands; construction worker vehicles, etc. will have large impacts related to construction vehicles hauling dirt and other materials. The EIR/EIS needs to identify where such trucks may travel and how many may use local roads. The impacts on LOS and pavement conditions need to be addressed. Just concluding that the impact could possibly be significant and unavoidable does not relieve the authors of the responsibility of doing an adequate impact analysis. And again, the reference to Mitigation Measures TRANS-1a, b and c is woefully inadequate. It is as if the authors were trying to create one "catch-all" mitigation measure that could be used for multiple identified impacts rather than gearing the mitigation measures to the specific impact. The result is that the mitigation measures are far too generalized and vague to make them worth anything.</p>	<p>mitigate potential effects of the preferred alternative consistent with state and federal laws and regulations.</p>
1679	281	<p>Topic:</p> <p>Incomplete analysis</p> <p>General: Has the transportation analysis evaluated the transportation impacts of trucking in the water for the concrete batch plants and operations which are estimated to need approximately 47 million gallons of potable water. Many of the locations are not near a source of potable water.</p>	<p>Final EIR/EIS Chapter 19, Transportation and Chapter 22, Air Quality and Greenhouse Gases incorporated the need for water trucks in the analyses. Please refer to Appendix 22B, Air Quality Assumptions.</p>
1679	282	<p>Topic:</p> <p>Inappropriate use of predictions rather than reliance on substantial evidence</p> <p>Chapter 20. Public Services and Utilities</p> <p>Page 20-35: Lines 31-41: In terms of the No Action Alternative, the EIR/EIS states that "the Lead Agencies have made some informed judgments about what might happen outside the immediate SWPICVP context during such an extended time period. For example, it is highly improbable that, over the course of nearly five decades, water systems throughout California will not change in numerous relevant ways. Since such changes could affect how the SWP and CVP under the BDCP would operate within a larger water supply framework, the Lead Agencies have attempted to identify the predictable or foreseeable actions of California water suppliers other than DWR and Reclamation under a long-term scenario in which a BDCP is not approved or implemented. "</p> <p>What defines "informed judgments"? This is about predictions, not informed judgments. It is not explained how it is justified to state that under the No Action Alternative, that services and utilities are likely to be maintained at required levels until 2060. The EIR has major flaws related to trying to predict what is likely to occur between now and 2060. That time period is highly unrealistic in terms of meaningful impact analysis. How was this time horizon chosen?</p>	<p>See Master Response 1 for a discussion of how assumptions were made for the No Action Alternative analysis. For alternatives, a No Action Alternative at 2060 was used as the NEPA point of comparison because those alternatives sought a 50 year permit term, therefore the project was modeled and analyzed at 50 years from the time of the NOP. A No Action Alternative at 2025 was used for the non-HCP alternatives (Alternatives 4A, 2D and 5A) because those alternatives are seeking a shorter permit term.</p>

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1679	283	<p>Topic:</p> <p>Inadequate impact analysis</p> <p>Page 20-115, Lines 25-38: Nowhere does the EIR/EIS address the potential change in emergency response times or the adequacy of response times related to provision of fire/police services. While the project may incorporate safety plans to reduce need for emergency response, there are always unexpected emergencies that can arise during construction. Given the isolated nature of the water conveyance alignment alternatives, and the lack of fire/police stations in the area (as shown in Figures 20-1 and 20-2), the EIR/EIS has failed to identify the impacts related to emergency response times and the potential for new facilities to serve the project. At a minimum, the EIR/EIS needs to address the emergency response times to all areas of proposed construction, including concrete batch plants, electrical transmission substations, pipeline routes, and other project elements. At a minimum, the most isolated location of construction should be clearly identified to assess the emergency response time to such a location.</p>	<p>Implementing the proposed conservation components would not result in effects associated with the need to construct new government facilities as a result of increased need for public services (i.e., law enforcement, fire protection, emergency responders, hospitals, public schools, libraries). Because the location for the implementation of conservation activities is not known at this point, it is not possible to determine the most isolated location of construction. See Table 19-11 for a list of emergency routes identified within the Plan Area. Construction of the proposed project would not result in significant impacts to response time from emergency services and is therefore not evaluated further in the Final EIR/EIS. Specific information on geographic service areas, service goals, and dispatch locations for each of the fire protection entities with stations or facilities in the Plan Area is summarized in Table 20A-2 in Appendix 20A. The analysis identified in this comment addresses the potential for public service demand to increase because of an influx of construction workers to the service area. The potential for increased demand for these services does exist but would be reduced by implementing environmental commitments to reduce the potential for hazards and safety issues. These measures are considered adequate for the purpose of reducing these potential impacts to a not adverse and less-than-significant level. The Lead Agencies acknowledge that the potential for unknown emergencies or safety issues may occur at some level but likely would not result in a substantial increase in service demands because of the environmental commitments implemented as part of the project. Please refer also to Chapter 19, Transportation for a discussion of emergency access effects and Chapter 24, Hazards and Hazardous materials for additional discussion of these issues.</p>
1679	284	<p>Topic:</p> <p>Inconsistent data/impact analyses</p> <p>Conflicting statements</p> <p>Page 20-120: Lines 20-21: The EIR/EIS states that new wastewater treatment facilities would not be required. However, this is in direct contradiction to the statement on page 20-119, Line 40, which states that concrete batch plants would have onsite treatment for wastewater. CEQA does not distinguish between a municipal and a private/State treatment facility. The project does require wastewater treatment facilities, the construction of which could result in environmental impacts. Because these are integral to the water conveyance facilities, which are addressed at a project level of analysis, these treatment facilities need to be addressed herein, using the identified significance criteria.</p>	<p>Please see Response to Comment 1679-243.</p>
1679	285	<p>Topic:</p> <p>Missing essential information</p> <p>Chapter 24. Hazardous Materials</p> <p>Page 24-4, Lines 15-18: The EIR/EIS states, "no comprehensive area-wide soil or sediment sampling program is known to have been conducted to evaluate pesticide residues from agricultural use." given the large-scale impacts of both the Project (CM1) and Program (CM2-22) in terms of moving (25 million cy) and wetting (up to 65,000 acres) agricultural soils, which could release pesticides to the water column, a sampling program must be conducted. Absent this data, the EIR cannot adequately determine either the context or intensity of impacts, as required under both CEQA and NEPA. The document must provide the needed data.</p>	<p>Please see Master Response 2 regarding why the EIR/EIS has successfully achieved project-level analysis for Conservation Measure 1.</p> <p>The environmental commitment (also Avoidance and Minimization Measure 6), "Disposal and Reuse of Spoils, Reusable Tunnel Material (RTM), and Dredged Material", includes measures for handling, storing, beneficial reuse, and disposing of excavation or dredge spoils and RTM, including procedures for the chemical characterization of this material or the decant water to comply with permit requirements. Further, under Mitigation Measure HAZ-1a, "Perform Preconstruction Surveys, Including Soil and Groundwater Testing, at Known or Suspected Contaminated Areas within the Construction Footprint, and Remediate and/or Contain Contamination", the project proponents will perform preconstruction hazardous waste investigations at properties to be acquired for construction associated with the project. Areas to be excavated as part of construction (e.g., for water conveyance facilities, shaft locations, concrete batch plants, intake locations, RTM areas, staging areas, forebays, borrow and spoil sites, barge unloading, restoration activities, and other appurtenant facilities) where historical contamination has been identified or where contamination is suspected (e.g., as evidenced by soil discoloration, odors, differences in soil</p>

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			<p>properties, abandoned underground storage tanks) will undergo soil and/or groundwater testing at a certified laboratory provided that existing data is not available to characterize the nature and concentration of the contamination.</p> <p>Habitat restoration actions will result in some level of mobilization of pesticides. As discussed in BDCP Appendix 5D, "Contaminants", given current information, it is not possible to estimate the concentrations of various pesticides that may be mobilized, but review of the conceptual models indicates that the effects should be limited both temporally and spatially. The majority of insecticides used in the Delta fall into three families—organochlorines (including dichlorodiphenyltrichloroethane), which were used historically and now are banned, and pyrethroids and organophosphates, which are currently in use. Because these pesticides tend to bind to particulates they would be expected to settle out of the water column. The broad environmental effects of the overall BDCP conservation strategy (CMs 2-22) were evaluated at a program level of analysis. The BDCP conservation strategy incorporates an adaptive management process that is designed to facilitate and improve decision making during the implementation of the project. This process entails identifying adjustments and modifications to the BDCP as new information becomes available over time. For additional discussion of the other conservation measures which may require additional environmental review, see Appendix 31A of the Final EIR/EIS. CM2–CM21 are described in detail in Chapter 3 of the Final EIR/EIS, Section 3.4, as well as in the BDCP.</p> <p>Additionally, the preferred alternative is now Alternative 4A and no longer includes an HCP. Therefore, under this alternative there would be substantially fewer acres of habitat enhanced and restored thereby reducing the amount of contaminant release.</p> <p>For detailed responses 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>
1679	286	<p>Topic:</p> <p>Deferred analysis and mitigation</p> <p>Inadequate information on existing conditions</p> <p>Page 24-4, Lines 29-38: This section notes that above-ground and underground storage tanks and other potential hazardous materials facilities may exist in the project area. However, no surveys have been done of the conveyance facility alignment for these potential sources of hazardous materials. While deferral of this analysis may be acceptable at a program level, such a survey is required to identify potential impacts for a project-level EIR on the conveyance facilities. The document must provide the needed information to provide an adequate impact analysis.</p>	<p>As indicated in Chapter 24 of the Draft EIR/EIS, using GIS methods, mapped locations of sites of concern identified in the 2009 ISA (Appendix 24A of the Draft EIR/EIS) were overlain with the current alignment alternatives for each of the water conveyance facilities construction footprints to assess the relative risk of encountering contaminated soil or groundwater during clearing, grading, excavation, and construction of the action alternatives. A corridor-specific environmental site assessment will be implemented prior to commencement of construction of water conveyance construction activities to identify recognized environmental conditions, including underground storage tanks and other potentially hazardous materials facilities.</p> <p>In addition, please see Master Response 2 regarding why the EIR/EIS has successfully achieved project-level analysis for Conservation Measure 1.</p>
1679	287	<p>Topic:</p> <p>Deferred analysis and mitigation</p> <p>Admission that impact analysis is not complete</p> <p>Page 24-6, Lines 3-7: States that abandoned oil and gas well may pose hazards as they may act as conduits for natural gas to the surface. The discussion goes on to state, "the locations of many abandoned or shut-in wells may be unknown due to inadequate or missing data or poor record keeping." A project level EIR for the conveyance facilities must identify these hazards and not defer this work to future study. There would be no more future study under CEQA if this EIR were certified as the project-level assessment</p>	<p>Please see Master Response 2 regarding why the EIR/EIS has successfully achieved project-level analysis for Conservation Measure 1.</p> <p>Also, engineering reconnaissance has identified active and inactive oil and gas wells within construction footprints of the action alternatives and these are identified in Ch. 24, Hazards and Hazardous Materials. In addition, as discussed in the 2013 Public Draft EIR/EIS Chapter 24, "Hazards and Hazardous Materials", of the EIR/EIS, the average depth of natural gas developmental wells in the United State is approximately 6,500 feet, and the average depth of natural gas exploratory wells is approximately 6,800 feet (U.S. Energy Information Administration 2014). The proposed water conveyance tunnel(s) would be constructed at depths of approximately 100 to 160 feet below mean sea level (the final depth and profile of the tunnel(s) would be set in the preliminary design phase for Conservation Measure 1, after detailed geotechnical investigations have been completed). Therefore, it is unlikely that gas wells would be encountered by tunnel</p>

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		for the conveyance facilities.	<p>boring machines. In addition, pre-construction subsurface geotechnical investigations will be done at selected locations along the water conveyance alignment and the associated appurtenant facilities (e.g., river intakes, pumping plants, construction and vent shafts, forebays). The proposed subsurface exploration will primarily consist of both field tests and laboratory soil sample testing. The field tests will consist of soil borings, cone penetration testing, seismic profiling, pressure meter testing, excavation of test pits, installation of piezometers and groundwater</p> <p>extraction wells, dissolved gas sampling, and conducting bore-hole permeability tests.</p>
1679	288	<p>Topic:</p> <p>Admission that impact analysis is not complete</p> <p>Page 24-7, Lines 12-25: This discussion acknowledges that information regarding transportation of hazardous materials through the study area was not obtained. At a minimum, this section should address the types of materials that are likely to be transported through the region, and where the transportation routes would be.</p>	<p>Types of materials that are likely to be transported through the study area are identified in Chapter 24, Section 24.1.2.6 (Hazardous Materials Transportation) of the 2013 Public Draft EIR/EIS. This section also identifies locations of pipelines present in the study area, identifies railroads that may transport hazardous materials through the study area, and the types of commodities generally carried by these railroads, and identifies designated hazardous materials routes in the study area.</p> <p>Detailed information was not available due to security and proprietary reasons. Attempts to obtain detailed information were met with non-disclosure responses, presumably due to proprietary and security concerns. In the wake of the terrorist attacks of September 11, 2001, the Department of Transportation's (DOT) Research and Special Programs Administration (RSPA), which has regulatory authority over all modes of hazardous materials transportation, published the HM-232 final rule on March 25, 2003.</p>
1679	289	<p>Topic:</p> <p>Deferred analysis and mitigation</p> <p>Admission that impact analysis is not complete</p> <p>Pages 24-31: The EIR acknowledges that the Phase 1 Site Assessment was for a different set of conveyance facility alignments than are considered in this EIR/EIS, but fails to tell the reader what the differences are and how that may affect the applicability of that site assessment to the currently proposed conveyance project. The EIR/EIS then defers preparation of a corrected Phase 1 Assessment until after the conveyance project is approved, stating, "The locations of these three alignments under consideration in 2009 differ somewhat from the four alignments being considered in this impact analysis. As such, once a BDCP conveyance alternative is chosen, a conveyance- alignment-specific (i.e., site-specific) Phase 1 ISA will be performed prior to construction."</p> <p>This deferral is impermissible given 1) the uncertainty as to whether the existing Phase 1 study is applicable to the current proposal, and 2) the potential impacts of the project at this massive scale.</p> <p>The EIR notes that the Phase 1 ESA failed to follow standard practice in that it lacks landowner interviews. The EIR also states, "Further, Although the ISA identified Recognized Environmental Conditions (RECs), the limited scope of this ISA allowed only for recognition of "sites of concern" (SOCs). Many of these SOCs constitute RECs for the study area, while others that might be RECs have insufficient information at this time to make that determination".</p> <p>This is a fancy way of saying that many potential contaminated sites may have been missed by the ESA prepared for the prior alignments.</p> <p>The analysis needs to be redone for this EIR/EIS.</p>	<p>Final EIR/EIS Figure 1 in Appendix 24A provides a map showing the three conveyance alignments being considered when the 2009 ISA was conducted. Figures 3-2, 3-4, 3-6, 3-9, and 3-16 show the currently proposed pipeline tunnel alignment, the east alignment, the west alignment, the modified pipeline tunnel alignment, and Through Delta/Separate Corridors, respectively. The information provided in the 2009 ISA is sufficient to identify the range of hazards and hazardous materials that should be considered in the study area. See Master Response 2 regarding level of detail provided in the EIR/EIS and landowner cooperation regarding environmental surveys.</p> <p>Once a conveyance alternative is chosen, a conveyance-alignment-specific (i.e., site-specific) Phase 1 ISA will be performed prior to construction. A final determination of whether a site constitutes a Recognized Environmental Conditions will be made later in the process, when a corridor-specific ISA is performed that includes more detailed site-specific ASTM-compliant Phase I investigation when an alignment (EIR/EIS alternative) is chosen.</p>

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1679	290	<p>Topic:</p> <p>Inadequate impact analysis; Lack of substantial evidence</p> <p>Page 24-34, Section 24.3.2, Determination of Effects: The Determination of Effects discussion is inconsistent with the "Construction Effects" discussion on P. 24-31. The document must clarify which criteria are being used in the impact analysis.</p>	<p>The construction effects section is not intended to present impact criteria. It is intended only to identify for the reader the general types of effects that could result from project-related construction activities. Section 24.3.2, Determination of Effects, presents/describes the eight criteria used to determine whether implementation of an alternative would have the potential to result in significant or adverse impacts to the public or environment. Potential project effects resulting from not only construction activities, but project operations as well as other project activities including restoration/enhancement are evaluated against these criteria, as stated in Section 24.3.2.</p>
1679	291	<p>Topic:</p> <p>Inadequate impact analysis</p> <p>Page 24-36, Lines 24-45; Page. 24-37, Lines 1-10: This discussion claims that the project would comply with County plans but fails to provide any documentation of such compliance. It lists mitigation measures but fails to connect mitigation measures to the specific impact or evaluate their effectiveness. The mitigation measures are far too generalized and vague to assure mitigation to a less-than-significant level, and the conclusion of policy compliance is unsupported by fact.</p> <p>In addition, the SWPPP, HMMP, and spoils treatment measures are not specific enough to assure adequate treatment of the 25 million cy of tunnel spoils proposed for reuse or disposal. There is no project-level analysis of this issue, despite it being a critical component of the conveyance facility construction.</p>	<p>In the text that the commenter refers to regarding mitigation measures, the text states that the mitigation measures are to protect soil, surface water, groundwater, and sensitive receptors which are assessed under Impacts HAZ-1, HAZ-2, HAZ-6, and HAZ-7. The Lead Agencies respectfully disagree with the commenter's assertion that the mitigation measures are too general. For example, Mitigation Measure HAZ-1a and 1b call for preconstruction surveys, including soil and groundwater testing, and pre-demolition surveys to identify/characterize hazardous materials within the construction footprint. These are site-specific measures which consist of quantitative analyses. Moreover, the impacts would not only be minimized by these mitigation measures, but also by the environmental commitments discussed within the impact analysis and described in detail in Appendix 3B.</p> <p>Also, please see Master Response 11 regarding project compliance with city and county general plans, regulations and ordinances.</p>
1679	292	<p>Topic:</p> <p>Inadequate setting and impact discussion</p> <p>Project-level analysis for CM-1 not complete</p> <p>Page 24-46, Lines 27-45. The discussion of potential soil contamination begins with, "The lateral and vertical extent of any historical soil-, sediment- or water-based contamination within or near the construction footprint is unknown. Although, where it exists, soil contamination is likely to be highly localized, while groundwater contamination could have migrated substantial distances and therefore be more widespread than soil contamination.</p> <p>Locations of known oil and gas processing facilities (Figure 24-1) are considered a separate category of SOC due to the potential for spills and leaks at these locations. The lateral and vertical extent of any existing contamination that may be present at these sites is unknown. The number of SOCs may change during right-of-way evaluation, land acquisition and preconstruction site-clearance investigations or during construction.</p> <p>Additional SOCs may be identified during these activities, and currently identified SOCs may be determined innocuous after site-specific field investigation and testing."</p> <p>The text goes on to state, "It is likely that contaminated sediments (e.g., persistent pesticide- and mercury-contaminated sediments) would be resuspended during sediment-disturbing activities related to in-river construction activities (e.g., cofferdam construction at intake sites). However, concentrations of potential contaminants in the sediments where in-river construction activities would be taking place are not known; therefore, the associated risk cannot be identified. "</p>	<p>Please see Master Response 2 regarding why the EIR/EIS has successfully achieved project-level analysis for Conservation Measure 1.</p> <p>As indicated in Chapter 24, Hazards and Hazardous Materials, of the 2013 Public Draft EIR/EIS, once a conveyance alternative is chosen, a conveyance-alignment-specific (i.e., site-specific) Phase 1 ISA will be performed prior to construction. A final determination of whether a site constitutes a Recognized Environmental Conditions will be made later in the process, when a corridor-specific ISA is performed that includes more detailed site-specific ASTM-compliant Phase I investigation when an alignment (EIR/EIS alternative) is chosen.</p>

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1679	293	<p>Page. 24-47, Lines 14-41 list programmatic Environmental Commitments but provide no analysis as to how they would be applied at a project level, how well they would work to reduce impacts, or even if they would be implemented (for example, line 36 starts, "To the extent feasible, action alternative design would minimize the need to acquire or traverse areas where the presence of hazardous materials is suspected ..." Who determines what's feasible and on what basis? If it's not feasible, then what?.</p> <p>This is an inadequate setting and impact discussion upon which to base a project-level impact assessment of the conveyance facilities.</p>	<p>Once a project conveyance alternative is chosen, a conveyance-alignment-specific (i.e., site-specific) Phase 1 ISA will be performed prior to construction. A final determination of whether a site constitutes a Recognized Environmental Conditions will be made later in the process, when a corridor-specific ISA is performed that includes more detailed site-specific ASTM-compliant Phase I investigation when an alignment (EIR/EIS alternative) is chosen.</p> <p>The RDEIR/SDEIS Appendix 3B, Environmental Commitments, provides explanations as to the effectiveness of each environmental commitment.</p> <p>Action alternative design would minimize the need to acquire or traverse areas where the presence of hazardous materials is suspected, to the extent feasible. If DWR engineers determine that it is not feasible to alter the design of the water conveyance alignment or associated facilities where the presence of hazardous materials is suspected, impacts related to hazards and hazardous materials would be minimized or avoided with the implementation of Mitigation Measure HAZ-1a and HAZ-1b (as described in Chapter 24, Hazards and Hazardous Materials).</p> <p>Please see Master Response 2 regarding why the EIR/EIS has successfully achieved project-level analysis for Conservation Measure 1.</p>
1679	294	<p>Topic:</p> <p>Inadequate setting and impact discussion</p> <p>Deferral of mitigation measures</p> <p>Page 24-48, Lines 6-41. This section needs to tell the reader which chemical will be used in drilling, how much of each chemical is likely to be used, and which treatment methods for the tunnel spoils (which appears to be euphemistically referred to as Reusable Tunnel Material, whether or not it is actually found to be reusable) would be applied. What constituents may be in the decant liquid (lines 42-44)?</p> <p>Also, this text refers to a very large storage facility, the impacts of which have not been identified. As discussed in comments above, the EIR estimates that about 25 million cubic yards of material will be stored and treated for reuse. This could result in hundreds of acres of land used for storage and treatment of potentially contaminated drilling spoils. For comparison, the proposed Forward Landfill expansion included about 32 million cy of material on nearly 200 acres, and would have formed hills over 170 feet high. Revise to address in detail the potential impacts associated with spoils storage and reuse areas, at a site-specific level, as required for a project-level assessment.</p> <p>Specifically, the following must be addressed:</p> <p>--More clearly define "Reusable". We presume it is non toxic, but can it be used as agricultural soil (not likely), as levee construction material (not too likely either) or simply for filling in subsided islands, and if so, what land uses could such islands support?</p> <p>--Clarify the location of where spoils disposal will or may be placed if it is in fact "Re-used".</p> <p>--Explain whether the areas shown as cross-hatched tan (RTM) on Fig. M3-4 are permanent features or not.</p> <p>--Clarify and provide evidence that there is barge access for all sites: source, temporary</p>	<p>In response to comment regarding RTM and use, as described in Chapter 3, Description of Alternatives, DWR recently conducted a study to determine for what beneficial uses the RTM might be suitable based on chemical and physical characterization. To this end, laboratory tests were conducted on a mixing native soil samples collected from the potential tunnel zone with representative soil conditioner products to measure the following qualities of RTM:</p> <ul style="list-style-type: none"> • Geotechnical properties to evaluate constructability if used as structural fill, • Environmental properties to characterize potential toxicity if placed in the environment, and • Planting suitability to assess sustainability for habitat growth and agricultural use. <p>While the study consisted of a limited number of samples and tests, and does not constitute a complete evaluation of RTM, based on the results of the geotechnical, environmental, and planting suitability tests, DWR concluded that RTM, following storage and drying, appears to be suitable for the following beneficial uses:</p> <ul style="list-style-type: none"> • Strengthening Delta levees identified for maintenance and repair • Habitat restoration • Fill on subsiding Delta islands • Structural fill for construction of conveyance facilities. <p>Soil conditioner products vary and are typically selected by the tunneling contractor. The contractor would need to chemically characterize RTM and associated decant liquid prior to reuse or discharge. Consultation with governing regulatory agencies would be required to obtain the necessary approvals and permits. Also see Master Response 12 regarding RTM.</p> <p>Precise locations for reuse of RTM and spoils have not been identified at this time. Temporary barge unloading facilities would be constructed at locations adjacent to construction work areas along the conveyance alignments. Locations of barge unloading facilities are identified in Chapter 3, Description of</p>

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		<p>storage, and ultimate placement. If trucks will be needed, where in the EIR/EIS has this been analyzed and reported in regard to transportation and air quality impacts.</p> <p>--Clarify and provide evidence that the barge traffic for spoils (not equipment, which is covered) has been accounted for in terms of marine traffic and air quality.</p> <p>--There's a very large gap in treatment sites from the Potato Slough site to the Clifton Court Forebay site, with diminishing waterways how will materials be transported to the CC Forebay site? Are barges feasible or would material require trucking? Has this distance of trucking or barging been considered in the air quality and traffic analyses??</p> <p>--The Clifton Court Forebay spoils treatment facility at southern end of the conveyance facilities is quite distant from the restoration areas, which are mostly in the north delta/Cache Slough areas. How will the materials be transported there?</p> <p>--Given that spoils disposal is part of the project-level conveyance facility project, The document must provide an evaluation on a project (site- specific) basis of the treatment facility sites to determine their suitability/sensitivity of potentially affected resources?</p> <p>--What percentage of the materials is likely to be contaminated such that they require off-site hauling and disposal?</p> <p>--The document must evaluate the air pollutant and emissions and traffic effects of double hauling materials from the excavation sites to the treatment facilities and then to either reuse sites or disposal facilities.</p> <p>--The document must evaluate the capacity for any contaminated material at suitable landfills.</p> <p>Finally, this section envisions a possible landfill for contaminated materials, stating, "At a minimum, a final clean soil cover would be placed over the dewatered RTM in order to isolate any contaminants in the RTM and then seeded." Potential impacts of this long-term landfill must be assessed in detail. Instead, the analysis is improperly deferred to a future plan (see p. 24- 49, lines 1-17). The document must provide a detailed description of these facilities and their potential impacts in this EIR. (This discussion also mentions health risks of diesel emissions, which should be assessed now and not deferred.)</p>	<p>Alternatives, and in the mapbook volume.</p> <p>For the purposes of the impact analysis in the EIR/EIS, to be conservative, designated RTM storage areas are considered permanent features of the water conveyance facilities. However, there is an environmental commitment to reuse the material, which could make the RTM storage areas temporary in some cases.</p> <p>In response to comments regarding barge and hauling truck traffic air quality impacts and movement of spoils and other materials, Appendix 22B includes detailed air quality assumptions applied to the impact analysis.</p> <p>The air quality and traffic analyses account for all onsite and offsite trucking, as well as barge transport of water conveyance project-related materials, including spoils. Please refer to Chapter 19, Transportation, and Appendix 19A, Bay Delta Conservation Plan Construction Traffic Impact Analysis for details on the impact analysis and the analysis approach.</p> <p>In response to comment regarding exposure to diesel emissions from the proposed and potential health effects, Appendix 22C, Bay Delta Conservation Plan/California WaterFix Health Risk Assessment for Construction Emissions, evaluates potential human health risks from the emissions that would be produced by the construction of each alternative.</p> <p>In response to inquiry related to the percentage of materials likely to be contaminated, it is anticipated that less than 1% each of excavated spoils, RTM, and dredged material will not be suitable for reuse and will require off-site disposal at a site approved for disposal of such material.</p> <p>In response to spoils disposal and potential impacts, in the course of constructing project features, substantial quantities of material may be removed from their existing locations based on their properties or the need for excavation of particular features. These materials will require handling, storage, and disposal, as well as chemical characterization, prior to any reuse. It is anticipated that one or more of the disposal and reuse methods could be implemented on any individual spoil, reusable tunnel material (RTM), or dredged material site. Depending on which combination of these approaches is selected, implementation of material reuse plans could create environmental impacts related to ground disturbance, noise, release of hazardous materials, traffic, air quality, water quality, and Important Farmland or farmland with habitat value for covered species.</p> <p>In response to effects on landfills as a result of project-related solid waste disposal, Chapter 20, Public Services and Utilities, evaluates the project's potential impacts on landfill's in the Public Services and Utilities study area (i.e., the Plan Area and Areas of Additional Analysis), specifically, the ability of landfills to accommodate the action alternatives' solid waste disposal needs. The existing capacity of nearby landfills was determined and compared to the anticipated amount of solid waste that would be generated from each of the action alternatives. Throughout the Public Services and Utilities study area, 49 solid waste facilities have been identified (see Figure 20 4), of which 11 facilities are solid waste landfills that are permitted to receive, process, handle, and/or dispose of the following several types of materials, including contaminated soil, industrial, mixed municipal, and sludge (biosolids).</p>
1679	295	<p>Topic:</p> <p>Inadequate impact discussion</p> <p>Page 24-51, Lines 26-45. This discussion mentions possible risks associated with transportation of spoils and other materials, but does not provide any estimate of the number of trips of trucks, barges, trains, etc. that would be required to transport the 25 million cubic yards of tunnel spoils to treatment/storage sites and then re-transport those</p>	<p>See Master Response 2 regarding the level of detail provided in the EIR/EIS.</p> <p>In Chapter 24, Hazards and Hazardous Materials, of the Final EIR/EIS, the discussion of potential hazards associated with routine transport of hazardous materials provides sufficient detail so that the potential spill hazards can be understood and evaluated. The level of detail that is reasonable or feasible for a project as large and complex as the proposed project is, naturally, not the same as what could reasonably be expected for a smaller, less complex project. Text has been added in Chapter 24 of the EIR/EIS to clarify how Mitigation Measure Trans-1 would reduce the potential for potential hazards associated with the transport</p>

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		materials suitable for reuse to the reuse sites. The document must describe - will there be multiple handling of materials? How and where will these spoils be transported? How much will be transported via which mode? Describe how the vague and non-committal programmatic mitigation measure Trans-1 would be applied to the conveyance project to reduce this impact to less-than-significant level, as repeatedly claimed in this impact discussion.	<p>of hazardous materials (routine and project-specific) during construction of CM-1.</p> <p>RTM and spoil storage sites are identified in the mapbook volume.</p> <p>Please refer to Final EIR/EIS Chapter 19, Transportation, regarding vehicle trip generation and mode.</p> <p>Please see Appendix 22B in the EIR/EIS for the following information related to project-related material transportation modes, number of trips, and related information.</p> <ul style="list-style-type: none"> • Vehicle trips or miles by phase • Marine vessel operating hours by phase • Locomotive operating hours by phase • Cubic yards borrow, excavated, and dredged by phase
1679	296	<p>Topic:</p> <p>Inadequate impact discussion</p> <p>Page 24-52, Lines 6-19. This section discussed barge hazards but fails to tell the reader how many barge trips may occur, what the risk of spills or collisions is (i.e. per trip or per mile travelled), and what magnitude of impacts may occur in the event of an accident or spill. The document must add a detailed, project-level assessment of all of these issues as required for assessment of the transport of 25 million cubic yards of tunnel spoils.</p>	<p>See Master Response 2 regarding the level of detail provided in the proposed project.</p> <p>In Chapter 24, Hazards and Hazardous Materials, of the Final EIR/EIS, the discussion of potential hazards associated with barge transport of construction materials and equipment of hazards provides sufficient detail so that the potential spill hazards can be understood and evaluated. The level of detail that is reasonable or feasible for a project as large and complex as the proposed project is, naturally, not the same as what could reasonably be expected for a smaller, less complex project.</p> <p>Please refer to Chapter 19, Transportation, of the EIR/EIS, regarding vehicle trip generation and mode.</p>
1679	297	<p>Topic:</p> <p>Unsupported impact significance conclusions</p> <p>Page 24-53, Lines 21-27, 37-38, 44. There's no connection between these conclusions and the preceding discussion - just a statement of generic impacts, a statement of generic Best Management Practices, and a conclusion. Provide the analytical nexus from the discussion of impacts through the mitigation measures supporting the conclusion. Revise the conclusion as necessary.</p>	<p>As the commenter indicated, the text referred to is a summary of the impacts described under Impact HAZ-1 (the analysis preceding this brief summary paragraph). The mitigation measures listed (i.e., Mitigation Measures HAZ-1a, HAZ-1b, UT-6a, UT-6c, and TRANS-1a) were described in the impact analysis preceding this impact, therefore, the description was not repeated in full again. The text has been revised slightly to indicate that it is general summary text Impact HAZ-7. Additionally, text in the impact discussion preceding the summary text was revised to indicate that were any of the potentially hazardous conditions to occur, the impact would be considered adverse/significant. The conclusion was not revised.</p>
1679	298	<p>Topic:</p> <p>Improper deferral of impact assessment and mitigation to future studies</p> <p>Page 24-54. Mitigation Measure HAZ-1a and HAZ-1b improperly defer impacts analysis to future studies.</p>	<p>See Master Response 2 regarding why the EIR/EIS has successfully achieved project-level analysis for Conservation Measure 1. DWR has taken actions to obtain access to land in the Delta for the purpose of conducting environmental surveys to be used in environmental review. DWR, however, has not been able to get access to a substantial number of the private properties that would yield relevant information. Many landowners have gone to court to prohibit access. Where permission for access is refused, an EIR may satisfy CEQA standards despite the absence of site-specific information of the kind that can only be obtained through such surveys. In such situations, it is often necessary, and perfectly appropriate, for lead agencies either to rely on environmental laws other than CEQA to assure the reduction or avoidance of significant environmental effects, or to rely on mitigation measures requiring additional analysis after project approval (and the lead agencies' acquisition of the affected private properties).</p>
1679	299	<p>Topic:</p> <p>Inadequate project description</p> <p>Page 24-64, Lines 37-38, Impact HAZ-6: Statement that, "Maintenance requirements for</p>	<p>It is primarily maintenance requirements for the tunnels which have not yet been finalized. Text was revised to make this clarification. As is explained in Chapter 3, Section 3.6.1.2, of the EIR/EIS, some of the critical considerations include evaluating whether the tunnels need to be taken out of service for inspection and, if so, how frequently. Typically, new water conveyance tunnels are inspected at least every 10 years for the first 50 years and more frequently thereafter. In addition, the equipment that the facility owner must put</p>

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		<p>several of the water conveyance facilities features (e.g., tunnels) have not yet been finalized. " indicates that the project description is inadequate to conduct a project-level CEQA and NEPA evaluation. You must add missing information and reassess the impact.</p>	<p>into the tunnel for maintenance needs to be assessed so that the size of the tunnel access structures can be finalized. Equipment such as trolleys, boats, harnesses, camera equipment, and communication equipment would need to be described prior to finalizing shaft design, as would ventilation requirements.</p> <p>Please see Master Response 2 regarding why the EIR/EIS has successfully achieved project-level analysis for Conservation Measure 1.</p>
1679	300	<p>Topic:</p> <p>Inadequate impact discussion.</p> <p>Unsupported impact significance conclusions</p> <p>Page 24-67, Lines 39-43, Page 24-68, Lines 1-45: CM2 involves tens of thousands of acres of restoration projects with potential to affect gas wells, gas facilities, transport impacts, etc. The "analysis" of the potential impacts of this massive construction is limited to one page of generic statements regarding possible effects, with no assessment of the possible magnitude or intensity of the impacts. Instead, vague mitigation measures are assumed (but not shown) to reduce these impacts to a less than significant level. Provide a detailed discussion of potential impacts for each possible contaminant, considering the overall impact on specific sensitive areas and resources. Note that a simple statement of the type of impact that may occur is not an adequate assessment because CEQA/NEPA require a determination of the context and intensity of impacts, neither of which is provided here.</p>	<p>The broad environmental effects of the overall BDCP conservation strategy were evaluated at a program level of analysis. Design information for the restoration and conservation strategies for aquatic and terrestrial habitat and other stressor reduction measures in CM2–CM21 is currently at a conceptual level. Accordingly, the analyses in this EIR/EIS address the effects of typical construction, operation, and maintenance activities that would be undertaken for implementation of CM2–CM21 at a program–level of analysis, describing what environmental effects may occur in future project phases. If the lead agencies decide to move forward with one of the alternatives involving an HCP, additional, project-level environmental review will be completed as necessary prior to implementation of specific conservation measures other than CM1. Please note that the preferred alternative is now Alternative 4A and no longer includes an HCP component.</p> <p>See also Master Response 2 regarding detail necessary for impact evaluation.</p>
1679	301	<p>Topic:</p> <p>Inadequate impact discussion</p> <p>Unsupported impact significance conclusions</p> <p>Page 24-69, Lines 27-34, Page 24-70, Lines 26-45: These discussions, referring to potentially contaminated sites and worker exposure, state." However, because locations within the eleven conservation zones (described in Chapter 3, Description of the Alternatives) for implementing most of the conservation measures have not yet been determined, it is not known if the conservation measures would be implemented on or near "Cortese List" sites. Project design would minimize, to the extent feasible, the need to acquire or traverse areas where the presence of hazardous materials is suspected or has been verified. Implementation of conservation measures could also involve dredging Delta waterways and other activities that could disturb contaminated sediments that hold mercury, pesticides, or other constituents," and</p> <p>"The potential exists for CM2-CM11, CM13, CM14, CM16, and CM18 to result in effects related to the release of or exposure to hazardous materials or other hazards. The potential for these kinds of effects is considered adverse because implementation of these conservation measures would involve extensive use of heavy equipment that could unintentionally result in the release of hazardous substances or that could expose construction workers or members of the public to hazards. Construction of restoration projects on or near existing agricultural and industrial land may result in a conflict or exposure to known hazardous materials."</p>	<p>Locations for restoration and preservation actions within the conservation zones have not been specifically identified at this time. Design information for the restoration and conservation strategies for aquatic and terrestrial habitat and other stressor reduction measures in CM2–CM21 is currently at a conceptual level. Accordingly, the analyses in this EIR/EIS address the effects of typical construction, operation, and maintenance activities that would be undertaken for implementation of CM2–CM21 at a program–level of analysis, describing what environmental effects may occur in future project phases.</p> <p>Additionally, the preferred alternative is now Alternative 4A and no longer includes an HCP. Therefore, under this alternative there would be substantially fewer acres of habitat enhanced and restored thereby reducing the amount of contaminant release.</p>
1679	302	<p>Topic:</p>	<p>As the commenter indicated, the text referred to is a summary of the impacts described under Impact HAZ-7 (the analysis preceding this brief summary paragraph). The mitigation measures listed (i.e., Mitigation</p>

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		<p>Unsupported impact significance conclusions</p> <p>Pages 24-70 top 24-71: There is no connection between these conclusions and the preceding discussion - just a statement of generic impacts, a statement of generic mitigation measures and Best Management Practices, and a conclusion. The document must provide the analytical nexus from the discussion of impacts through the mitigation measures supporting the conclusion. Revise the conclusion as necessary.</p>	<p>Measures HAZ-1a, HAZ-1b, UT-6a, UT-6c, and TRANS-1a) were described in the impact analysis preceding this impact, therefore, the description was not repeated in full again. The text has been revised slightly to indicate that it is general summary text Impact HAZ-7. Additionally, text in the impact discussion preceding the summary text was revised to indicate that were any of the potentially hazardous conditions to occur, the impact would be considered adverse/significant. The conclusion was not revised.</p>
1679	303	<p>Topic:</p> <p>Support for Southern California growth</p> <p>Chapter 30. Growth Inducement</p> <p>Page 30-74; Line 6: 60 percent of the increased water would go to the South Coast Region. This is mainly a point of interest given the environmental impacts that would be experienced by San Joaquin County and adjoining counties for the proposed project.</p> <p>The No Action 2060 scenario shows an increase of 2,650,500 people, and Table 30-25 and 30-26 show that the largest percentage of growth due to BDCP would occur in the South Coast Hydrologic Region (of 8 regions addressed in the State).</p>	<p>Please refer to Section 4.3.26 of Section 4 in the RDEIR/SDEIS and Chapter 30 of the Final EIR/EIS for the analysis of growth-inducing impacts related to Alternative 4A. Compared to Existing Conditions, under Alternative 4A, the San Joaquin River region would experience an increase (H4) or no change in deliveries (H3). South Coast would either receive the largest net increase in deliveries (up to 87 TAF of 27 Table A deliveries under H3) or the largest net decrease in deliveries (a decrease of up to 170 TAF of Table A deliveries under H4) among the regions. Compared to the No Action Alternative ELT, the San Joaquin River region would experience no change in deliveries (H3 and H4). Compared to No Action Alternative ELT, under Scenario H3 and H4, South Coast would receive the largest net increase in deliveries (Table A deliveries) among the regions.</p> <p>Operations under Alternative 4A would be similar to those analyzed under Alternative 4. However, Alternative 4A is analyzed at a shorter timeframe. Anticipated water deliveries would also be similar as those observed under Alternative 4. For Alternative 4, Scenarios H3 and H4, growth potential supported by the project in the South Coast region represents the largest percentage of projected increase in population from 2010 to 2060 among the regions: 5.3% compared to Existing Conditions and 10.1% compared to the No Action Alternative for Scenario H3; and 6.2% compared to Existing Conditions and 7.5% compared to the No Action Alternative for Scenario H4.</p> <p>It is worth noting that population growth is not considered to be either beneficial or detrimental, so the South Coast region would not necessarily be benefitting at the expense of San Joaquin County.</p> <p>For water delivery modeling outputs under Operational Scenario H3+, which represents a midpoint between Scenarios H3 and H4 under Alternative 4A, please see Chapter 5 of the Final EIR/EIS.</p>
1679	304	<p>Topic:</p> <p>Misuse of future baseline</p> <p>Conjecture by using Year 2060</p> <p>Growth inducement fails to clarify why growth inducement would be significant and unavoidable</p> <p>Page 30-107 and all of Section 30 on Growth Inducement: This page of the EIR/EIS states "The planning horizon for BDCP is 2060. None of the horizon years of the General Plan EIRs reviewed for this analysis extends to 2060." If this is the case, how can this EIR/EIS justify using the year 2060 for the future baseline analysis? The reason that no General Plans extend to 2060 is that it is totally out of the range of the "foreseeable future". CEQA very clearly uses the term "foreseeable" future; and 46 years into the future is not what one would consider foreseeable. This is "conjecture" more than "foreseeable". If one goes back in time to 1968 to compare what we knew then vs. what is now happening, you would see that at that time, there was no NEPA/CEQA, no Endangered Species Act, no knowledge of toxic waste impacts; no discussion of sea level rise and climate change. How</p>	<p>Regarding the planning horizon of year 2060, while many unforeseeable events will occur between now and 2060, the general processes considered in the analysis of 2060 conditions are unlikely to go away. Population will likely continue to increase, water supply will likely continue to be a concern, and General Plans will continue to be updated. In addition, the increases in water availability estimated to occur at year 2060 will likely occur well before 2060. The 2060 modelling results are used to estimate the potential population growth inducement of the project, but the associated population growth could actually occur before 2060. In addition, the 2060 planning horizon has been used for HCP alternatives to reflect the proposed ESA permit duration presented in the BDCP. The planning horizon for the new preferred alternative (4A) is year 2025.</p> <p>Regarding General Plans finding growth impacts to be significant and unavoidable, general Plans typically include an assessment of impacts associated with housing and other development projects. These projects typically allow for population growth while simultaneously having the potential for directly environmental impacts. One purpose of General Plans and other local regulations is to control and mitigate environmental impacts associated with projects. If increases in water supply associated with the California water fix are to be translated into increases in population growth within an area, there will first need to be new construction projects to accommodate additional people. These projects could cause environmental effects, but these would be addressed on a project-by-project basis and will need to undergo their own environmental review and mitigation.</p>

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		<p>can one presume to really know what conditions will be in 2060?</p> <p>More commonly, General Plans address a 20-year future time horizon, or at most, a 30-year time horizon. Explain how the 2060 year was chosen for future baseline and how it can be justified. This EIR/EIS took it upon itself to extrapolate population projections using Department of Finance numbers from 2050.</p> <p>Finally, Section 30 of the EIR/EIS summarizes that many General Plan EIRs show future growth impacts, by topic, as significant and unavoidable. Thus, this EIR/EIS need to do the same and show growth inducement as significant and unavoidable, requiring that Findings be prepared.</p>	
1679	305	<p>Topic:</p> <p>Lack of substantial evidence</p> <p>Inadequate analysis of direct growth inducing impacts</p> <p>Section 30.3.7; Lines 13-16: Conclusions on Growth Inducement: It is concluded that construction and operation of BDCP facilities would not have any direct growth inducing impacts. In one sentence, it is concluded that construction would not result in the need for new housing or jobs in the study area. There is no substantial evidence to back up this conclusion, no cross reference to the socio-economics section of the EIR/EIS identifying the expected number of employees, the availability of local housing during the 10+ years of construction. The document should expand on this conclusion and justify why it was determined that no direct growth inducing impacts would result.</p>	<p>Section 30.3.7 is a conclusion section. More detail about potential direct growth inducing impacts is provided in Section 30.3.2.1.</p>
1679	306	<p>Topic:</p> <p>Growth inducement fails to clarify why growth inducement would be significant and unavoidable</p> <p>Section 30.3.7; Lines 17 to 41 and Page 30.3.7, Lines 1 to 19: This section points out that indirect growth inducing impacts would occur as associated with lifting a constraint to growth by the provision of reliable water supplies. Yes! And then, the text goes on to correctly state that "DWR and Reclamation lack the authority to approve or deny development projects or to impose mitigation to address significant environmental impacts associated with development projects; that authority resides with local cities and counties." What the EIR/EIS fails to say right after this is "Because the development of mitigation measures is outside of the control of the lead agency, growth inducing impacts would be significant and unavoidable and findings would need to be made." Change the text accordingly to clearly identify this as a significant unavoidable impact and make sure that this is shown in the Summary table and in the required CEQA Findings section showing this as a significant, unavoidable impact. Currently, the text does not clarify that the reason for this being significant and unavoidable is that it's outside the control of the lead agency.</p>	<p>Growth by itself is neither beneficial nor detrimental. Final EIR/EIS Chapter 30 describes the potential for the project to induce growth and discusses how increased growth could have environmental consequences. However, although the project could remove an impediment to growth, the project will not necessarily result in growth. Before growth can occur in an area, environmental review of the specific projects allowing for the growth (e.g., housing developments) would need to occur and mitigation of impacts would be required. While there is potential for the project to allow some growth to occur, that growth might not necessarily occur and, if it did, it would be the responsibility of other agencies and businesses to reduce the effects of particular development projects on the environment. Because of the speculative nature of potential growth-induced impacts and because it would be the responsibility of other agencies and businesses to reduce the effects of development projects on the environment, the last part of the final sentence of the conclusion section ("however, unavoidable impacts would still be expected to occur") has been removed because it may give the false impression that the project is taking responsibility for potential growth-related impacts. Mitigation for any such impacts would be the responsibility of the agencies or businesses in charge of individual projects.</p>
1679	307	<p>Topic:</p> <p>Growth inducement fails to clarify why growth inducement would be significant and unavoidable</p>	<p>See Response to Comment 1679-306.</p>

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		Chapter 31. Other CEQA/NEPA Required Sections Growth inducement is not shown as a significant unavoidable impact. This impact must be added.	
1679	308	Topic: Failure to identify the Environmentally Superior Alternative. Pages 31-4 to 31-8 Section 31.3 CEQA Environmentally Superior Alternative. Explaining that it is just too complex is not sufficient rationale. Discussing the pros and cons of each alternative does not relieve the lead agency from responsibility.	Please see Response to Comment 1679-177.
1679	309	Topic: Failure to treat inflexibility as an impact; in that it precludes best science/adaptive management Pages 31-4 to 31-8 Section 31.3 The discussion of the pros and cons of each alternative fails to note that for all but Alternative 9, the action alternatives are all-or-nothing, full build-out-or-nothing which eliminates the opportunity for use of adaptive management and best science to guide the action alternative's development under uncertain conditions.	According to CEQA case law, where the alternatives analyzed in the EIR allow for a wide range of choices with varying degrees of environmental impacts, the document may support the ultimate approval not only of the fully developed alternatives, but also what might be called "hybrid" alternatives whose features and impacts occur within the analytical continuum between the "bookends" created by the least-impacting and most-impacting alternatives, respectively. Although the requirements regarding the analysis of alternatives under NEPA are somewhat broader than what is required under CEQA, the scope of alternatives that are required under NEPA, like CEQA, is not unlimited. For additional detail on the alternatives that were analyzed and how an alternative will ultimately be chosen, please see Master Response 4.
1679	310	Topic: Inadequate cumulative analysis Section 3D.2.4: Cumulative Impact Analysis conditions are assessed. However, nowhere in this section of Appendix 3D does the text address why the cumulative analysis under many topics addresses Year 2060. This section does not address the methodology for identifying other projects; this section does not address how cumulative impacts may have different geographic areas used to determine cumulative impacts. For example, hydrology may assess watershed; air quality may assess projects within airsheds. However, where in the EIR is a list of "cumulative projects" identified that is the basis for all the topics (land use, agriculture, traffic, etc.)? Did the EIR/EIS rely on adopted General Plans of relevant counties? Did it rely on a list of identified pending/approved projects? This is completely unclear and needs to be explained. It also appears that the EIR/EIS confuses the No Project Alternative with the Cumulative analysis. These are two distinct items. The No Project/No Action conditions should be evaluating conditions as of the time of the EIR/EIS. The Cumulative conditions should be addressing potential future projects.	Please see Final EIR/EIS Appendix 3D for updates defining existing conditions, no action alternative, no project alternative and cumulative impact analysis for the proposed project. The Cumulative Impact Analyses that was 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 designed 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 RDEIR/SDEIS, and Chapter 11 Fish and Aquatic Resources, Chapter 12 Terrestrial Biological Resources, and Appendix 3B Environmental Commitments, AMMs, and CMs of the Final EIR/EIS. Cumulative Analysis for each resource area is included in each chapter of the Final EIR/EIS.
1679	311	Topic: Inadequate cumulative analysis Lack of data on critical land use documents Attachment 3D-A (Page 3D-26), a list of projects related to three scenarios (Existing Conditions, No Project, Cumulative) are identified. However, this is why the EIR/EIS is so confusing. These are different issues of CEQA and should not be merged. The High Speed	Please refer to Appendix 3D, of this Final EIR/EIS for more information regarding Existing Conditions, No Action Alternative, No Project Alternative, and Cumulative Impact determinations. The Delta Protection Commission's LURMP and Delta Stewardship Council's Delta Plan are included in the No Action Alternative and the Cumulative Impact analyses.

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		<p>Rail project is mentioned; and then the table shows that this project is not considered in any of the three scenarios. Why is that the case? This is a project under construction and that would be for sure operating by 2060. Why was it eliminated from cumulative? The LURMP of the Delta Protection Commission (page 30-68) is shown as not part of Existing Conditions but part of No Action and part of Cumulative. This is an existing document! Explain why this was not part of the Existing Conditions but that Biological Opinions that were adopted after the NOP are included in Existing Conditions. The same applies to the Delta Plan of the Delta Stewardship Council. These are critical documents affecting land uses in the Delta. The No Project Conditions, at a minimum, should be updated to address these two critical land use documents.</p>	
1679	312	<p>Topic:</p> <p>Inadequate cumulative analysis</p> <p>Page 3D-73, the Canada-Northwest California Transmission Project is shown as not considered in the Existing Conditions, No Action/No Project, or Cumulative Conditions. This is a clear example of they these three issues should not be discussed together. This transmission project is a perfect example of a project under consideration that could have large ramifications for the BDCP project area and that should be considered in the Cumulative analysis.</p>	<p>Please refer to Appendix 3D, of this Final EIR/EIS for more information regarding Existing Conditions, No Action Alternative, No Project Alternative, and Cumulative Impact determinations. The Canada-Northwest California Transmission Project is included in the Cumulative Impact Analysis.</p>
1679	313	<p>Topic:</p> <p>Missing information on adopted San Joaquin County General Plan</p> <p>Inadequate cumulative analysis</p> <p>Page 3D-82, San Joaquin County General Plan, shows that the San Joaquin County General Plan Update is not being considered for the Existing Conditions, No Project/No Action Conditions, or Cumulative Conditions. This is exactly what should be considered in the cumulative analysis. While the 2035 General Plan has not been adopted, the County has the 2010 General Plan which was adopted in 1992. This plan and identified land use changes should certainly be considered in the Cumulative Analysis of the EIR/EIS. The adopted General Plan for San Joaquin is not even mentioned in this table.</p>	<p>Final EIR/EIS Appendix 3D, Attachment 3DA has been updated to indicate that the San Joaquin County General Plan Update is considered for both the No Action Alternative and cumulative impact analyses.</p>
1679	314	<p>Topic:</p> <p>Lack of specificity</p> <p>Lack of detail for impact analysis</p> <p>Inadequate analysis for project</p> <p>This appendix provides the backup construction study provided by Fehr & Peers. In the first paragraph of the Introduction (Lines 5-10), the statement is made: "Identifying all the construction related activity for the BDCP with a high degree of certainty is challenging at this stage of project development for such a large and complex project." The text then goes on to say that the impact analysis is a "reasonable 'worst-case-scenario' of construction traffic" and that mitigation measures are "sufficiently broad to provide the BDCP proponents flexibility in the types of strategies that can be implemented to address construction traffic impacts"</p>	<p>The worst-case scenario is reasonable for assessing likely impacts and how mitigation should be structured.</p> <p>Please refer to Master Response 22, Mitigation and Environmental Commitments and program versus project level environmental analysis in Master Response 2.</p>

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		<p>This introductory wording does not give the reader confidence that the analysis is at all accurate or that the mitigation measures are geared towards likely impacts. If the entire EIR/EIS were at a programmatic level, this might be fine. But it's not. CM-1 has specific construction-traffic impacts and specific mitigation measures need to specifically address these. CEQA does not have Guidelines that suggest the need for "flexibility" on a broad scale. The comments below will address specific issues.</p>	
1679	315	<p>Topic:</p> <p>Need final report</p> <p>Table 1 of Appendix 19: CT-53 through CT-65 are all roadways within San Joaquin County. In addition, San Joaquin County has segments identified as SJ03 through SJ07, STK 01, and TRA 01. There are multiple roads within San Joaquin County that could be impacted. And many of these roads now operate at LOS C or worse during peak hours. The last two roads are already operating at LOS E as shown in Table 4 of Appendix 19. Tables of Appendix 19 says "Administrative Draft Report, Sept. 2013". Has this been updated and why was final report not included as Appendix 19?</p>	<p>Appendix 19 of the Draft EIR/EIS is part of the Administrative Draft EIR/EIS. This appendix is the final report for the BDCP Administrative Draft EIR/EIS.</p>
1679	316	<p>Topic:</p> <p>Inappropriate baseline analysis</p> <p>Page 37 of Appendix 19, Lines 4-22: This analysis says that "To reflect the change in traffic patterns between baseline conditions and the peak construction period, background traffic volumes were developed by factoring up the baseline volumes based on traffic growth rates obtained from the following regional travel demand models..." Per the Neighbors for Smart Rail case, a "future baseline" is only appropriate to use if an analysis of existing conditions would detract from an EIR's effectiveness as an informational document, "either because an analysis based on existing conditions would be uninformative or because it would be misleading to decision makers and the public."</p> <p>Explain why an "existing baseline" condition was not assessed in this EIR/EIS or why it would be misleading to the decision makers. While it is understood that a "future baseline" would also be appropriate to assess, given the long construction period projected for the BDCP, this does not excuse the EIR authors from addressing the existing baseline. The authors used the term "Baseline Plus Background Growth"; however, doing this can easily result in underestimating impacts from the proposed project, not only for transportation impacts, but also for related air/noise impacts.</p>	<p>The Lead Agencies acknowledge the commenter's concerns about impacts on existing traffic volumes, without expected growth. The charts in Draft EIR/EIS Appendix 19A include baseline as well as baseline plus background growth roadway volumes. Excluding background growth would unreasonably underestimate traffic volumes.</p>
1679	317	<p>Topic:</p> <p>Assumptions on trip distribution</p> <p>Lack of analysis on local roads</p> <p>Inadequate data to allow adequate analysis</p> <p>Page 37, Appendix 19: The text states that "specific project trip routing is unknown at this time". If that is the case, how can a construction traffic impact analysis be adequate? The text states that the analysis assumes use of routes to provide the quickest and most direct access to surrounding major regional highways. However, in the example of spoils</p>	<p>The construction traffic analysis provides a worst case evaluation of the potential effect on over 100 roadway segments assuming all construction truck and employee trips are assigned to the roadway network for each analysis hour. This approach provides a conservative approach in estimating the number of segments that would be affected by construction traffic of all types and provided enough information to develop feasible mitigation measures to reduce these impacts. Once precise construction haul routes are developed a traffic management plan would be developed to reduce effects as much as possible. Measures to limit construction activity on congested roadway segments or deficient roadways would also be developed and mitigation agreements to enhance capacity of congested roadway segments would be developed prior to project construction. Please refer to Impact Trans-1 and 2 in Chapter 19, Transportation of this Final EIR/EIS for details of the impact analysis and mitigation measures.</p>

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		disposal, the construction vehicles may not even be accessing regional highways and they may need to rely on a variety of local roadways. This has not been factored into the analysis and needs to be explained.	
1679	318	<p>Topic:</p> <p>Inadequate information on methodology and how construction trips were determined</p> <p>Section 2: Analysis Approach: This section fails to identify how construction vehicle trips were calculated. There is no table showing number of trips associated with project components such as: spoils disposal; hauling of concrete from the batch plants to the site of the tunnels; construction vehicle workers; forebay construction/expansion; levee modification construction; barge unloading facilities. And these are only related to CM 1. What about trips associated with CM2-22. The EIR/EIS needs to include a clear identification of all trips generated by the project, both for construction and for operation and the reader needs to be informed of all assumptions related to trip generation.</p>	<p>Construction vehicle assumptions for new water conveyance facilities construction were based on an economic analysis prepared by DWR and SRMK Inc. (referred to as the "cost estimate" in Final EIR/EIS Appendix 22A). The cost estimate identifies all vehicle activity required for construction, including water truck trips. Please refer to Appendix 22B, Air Quality Assumptions, Table 22B-7, for a summary of the vehicle assumptions, including vehicle miles traveled per day by vehicle type (e.g., concrete truck).</p> <p>Operational vehicle assumptions for new water conveyance facilities construction were provided by DWR based on anticipated maintenance and inspections. Table 22B-26 in Appendix 22B, Air Quality Assumptions, summarizes the number of employees and vehicles required for routine maintenance. Table 22B-27 in Appendix 22B, Air Quality Assumptions, summarizes the number of employees and vehicles required for annual inspections and tunnel dewatering.</p> <p>Transportation impacts associated with CM2-21 were evaluated qualitatively, consistent with the level of detail available for the programmatic analysis. Accordingly, trip generation estimates were not developed for CM2-21.</p> <p>For more information regarding transportation impacts and its associated mitigation measures impacts please see Chapter 19 of the Final EIR/EIS.</p>
1679	319	[ATT2: Letter from Howard Jarvis Taxpayers Association. Dated April 11, 2014. Re: Bay Delta Conservation Plan: Impacts on California Taxpayers.]	This comment describes the title of an attachment to the comment letter. See Response to Comments 1679-320 through 1679-324.
1679	320	<p>[From ATT2:]</p> <p>On behalf of our 200,000 members, the Howard Jarvis Taxpayers Association offers the following comments and recommendations regarding the Bay Delta Conservation Plan (BDCP) and how its proposed financing may impact California taxpayers.</p> <p>In recent years, California has undertaken several infrastructure projects which were poorly planned and executed. High Speed Rail and the Bay Bridge fiasco are but two examples. Our concern is that the BDCP may very well be plagued with similar challenges. While we fully acknowledge and concur with the need to address water issues, especially during the current drought, we believe that the current plan is deficient. And while we support the adoption and implementation of a comprehensive plan for the Bay Delta that will begin to restore the environment and provide a more reliable water supply for our agricultural and urban economies, a successful BDCP will be extraordinarily expensive. For that reason, the unresolved financing and taxpayer issues are a major concern for our organization.</p>	<p>See Response to Comment 1679-1.</p> <p>Water contractors benefitting from the proposed projects will bear the costs associated with constructing new conveyance facilities and along with the cost of implementing the mitigation measures and environmental commitments proposed to reduce or avoid the impacts of constructing and operating the project.</p> <p>Broader restoration actions will occur under the California EcoRestore program. The aim of the program is to restore 30,000 acres of Delta habitat in response to ecological impacts associated with operating of SWP and CVP in the Delta. The estimated \$300 million cost of the program will be primarily borne by the State and Federal water contractors.</p> <p>Master Response 5 provides an overview of funding for the construction and operation of the BDCP and an overview of the cost of constructing and operating the BDCP including long term cost and debt financing.</p>
1679	321	<p>[From ATT2:]</p> <p>We do not contest the state's existing requirement that water users pay all costs associated with the construction of any new water conveyance facility in the Delta. However, there appear to be sufficient doubts among the participating water agencies so as to question whether the projected revenue stream will be sufficient to fund this project. Moreover, even if the proposed twin tunnels provide adequate conveyance, what storage infrastructure will be developed for the water that is transferred south? Are</p>	<p>Additional storage infrastructure south of the Delta is not part of the proposed project, either in BDCP or the current preferred alternative, Alternative 4A. Please see the 2014 draft Economic Impact Report for a discussion of public economic benefits from the proposed BDCP. Please see Chapter 16 of the Final EIR/EIS and RDEIR/SDEIS Appendix A (Socioeconomics) that identify the unique features of the Delta and describe the potential effects on Delta communities.</p> <p>Also, please see Master Response 5 for a discussion on cost.</p>

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		<p>taxpayers benefitting from any additional water in exchange for this investment?</p> <p>What potential engineering problems exist because of the unknown characteristics of the Delta soil and could complications arise that could delay completion and increase costs to ratepayers?</p> <p>These questions deserve greater discussion, and taxpayers should not be burdened with higher costs to fund the project because some agencies choose not to participate.</p>	
1679	322	<p>[From ATT2:]</p> <p>We are particularly concerned with the potential that, the longer the financing discussion is delayed, the greater the risk of an effort to shift project costs to state taxpayers and to local property taxes. Indeed, there are already indications that local property taxes may be seen by some as a "backstop" in case water users are unwilling to pay.</p> <p>A better course would be to address financing issues prior to moving forward. In particular, developing a detailed draft finance plan now would clarify potential risks to the taxpayer. Before BDCP moves forward, the public has a right to know, in detail, the potential costs that they may be asked to bear. A detailed finance plan would help beneficiaries consider their willingness to pay for this project. It would also allow BDCP to consider alternative approaches that might be less expensive or more beneficial. If water users are unwilling to pay for the BDCP because they are not convinced of its cost-effectiveness, the solution would be to redesign the project, not to shift costs to the public.</p>	<p>For detailed responses 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>
1679	323	<p>[From ATT2:]</p> <p>The longer BDCP delays confronting financing issues, the greater the risk to taxpayers and the greater the potential for unnecessary opposition and delays.</p>	<p>For detailed responses 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>
1679	324	<p>[From ATT2:]</p> <p>We recommend strongly that BDCP reconvene its Finance Workgroup to allow broad stakeholder participation in the development of a detailed draft finance plan. This should include the following information:</p> <ul style="list-style-type: none"> --An initial allocation of costs related to a Delta facility, specifying how much individual water agencies that receive water from the Delta would be expected to pay. --A specific plan to reallocate costs or to redesign the project in the eventuality that some of these water users are unwilling to pay. --Clear allocation of responsibility for the financial risks that could result from potential cost-overruns, delays and poor project performance. --An independent evaluation of the extent to which habitat restoration would serve as mitigation and, therefore, should be financed by the water agencies that would receive water from BDCP. --An independent evaluation of the BDCP budget to ensure that BDCP has accounted for all costs related to the project. 	<p>For detailed responses 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>

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1680	1	<p>While the BDCP acknowledges that proposed construction and operations may disrupt rail service and proposes measures to address and mitigate impacts to rail operations from BDCP alternatives, the unfortunate fact is that by failing to consult with the Federal Railroad Administration, the Surface Transportation Board and rail transit stakeholders such as Union Pacific, the BDCP proponents have failed to meet their fundamental consultation obligations and properly evaluate impacts to rail freight and other operations.</p>	<p>This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. 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> <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), a response is provided generally referring the commenter to relevant information.</p> <p>See also Final EIR/EIS Chapter 19, Transportation, for information related to potential effects to railroad operations. Mitigation Measure TRANS-1a includes stipulations to coordinate with rail providers to develop alternative transportation modes (e.g., trucks or buses) to address significant effects. See also the Final EIR/EIS Executive Summary that provides a summary of all of the impacts, mitigation measures and significance conclusions, and Appendix 3B.</p>
1680	2	<p>The proponents of the BDCP have also failed to take into account the controlling statutes, Constitutional protections and decisional authorities that preempt state regulatory agencies from actions that would interfere with national rail freight operations. Indeed, the State of California has itself invoked these principles of federal preemption of interference with rail service in connection with the high-speed rail project. See <i>Town of Atherton v. California High-Speed Rail Authority</i>, No. C070877 (3d. App. Dist., July 24, 2014).</p> <p>In addition to failing to consult with appropriate railroad authorities and operators, the BDCP contains mistakes of fact as to Union Pacific's rail lines and freight operations, and significant and fundamental mistakes of law in proposing actions that are preempted by federal law. In addition, the BDCP's stated plans to mitigate impacts to rail service are neither lawful nor feasible. The BDCP project proponents must consult with the federal railroad authorities and Union Pacific to address the errors and unlawful railroad impacts.</p>	<p>Please see Response to Comment 1680-1.</p>
1680	3	<p>Failure to Consult</p> <p>Despite the repeated EIR / EIS acknowledgements that nearly every alternative proposed in the BDCP results in potentially significant impacts to Union Pacific, it appears that the agency proponents of the BDCP failed to consult with the Federal Railroad Administration</p>	<p>Mitigation Measure TRANS-1a includes stipulations to coordinate with rail providers to develop alternative transportation modes (e.g., trucks or buses) to address significant effects. Following adoption of the proposed project and the Mitigation, Monitoring, and Reporting Program, this mitigation measure would be implemented. See also the Final EIR/EIS Executive Summary that provides a summary of all of the impacts,</p>

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		("FRA"), the Surface Transportation Board ("STB") or Union Pacific. This is contrary to law (Cal. Pub. Res. C. [Section] 21092.4) and the EIR/ EIS's claim that "all transportation agencies directly affected by the BDCP alternatives were consulted" (EIR/ EIS p. 19-37).	mitigation measures and significance conclusions, and Appendix 3B of the Final EIR/EIS.
1680	4	<p>Errors Regarding Union Pacific Railroad's Tracy Subdivision</p> <p>By failing to consult with impacted stakeholders such as Union Pacific, the BDCP and EIR/ EIS include significant factual errors, including the repeated claim in the EIR/ EIS that the Union Pacific Tracy Subdivision is not currently in service. E.g., EIR/ EIS p. 19-25. On the contrary, the portion of the Tracy Subdivision between Martinez and Pittsburgh is an active freight line. The remainder of the Tracy Subdivision line, although not currently being used for transport of freight in rail cars, is in active service for storage and switching of rail cars and equipment, and is being considered for restoration of active freight transportation service. In fact, the Tracy Subdivision provides necessary support and contingency routing for other active rail lines. For example, should disruption of service occur on the Union Pacific rail line between Martinez and Sacramento, freight traffic could be diverted to the Tracy Subdivision to provide service among the Port of Oakland, other Northern California rail customers and Union Pacific's vast national rail network east of the Sierra Nevada mountain range. This mistaken assumption about Union Pacific's operations on the Tracy Subdivision line exacerbates the significant problems with the BDCP's analysis of impacts and plans to mitigate impacts to rail operations on this line.</p>	<p>The comment about the Tracy Subdivision is acknowledged. The UPRR Tracy Subdivision described in Impact TRANS-5 - Disruption of Rail during Construction will include that the Tracy Subdivision between Martinez and Pittsburgh is an active freight line and the remainder of the Tracy Subdivision line, although not currently being used for transport of freight in rail cars, is in active service for storage and switching of rail cars and equipment, and is being considered for restoration of active freight transportation service</p> <p>Construction of the proposed project would not physically cross or require modification to an existing or proposed railroad. Rather, the water conveyance will cross the BNSF Railway and Amtrak San Joaquin Line well below grade in a deep bore tunnel. Accordingly, construction would not be likely to disrupt rail service. However, if the UPRR Tracy Subdivision branch line is reopened prior to construction, traffic associated with of the Byron Tract forebay may minimally impact rail service through vehicle crossing. This impact would therefore be less than significant.</p> <p>Implementation of Mitigation Measure TRANS-1a includes consultation and coordination with Union Pacific to develop alternative interim transportation modes (e.g., trucks or buses) that could be used to provide freight and/or passenger service during any longer term railroad closures and daily construction time windows during which construction is restricted or rail operations would need to be suspended for any activity within railroad rights of way, would ensure this impact remains less significant. See also the Final EIR/EIS Executive Summary that provides a summary of all of the impacts, mitigation measures and significance conclusions, and Appendix 3B of the Final EIR/EIS.</p>
1680	5	<p>SPECIFIC ALTERNATIVES AND MITIGATION APPROACHES</p> <p>Errors Regarding Mitigation Measures</p> <p>Proposed Mitigation Measure TRANS- 1a</p> <p>Mitigation Measure TRANS- 1a references development of a traffic management plan ("TMP") in consultation with rail operators to minimize, among other things, operational impacts to rail service. More specifically, the EIR/ EIS envisions development and implementation of a Traffic Management Plan to address: (1) daily construction time windows during which construction would be limited or rail traffic would be suspended for any activities within railroad rights of way; and (2) coordination with rail operators, including Union Pacific, "to develop alternative interim transportation modes (e.g., trucks or buses) that could be used to provide freight and/ or passenger service during any longer term railroad closures." E.g., EIR/ EIS p. 19-52 - 19-54. [footnote 1: Mitigation Measure TRANS- 1a is repeatedly identified in the EIR/EIS as the means of mitigating numerous additional impacts on rail transportation associated with the various BDCP proposed alternatives. Union Pacific's comment here on Mitigation Measure TRANS- 1a applies to each and every reference to Mitigation Measure TRANS- 1a in the EIR/EIS.]</p> <p>Both the short term and long term suspension of rail traffic for construction related to the BDCP are unlawful and are not impacts that can be mitigated to less than significant. To be clear, any suspension of freight service on Union Pacific rail lines would pose significant delays and constitute a disruption of interstate commerce in violation of the U.S. Constitution and federal law. The Commerce Clause assigns to Congress the authority to "regulate commerce between the several states." U.S. Const., art. I, [Section] 8, cl. 3. For more than a century, Congress has used its Commerce Clause powers to exercise</p>	<p>The Lead Agencies appreciate the commenter bringing to their attention the issue of whether federal law preempts the ability of the Lead Agencies to take actions that would cause temporary disruptions in rail traffic. The Lead Agencies note the commenter's opinion that any actions taken that would suspend rail traffic would be unlawful. The commenter appears to be suggesting that the State of California intends to "regulate" railroads through Mitigation Measure TRANS-1a, but such a characterization is not accurate. TRANS-1a is merely a roadmap for trying to deal with disruptions to various modes of transportation during the construction of a major State infrastructure project. Nevertheless, the Lead Agencies appreciate the complexity of the issues involved, and will work with the proper federal authorities and affected railroads before pursuing any course of action that might adversely affect freight or passenger rail operations. To the extent that the commenter is suggesting that railroads can never be required to cooperate with the State of California in connection with major State construction projects, the commenter is mistaken. There are many instances in which railroad infrastructure has been modified in order to facilitate such projects. Such situations do not involve impermissible state "regulation" of the railroad. The Lead Agencies will follow the normal process, and the State can use its power of eminent domain as a last resort if necessary. In any event, the Lead Agencies will do their best to minimize disruption to rail operations.</p>

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		<p>broad regulatory authority over railroads. City of Auburn v. U.S. Government, 154 F.3d 1025, 1029, 1033 (9th Cir. 1998); People v. Burlington Northern Santa Fe R.R., 209 Cal. App. 4th 1513 (1st Dist. 2012). In 1995, Congress enacted the Interstate Commerce Commission Termination Act ("ICCTA"), [footnote 2: Among other things, the ICCTA abolished the Interstate Commerce Commission, created the Surface Transportation Board, and granted the Board jurisdiction to regulate rail transportation in the United States. 49 U.S.C. [Section] 10501 (a)(1).] which broadly preempts all state action that "interferes with or frustrates railroad operations, transportation-related activities, or interstate commerce." Am. Jur. 2d [Section] 184.</p> <p>To be specific, the Interstate Commerce Commission Termination Act (ICCTA) expressly preempts any state or local regulation of matters that fall under the Surface Transportation Board's (STB) exclusive jurisdiction, such as the construction, operation, and abandonment of rail lines, and railroad rates and service. 49 U.S.C. [Section] 10501(b); City of Auburn v. U.S. Government, 154 F.3d at 1030-31; Union Pacific R. Co. v. Chicago Transit Authority, 647 F.3d 675 (7th Cir. 2011); Adrian & Blissfield R. Co. v. Village of Blissfield, 550 F.3d 533 (6th Cir. 2008); New Orleans & Gulf Coast Ry. Co. v. Barrois, 533 F.3d 321 (5th Cir. 2008); Town of Atherton v. California High-Speed Rail Authority, No. C070877 (3d. App. Dist., July 24, 2014), slip op. at p. 12 ("The STB has exclusive jurisdiction over the construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks, or facilities..."). As the Court acknowledged in Town of Atherton, it "is difficult to imagine a broader statement of Congress's intent to preempt state regulatory authority over railroad operations." Id. That is, Congress did not intend for the states to have any role in the regulation of railroads. See Town of Atherton, slip op. at p. 15 (citing City of Auburn, 154 F.3d at 1031).</p>	
1680	6	<p>In addition, The Interstate Commerce Commission Termination Act (ICCTA) preempts state or local actions that would have the effect of preventing or unreasonably interfering with railroad transportation; in enacting the ICCTA, Congress was concerned about state and local regulations that might burden rail transportation. Town of Atherton, slip op. at p. 14. So the "ICCTA completely preempts state laws (and remedies based on such laws) that directly attempt to manage or govern a railroad's decisions in the economic realm." Id. And there is no distinction between economic and environmental regulations. "For if local authorities have the ability to impose 'environmental' permitting regulations on the railroad, such power will in fact amount to 'economic regulation' if the carrier is prevented from constructing, acquiring, operating, abandoning, or discontinuing a line." Town of Atherton, slip op. at p. 15 (citing City of Auburn, 154 F.3d at 1031).</p> <p>In sum, state and local governments may not unreasonably burden interstate commerce or impede or restrict a railroad's ability to conduct its operation. See, e.g., Elam v. Kansas City Southern Ry. Co., 635 F.3d 796 (5th Cir. 2011); In re Rail Freight Fuel Surcharge Antitrust Litigation, 593 F. Supp. 2d 29 (D.D.C. 2008), aff'd, 602 F.3d 444 (D.C. Cir. 2010); Association of American Railroads v. South Coast Air Quality Management Dist., 622 F.3d 1094, 1097-98. (9th Cir. 2010). Thus, the BDCP project proponents' plans involving short term and long term disruptions of rail service are unlawful and preempted, and there are no mitigation measures that can reduce or minimize the impacts of these disruptions, much less render such disruptions lawful.</p>	Please see Response to Comments 1680-1 and 1680-5.
1680	7	The mitigation measures suggested by the BDCP to minimize impacts from short term and long term disruptions of rail service are both unlawful and ineffective. As for impacts from construction within a railroad right of way, there are no mitigation measures that can	Please see Response to Comments 1680-1 and 1680-5. The lead agencies have determined that mitigation measures identified for impacts to railways for some of the project alternatives are feasible. Since the time of the circulation of the Draft EIR/EIS a new preferred alternative under CEQA/NEPA has been identified that

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		<p>reduce such impacts. Construction within a railroad right of way poses numerous safety challenges and risks that cannot simply be mitigated by time windows for BDCP-related construction activities or railroad operational windows (which are unlawful). As discussed at length herein, numerous statutes, rules and standards apply to manage railroad safety, and the risks and dangers associated with BDCP-related construction activities proceeding within a railroad right of way cannot be easily or simply mitigated - and certainly not with unlawful railroad operational windows. Finally, the assumption that the impacts from disruptions to rail operations can be mitigated to less than significant with interim transportation modes such as "trucks or buses" to provide substitute freight service for "longer term railroad closures" is fundamentally mistaken. As discussed above, any interruption to freight rail service constitutes an unlawful disruption to interstate commerce in violation of the U.S. Constitution and federal law. Furthermore, given the enormous variety of freight that rail traffic transports, it is entirely infeasible, if not an unlawful violation of Federal law and numerous safety standards and regulations, to transfer freight from rail cars to trucks to address long-term suspension of freight rail operations.</p>	<p>avoids impacts to railways. Please refer to Final EIR/EIS Chapter 19, Transportation.</p>
1680	8	<p>Errors Regarding Impacts from BDCP Alternatives</p> <p>Proposed Alternative 1A</p> <p>Impact TRANS-5: Disruption of Rail Traffic During Construction</p> <p>The BDCP agency proponents are mistaken in claiming that proposed construction activities under the BDCP and EIR/ EIS would be "unlikely to disrupt rail service" because the UPRR Tracy Subdivision is not currently in service. E.g., EIR/ EIS p. 19-72. [footnote 3: The potential disruption of rail traffic during construction discussed in Alternative 1A Impact TRANS-5 is repeatedly identified in the EIR/EIS as the same potential for disruption of rail traffic during construction associated with the various other BDCP alternatives. Union Pacific's comment here on Proposed Alternative 1A Impact TRANS-5 applies to each and every reference to Proposed Alternative 1A Impact TRANS-5 in the EIR/EIS.] As noted above, the Tracy Subdivision between Martinez and Pittsburgh is an active freight line. Furthermore, the remainder of the Tracy Subdivision line, although not currently being used for transport of freight in rail cars, is in active service for storage and switching of rail cars and equipment, and is being considered for restoration of active freight transportation service. Furthermore, the Tracy Subdivision provides necessary freight routing options and must be available for such uses should a major disruption occur on other Northern California freight lines operated by Union Pacific.</p> <p>Thus, Union Pacific is currently actively using for freight transportation services a major portion of the line, and is using the additional portions of the Tracy Subdivision line for rail management operations and contingency plans, such that construction activities associated with the BDCP and EIR/ EIS would significantly disrupt rail service on the Tracy Subdivision line. The impacts to rail traffic would not be "minimal to non-existent" (EIR/ EIS p. 19-72). [footnote 4: Indeed, the BDCP and EIR/EIS contain numerous, repeated references to the mistaken assumption that the Union Pacific Railroad Tracy Subdivision is not currently in service. Union Pacific's comment on this issue applies to all such repeated allegations in the BDCP and EIR/EIS.]</p> <p>In addition, for the reasons discussed above (Section II.A.1), implementation of Mitigation Measure TRANS- 1a will not manage or mitigate these impacts.</p>	<p>See Response to Comments 1680-4 and 1680-5.</p>

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1680	9	<p>Impact TRANS-9: Permanent Alteration of Transportation Patterns During Operations and Maintenance</p> <p>The BDCP project proponents conclusively assume that impacts to rail operations from permanent alterations to transportation patterns would be minimal because BDCP project components "would be constructed as necessary to provide connectivity across canals (either bridges or siphons) for active railroads to cross without disruption" (EIR/ EIS p. 19-77). [footnote 5: The permanent alteration of transportation patterns during O&M discussed in Alternative 1A Impact TRANS-9 is repeatedly identified in the EIR/EIS as the same potential for alteration of transportation patterns during O&M associated with the various other BDCP alternatives. Likewise, even outside of reference to Alternative 1A Impact TRANS-9, the claim that project components such as bridges, siphons, conveyances, intakes and forebays would be constructed as necessary to provide rail traffic connectivity and continuity after construction to address permanent alterations of transport patterns during O&M is repeatedly alleged in the EIR/EIS. Union Pacific's comment here applies to each and every reference to Proposed Alternative 1A Impact TRANS-9 in the EIR/EIS, and each and every claim that project components will be constructed as necessary to address rail continuity and connectivity in the EIR/EIS.] This assumption vastly underestimates and understates the complexities in railroad design and safety - not to mention the vast network of laws, regulations and standards that apply to the construction and design of rail track. Designing, constructing, operating and transporting freight rail across, over, through or around bridges, canals, siphons, etc. is not an impact that can be easily mitigated or minimized. Furthermore, as discussed above in Section II.A.1, the BDCP project proponents are preempted from demanding such re-routing of rail lines.</p>	<p>See Response to Comment 1680-1. The Lead Agencies acknowledge the comments regarding Union Pacific operations. In addition to Mitigation Measure Trans-9, Mitigation Measure TRANS-1c identifies coordination with rail providers to implement site-specific traffic management plans (TMPs) that address the specific steps to be taken before, during, and after construction to minimize traffic impacts, including the mitigation measures and environmental commitments identified in this Final EIR/EIS.</p> <p>Under Mitigation Measure TRANS-1a, the project proponents will also coordinate with Yolo County to develop a site-specific construction traffic management plan (TMP) that address impacts on Yolo County roadway segments, including State Route 84 and Jefferson Boulevard.</p>
1680	10	<p>Proposed Alternative 4</p> <p>Impact TRANS-1: Increased Construction Vehicle Trips Resulting in Unacceptable LOS Conditions</p> <p>Here, the BDCP project proponents offer that delays and congestion may be created "during temporary realignment of Byron Highway/ South Pacific Railroad, which is needed to construct the siphon connecting the new approach canal and Jones PP approach canal." EIR/ EIS p. 19-164; see also similar references at EIR/ EIS p. 19-183. These references to realigning "South Pacific Railroad" are impermissibly vague and so lacking in description and clarity that Union Pacific's only recourse is to note that these references must be more fully described and explained so as to enable meaningful response and comment.</p> <p>Union Pacific appreciates this opportunity to present these points, authorities and corrections. We respectfully request that the BDCP proponents consider these comments, consult with the FRA, the STB and Union Pacific, and revise the BDCP and the EIR/ EIS as necessary to avoid any disruption of Union Pacific rail operations and freight service.</p>	<p>The Lead Agencies acknowledge the comments regarding potential disruption of Union Pacific rail operations and freight service.</p> <p>Mitigation Measures TRANS-1a through TRANS-1c include consultation and coordination with Union Pacific. Collectively, these measures include requirements to avoid or reduce circulation effects, notify the public of construction activities, provide alternate access routes, require direct haulers to pull over in the event of an emergency, limit/prohibit the amount of construction activity on congested roadways, and enhance roadway conditions. Although TRANS-1a through TRANS-1c would reduce the severity of this effect, the Lead Agencies are not solely responsible for the timing, nature, or complete funding of required improvements. If an improvement that is identified in any mitigation agreement(s) contemplated by Mitigation Measure TRANS-1c is not fully funded and constructed before the project's contribution to the effect is made, an adverse effect in the form of unacceptable LOS would occur.</p> <p>Therefore, this effect would be adverse. If, however, all improvements required to avoid adverse effects prove to be feasible and any necessary agreements are completed before the project's contribution to the effect is made, effects would not be adverse.</p>
1681	1	<p>Neither time nor resources permit detailed comments pertinent to the contents of the 20,000-page draft BDCP and draft EIR/EIS, to do so could be construed as giving the report and the premise upon which it is being promoted a relative degree of credence; that is not the case. Rather, P/A and PS focus is on the "BIG Picture" to address the concept of the plan and the historical track-record of government's repetitive deception as to the "real cost" of water projects, and its failures to protect the Sacramento-San</p>	<p>The concerns for the Delta ecosystem described in this comment are consistent with conditions described in Chapter 1, Introduction, and Chapter 2, Project Objectives and Purpose and Need, in the Draft EIR/EIS. However, as described in these chapters, the BDCP was developed to address portions of these issues that are associated with operation of the SWP and CVP Delta facilities.</p> <p>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</p>

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		<p>Joaquin Delta and the San Francisco Bay Estuary over the course of the last century, and for its success in the destruction of other invaluable delta estuaries. Therefore, we commence by referencing BDCP's lead-off quotations, which are the embodiment of a myriad of false assurances preface upon preconceived misconceptions espoused by the very government entities responsible for the existing and deplorable conditions of the Bay-Delta Estuary. Anyone with even the slightest clue of what has been going on within that ecosystem knows that history has shown, and public records attest, the Bay-Delta Estuary has been the victim of a litany of government broken promises, which have led to ecological collapse. Albeit, to place any level of confidence in the consortium of federal and state agencies, bureaus, boards, or commission, engaged in the train-wreck-in-the making Delta Vision, would be delusory.</p> <p>"The BDCP is a comprehensive conservation strategy aimed at protecting dozens of species of fish and wildlife, while permitting the reliable operation of California's two biggest water delivery projects .</p> <p>Why BDCP?</p> <p>Securing California Water Supplies - Restoring the Sacramento-San Joaquin Delta Ecosystem Addressing Climate Change - Planning for the Future" [footnote 1: http://www.baydeltaconservationplan.com/Home.aspx]</p> <p>Comment: State and federal officials have had more than a half-of-century, and expended tens-of-billions of public funds in a failed attempt to protect and restore the Bay-Delta Estuary and to ensure the reliability of the State's water supply.</p> <p>1957- The California Water Plan. "California is presently faced with problems of a highly critical nature --- the need for further control, protection, conservation and distribution of her most vital resource---water... Unless corrective action is taken---and taken immediately---the consequences may be disastrous." [footnote 2: Department of Water Resources, The California Water Plan, Bulletin No. 3, Foreword, May 1957, p. v.] Source: Department of Water Resources.</p> <p>2009- Gov. Schwarzenegger, "California's Water: A Crisis We Can't Afford to Ignore." However, as I have already said, when a crisis is at its worst the opportunity to reform it is at its greatest and this is why we had a good shot this time, Association of California Water Agencies." [footnote 3: Office of the Governor, Governor's Remark Regarding Water Conservation & Rebuilding CA's Water System, Guest Speaker At The California Association of California Water Agencies, 12 Dec 2009, p. 2-4.]</p> <p>2010-Fifty-three years and an estimated \$50 billion later -- "Right now we have the most unreliable water system we ever had in California..." [footnote 4: Testimony of Lester A. Snow, Director, California Department of Water Resources, Presented to Little Hoover Commission, Hearing on State Water Governance, 25 June 2009, p. 4.] Source: Lester Snow, Director, Department of Water Resources.</p> <p>2012 - Gov. Jerry Brown's comment on the BDCP "I want to get "s**t done. [footnote 5: http://blogs.kqed.org/climatewatch/2012/07/25/combatants-in-new-ca-water-war-dig-in/]</p> <p>Comment: More aptly stated; the BDCP is a comprehensive strategy which if implemented would be the final coup de gras for the last largest remaining ecosystem of</p>	<p>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> <p>The proposed project is one component, among many, of the California Water Action Plan. 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>By establishing a point of water diversion in the north delta and new operating criteria, the proposed project is designed to improve native fish migratory pattern and allow for greater operational flexibility. 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>Related to the cost of the BDCP, the analysis in the BDCP Statewide Economic Impact Report (http://baydeltaconservationplan.com/Libraries/Dynamic_Document_Library/Draft_BDCP_Statewide_Economic_Impact_Report_8-5-13.sflb.ashx) did use 60 years as the time horizon in which to calculate the economic benefits of the operation of the water conveyance facility for water supply, water quality, and water supply reliability. For this analysis, the costs of operating the facility were also calculated out to 60 years. The costs of implementing BDCP conservation measures 2 to 22 would have ended after 50 years, corresponding to the end of the permit term. While costs to manage the BDCP Reserve System continue in perpetuity, these costs would be paid for by the endowment created during the first 50 years. So there would be no new costs after 50 years except the continued operation of the water conveyance facility. Therefore, it was reasonable to consider the costs and benefits of the water conveyance facility beyond 50 years because its useful life would extend beyond 50 years and with benefits accrued throughout its life. Indeed, because the facility would be likely to last much longer than 60 years, considering benefits out to 60 years was very conservative and greatly underestimated these economic benefits.</p> <p>The proposed water conveyance facility design was approximately 10 percent complete under the 2013 Public Draft. This level of design is typical of infrastructure projects at this stage of the environmental review process. The detailed cost estimate for the facility was developed to take into account the preliminary level of design. Cost estimates include standard contingencies of 20-30% and in some cases are as high as 50% where cost uncertainties are highest. The cost estimate in Chapter 8 of the 2013 Public Draft, is at an appropriate level of detail and accuracy for a planning level estimate for the endangered species permits from the state and federal governments.</p> <p>A cost-benefit analysis is not needed to support the final EIR/EIS or the Lead Agency decisions associated with CEQA or NEPA compliance. Please also note that the proposed project, Alternative 4A, is estimated to cost significantly less relative to the former preferred alternative, Alternative 4 largely due to the reduced level of restoration specifically funded by the project, as well as other Conservation Measures that are not</p>

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		<p>its nature on the West Coast of the Americas. Keeping in mind, its predecessor, the Colorado River Delta fell prey to "Manifest Destiny," which included expansion of the West and the Bureau of Reclamation's conquest and damming of the Colorado River Basin and in so doing destroy one of the largest Delta estuaries in the world.</p>	<p>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 is \$24.7 billion in undiscounted 2012 dollars. For additional information on the cost of the proposed project, please see Master Response 38.</p>
1681	2	<p>Comment: The "management and operation" of two of the California's largest water projects, the State Water Project (SWP) and the federal Central Valley Project (CVP), are the primary factors contributing to the precipitous decline and demise of anadromous and pelagic species dependent on the ecological sustainability of the San Francisco Bay and Sacramento-San Joaquin Delta Estuary.</p> <p>Collectively, the California Department of Water Resources (DWR) delegated with the "responsibility" to operate and manage the SWP, the federal Bureau of Reclamation "responsible" for the operation of the CVP, and the State Water Resources Control Board (SWRCB), entrusted with the authority for permitting the use of the distribution of SWP and CVP water are at fault for California's government-induced water crisis effecting the Bay-Delta Estuary.</p> <p>The BDCP is an extenuation of the underfinanced and contractually overcommitted SWP, which was sold to the public in 1960 as a project that "would pay-for-itself"; i.e., the recipients of the water and power would pay. P/A completed a series of fact-finding reports, forensic accounting of the SWP financing and repayment obligations, which served as the basis for a series of Senate hearings that substantiated the fact that the SWP has not, nor will it ever, pay for itself as promised. Furthermore, the facts revealed that although DWR officials and Governor Edmund "Pat" Brown, Sr. assured the public the SWP would cost \$1.75 billion that was never true, which former Governor Ronald Reagan acknowledge during his term in office. The capital cost on the SWP has exceeded</p> <p>\$6.5 billion, and there is still about \$350 million in outstanding debt on the initial \$1.75 billion. Although there is no definitive amount as to what it will cost to "complete" the SWP, estimates exceed \$50 billion (includes principal and interest). Then, as is now, the government misinformed the public of the real cost of the SWP. (Refer to Attachment A for an overview of SWP financial and contractual shortcomings that have led up to the BDCP.)</p> <p>Federal agencies reviewing draft for proposal to re-plumb the Sacramento-San Joaquin Delta call it 'insufficient,' and 'biased' and 'confusing.'</p> <p>In what would be the biggest water supply project constructed in California in half a century, the state is proposing to build a large diversion point on the Sacramento River in the north delta and send the water through two 35-mile tunnels to aqueducts serving the San Joaquin Valley and Southern California.</p> <p>By adding the diversion point and restoring more than 100,000 acres of delta habitat, the south-of-the-delta urban and agricultural water contractors who have promised to pay for much of the project are hoping to get relief from environmental restrictions on their deliveries.</p> <p>The project, estimated to cost about \$24 billion, must pass muster with federal fishery agencies that oversee endangered species protections for migrating salmon and the delta's imperiled native fish. [footnote 7: Bettina Boxall, Los Angeles Times, Federal agencies reviewing draft for proposal to re-plumb the Sacramento-San Joaquin Delta call</p>	<p>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. Please see response to comment 1681-1. Please also see Master Response 5 for discussion of BDCP effects analysis and financing.</p>

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		it 'insufficient' and 'biased,' July 18, 2013.]	
1681	3	<p>tunnels). The remaining costs are for habitat and operations and maintenance costs, Cowin said. [footnote 12: IBID. Heather Hacking, MediaNews Group, Final chapters of Bay Delta Conservation Plan Released, 5/31/2013, online: http://www.redbluffdailynews.com/ci_23361038/final-chapters-bay-delta-conservation-plan-released]</p> <p>Comment: An estimated \$6.5 billion has been spent on Delta and Delta-related habitat and wetlands improvements, and</p> <p>\$500 million expended on buying water for fish! Those expenditures were primarily from the issuance of General Obligation Bonds sales, which are repaid with interest from the heretofore State's deficit-ridden General Fund. In addition, vast expenditures of public funds were used in government's failed attempt to double anadromous fish populations that migrate through the Bay-Delta Estuary. Fish populations are worst now than at any other time in history. Expending another \$10 billion on habitat improvement and taking 145,000 acres of Delta land out of production is unjustifiable. It is estimated that government already has more than 100,000 acres of Delta lands in its possession. SWP and CVP will benefit from the acquisition of those lands, as it will free up hundreds-of-thousands of acre-feet of water when those lands are no longer irrigated.</p> <p>The 35-mile twin tunnels are essentially a prototype of the Mono-Lake-North-Sacramento-Valley-siphon system capable of re-routing up to 9000 cubic feet per second from the Sacramento River flow placing the central and southern portions of the Delta to even greater risk of salt water intrusion.</p> <p>In the latest episode in the sordid saga of the Bay Delta Conservation Plan "BDCP" to build the peripheral tunnels, two environmental groups revealed on June 20 [2104] that even an economist hired by BDCP officials won't sign off on the controversial project.</p> <p>Dr. David Sunding, an economist on the faculty of the University of California-Berkeley and a principal with The Brattle Group, said at the recent Continuing Legal Education Water Law Conference in San Diego that "given the financial uncertainties if he were a water agency, he would not sign off" on the BDCP, according to a news release</p> <p>"The recently released statements and documents from BDCP on the costs, and who will pay, are more of the same disingenuous statements that they have been making throughout the life of the project," said Barbara Barrigan- Parrilla, executive director of Restore the Delta (RTD). "These unsubstantiated claims show how desperate BDCP officials are to greenwash this project for the public. Documents from public record requests, and statements from their own officials and water agency officials, reveal that the project will be closer to \$67 billion in today's dollars, before cost over-runs."</p> <p>Independent University of the Pacific economist Dr. Jeff Michael concludes that the average water ratepayer will end up paying between \$40 and \$80 per person per year. [footnote 13: Dan Bacher, http://www.calitics.com/diary/15526/even-bdcphired-economist-wouldnt-sign-off-on-br-owns-tunnel-plan 6/22/2104.]</p>	<p>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. Please see response to comment 1681-1. Please also see Master Response 5 for discussion of BDCP effects analysis and financing.</p>

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1681	4	ATT1: Attachment A: EXCERPTS FROM PATRICK PORGANS & ASSOCIATES WHITE PAPER: CRACKING CALIFORNIA'S WATER CODE	This comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in comment referencing the attachment or the Final EIR/EIS.
1681	5	<p>Today's water crisis got started 50 years ago, in the form of a General Obligation (GO) bond measure, authorizing the funding and construction of the California State Water Project (SWP). Unfortunately, the SWP, which was made possible by an ingenious funding scheme, has three major flaws: (1) officials willfully and knowingly misinformed the public of its true costs, [footnote i: Porgans & Associates source data on the history of the California State Water Project, 1981.] (2) contracted out more water than it could provide (in certain water-year types), [footnote ii: DWR, Management of the California State Water Project, Bulletin 132-05, Dec. Executive Summary, 2006, xxix.] "Paper" water, a (3) It was sold under the false pretense that it would cost \$1.75 billion and would pay for itself. [footnote iii: Rita Schmidt Sudman, Western Water, State Water Project Cost Sharing, November/December 1983, pp. 4, 5, and 6.] It never has. [footnote iv: Department of Water Resources, California State Water Project, Volume 1, History, Planning, and Early Progress, Bulletin Number 200, November 1974, p. 25.] In order to stabilize default by SWP agricultural contractors, and to keep the SWP solvent, DWR and the contractors devised the 1994 Monterey Agreement, which, among other ingenious schemes, established a trust fund that sets aside \$10 million a year, beginning in 1997, from the earned interest off of California water fund (obtained from the sale of publicly owned tideland oil reserves and general fund allocations), and hundreds of millions of dollars of this same money will be distributed to SWP urban contractors to do what they want with this money. The Monterey Agreement increased the reliability of existing water supplies; providing strong financial management for the SWP; and increased water management flexibility; proving more tools for local water agencies to maximize use of existing facilities. [footnote v: Department of Water Resources, Bulletin 132-02, Management of the California State Water Project, Monterey Agreement, Jan 2004, Chapter 9, p. 107.] (Refer to page 59, Monterey Agreement, another backdoor agreement in the era of transparency: composed behind closed doors.) [Appendix I, Exhibits 11, 12, 13 and 14.]</p> <p>Government Water Projects at the Crux of California's water crisis</p> <p>Inundating the State in an Era of Bonded Indebtedness: Ironically, the SWP remains at the epicenter of the crisis that continues to cost Californians tens of billions of dollars of debt from the sale of GO [General Obligation] Bond funds: bailouts. Since its inception, the SWP has been inundated with a series of unrelenting crises and the subject of decades of Legislative hearings in failed attempts to reconcile its inherent shortcomings.</p> <p>As early as 1963 DWR recognized the SWP was going to be short of funds and resorted to issuing millions in revenue bonds. 1967: Governor Reagan's Water Task Force reported SWP had a \$300 million to \$600 million deficiency. [footnote vi: California Senate Committee on Water Resources, State Water Project Financing, Progress Report to the Legislature, 1968, Regular Session, Report No. 2, p. 42.] [A-I, E15.]</p> <p>1970: DWR appeals to Legislature for passage of Proposition 7; claimed that if it fail to pass it would cause the shutdown of SWP construction, causing a financial disaster. [footnote vii: DWR, California State Water Project, Bulletin 132-71, June 1971, p. 3.] [A-I, E7 AND 16.]</p> <p>1985: DWR reports agricultural contractors may not be able to pay their bills. [footnote</p>	The comment does not raise any issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS. Please see response to comment 1681-1. Please also see Master Response 5 for discussion of BDCP effects analysis and financing.

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		<p>viii: DWR, Management of the California State Water Project, Bulletin 132-86, p. 52.*] [A-I, E17.]</p> <p>1991: DWR exhausted SWP reserve funds to buy water to keep agricultural contractors solvent. [footnote ix: DWR, Management of the California State Water Project, Bulletin 132-92, Appendix A, June 30, 1992, Financial Report, November 1992, p. 17.] [A-I, E18.]</p> <p>1993: DWR resorted to Legislature to pass urgency law to keep SWP financially afloat, issues \$150 million in commercial paper notes, via Goldman Sachs, to buy water. [footnote x: Goldman-Sachs, Commercial Paper Annual Memorandum, \$150,000,000, State of California, Department of Water Resources, Water Revenue Commercial Paper Notes, Series 1, Note Counsel, Orrick, Herrington & Sutcliffe, San Francisco, California, Co-Financial Consultants, Lehman Brothers, New York, New York, Whitefield Inc., Paulsbo, Washington, Issuing and Paying Agent, Bank of America National Trust Company, New York, New York, State Water Project data prepared by California Department of Water Resources, 23 June 1993, p. 2.] [A-I, E19.]</p> <p>2000 through 2006: More than \$19.6 billion in GO water and water-related bonds were approved, [footnote xi: Legislative Analyst's Office, California's Water: An LAO Primer, Chapter 4, How Do We Finance Water Projects, Oct 2008.] [A-I, E20.] a significant portion had been used to keep the SWP afloat - Déjà vu. The interest payments on those GO bonds cost taxpayers another \$10 billion. In November 2014 voters may be asked to approve yet another \$11 billion GO bond Act bailout, being promoted under the guise it will ensure the State's water supply reliability, shore up its aging infrastructure, and restore the Bay-Delta Estuary. However, according to the Governor and other officials, those funds are only a down payment or leverage for yet another \$30 to \$40 billion to move forward with other components of the project! [footnote xii: Office of the Governor, Governor's Remark Regarding Water Conservation & Rebuilding CA's Water System, Guest Speaker At the California Association of California Water Agencies, 12 Dec 2009, p. 2-4.] [A-I, E21.] "Every time we have had a problem in the financing of the State Water Project, we have tried to take action to solve the problem." [footnote xiii: Patrick Porgans' Tape-recorded and Transcribed Interviews with Mr. Donald Sandison, Controller, California Department of Water Resources, 26 March 1982 and 23 April 1982.] [A-I, E22.]</p> <p>It is apparent that if this bailout cycle is not reconciled, it will continue to add to the state's ever-increasing debt load, depletion of general fund revenues, increase cost for State's borrowing, adversely effecting its credit rating, which was cut to the lowest of all 50 states, [footnote xiv: The Los Angeles Times, California's credit rating cut to lowest of all 50 states, Money & Company, 2 Feb. 2009, http://latimesblog.latimes.com/money_co/2009/02/California-cred.html] [A-I, E23.] and jeopardized the Golden State's once promising economic prosperity as eighth-biggest economy [footnote xv: San Francisco, Reuters, Update 2-California looks into banks' role in underwriting, CDS, 30 March 2010. www.reuters.com/article/idUSN3015057220100330?type=markeysNews] in the world. [footnote xvi: Facts on Policy: The California Economy, Hoover Inst. Stanford University, December 16, 2008] [A-I, E24 and 25.] Because of California's persistent fiscal problem, bond rating agencies assigned it the lowest rating; a few notches above junk bonds. [footnote xvii: San Francisco, Reuters, Update 2-California looks into banks' role in underwriting, CDS, 30 March 2010. www.reuters.com/article/idUSN3015057220100330?type=markeysNews]</p>	

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1682	1	To be clear, Bay Conservation and Development Commission is commenting on the EIR/EIS as a responsible agency under CEQA. Implementing any or all of the conservation measure projects located in the Suisun Marsh or San Francisco Bay envisioned by BDCP will require BCDC-issued permits or consistency determinations. BCDC's policies that apply to the BDCP are noted in the last section of this letter.	<p>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> <p>DWR will seek BCDC consultation and determinations when applicable to the proposed project.</p> <p>See Chapter 13 Land Use, in the Final EIR/EIS regarding the Suisun Marsh Local Protection Program.</p>
1682	2	San Francisco Bay and Suisun Marsh Effects. The EIR /S states that there would be no significant effects on San Francisco Bay. Commissioners, staff, other state agencies and members of the public raised concerns about possible project impacts west of the Delta in the Suisun Marsh and downstream in the San Francisco Bay. Some of these effects would be significant. Potential significant impacts include possible effects on salinity, sediment supply, and the consequences (intended and unintended) of various restoration programs, and their secondary impacts on Bay habitats and species. The Delta Stewardship Council's (DSC) Independent Science Board (ISB) concluded that more research and analysis is needed on areas west of the Delta to obtain a more complete picture of BDCP's cumulative effects. The ISB noted that "the hydrodynamic modeling needs to capture the entire domain of effects. The current Effects Analysis does not consider the influence of shifting timing of withdrawals on San Francisco Bay circulation patterns and ecology. This is a significant omission with ecologically important implications."	<p>For responses to comments related to the Delta Independent Science Board's letters, please refer to comment letters BDCP 1448 and/or RECIRC 2546.</p> <p>As noted in response to comment 1682-1, Alternative 4A is now the preferred alternative. 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, the proposed project is designed to improve native fish migratory patterns and allow for greater operational flexibility Please see Master Response 5 for discussion of the BDCP effects analysis. For more information regarding salinity please see Master Response 14 (Water Quality). See FEIR Appendix 80 for analysis of water quality in San Francisco Bay. See Final EIR/EIS Chapters 11 and 12 and associated appendices for evaluation of proposed project impacts on aquatic and terrestrial biological resources, respectively.</p>
1682	3	The Independent Science Board noted that the BDCP did not evaluate areas downstream of the Delta (i.e., San Francisco Bay) even though the National Research Council (NRC) scientific review specifically stated that this area should be included. "Adequate justification for lack of consideration of impacts to San Francisco Bay was not provided ... in the document, although there are potential impacts. For example, the expected reduction in sediment supply has the potential impacts of: tidal marshes in the Bay could be less resilient to sea level rise and; (2) increased water clarity in the Bay could render it more responsive to nutrient inputs." The EIR/EIS should better assess the potential effects on the Marsh and the Bay, identify potential impacts on salinity, sediment delivery and Bay species as potentially significant, and evaluate strategies to avoid or mitigate these effects. This analysis should establish clear standards and thresholds of significance, in consultation with scientific experts.	<p>Please see responses to comment letters 1448 and 2546 for a comprehensive response to comments from the Independent Scientific Review Panel. See also response to comment 1682-3. See Master Response 19 for additional information on climate change. For more information regarding water quality see Master Response 14. See FEIR Appendix 80 for analysis of water quality in San Francisco Bay.</p>
1682	4	Water Quality and Salinity. Biological opinions from the National Marine Fisheries Service and the US Fish and Wildlife Service determined that habitat degradation in the Marsh for multiple sensitive species is due, in part, to reduced freshwater inflows from the Delta, yet the BDCP's analysis is lacking in this area. Current Delta fresh water outflows seem inadequate to support or recover endangered species. Studies project that the salinity in San Francisco Bay could increase by 0.30-0.45 practical salinity unit (psu) per decade due to the compounding effects of decreasing freshwater inflow and rising sea level	<p>The EC assessment in WQ-7 identifies long-term changes in EC at Suisun Marsh locations where they would occur, and those with substantial increases that would adversely affect beneficial uses were identified as significant and mitigation identified.</p> <p>The BDCP addresses waterfowl throughout Chapter 5, and the Plan includes the protection and management of 5,000 acres in Suisun Marsh, which includes measures for water management and leaching to reduce salinity. The effects of climate change on waterfowl, including increased salinity are addressed in</p>

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		(projected by Cloern et al. 2011 to rise approximately 4 inches per decade). Climate change will affect future Bay salinity and the restoration and conservation measures proposed in the EIR /S. Higher salinity in the Suisun Marsh due to high diversion years would affect managed wetlands and the Bay's native species, such as the Dungeness Crab, that use the lower salinity of the Bay as a nursery. Also, waterfowl that rely on the lower salinity/freshwater of the Marsh as breeding habitat may be at risk, as higher salinity levels have been shown to be dangerous to ducklings. However, these species are not included in the BDCP's analysis.	BDCP Appendix 5A. Please see also response to comment 1682-2.
1682	5	The EIR / S states that the BDCP would be implemented using a "decision tree process, a focused form of adaptive management that will be used to determine at the start of new operations, the fall and spring outflow criteria that are required to achieve the conservation objectives of the BDCP for delta smelt and longfin smelt and to promote the water supply objectives of the BDCP. Other BDCP-covered fish species, including salmonids and sturgeon, may also be affected by outflow. Their outflow needs will also be investigated as part of the decision tree process." The EIR / S should clarify how the proposed pipelines will be managed in the long term (e.g., 50 years) given recurring droughts that require changes in future flow regimes. The BDCP should evaluate flow scenarios that provide greater freshwater flows to the Bay beyond the requirements of D1641 [footnote 1: D1641 refers to a State Water Board water rights Decision of 2005 that set water quality (salinity) standards for various monitoring stations in the Bay and Delta and amends certain water rights by assigning responsibilities to the persons or entities holding those rights to help meet the salinity objectives.] to recover declining fish populations. Decreased reliance on Delta freshwater diversions may become necessary to protect sensitive and threatened species. Scenario F (Alternative 8: pipeline / tunnel alignment, dual conveyance, intakes at 2, 3 & 5, with 9,000 cfs diversion) would increase Delta outflow up to 1.5 million acre- feet annually. A project alternative that provides for greater Delta outflows is likely necessary to meet the policy objectives in the San Francisco Bay Plan (Bay Plan) and the Suisun Marsh Protection Plan. (Marsh Plan). Also, the EIR/ S should evaluate potential impacts on non-listed Marsh and Bay species that rely on salinity levels characteristic of the Bay and the Marsh as required by current X2 standards.	Please see response to comment 1682-2. The commenter's main point is that the BDCP should consider a wider range of alternatives related to Delta outflow. Regarding development of alternatives, please see Master Response 4. Please also see Master Response 44 related to the decision tree process. The Final EIR/EIS includes analysis of a number of non-listed species (termed non-covered aquatic species of primary management concern) that have been shown to have relationships with flow in Chapter 11. These include striped bass, American shad, and California bay shrimp. The Lead Agencies will make the final decisions regarding the selection of an alternative (and therefore, an operational scenario) for the purposes of CEQA and NEPA. USFWS and NMFS have authority under the federal Endangered Species Act to determine whether the Proposed Project meets the regulatory standard of ESA Section 7, and CDFW, a CEQA responsible agency, has authority to determine if the Proposed Project meets the regulatory standards of CESA. Please see Section 4.1.2, Description of Alternative 4A, RDEIR/SDEIS for additional information on Proposed Project operations. Also please refer to Master Response 28, Operational Criteria. Please see Master Response 28 and 29 for more information regarding operational scenarios and compliance with ESA respectively. Impacts on Delta outflows (fresh water flowing to the Bay) are not significant. Model simulation results for the preferred alternative (4A) indicate that long-term average and wet year peak outflows would increase in winter months with a corresponding decrease in spring months because of the shift in system inflows caused by climate change and increased Delta exports as compared to Existing Conditions. In other year types, Alternative 4A would result in higher or similar outflow because of the spring outflow requirements. In summer and fall months, Alternative 4A would result in similar or higher outflow because of changes in export patterns and OMR flow requirements and export reductions in fall months, and also because of the Fall X2 requirements in wet and above normal years. The incremental changes in Delta outflow between Alternative 4A and Existing Conditions would be a function of both the facility and operations assumptions (including north Delta intakes capacity of 9,000 cfs, less negative OMR flow requirements, enhanced spring outflow and/or Fall X2 requirements) and the reduction in water supply availability due to increased north of Delta urban demands, sea level rise and climate change. Results for the range of changes in Delta Outflow under Alternative 4A are presented in more detail in Appendix 5A, BDCP EIR/S Modeling Technical Appendix, of the Draft EIR/EIS. For a more detailed response regarding impacts beneficial uses of water, please see Master Response 34. Please see Master Response 30 and Final EIR/EIS Chapter 5, Water Supply, and associated appendices for additional information on modeling and modeling results. Specifically, for more information regarding supplemental modeling requested related to increased delta outflows please see Appendix 5E of the Final EIR/EIS.

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1682	6	<p>Conservation Measures. Most Conservation Measures are discussed at a programmatic level, rather than at a project level in the EIR/EIS. The Independent Science Board noted that, "the difference in level of detail [of restoration project analyses] presented effectively treats the co-equal goals unequally. We are concerned that the merely programmatic analysis of habitat restoration provides too little basis for decision-making by the Delta Stewardship Council and other parties. Furthermore, the benefits of habitat restoration are assumed when a beneficial cumulative impact is concluded under NEPA or a less than significant cumulative impact is concluded under CEQA. Achieving beneficial conservation measures requires understanding limiting factors, ecosystem processes, sequencing, adaptive management responses, thresholds for certain actions, and interactions and other consequences of these actions...to describe how major uncertainties will be resolved." Also, the Effects Analysis recognizes that suspended sediment has been declining in the Sacramento River, but no analysis of the potential for corresponding increased algal blooms is addressed.</p>	<p>As described in response to comment 1682-1the preferred alternative is now Alternative 4A which does not include an HCP. However, Alternative 4 remains a potentially viable because it represents the original 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. Please see Master Response 2 for discussion of project versus program level analysis, specifically as it relates to CM2-CM21. Please also refer to Master Response 9 for discussion of cumulative impact analysis. Please see responses to comment letters 1448 and 2546 for a comprehensive response to comments from the Independent Scientific Review Panel.</p>
1682	7	<p>Specific locations for habitat improvements are not discussed in the restoration opportunity areas, including those in the Suisun Marsh. The EIR /S would benefit from further analysis of restoration patterns in the Marsh to determine how they affect salinity patterns in the Marsh and Delta. This may help focus the restoration efforts to specific regions of the Marsh to limit salinity intrusion. There is little discussion in the EIR /S of the effects of climate change on conservation measures. Some Conservation Measures that involve habitat restoration or enhancement should be addressed at a project level of detail in the EIR /S so that they can be implemented early in the project cycle, in timeframes consistent with Conservation Measure 1. Also, additional conservation measures may be needed to address project effects on the Marsh and the Bay, particularly those related to sediment management.</p>	<p>See response to comment 1682-5 for discussion of program versus project level analysis. As described in response to comment 1682-1the preferred alternative is now Alternative 4A which does not include an HCP. Although Alternatives 4A, 2D, and 5A include only those habitat restoration measures needed to provide mitigation for specific regulatory compliance purposes, habitat restoration is still recognized as a critical component of the state's long-term plans for the Delta. Such larger endeavors, however, will likely be implemented over time under actions separate and apart from these alternatives. The primary parallel habitat restoration program is called California EcoRestore (EcoRestore), which will be overseen by the California Resources Agency and implemented under the California Water Action Plan.</p> <p>Additional priority restoration projects will be identified through regional and locally-led planning processes facilitated by the Delta Conservancy. Plans will be completed for the Cache Slough, West Delta, Cosumnes, and South Delta. Planning for the Suisun Marsh region is already complete and a process for integrated planning in the Yolo Bypass is underway. The Delta Conservancy will lead the implementation of identified restoration projects, in collaboration with local governments and with a priority on using public lands in the Delta.</p> <p>For more information regarding water quality see Master Response 14. See FEIR Appendix 8O for analysis of water quality in San Francisco Bay.</p>
1682	8	<p>Sediment. The BDCP EIR discusses a potential reduction in suspended sediment transport to the Suisun Marsh and San Francisco Bay of approximately eight to ten percent. The EIR/EIS does not characterize this change as a significant impact. The Independent Science Board report to the Delta Stewardship Council raises this as a significant issue. United States Geological Survey researchers have observed a steep reduction suspended sediment concentrations in the Bay and characterize San Pablo Bay as erosional. With projected sea level rise, further reduction in Bay sediment inputs should be considered significant, given Bay wetland restoration targets, current subsided diked- baylands, and the overall Bay-Delta sediment budget. Sediment settling in the new northern forebay, the relocation of flows from channels into underground pipes, new pumping regimes and proposed restoration conservation measures together and separately will alter sediment transport, delivery, and the rate of deposition downstream. Reduced suspended sediment in the Bay will exacerbate nutrient loading problems caused from the sewage treatment plants discharging into the Bay.</p> <p>Construction of restoration projects, which are highly desirable in the Delta upstream of the Bay, likely will create sediment sinks, thus further reducing sediment flows to the</p>	<p>The REIR/SDEIS included an analysis of the effects of this change in sediment caused by the operations and restoration for each action alternative. The results indicate minimal changes in sediment in areas downstream of the Delta. For more information regarding water quality see Master Response 14. See FEIR Appendix 8O for analysis of water quality in San Francisco Bay.</p> <p>Please see responses to comment letters 1448 and 2546 for a comprehensive response to comments from the Independent Scientific Review Panel.</p>

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		Marsh and San Francisco Bay. The cumulative impacts analysis should consider all of these changes to the Bay sediment regime, using science-based thresholds of significance.	
1682	9	Cumulative Effects. There are several related projects that, cumulatively, could exacerbate the effects of BDCP and adversely affect the Bay and the Marsh that are not addressed in the EIR /S. These projects include, but are not limited to, dredging the Baldwin Ship Channel (between San Pablo Bay and the Port of Stockton) that may include constructing a sill in the Carquinez Strait; proposals to construct seasonal drought barriers or gates in the Delta; and, several proposed water storage projects on existing dams and reservoirs. The issue of storage should be addressed within BDCP, particularly planned projects. The EIR /S should address cumulative impacts of all relevant related projects.	The Cumulative Impact Analyses that was 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, and Appendix 3B Environmental Commitments, AMMs, and CMs of the RDEIR/SDEIS. For additional information regarding cumulative impacts, please see Master Response 9.
1682	10	<p>Bay Conservation and Development Commission's Relevant Policies and Related Agreements</p> <p>Bay Plan Findings and Policies. The Commission's Bay Plan recognizes the tremendous ecological value of the Bay-Delta estuary and the importance of fresh water inflows from the Delta to the survival of fish and wildlife in the Bay and Suisun Marsh. When revising the EIR/EIS to respond to the Commission's comments and concerns, the authors should consider these applicable findings and policies:</p> <p>Bay Plan findings on Tidal Marshes and Tidal Flats state, in part, that "San Francisco Bay is a substantial part of the largest estuary along the Pacific shore of North and South America and is a natural resource of incalculable value" and that "the sheltered waters of estuaries support unique communities of plants and animals specially adapted for life in the region where rivers meet the coast."</p> <p>Bay Plan findings and policies recognize the importance of fresh water inflows to the ecosystem of the Bay. Bay Plan findings on Fish, Other Aquatic Organisms and Wildlife state, in part, that "conserving fish, other aquatic organisms and wildlife depends, among other things, upon availability of ...proper fresh water inflows, temperature, salt content, water quality, and velocity of the water." Fresh Water Inflow Finding A states that "[f]resh water flowing into the Bay, most of which is from the Delta, dilutes the salt water of the ocean flowing into the Bay through the Golden Gate....This delicate relationship between fresh and salt water helps to determine the ability of the Bay to support a variety of aquatic life and wildlife in and around the Bay."</p>	The comment does not raise an issue related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS; however, the comment is noted that the BCDC recommends consideration of relevant policies and related agreements. See Chapter 13 Land Use, in the Final EIR/EIS for discussion of relevant plans and policies.
1682	11	<p>Bay Conservation and Development Commission Bay Plan findings and policies also recognize the impact of pollutants passing through the Delta into the Bay. Bay Plan findings on Water Quality state, in part, that "water from approximately 40 percent of California drains into San Francisco Bay carrying with it pollutants from point and nonpoint sources" and that "harmful effects of pollutants reaching the Bay can be reduced by maximizing the Bay's capacity to assimilate, disperse, and flush pollutants by maintaining and increasing ...the volume and circulation of water flowing in and out with the tides and in fresh water inflow."</p> <p>The Bay Plan's Fresh Water Inflow policies require limits on water diversions, preservation of the Suisun Marsh, and cooperation with the State Water Board to ensure adequate fresh water inflow. Policy 1 states that "[d]iversions of fresh water should not reduce the inflow into the Bay to the point of damaging the oxygen content of the Bay, the flushing of the Bay, or the ability of the Bay to support existing wildlife." Policy 2 states that "[h]igh priority should be given to the preservation of Suisun Marsh through</p>	<p>Although the 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. Chapter 8 of the 2013 Draft EIR/EIS and the 2015 RDEIR/SDEIS and associated appendices contain extensive analysis related to water quality impacts and mitigation. For more information regarding water quality see Master Response 14. See FEIR Appendix 8O for analysis of water quality in San Francisco Bay. Please see also Master Response 5 for information on the BDCP effects analysis.</p> <p>Salinity in the Delta is a function of the amount and timing of freshwater input from the major tributaries, tidal action from San Francisco Bay, and exports from the Delta. During the late winter and spring months of seasonally elevated flows, and in wet years, seawater intrusion is limited and the Delta has mostly low salinity. During low-flow summer and fall months, and during dry years, lower freshwater flows result in greater amounts of seawater intrusion. Staff from DWR and USBR constantly monitor Delta water quality conditions and adjust operations of the SWP and CVP in real time as necessary to meet water quality objectives set by the State Water Resource Control Board protection of agricultural water supply, municipal and industrial drinking water supply, and fish and wildlife beneficial uses. See section 4.3.4 of the Draft</p>

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		adequate protective measures, including maintenance of fresh water inflows." Finally, Policy 3 states, in part, that the "Bay Commission should cooperate with the State Board and others to ensure that adequate fresh water inflows to protect the Bay are made available."	<p>EIR/EIS for a discussion on the proposed projects effects on water quality, salinity and electrical conductivity.</p> <p>Effects of the alternatives on salinity levels are described in Chapter 8, Water Quality, and Appendix 8H, Electrical Conductivity, Final EIR/EIS and Appendix A of the RDEIR/SDEIS. Modeling results indicate that the implementation of the water conveyance facilities may positively or adversely affect in-Delta water quality, depending on a number of factors including location, time of year, and hydrologic conditions. See tables in Appendices 8E through 8N for specific results related to various water quality constituents (including bromide and chloride).</p> <p>In addition to potential effects associated with the project and alternatives, modeling results for the No Action Alternative indicate that, with or without the proposed project, rising sea levels will bring saline tidal water further into the Delta than occurs at present.</p>
1682	12	<p>Suisun Marsh Preservation Act. The Nejedly-Bagley-Z'berg Suisun Marsh Preservation Act of 1974 directed Bay Conservation and Development Commission and the California Department of Fish and Game (CDFG) to develop the Suisun Marsh Protection Plan, which was codified into law as the Suisun Marsh Preservation Act of 1977. The Act recognizes the important role of the Suisun Marsh in providing wintering habitat for waterfowl using the Pacific Flyway and critical habitat for other wildlife, including rare and endangered species.</p> <p>The Suisun Marsh, where salt and fresh water meet and mix, contains approximately 85,000 acres of tidal marsh, managed wetlands, and waterways in southern Solano County. It is an important part of the Bay-Delta ecosystem and requires adequate fresh water inflows to maintain its fish and wildlife habitat.</p> <p>Section 29003 of the Act finds that continued wildlife use of Suisun Marsh requires, among other things, "[p]rovision for future supplemental water supplies and related facilities to assure that adequate water quality will be achieved within the wetland areas."</p> <p>Section 29010 finds that "[w]ater quality in the marsh is dependent on the salinity of the water in sloughs of the marsh, which depends in turn on the amount of fresh water flowing in from the Delta."</p>	<p>The comment does not raise an issue related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS; however, the comment is noted regarding the Suisun Marsh Preservation Act. The Suisun Marsh Preservation Agreement and Suisun Marsh Habitat Restoration and Management Plan are included in the No Action Alternative and Alternatives 1 through 9.</p>
1682	13	<p>Suisun Marsh Protection Plan. The Plan recognizes that Suisun Marsh contains "the unique diversity of fish and wildlife habitats characteristic of a brackish marsh." The Plan emphasizes the need to maintain adequate fresh water inflows to preserve this unique habitat.</p> <p>Water Supply and Quality Finding 2 of the Plan states, in part, that "[t]he most important source of fresh water inflow to the Suisun Marsh is the outflow from the Sacramento-San Joaquin River Delta."</p> <p>Finding 9 states, in part, that "[t]he State Water Resources Control Board in its Delta Decision, and the Environmental Protection Agency and the Regional Water Quality Control Board in the Water Quality Control Plan for the San Francisco Bay Basin, have set water and soil salinity standards for the Marsh."</p> <p>Finding 10 states, in part, that "[a]ssuring that sufficient quantities of fresh water will be available to the Marsh to meet the standards and marsh management requirements is as important as determining appropriate water quality standards for the Marsh."</p>	<p>The comment does not raise an issue related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS; however, the comment is noted regarding the Suisun Marsh Preservation Act. The Suisun Marsh Preservation Agreement and Suisun Marsh Habitat Restoration and Management Plan are included in the No Action Alternative and Alternatives 1 through 9.</p>

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		<p>Water Supply and Quality Policy 1 states, in part, "there should be no increase in diversions by State or Federal Governments that would cause violations of existing Delta Decision or Basin Plan standards."</p> <p>Policy 2 states, "Adequate supplies of fresh water are essential to the maintenance of water quality in the Suisun Marsh. Therefore, the State should have the authority to require the Bureau of Reclamation to comply with State and Federal water quality standards for the Delta and the Marsh. This should be accomplished through Federal legislation if necessary."</p> <p>Policy 4 states, in part, that "[w]ater quality standards in the Marsh should be met by maintaining adequate inflows from the Delta."</p>	
1683	1	<p>TCCA [Tehama-Colusa Canal Authority] has reviewed the Draft Bay Delta Conservation Plan ("BDCP" or "Plan") and the accompanying Draft Environmental Impact Report/Environmental Impact Statement ("EIR/EIS") that were released for public review last December. Because the BDCP states that the Plan and supporting documents are incorporated into the EIR/EIS, our comments on the BDCP should also be considered comments on the EIR/EIS. Further, these comments also address the more recently released BDCP Implementing Agreement.</p> <p>TCCA hereby incorporates by reference and joins the comments on the BDCP Plan, the Implementing Agreement, and the EIR/EIS submitted by the North State Water Alliance [BDCP 1597] (including all attachments to those comments) dated July 28, 2014 as though fully stated herein.</p> <p>TCCA would like to take this opportunity to underscore several comments made in the North State Water Alliance comments, which are of particular importance for TCCA.</p>	<p>All comments received during the 2013 and 2015 public comment period are included in the Final EIR/EIS. Please refer to the table of commenters to locate the letter of interest by North State Water Alliance as well as responses to those comments.</p> <p>The comment pertains to the BDCP or Alternative 4 evaluated in the 2013 Public Draft EIR/EIS. 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> <p>For detailed responses 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>
1683	2	<p>TCCA [Tehama-Colusa Canal Authority] is gravely concerned that the proposed operations of BDCP Conservation Measure 1, the tunnels, will have the impact of draining north of Delta reservoirs on a much more frequent basis than at present, thereby diminishing the water supply reliability for both Sacramento River Settlement Contractors [SRSCs] and TCCA, as discussed and demonstrated at length in the MBK report [see BDCP 1597]. Water users in the Sacramento Valley are protected by California's water right priorities and the "area of origin" statutes. The BDCP and the accompanying EIR/EIS are filled with statements to the effect that the BDCP will not interfere with these upstream uses of water. However, the proposed operations in the BDCP documents and an examination of the underlying modeling clearly refute these assertions. Under the current document, TCCA and the SRSCs could potentially be severely impacted by the operation of the tunnels. As such, TCCA seeks a simple and clear statement that the final BDCP will not cause the state and federal projects to operate in a way that impacts TCCA's present water supply reliability, and that does not have an adverse effect on fish and wildlife resources in the Sacramento Valley. TCCA requests the BDCP proponents amend the modeling by using the best available science, and work to redefine operations of the BDCP to address these shortcomings and comport with legal requirements to avoid impacts to upstream water users. Absent these assurances, TCCA cannot support the BDCP as currently formulated because of the clear impacts it would have on waters</p>	<p>Please note that the BDCP is no longer the preferred alternative. The preferred alternative is now Alternative 4A and 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>By establishing a point of water diversion in the north Delta, the proposed project is designed to improve native fish migratory patterns while securing reliable water deliveries. 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 also refer to Master Response 26 for a discussion of area of origin. Also see Master Response 30.</p>

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		supply reliability for upstream areas. Further, as currently formulated, the BDCP will be unable to obtain the State Water Resources Control Board approvals for the changes in point of diversion necessary to implement the BDCP due to these concerns.	
1683	3	<p>As noted in the North State Water Alliance comments [BDCP 1597], in order for the federal regulatory agencies to approve the proposed Habitat Conservation Plan, there must be an enforceable set of funding commitments. To date, there is no such approved funding plan. Instead, it vaguely describes a funding plan comprised of future bond proposals, state and federal water contractors contributions (without defining the exact nature and amounts of those commitments), and unidentified state and federal funding and grants. Indeed, last week there were news stories across California indicating the State Water Contractors were considering financing their share of the BDCP through increases in property tax rates, thereby evading the constitutional limitations of Proposition 13 and Proposition 218. Until such a plan is developed and approved through the normal legal means, the BDCP is fatally flawed and should not proceed.</p> <p>Further, any financing plan must adhere to the principle of "beneficiary pays." At present, the BDCP alleges it has commitments from State and Federal Water Contractors to pay for the project. All of TCCA's [Tehama-Colusa Canal Authority] member agencies are federal water contractors, none of whom need or will benefit from the tunnels, and in fact, are likely to be negatively impacted by the tunnels proposal as it is currently formulated. As such, TCCA will not voluntarily contribute any funding to the BDCP, and objects to any effort to attempt to charge TCCA members for these efforts to implement the BDCP (it should be noted, federal law makes it very clear that an HCP is strictly a voluntary activity). Reclamation has indicated that the costs associated with providing water to south of Delta refuges would be treated as an operations and maintenance cost, and so would be chargeable to all federal contractors on annual basis. TCCA objects strongly to this proposed charge, on the ground that the proposed tunnels (and their associated capital and operations and maintenance costs) are not needed in order to move water to south of Delta refuges. If it is Reclamation's desire to move such water through the proposed tunnels, then that charge is properly paid for by the United States, not federal water contractors.</p>	<p>Please refer to Master Response 5 for a discussion of project funding and the beneficiary pays principle.</p> <p>Reclamation has not determined any cost recovery strategy for California WaterFix (CWF). If Reclamation chooses to participate in CWF by utilizing the conveyance facilities that are constructed, then collecting operation and maintenance costs through a wheeling agreement is just one cost recovery strategy that Reclamation is exploring.</p>
1683	4	<p>The centerpiece of the BDCP is the effort to provide regulatory assurances to the Department of Water Resources (and, by extension, to the State Water Contractors) under Section 10 of the federal Endangered Species Act ("ESA"). However, Section 10 of the federal ESA does not extend these types of protections to Reclamation. Instead, Section 7 of the federal ESA imposes a continuing obligation on Reclamation to consult with the federal regulatory agencies to take actions that may be needed to conserve threatened and endangered species.</p> <p>With this legal framework in mind, the BDCP lacks a clear demonstration how the regulatory assurances contemplated in the BDCP can protect potentially regulated entities without adversely affecting upstream stakeholders. Specifically, if the conservation measures identified in the BDCP prove inadequate in the eyes of either the National Marine Fisheries Service or the U.S. Fish and Wildlife Service, Reclamation will be legally obliged to re-engage in consultation with either of these agencies in order to take appropriate actions to conserve listed species. If either agency determines that additional conservation measures are appropriate, then Reclamation (and its contractors like TCCA's [Tehama-Colusa Canal Authority] member agencies) will be required to implement (or alternatively, be potentially impacted by) those conservation measures or risk the loss of</p>	<p>Details of the roles of the SWP/CVP contractors in this process are being developed through the ESA Section 7 process and the state 2081(b) permit process.</p> <p>Please refer to Master Response 5 for a discussion of Sections 10 and 7 of the ESA, and Master Response 25 for a discussion of the effects on upstream operations.</p>

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		<p>water supplies, fines and penalties for unauthorized take of listed species. By contrast, the Department of Water Resources and its contractors will be able to rely on the assurances contained in the Implementing Agreement.</p> <p>Such a result - in which the potentially regulated entities are protected from additional mitigation obligations, but upstream stakeholders like TCCA and its members, are forced to meet those obligations - is unfair and violates the repeated claim that there will be no "redirected impacts" from the BDCP. Moreover, this result would also violate the provisions of the Coordinated Operations Agreement that require regulatory obligations to be shared among the state and federal project contractors. TCCA has voiced this concern to US. Bureau of Reclamation and the BDCP proponents on countless occasions over the past few years during the development of the BDCP, but we have never received a simple and clear explanation of how the BDCP can evade the obligations imposed on Reclamation by Section 7 of the federal Endangered Species Act. We have repeatedly heard from USBR that these are valid questions and concerns that are being investigated and that a response would be forthcoming, yet still no answers have been provided. With the release of the subject BDCP documents that are the subject of these comments, still no information or adequate response has been provided that addresses these important issues.</p> <p>TCCA requests that the final BDCP contain such an explanation.</p>	
1683	5	<p>TCCA [Tehama-Colusa Canal Authority] is concerned about the governance structure proposed for the BDCP. If the twin tunnels are ever constructed, there will be strong incentives from south of Delta interests to recoup their investment by moving as much water across the Delta as possible. In order to ensure that the BDCP does not literally drain Northern California, the BDCP governance structure must be revised to provide significant and meaningful representation for the Northern California stakeholders in regard to the operations of the BDCP.</p>	<p>Please see Master Response 5 regarding the adequacy of the governance structure for the proposed project.</p>
1683	6	<p>Despite the concerns expressed here, TCCA [Tehama-Colusa Canal Authority] does wish to highlight that we continue to be committed to working collaboratively with all statewide water interests in effort to find balanced and equitable solutions for the Delta. We have made this sentiment clear throughout the BDCP process, to no avail. Despite voluminous materials being released, an assortment of public meetiDespite the concerns expressed here, TCCA [Tehama-Colusa Canal Authority] does wish to highlight that we continue to be committed to working collaboratively with all statewide water interests in effort to find balanced and equitable solutions for the Delta. We have made this sentiment clear throughout the BDCP process, to no avail. Despite voluminous materials being released, an assortment of public meetings being scheduled, to date, still no real collaborative process has yet to take place. As such, the resulting BDCP process has resulted in a proposal that clearly neglects to address any of the important concerns expressed herein and in the comment letter and attachments provided by the North State Water Alliance (to which TCCA hereby joins). It is the sincere belief of TCCA that an effort that were to truly include, not only the proponents of the BDCP whose sole purpose is moving more water south of the Delta, but also invites the participation of the potentially affected upstream stakeholders, would have a much better likelihood for success. TCCA is committed to working with all stakeholders on such a collaborative process.</p> <p>Until that occurs, TCCA is left with no other alternative but to provide these critical comments on the BDCP documents that clearly fail to provide a project description of</p>	<p>All comments received during the 2013 and 2015 Public Draft EIR/EIS public comment period are included in the FEIR/EIS. Please refer to the table of commenters to locate the letter of interest by North State Water Alliance. Please refer to Master Response 40 for information related to outreach and stakeholder engagement. Please refer to Master Response 5 for information pertaining to project funding. Please refer to Master Response 3 for information pertaining to the project's Purpose and need and regulatory framework. Please see Master Response 4 for additional detail on alternatives development.</p> <p>Please refer to the table of commenters to locate the letter of interest by North State Water Alliance as well as responses to the comments.</p>

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		proposed (viable) operations, fails to describe a legally viable regulatory framework, and fails to meet the requirement of an enforceable funding plan. As such, not only does this plan fall far short of the requirements set forth under NEPA and CEQA, but it also fails to comply with state water law and the requirements under the federal and state ESAs necessary to permit the BDCP.	
1684	1	Richvale Irrigation District supports the comment letter dated 7/28/2014, submitted on behalf of the North State Water Alliance [see BDCP1597], which contains comments on the Bay Delta Conservation Plan, and its associated Implementation Agreement and draft Environmental Impact Statement and Environmental Impact Report. By and through this letter, Richvale Irrigation District adopts each comment and objection in the 7/28/2014 letter as its own, along with all exhibits and attachments to that letter, and incorporates herein by this reference all such comments, objections, and documents.	Please see responses to comment letter 1597.
1685	1	Western Canal Water District (WCWD) supports the comment letter dated July 28, 2014, submitted on behalf of the North State Water Alliance [see BDCP1597], which contains comments on the Bay-Delta Conservation Plan, and its associated Implementation Agreement and draft Environmental Impact Statement and Environmental Impact Report. By and through this letter, WCWD adopts each comment and objection in the July 28, 2014 letter as its own, along with all exhibits and attachments to that letter, and incorporates herein by this reference all such comments, objections, and documents.	Please see responses to comment letter 1597.
1686	1	<p>Many of Central Valley Clean Water Association's members will be directly impacted by the BDCP and have a significant interest in its development and implementation.</p> <p>CVCWA members are impacted by an impaired Delta ecosystem. Regulatory pressures are intense because of the Pelagic Organism Decline (POD) and other ecosystem problems. CVCWA therefore has an interest in ensuring that the BDCP will remedy past impacts associated with the operations of the Central Valley Project (CVP) and State Water Project (SWP) that have contributed to a degraded Delta ecosystem. Further, CVCWA has an interest in ensuring that the proposed BDCP project will not, under any circumstances, make conditions in the Delta worse.</p> <p>It is acknowledged in the EIR/EIS (Section 31, p. 31-5) that current water project operations have caused "long standing adverse environmental consequences associated with ... diversions from the South Delta, such as ... fish losses from entrainment."</p> <p>Facts that are commonly recognized are:</p> <ul style="list-style-type: none"> --Reduced exports from the South Delta result in reduced entrainment and reduced losses of fish during low flow conditions. --Reduced use of the South Delta facilities during certain critical periods will improve fish survival. --Migrating salmon have less chance of survival if diverted into the Central Delta, where predation pressure and entrainment are greatest. <p>It is also understood within the Delta scientific community that current water project operations have increased hydraulic residence times in the Delta, altered salinity regimes, changed the annual hydrograph, and caused indirect loss of productivity.</p>	<p>Items discussed in this comment are consistent with information in Chapter 1, Introduction, Chapter 2, Project Objectives and Purpose and Need, and Chapter 31, Other CEQA/NEPA Sections in the DEIR/EIS.</p> <p>Please note this comment addresses Alternative 4 (the BDCP) which is no longer the considered as the preferred alternative. 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. For more information development of operational criteria with respect to biological resources, see Master Response 17.</p>

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		These changes have led to various impacts, including the proliferation of invasive species, changes in the Delta food web, and increased predation of covered fish species.	
1686	2	Central Valley Clean Water Association is concerned that the EIR/EIS does not directly address the impacts of past water project operations on covered fish species and the Delta ecosystem. Such information represents the foundation for assessment of future impacts of changed water project operations under the proposed project. CVCWA is concerned that the failure to establish this foundation limits the ability to project the future impacts of the proposed project. Additionally, the EIR/EIS does not clearly identify or distinguish the differences in export volumes that are currently occurring, versus the export volumes that will be accommodated by the proposed project. Since the impact of current exports is clearly tied to impacts on covered fish species, lack of clarity in the EIR/EIS on this point creates a lack of confidence in the overall impact assessment.	<p>CEQA and NEPA require evaluation of effects of alternatives compared to existing conditions and the No Action Alternative, respectively. The EIR/EIS needn't assess the effects of the existing conditions. The evaluation in the Draft EIR/EIS contains evaluations based on the best available information and tools, which are in part, based on observed information and relationships.</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 about the same as 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>
1686	3	<p>The BDCP is supposed to improve the Delta ecosystem, consistent with the co-equal goals of the Delta Plan. The BDCP intends to improve the Delta ecosystem through reduced entrainment in the South Delta and improved ecosystem health through wetlands creation. A high degree of uncertainty exists regarding the ability of the proposed project to deliver on this intent.</p> <p>The burden of proof is on the BDCP to clearly identify the positive and negative impacts it will have on the Delta ecosystem and to ensure that the advertised benefits are realized. This burden is intensified since the BDCP would propose to operate under a 50-year take permit.</p> <p>Finally, Central Valley Clean Water Association is very concerned that the proposed BDCP invests inordinate authority to the agencies seeking the 50-year take permit in the implementation of adaptive management, a cornerstone of the BDCP proposal. On the one hand, the proposed BDCP recognizes the great uncertainties regarding the impact of the project on the Delta ecosystem and the actual benefits that may be realized by future, uncertain restoration projects. Yet, on the other hand, the BDCP is definitive in restricting the imposition of future constraints on the permittees and grants those parties significant leverage in resisting such future requirements, which may be essential to protecting the health of the Delta ecosystem.</p>	<p>See Response to Comment 1686-1.</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. 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 proposed project, as evidenced in the RDEIR/SDEIS.</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. For more information regarding permitting please see Master Response 45. For more information regarding the collaborative science and adaptive management program please see Chapter 3 of the FEIR/EIS.</p>
1686	4	<p>Central Valley Clean Water Association is concerned regarding numerous inadequacies of the BDCP and EIR/EIS:</p> <p>A dramatically impaired fishery and ecosystem in the Delta seriously impacts Central Valley Publicly Owned Treatment Works -- BDCP documents fail to adequately address the impacts of water project operations on the Delta fishery, including past and future impact of entrainment and the loss of hundreds of millions of larval, juvenile and adult</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 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</p>

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		fish over the next 50 years as a result of the proposed project and associated take permit. Most problematic, the BDCP and its documents fail to ensure that the Delta fishery will be restored or even that it will not continue to be in crisis or worsen under the proposed project. The BDCP and its documents are fundamentally flawed in their failure to provide an adequate assessment of the current project operations on the Delta ecosystem.	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, EIR/EIS. See also response to comment 1686-1.
1686	5	Adaptive Management Deficiencies -- The BDCP fundamentally relies on "adaptive management" to address many uncertainties associated with the proposed project. However, the BDCP governance structure restricts, rather than promotes, effective adaptive management. The BDCP fails to establish the science foundation/baseline or proper future monitoring requirements to allow for adaptive management to properly function or for the future impacts of the BDCP project operations to be determined (and managed). BDCP monitoring and research commitments by the project proponents are largely absent, and, where present, are weak. Monitoring and research, performed by neutral science experts, should itself be a BDCP Conservation Measure, not a loose end.	For more information about adaptive management and monitoring, please also see Master Response 33.
1686	6	BDCP is one sided and inequitable -- The BDCP guarantees certainty to the construction of Sacramento intakes and conveyance and ensures 50-year certainty regarding water operations, but it restricts the ability to adaptively regulate project operations, and fails to ensure Delta restoration, including the wetlands areas so vital to the achievement of the "dual goals," as articulated in the 2009 Delta Reform Act.	As noted in response to comment 1686-1, Alternative 4A does not include an HCP or NCCP. 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, Final EIR/EIS, describe effects of the proposed project and several alternatives on fish and wildlife species in the Plan Area. For more information regarding permitting please see Master Response 45. For more information regarding the collaborative science and adaptive management program please see Chapter 3 of the FEIR/EIS. For more information about the proposed project's consistency with the Delta Reform Act, refer to Master Response 31 and Appendices 3I and 3J of the Final EIR/EIS.
1686	7	Serious problems with the BDCP governance structure -- The proposed structure provides undue power to the State Water Contractors and does not allow effective input from many Delta and Central Valley stakeholders, or a fair process for regulating the water contract operations for the next 50 years.	Please see Master Response 5 regarding the adequacy of the governance structure proposed for the 2013 public draft BDCP. The Final EIR/EIS analyzes all alternatives, including Alternative 4A.
1686	8	Unbalanced assessment of BDCP impacts on nutrient levels and nutrient-related effects -- The BDCP and EIR/EIS fail to address the effects of the proposed BDCP project in comparison to nutrient impacts from other sources, i.e. the BDCP documents allege that nutrients from BDCP restoration wetlands are beneficial, whereas nutrients from municipal and other sources are detrimental. The EIR/EIS fails to provide a mass balance of nutrients in the Delta that would allow for the fair assessment of various sources.	The sources of nutrients (ammonia, nitrate, and phosphorus) to the Delta are not identified as beneficial or detrimental in the Draft EIR/EIS. Further, the purpose of the assessments of nutrients is not to evaluate relative source contributions, but to evaluate how the project alternatives would change nutrient levels. No change to the analysis has been made.
1686	9	Inadequate assessment of the BDCP on residence times and temperature in the Delta - The EIR/EIS fails to adequately consider the effects of residence time and temperature changes associated with the proposed project and related effects in encouraging invasive macrophytes, Microcystis, and other harmful aquatic species.	Assessment of effects to Microcystis and microcystin levels in the Delta and San Francisco Bay is included in the 2015 RDEIR/SDEIS, as noted under Impacts WQ-32 and 33. For further details regarding microcystis and other water quality issues, please also refer to Master Response 14. See also Chapter 8, Water Quality of the Final EIR/EIS.
1686	10	Fails to adequately address the impact of the BDCP on the Delta food web, including significant loss of productivity with the exports -- The BDCP documents provide inadequate consideration of invasive clam effects on the Delta food web and the proposed future wetlands restoration projects.	This comment addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis See response to comment 1686-1. For more information about the development of operational criteria and the effects on fish and other aquatic resources, see also Master Response 17, Biological Resources.
1686	11	Inadequate analysis of compliance with federal antidegradation policy -- The EIR/EIS contains grossly inaccurate findings of consistency with the federal antidegradation policy	For more information about water quality issues including consideration of appropriate antidegradation analysis, please refer to Master Response 14. See also Master Response 22 for an explanation about the

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		with regard to Clean Water Act (CWA), section 303(d) (hereafter referred to as "303(d)") listed parameters such as EC and mercury in the Delta. The significant degradation of EC and mercury in the Delta associated with the proposed project are not allowed under the federal antidegradation policy provisions of the CWA. The EIR/EIS fails to describe mitigation measures that would avoid these unallowable changes in mercury and EC levels in the Delta.	standards governing the adequacy of mitigation measures. Specific Mitigation is detailed in each Resource Chapter and can be found in the Impacts Summary included in the 2015 RDEIR/SDEIS and accordingly, also in the Final EIR.
1686	12	Fails to adequately evaluate future Delta flow scenarios/alternatives as mandated by the Delta Reform Act -- The BDCP documents largely ignore the Delta flow criteria that have been identified as necessary to support a healthy ecosystem by State Water Resources Control Board (State Water Board) in its August 2010 report. These inadequacies in the BDCP documents represent a fundamental flaw that, unless corrected, should prevent the adoption of the BDCP as an element of the Delta Plan.	As described in Appendix 3A of the Final EIR/EIS, Identification of Water Conveyance Alternatives Conservation Measure 1, of the EIR/EIS, the range of alternatives provides a range of flow criteria, rates of diversion, and operational criteria. One of the potential alternatives considered in Appendix 3A was based upon the State Water Resources Control Board 2010 Development of Flow Criteria for the Sacramento-San Joaquin Delta Ecosystem. 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 without reductions in non-SWP and non-CVP water rights diversions. The purpose and need of this EIR/EIS would not allow changes to non-SWP and non-CVP water rights. However, Alternatives 7 and 8 in the EIR/EIS reflect similar flow criteria in a manner that would only affect SWP and CVP water rights. Development of Alternatives 7 and 8 also consider development of flow criteria as a percentage of unimpaired flows. The State Water Resources Control Board's flow criteria recommendations and how they were used to inform the project planning process are also discussed in Appendix 3I, BDCP Compliance with the 2009 Delta Reform Act. For more information about the proposed project's consistency with the Delta Reform Act, refer to Master Response 31 and Appendices 3I and 3J of the Final EIR/EIS.
1686	13	Inadequate and unbalanced assessment of potential positive and negative impacts of restoration wetlands on mercury, nutrients, pathogens and other water quality parameters -- The proposed restoration wetlands are promoted in the BDCP as largely beneficial actions. The EIR/EIS fails to adequately address the potential adverse effects and required mitigation associated with those effects.	Potential adverse effects from the proposed tidal habitat restoration under the alternatives on water quality have been addressed for each constituent in Chapter 8, Water Quality. For example, it is the potential effects of the tidal habitat restoration on mercury and organic carbon that contributed to the impact conclusion being significant and unavoidable for these constituents. Alternative 4A has been developed in response to public and agency input. The EIR/EIS analyzes all alternatives, including Alternative 4A. Alternative 4A would have substantially less effect on Delta water quality such that significant impacts were only identified for electrical conductivity (EC) at Emmaton and Prisoners Point, and mercury associated with the limited tidal habitat restoration that would be implemented. The significant impacts to EC are to be mitigated through real-time operations that could not be completely represented in the modeling on which the EC assessment is based. For more information about water quality, see also Master Response 14.
1686	14	ATT1: Central Valley Clean Water Association Extended Detailed Comments on BDCP/EIR/EIS	The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIR or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.
1686	15	[From ATT1:] Comments Regarding Compliance With Delta Reform Act The Delta Reform Act in California Water Code section 85320(b), states that the BDCP will not be incorporated into the Delta Plan if it does not meet the Delta Reform Act's requirements. The EIR/EIS fails to adequately address specific requirements of the Delta Reform Act in the following major areas: --The EIR/EIS is to provide a comprehensive analysis of a reasonable range of flow criteria, rates of diversion, and other operational criteria. This range is to include flows necessary for recovering the Delta and restoring fisheries under a reasonable range of hydrologic conditions. This range is to include the flow criteria developed by the State Water Board in August 2010, which identified flow conditions and operational requirements to provide	For information about the proposed project's consistency with the Delta Reform Act, refer to Master Response 31 and Appendices 3I and 3J of the Final EIR/EIS. 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

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		<p>fishery protection under the existing Delta configuration.</p> <p>--Using the above information, the EIR/EIS is to identify the remaining water available for export and other beneficial uses.</p> <p>--The Delta Reform Act requires that construction of a new Delta conveyance facility shall not be initiated until arrangements have been made to pay for the cost of mitigation required for construction, operation, and maintenance of any new Delta conveyance facility. Accordingly, the mitigation measures need to be clearly specified and linkages to impacts of the proposed project should be plainly identified so that the financial obligations are apparent.</p> <p>The EIR/EIS either fails to include or fails to clearly address these major requirements of the Delta Reform Act. Therefore, the BDCP cannot be incorporated into the Delta Plan unless these flaws are remedied.</p>	<p>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 Resources Control Board Related to Increased Delta Outflows.</p>
1686	16	<p>[From ATT1:] The Delta Plan requires that actions be taken to reduce reliance on the Delta as a water supply. The California Environmental Quality Act (CEQA) requires that the EIR/EIS give proper consideration to measures that would reduce reliance on the Delta, including improved water use efficiency, increased storage, and local/regional water supply projects (e.g. desalination). These measures should be addressed either as an alternative to the proposed plan or as proposed mitigation measures to address significant impacts of the proposed project. The EIR/EIS fails to consider or properly address these measures as alternatives to the proposed project.</p>	<p>The Draft BDCP EIR/EIS and the Draft BDCP were prepared in a manner to comply with the 2009 Delta Reform Act, as described in Appendix 3I, BDCP Compliance with the 2009 Delta Reform Act, of the Final EIR/EIS. The range of alternatives in the EIR/EIS includes alternatives which result in reductions in SWP and CVP water deliveries south of the Delta as compared to the Existing Conditions and the No Action Alternative. The No Action Alternative and Alternatives 4H1, 4H2, 4H3, 4H4; 4A (Proposed Project); 5; 6A, 6B, 6C; 7; 8; and 9 would result in less SWP and CVP water deliveries south of the Delta than under Existing Conditions, as described in Appendix 5A, Section C, of the EIR/EIS. Similarly, Alternatives 6A, 6B, 6C; 7; 8; and 9 would result in less SWP and CVP water deliveries south of the Delta than under the No Action Alternative.</p> <p>It should be noted that the Proposed 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 BDCP/California WaterFix 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 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, 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). These projects would also be considered for SWP and CVP water users under the alternatives that provide water supply reductions as compared to the Existing Conditions and the No Action Alternative due climate change/sea level rise and/or the preferred alternative. See also Master Response 6 regarding (water) demand management.</p>
1686	17	<p>[From ATT1:] Section 3, Define Existing Conditions</p> <p>A. Appendix 3D, Defining Existing Conditions, No Action Alternative, No Project Alternative, and Cumulative Impact Conditions</p> <p>--Appendix 3D.2.1 (Existing Conditions), 3D.2.2 (No Action Alternative) and 3D.2.3 (No Project Alternative)</p> <p>The selection of two different baselines for the CEQA and the National Environmental Polict Act (NEPA) elements of the BDCP analysis of project impacts is confusing and unnecessary. It makes it virtually impossible for the public to understand the impact analysis or to discern the incremental impacts of the proposed project. Additionally, the</p>	<p>Please refer to Master Response 1 for an explanation regarding the environmental baselines considered under NEPA and CEQA.</p>

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		<p>decision to choose future conditions (projected to the year 2060) in one of the baselines introduces such variability and uncertainty into the baseline as to render the impact analysis effectively impossible for the average citizen to interpret or understand.</p> <p>CEQA guidelines encourage the use of "existing conditions" as a baseline for the impact analysis. In fact, under CEQA, the use of a future baseline is only permissible under specific conditions, i.e., where use of an existing conditions analysis would be misleading or without informational value (as stated on page 3D-2 in Appendix 3D of the subject document). As a result, the BDCP impact analysis under CEQA is purportedly based on existing conditions. However, since numerous assumptions about the impacts of a multitude of other ongoing programs were made, the "existing conditions" baseline is not distinct and is not a helpful basis for the assessment of incremental changes.</p> <p>Under NEPA guidelines, there is no requirement to use a baseline other than the existing conditions. Despite this fact, a decision was made by the preparers of the BDCP analysis to select a baseline for impact analysis based on the "No Action" alternative, which includes projected future conditions in the year 2060. No information is presented to defend or rationalize this decision. Instead, text is provided to state that "nothing in NEPA or NEPA case law precludes NEPA lead agencies...from including anticipated future conditions in the impact assessment."</p> <p>Given the choice of greatest clarity and simplicity (in terms of providing an EIR/EIS impact analysis that can be more readily understood), the choice was made to go in the opposite direction -- i.e., to choose to use different baselines for CEQA and NEPA, which reflect different time frames with different sets of assumptions used to define baseline conditions. This choice creates a tremendous lack of clarity and greatly impedes the public's ability to understand the impact of the proposed project.</p>	
1686	18	<p>[From ATT1:] --Appendix 3D.3, Descriptions for the EIR/EIS</p> <p>In all the assumptions listed to "describe" the baseline conditions (e.g. in Table 3D-2 and 3D-4), at least one major ongoing effort was noticeably absent -- that effort is the 2010 action by the State Water Board to adopt Delta flow objectives and to potentially restrict Delta exports through the proposed BDCP project. These tables in the EIR/EIS fail to mention the August 2010 Delta flows report that was issued by the State Water Board in specific response to a mandate under the Delta Reform Act of 2009. The EIR/EIS also fails to mention the multiple workshops that have been held by the State Water Board to develop scientific information that will be used in the final adoption of Delta flow requirements or the schedule for adoption of Delta flow standards by the State Water Board.</p> <p>In a July 2013 letter by Delta Stewardship Council staff and consultants, the requirements in the Delta Reform Act of 2009 to address Delta flow requirements in the EIR/EIS were re-emphasized, having been previously raised in letters submitted in April 2012 and June 2010. The July 2013 letter states that the Delta Reform Act requires that the EIR/EIS include a comprehensive analysis of a reasonable range of flow criteria, rates of diversion, and other operational criteria to meet the requirements for approval of a Natural Communities Conservation Plan (NCCP). The 2013 letter also reiterated that the EIR/EIS must take into account the State Water Board August 2010 "Development of Flow Criteria for the Sacramento-San Joaquin Delta Ecosystem." The Delta Reform Act intended that the results of that 2010 State Water Board study would be used to inform planning decisions for the BDCP. The 2013 letter further asked that the State Water Board's 2010</p>	<p>Please note that the BDCP is no longer the preferred alternative. The preferred alternative is now Alternative 4A and 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 State Water Resources Control Board accepted the 2010 Development of Flow Criteria for the Sacramento-San Joaquin Delta Ecosystem report. However, subsequent analyses will be considered in future regulatory efforts. As described in Section 6.3.4 of Chapter 6, Surface Water, of the EIR/EIS, the State Water Resources Control Board is conducting a current program to update the Bay-Delta Water Quality Control Plan. Since this program is still under development and the potential outcomes are not known at this time, this program is not included in the analysis under the No Action Alternative or Cumulative Impact Analysis. 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> <p>As noted in response to Comment 1686-12, the range of alternatives considered in the EIR/EIS provided a range of flow criteria, rates of diversion, and operational criteria, as described in Appendix 3A, Identification of Water Conveyance Alternatives Conservation Measure 1, of the EIR/EIS. One of the potential alternatives considered in Appendix 3A was based upon the State Water Resources Control Board 2010 Development of Flow Criteria for the Sacramento-San Joaquin Delta Ecosystem. 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 without reductions in non-SWP and non-CVP water rights diversions. The purpose and need of this EIR/EIS would not allow changes to non-SWP and non-CVP water rights. However, Alternatives 7 and 8 in the EIR/EIS reflect similar flow criteria in a manner that would only affect SWP and CVP water rights. Development of Alternatives 7 and 8 also consider development of flow criteria as a percentage of unimpaired flows. The</p>

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		<p>flow criteria be addressed directly in the EIR/EIS.</p> <p>Review of the EIR/EIS indicates that the State Water Board 2010 Delta flow criteria were briefly mentioned in Chapter 3 and that one alternative (Alternative 8) considered a "version" of the recommendations that the State Water Board made in its report. It is not clear that the evaluation of Alternative 8 was adequate to meet the requirements of the Delta Reform Act. The EIR/EIS should describe how it provides the comprehensive analysis required under that act.</p>	<p>State Water Resources Control Board's flow criteria recommendations and how they were used to inform the BDCP planning process are also discussed in Appendix 3I, BDCP Compliance with the 2009 Delta Reform Act. For information about the proposed project's consistency with the Delta Reform Act, refer to Master Response 31 and Appendices 3I and 3J of the Final EIR/EIS. See also responses to comments 1686-15 through 1686-17.</p>
1686	19	<p>[From ATT1:] Chapter 8, Section 8.1.6</p> <p>The use of two different baselines (the CEQA and NEPA baselines) and the evaluation of water quality impacts in 2060 yields information that is extremely difficult to understand or verify. A simple analysis of near term water quality changes from existing ambient water quality is needed to provide the public with understandable information and to provide context/grounding for the long term impacts that are presented and to allow a proper assessment of compliance with state and federal antidegradation policies.</p>	<p>For more a more detailed discussion regarding water quality issues, including antidegradation analysis, refer to Master Response 14. See also Chapter 8, Water Quality of the Final EIR/EIS.</p>
1686	20	<p>[From ATT1:] Inadequate Consideration of Federal Antidegradation Policy</p> <p>In various places in the EIR/EIS (e.g. in Chapter 8 and in Table 31-1), it is stated that significant unavoidable increases in concentrations of salt as measured by electrical conductivity (EC) and/or total dissolved solids (TDS) and methylmercury will occur in the Delta as a result of the implementation of the proposed project (Alternative 4) as embodied in control measure (CM) 1, the Water Facilities and Operations control measure evaluated in the BDCP Effects Analysis.</p> <p>The EIR/EIS predicts significant increases in current ambient concentrations of EC and methylmercury at various Delta locations. Under federal CWA authority, the Delta is currently listed as impaired for EC and methylmercury, a federal listing which means that water quality objectives are not attained and beneficial uses are impaired. (Such authority is found in 303(d).) The projected increased concentrations associated with CM 1 represent significant degradation in water quality, which would exacerbate impairment of already impaired beneficial uses in the Delta.</p>	<p>The assessment of electrical conductivity and EC for Alternatives 1A, 1B, 1C, 2A, 2B, 2C, 3, 4, 5, 6A, 6B, 6C, 7, 8, and 9 showed significant and unavoidable effects for EC and methylmercury, and these were disclosed. Alternatives 2D, 4A, and 5A were less than significant after mitigation for EC, and were significant and unavoidable only for mercury associated with restoration areas. Please see also Master Response 14, Water Quality.</p>
1686	21	<p>[From ATT1:] Under the federal antidegradation policy, "major federal actions" that affect water quality (pursuant to NEPA and the Endangered Species Act) trigger the application of the federal antidegradation policy and requirements. Those requirements prohibit actions that would lower water quality in areas where existing water quality objectives are not attained (e.g. in so-called "Tier I" waters). (See USEPA, Region 9, 1987, Guidance on Implementing the Antidegradation Provisions of 40 CFR 131.12, June 3.)</p> <p>The EIR/EIS has failed to adequately articulate or address the federal antidegradation requirements, which place significant constraints on the proposed project and associated mitigation. The "key questions" to be addressed by the surface water quality impact assessment (Chapter 8, Section 8.4.1, page 8-127, lines 37-40 and page 8-128 lines 1-4) do not adequately address the requirements of the federal antidegradation policy. The "key questions" add a threshold consideration ("to cause or substantially contribute to significant adverse effects on the beneficial uses of water in these areas of the affected environment") which does not exist in the federal antidegradation policy or address the constraints imposed under that policy. As such, the evaluation contained in the EIR/EIS fails to properly address the fact that significant degradation of water quality in 303(d)</p>	<p>For more a more detailed discussion regarding water quality issues, including antidegradation analysis, refer to Master Response 14. See also Chapter 8, Water Quality of the Final EIR/EIS.</p>

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		listed waters is prohibited under the federal policy. The acknowledged degradation of EC, which will occur in 303(d) listed areas such as Suisun Bay and portions of the Delta, is not allowed under the federal policy. The proposed EC mitigation measures (WQ-11, WQ-11a and WQ-11b) that are described in the EIR/EIS are inadequate in that they will not ensure that the EC levels will be maintained in 303(d) listed waters.	
1686	22	[From ATT1:] The "significant and unavoidable" degradation of methylmercury levels that is predicted to occur in the 303(d) listed Delta as a result of implementation of "habitat restoration projects" associated with the proposed project. The Delta is 303(d) listed for mercury -- actions which cause significant degradation of mercury levels in the Delta are prohibited. The proposed control measure for mercury, CM 12, does not adequately assure that water quality associated with mercury will be maintained or that unallowable degradation of mercury levels in the Delta will be prevented.	<p>It should be noted that this comment addresses the analysis contained within the 2013 Draft BDCP and 2013 Draft EIR/EIS. In response to comments received during the 2013-2014 public comment period, State and Federal agencies decided to change the approach; a modified Proposed Project (Alternative 4A/California WaterFix) and Alternatives 2D and 5A are being considered to provide modified conveyance facilities for the SWP and CVP and do not include Conservation Measures 2 through 21. Please see Master Response 5 related to the status of the BDCP and Master Response 8 related to analysis of Alternative 4A.</p> <p>With respect to the impact analysis for mercury, this analysis and related findings were modified in the RDEIR/SDEIS and the Final EIR/EIS, as described in Chapter 8 and Appendix 8I of the Final EIR/EIS. Please see Master Response 14 regarding additional information related to mercury water quality analyses.</p>
1686	23	<p>[From ATT1:] Failure to Fulfill requirements of the Delta Reform Act</p> <p>The Delta Reform Act requires that the EIR/EIS provide special attention to water quality impacts. A number of water quality impacts identified in the EIR/EIS are deemed to be significant and unavoidable. Such impacts include increased levels of EC, chloride, methylmercury, and increased violations of water quality objectives. The EIR/EIS does not provide or describe specific and effective mitigation to avoid or reduce such impacts.</p> <p>Many of the proposed water quality mitigation measures contained in the EIR/EIS are non-specific, are not clearly enforceable and are deferred to the future. For instance, the Draft EIR/EIS fails to identify the number of acres of farmland in the Delta that would be impacted by the degradation of water quality (e.g. EC) resulting from the project. The absence of such information prevents the development of adequate mitigation.</p>	<p>Water Quality impacts are addressed in Chapter 8 of the 2013 Public Draft EIR/S, Appendix A, Chapter 8, of the Final EIR/EIS and in Master Response 10 regarding Significant and unavoidable impacts and Master Response 14 Water Quality. A detailed discussion of the mitigation that will be used to offset water quality impacts is included on the Final EIR/EIS Mitigation Monitoring and Reporting Plan. This plan provides detail on each measure including information on the action, parties responsible for implementing the mitigation measure, responsible parties, location, timing, monitoring, and reporting requirements.</p> <p>For information about the proposed project's consistency with the Delta Reform Act, refer to Master Response 31 and Appendices 3I and 3J of the Final EIR/EIS.</p> <p>Specific Mitigation is detailed in each Resource Chapter and can be found in the Impacts Summary included in the 2015 RDEIR/SDEIS.</p>
1686	24	<p>[From ATT1:] The EIR/EIS relies on vague statements and non-commitments. For example, the proposed mitigation measure for salinity (WQ-11) states "proposed mitigation requires a series of phased actions to identify and evaluate existing and possible feasible actions, followed by development and implementation of the actions, if determined to be necessary."</p> <p>This can hardly be described as a clear commitment to mitigate the significant impacts that the proposed project will create on Central and West Delta salinity. The failure to propose definitive mitigation measures that would directly offset the projected impacts is a significant flaw in the EIR/EIS, and contradicts the mandate under the Delta Reform Act and federal antidegradation policy.</p>	Please refer to Master Response 22, Mitigation and Master Response 14, Water Quality Antidegradation.
1686	25	<p>[ATT1:] Chapter 8, Section 8.3.2.13, Central Valley Drinking Water Policy</p> <p>The paragraph describing the Central Valley Drinking Water Policy should be deleted or drastically modified to reflect the contents of the recently adopted Water Quality Control Plan for the Sacramento-San Joaquin River Basins (July 2013) (Basin Plan) amendment into the Basin Plan. (See Section 8.3.2.13, p. 8-123.) The existing paragraph is outdated and places undue emphasis on organic carbon and disinfection by-products, which were found to be adequately addressed by existing Basin Plan language. The adopted policy includes new narrative water quality objectives and an implementation plan for</p>	The section describing the Central Valley Water Board Drinking Water Policy has been updated to reflect recent changes to the Basin Plan. See Final EIR/EIS Chapter 8.

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		Cryptosporidium and Giardia.	
1686	26	<p>[From ATT1:] Chapter 5, Effects Analysis</p> <p>The chapter is difficult to review and comprehend because it is poorly organized, inconsistent, and suffers from inadequate cross-referencing. The chapter makes the interpretation of net effects of BDCP implementation difficult, at best. The Independent Panel charged with review of the Effects Analysis has stated that it "universally believes that by itself, Chapter 5... inadequately conveys the fully integrated assessment that is needed to draw conclusions about the Plan ..." (Delta Science Program Independent Review Panel Report (DSP-IRP Report), BDCP Effects Analysis Review, Phase 3, March, 2014, p. 5.)</p>	For responses to comments related to the Delta Independent Science Board's letters, please refer to comment letters BDCP 1448 and/or RECIRC 2546. Also see Master Response 5 regarding current status of the BDCP, including a discussion of the Effects Analysis.
1686	27	<p>[From ATT1:] Chapter 5 of the BDCP, and most importantly the conclusions stated in Chapter 5, do not appropriately reflect the high uncertainty regarding the project effects that were described in the technical appendices supporting the chapter. In particular, the Chapter 5 summary did not recognize the critical uncertainties associated with the presumed beneficial effects of tidal wetland restoration. Rather, conclusions were reached that tend to overstate the positive effects of the project. Competing hypotheses are not offered or considered.</p>	Please see Master Response 5 for the BDCP effects analysis. 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. These agencies readily acknowledge, however, that the document addresses a number of topics for which some scientific uncertainty exists. Such uncertainty can give rise to differing opinions as to what conclusions may be reached.
1686	28	<p>[From ATT1:] The objectivity of the analysis captured in Chapter 5 needs to be improved. The chapter does not contain an integrated assessment of net effects of the proposed project. The Delta Science Program - Independent Review Panel has called for the net effect assessment approach to be revamped. While considerable effort has been made to document the complex information that needs to be considered in determining net effects, a coherent synthesis of that information using a systematic approach was not presented. Rather, "professional judgment" was relied upon, which often resulted in a one-sided opinion regarding the net positive effect of the project. As a result, the chapter conveys an unsatisfying message of "trust us." The assumed effects developed through "professional judgment" are more accurately portrayed as working hypotheses of the relationship between actions, stressors, and biological outcomes.</p>	For responses to comments related to the Delta Independent Science Board's letters, please refer to comment letters BDCP 1448 and/or RECIRC 2546. Also see Master Response 5 regarding current status of the BDCP, including a discussion of the Effects Analysis.
1686	29	<p>[From ATT1:] The chapter [Chapter 5] asserts the beneficial effects of the BDCP Conservation Measures in the face of extensive uncertainty, which is acknowledged in the chapter and its associated appendices. The net effects analysis tends to overstate conclusions of positive benefits for covered fish species. In large part, given that the alleged benefit of the BDCP is weakly supported in many respects, the BDCP acknowledges that it must rely on effective adaptive management to ensure that the predicted benefits will occur. However, the proposed adaptive management framework and governance structure is inadequate, non-rigorous, inadequately transparent and inclusive, and lacking true commitment. The adequacy of the BDCP therefore rests on the uncertain application of adaptive management to ensure that alleged benefits are attained through a progressively refined plan. The DSP-IRP [Data Science Program-Independent Review Panel] has strongly recommended that a commitment be made under BDCP to create and implement a much-improved, exceedingly rigorous adaptive management approach that includes adequate monitoring and Independent Science Review. (DSP-IRP Report, p. 9.) The Panel also recommends the identification and inclusion of numeric triggers as part of the adaptive management structure.</p>	For responses to comments related to the Delta Independent Science Board's letters, please refer to comment letters BDCP 1448 and/or RECIRC 2546. Also see Master Response 5 regarding current status of the BDCP, including a discussion of the Effects Analysis.

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1686	30	[From ATT1:] Only one configuration of Restoration Opportunity Areas (ROAs) were modeled using hydrodynamic models. The locations of the modeled ROAs are not available. Given the potential impact of such areas on hydrodynamics, tidal volumes, and hydraulic residence times in the Delta, the actual BDCP project may have a much different effect on hydrodynamics, fish populations, and water quality than has been described in the BDCP Effects Analysis. As a result, it is not possible to evaluate the sensitivity of these factors and outcomes over a range of different placements of ROAs. This must be remedied in the BDCP Effects Analysis and the EIR/EIS.	Final EIR/EIS Appendix 5A, Section D, Attachment 5 describes the locations of the habitat restoration assumptions used in the Draft EIR/EIS. This appendix also includes a sensitivity analysis which considers effects on surface waters depending upon different locations of habitat restoration sites.
1686	31	[From ATT1:] According to the Delta Science Program - Independent Review Panel, the effects of the BDCP water operations may be to expand the populations of invasive clams in the Delta. In addition, Microcystis blooms are projected to be unchanged or slightly worse under the BDCP. Water operations that reduce flow, increase water residence time and increase temperatures may promote Microcystis. (DSP-IRP Report, pp. 17, 34, 70.) The BDCP Effects Analysis and EIR/EIS must be modified to reflect these findings. The effect of clams on the aquatic food web is not incorporated into the food web analyses presented in Chapter 5. This is a significant deficiency, based on the current scientific information, which indicates that the 1987 clam invasion had a significant impact on the Delta food web. (DSP-IRP Report, pp. 34, 37, 59, and 70.) The BDCP Effects Analysis must be modified to address this finding.	The public draft BDCP analyzed the potential effects of operations on invasive clams and Microcystis; see Chapter 5, Section 5.5.1.1.1, Restored Tidal Habitat, and Section 5.5.1.2.3 Blue-Green Alga Microcystis Direct and Indirect Effects. In addition, the RDEIR/SEIS issued in 2015 addressed Microcystis as part of the water quality analysis (see Impacts WQ-32 and WQ-33 in Section 4). For more discussion about microcystis and other water quality issues, see Chapter 8 and associated appendices of the Final EIR/EIS and Master Response 14. For responses to comments related to the Delta Independent Science Board's letters, please refer to comment letters BDCP 1448 and/or RECIRC 2546. For further details regarding microcystis and other water quality issues, please also refer to Master Response 14. Also see Master Response 5 regarding current status of the BDCP, including a discussion of the Effects Analysis.
1686	32	[From ATT1:] Restoration actions are likely to increase the production, mobilization and bioavailability of methylmercury. (Appendix 5d-24, lines 41-44; Delta Science Program - Independent Review Panel Report, p. 67.) The EIR/EIS must provide commitments to implement mitigation measures that avoid such detrimental effects.	For more discussion of methylmercury and other water quality issues, see Chapter 8, Water Quality and associated appendices of the Final EIR/EIS and Master Response 14. For responses to comments related to the Delta Independent Science Board's letters, please refer to comment letters BDCP 1448 and/or RECIRC 2546. Also see Master Response 5 regarding current status of the BDCP, including a discussion of the Effects Analysis.
1686	33	[From ATT1:] Wetlands restoration could result in increases in ammonia via sediment re-mineralization or clam excretion. Wetlands could also be a sink for ammonia in creating enhanced opportunity for nitrification and denitrification. (See Delta Science Program - Independent Review Panel Report, p. 67.) The BDCP Effects Analysis must be modified to address this finding.	For more discussion of water quality issues, see Chapter 8, Water Quality and associated appendices of the Final EIR/EIS and Master Response 14. For responses to comments related to the Delta Independent Science Board's letters, please refer to comment letters BDCP 1448 and/or RECIRC 2546. Also see Master Response 5 regarding current status of the BDCP, including a discussion of the Effects Analysis.
1686	34	[From ATT1:] The BDCP Effects Analysis includes an assumption of no entrainment of covered fish at the proposed North Delta Diversion (NDD) facilities. Alternative assumptions should be evaluated. Additionally, the assumption that no predation will occur at the NDD facilities does not agree with the observed conditions at other similar facilities, including the Glenn-Colusa fish screens. The impacts of predation at each intake structure must be evaluated in the BDCP Effects Analysis and the EIR/EIS. (See DSP-IRP Report, p. 37.)	The commenter is incorrect that the draft BDCP effects analysis included an assumption of no entrainment of covered fishes – this was explicitly analyzed in detail in Appendix 5B Entrainment. Predation was also considered in detail, e.g., section 5.5.3.2.1 Near-Field and Far-Field Effects of the North Delta Diversions on Juvenile Winter-Run Chinook Salmon, and appendices referred to in that section. For more information regarding Environmental Commitments please see Appendix 3B of the Final EIR/EIS.
1686	35	[From ATT1:] 5.1.1 Basis for Evaluation The first paragraph states that the Effects Analysis, which is a fundamental, required element of the BDCP, is based on an extensive body of monitoring data, scientific investigation, and analysis of information on the Delta compiled over several decades. (BDCP, Chapter 5, p. 5.1-1.) Long term monitoring and research programs conducted by the Interagency Ecological Program, state and federal resource agencies, and academic investigators with the specific intent of assessing the effect of the water project operations has contributed to this information base. However, despite this wealth of	As noted in response to comment 1686-27, 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. These agencies readily acknowledge, however, that the document addresses a number of topics for which some scientific uncertainty exists. Such uncertainty can give rise to differing opinions as to what conclusions may be reached. For a discussion on issues and stressors affecting the Delta today, please see Section 1A.2 in Chapter 1 of the Final EIR/EIS. DWR's fundamental purpose of the proposed project is to make physical and operational improvements to

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		<p>information, a clear presentation and description of the effects of the existing water project operations on covered species is missing from the BDCP effects analysis and EIR/EIS. Such information is vital to the understanding of the historical impacts on the Delta ecosystem and the projected future impacts of the proposed BDCP project. This is a fundamental flaw in the Effects Analysis that should be corrected prior to the approval of the BDCP by state and federal fisheries agencies.</p>	<p>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. The project would help to address the resilience and adaptability of the Delta to climate change through water delivery facilities combined with a range of operational flexibility. In addition to the added water management flexibility created by new water diversions and operational scenarios, the project would improve habitat, increase food supplies and reduce the effects of other stressors on the Delta ecosystem.</p>
1686	36	<p>[From ATT1:] Appendix 5.D, Contaminants</p> <p>Appendix 5.D.0 Executive Summary</p> <p>The first sentence in the Executive Summary alleges that contaminants have been associated with the Pelagic Organism Decline. (Appendix 5.D, p. 5.D-i.) In making this allegation, a number of references are cited as support for this statement. It is instructive to consider these references, one-by-one, to illustrate the absence of veracity of this allegation.</p> <p>The first cited document, Baxter et al 2010, is an Interagency Ecological Program document that lists a number of possible factors that have been identified in connection with the POD. There is no definitive information in this reference that raises the role of contaminants in the POD above that of a loose working hypothesis.</p> <p>Brooks et al 2012 contains no definitive information that links contaminants to the POD. The article provides a loose collection of information that poses questions and suggestions regarding the potential role of contaminants but provides no definitive analysis and reaches no supportable conclusions.</p> <p>Johnson et al 2010 directly and extensively examined the possible role of contaminants in the POD and found nothing to support such a conclusion. The report suggested the need for further monitoring and research to continue to examine this question.</p> <p>Glibert 2010 is a paper that alleged a specific linkage of contaminants (in particular, ammonia) on the POD based on a Cumulative Sum Control Chart statistical analysis. That analysis and the associated conclusions reached in the paper were heavily criticized by respected members of the Delta scientific community. This paper does not establish the alleged linkage.</p> <p>Glibert et al 2011 is a paper that advances the theory of ecological stoichiometry as a suggested working hypothesis for the Bay-Delta ecosystem. As acknowledged in the paper, the hypothesis is untested in the Bay-Delta system. The paper itself acknowledges the need for significant additional research to validate the theories proposed in the paper. It is clearly not a definitive work establishing a link between contaminants and the POD.</p> <p>In summary, none of the source cited in Appendix 5.D. establish a direct or indirect linkage between the POD and contaminant concentrations or other water quality conditions in the Delta. As a result, the subject language should be eliminated.</p>	<p>As noted in response to comment 1686-27, 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. These agencies readily acknowledge, however, that the document addresses a number of topics for which some scientific uncertainty exists. Such uncertainty can give rise to differing opinions as to what conclusions may be reached.</p>
1686	37	<p>[From ATT1:] Appendix 5.D.0</p> <p>In the first paragraph, last sentence, it is implied that sublethal levels of contaminants in</p>	<p>As noted in response to comment 1686-27, 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</p>

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		Delta fish have been observed to cause various effects, including impaired growth and reproduction and increased susceptibility to disease. (Appendix 5.D., p. 5.D.-i.) The citation provided to support this statement (Werner et al 2008) does not directly support this statement and does not demonstrate the existence of such conditions as a result of contaminant levels in the Delta. Instead the cited reference mentions these effects as potential issues and points to further research to assess their possible occurrence. The sentence in question must be modified to clarify this difference between "observation" and "hypothesis."	the proposed project. These agencies readily acknowledge, however, that the document addresses a number of topics for which some scientific uncertainty exists. Such uncertainty can give rise to differing opinions as to what conclusions may be reached.
1687	1	Ducks Unlimited agrees with the Delta Stewardship Council that each chapter should have a comparative summary. In addition, all significant and significant unavoidable impacts of the proposed alternative, Alternative 4, should be documented in one location so the reviewer does not have to extract them out of a several-thousand page document. Chapter 30 appendix C provides a fair comparison of the summary of impacts and mitigation measures. We recommend this type of comparison table or similar to be utilized in the other chapters as well.	Please see Chapter 31 Appendix A in the RDEIR/SDEIS for Table 31-1. Summary of Significant and Significant and Unavoidable Adverse Impacts. 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.
1687	2	Conservation Measure (CM) 1 has been developed to a higher level of specificity in the DEIR/EIS, whereas the other Conservation Measures are developed to a lesser extent within the plan at a program level. Many of the subsequent Conservation Measures are outlined as needing further details at a later time through additional research, development of implementation plans and development of adaptive management teams, which are to be developed at an unknown future date. These additional details should be provided prior to implementation and be made available for public review consistent with the EIR/EIS process. This is essential as a component of the DEIR/EIS to determine the physical impacts on the environment and species. Due to the multitude of Conservation Measures, it would be impossible to determine the cumulative impact of the plan to species and the environment without more refined project level details in all Conservation Measures. The complexity of the hydraulics, interspatial connectivity, species reliance on affected habitats, and the significant proposed change to the plan area all warrant such additional details. Project level detail for all Conservation Measures is a minimum requirement under the ESA since 50 year take authority is being issued based on the DEIR/EIS.	Please note, as described in response to comment 1687-1, the new preferred alternative, 4A, no longer includes the BDCP HCP or conservation measures. Nevertheless, various components of the original BDCP conservation measures are included in Alternative 4A to mitigate impacts associated with construction and operations of the proposed project. For more information on project vs program level of detail/analysis in the EIR/EIS, including the level of detail necessary for analyzing impacts of conservation measures, please see Master Response 2. 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. See also Master Response 8 for analysis of the project as a whole, under Alternative 4A.
1687	3	It is uncommon to allow a project to be built without its mitigation measures in place. Conservation Measures 2-22 should be implemented in concert or prior to the installation and operation of CM 1, or at a minimum, a surety bond and/or clear funding sources should be in place (not just identified) prior to construction of CM 1. In all cases, a higher level of detail for programmatic elements should be provided, and should include feasibility analyses, contingency plans, monitoring and adaptive management plans, all of which should be complete prior to the start of construction on Conservation Measure 1.	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. See also response to comment 1687-2.
1687	4	It is unclear how feasible it will be to implement a number of the conservation strategies and mitigation measures. For example, CM 2 involves flooding the Yolo Bypass for an	See responses to comments 1687-2 and 1687-3. See also Master Response 22 for an explanation of the

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		extended period of time; however, the feasibility of getting fish to naturally move onto the bypass is unclear in its current description. This is concerning because the level of detail provided for CM 2 is greater than that provided for many of the other Conservation Measures, and yet is inadequate.	standards governing the adequacy of mitigation measures.
1687	5	Mitigation measures such as "further studies" are not mitigation measures. A study does not lessen the impact to the environment and should therefore not be considered a mitigation measure. The studies should be conducted prior to DEIR/EIS approval and the Mitigation Measures should then be clearly identified prior to any implementation of the Plan in any form. Experience tells us mitigation measures themselves may have significant impacts that require additional mitigation, which would also need to be identified prior to implementation.	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. See also Master Response 22 for additional discussion of the adequacy of mitigation measures.
1687	6	The DEIR/EIS evaluates the Suisun Marsh, Delta and to some lesser degree areas north and south of the Plan area. However, the geographic scope of the DEIR/EIS does not extend to include San Pablo Bay and San Francisco Bay. The Delta outflow has been shown to have an increase of salinity (noted as an increase of Bay) and result in salinity changes in the Delta and Suisun Marsh, which are to be adaptively managed by the Projects in order to meet the D-1641 standards. However, the consequences of BDCP actions undertaken within the Plan Area will extend downstream to affect San Pablo Bay particularly, and to a lesser extent, San Francisco Bay. Likewise, ongoing restoration changes in the Bays (e.g., tidal wetland restorations) will affect tidal fluxes and salinity intrusion into the Delta. Ducks Unlimited recommends looking at the future cumulative impacts of the BDCP if the "Bay/ands Ecosystem Species and Community Profiles" goals are met, as this is the standard in which restoration in the Bay is being conducted.	<p>The incremental changes in Delta outflow under Alternative 4A compared to baseline conditions are a function of both the facility and operations assumptions, including north Delta intakes capacity of 9,000 cfs, OMR flow requirements, Fall X2 requirements, and the reduction in water supply availability due to increased north of Delta urban demands, sea level rise, and climate change (the last three assumptions, plus Fall X2 requirements, are included in both the No Action Alternative (ELT) and Alternative 4A, but not in Existing Conditions). Results for the range of changes in Delta outflow under Alternative 4A are presented in more detail in Appendix 5A, BDCP/California WaterFix EIR/S Modeling Technical Appendix. Changes in long-term average Delta outflow under Alternative 4A (ELT) as compared to the No Action Alternative (ELT) and Existing Conditions are shown in Figures 5-37 through 5-39 and Tables 5-10 through 5-12 in Chapter 5.</p> <p>To summarize changes in Delta outflow under Alternative 4A, late-fall and winter outflows remain similar or show minor reductions in Alternative 4A (ELT) compared to No Action Alternative (ELT) and are slightly higher relative to Existing Conditions. In the spring months, outflow would remain similar under Alternative 4A (ELT) as compared to No Action Alternative (ELT), and would be slightly reduced compared to Existing Conditions. In the fall months, outflow under Alternative 4A would increase relative to Existing Conditions, and as compared to the No Action Alternative (ELT), would be similar because of Fall X2 requirements in wet and above-normal years.</p> <p>The proposed intakes would only 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. Flow criteria will be applied month by month and according to water year type. More information on the ranges of water project diversions, based on water year types and specific flow criteria, can be found in BDCP, Chapter 3, Conservation Strategy.</p> <p>Monitoring for compliance with D-1641 requirements or any future requirements for SWP/CVP water supply operations would be conducted year-round in the future under the proposed project.</p> <p>In response to comments received, impact discussions for San Francisco Bay have been added to Chapter 8, Water Quality in the Final EIR/EIS (See Impact WQ-34: Effects on San Francisco Bay Water Quality Resulting from Facilities Operations and Maintenance and Environmental Commitments). No impacts were found to be significant or adverse.</p>
1687	7	Significant capital investment in relationship to the Conservation Measures requires levee stability throughout the Delta. However, the DEIR/EIS does not evaluate the long term levee maintenance requirements and funding entities to maintain the status quo or to improve levee stability. The consequence of levee failure would put many of the	<p>Please see Appendix 6A, Section 6A.6, FEIR/EIS, for a discussion on levees modified by construction of Alternative 4A, including responsibilities of the project proponents.</p> <p>Before and/or during construction of the proposed project, project proponents will explore opportunities</p>

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		<p>Conservation Measures at risk of failure themselves. The DEIR/EIS should include a chapter on levee risk analysis, emergency measures and evaluation of levee breaks and their effects on the proposed conservation measures. Chapter 6, SW-8 identifies wind fetch as a significant impact. Levee failure for non BDCP related levees have potentially significant impacts to Conservation Measures. Further evaluation and analysis is needed to identify long term levee stability funding mechanisms to ensure long term protection of Conservation Measures.</p>	<p>with local reclamation districts and the Central Valley Flood Protection Board (CVFPB) to address potential conflicts regarding levee maintenance, inspection, and flood fighting activities on project and non-project levees. DWR will look to enter into agreements with local reclamation districts with jurisdiction in the Delta to ensure levee management activities by both government and local agencies are not interrupted during construction of the water conveyance facilities. In addition, DWR will comply with all applicable flood protection requirements and regulations to ensure flood neutrality during construction and operations of the proposed project.</p> <p>Final EIR/EIS Appendix 6A includes a compilation of flood and levee-related information that is provided in detail in the other applicable Final EIR/EIS chapters. Final EIR/EIS Chapter 6, SW-8, indicates wind fetch impacts will be less than significant with implementation of Mitigation Measure SW-8. Please see Chapter 6 for more details.</p> <p>Please refer to Master Response 16 for information on potential operations under a levee failure situation.</p>
1687	8	<p>In the absence of the BDCP, water deliveries from the State Water and Central Valley Projects are expected to decline because of the combined effects of climate change and sea level rise. Several of the CALSIM model scenarios that relate to Conservation Measure 1(Operation of Project Facilities) predict that water deliveries can be maintained or increased compared to existing conditions. In essence, CM 1will increase the operational flexibility of the SWP and CVP and allow more water to be delivered despite the increasingly negative impacts that climate change and sea level rise are expected to have on California water supplies. The model results associated with CM 1are at least partially based on assumptions about climate change and sea level rise, and their presumed effects on California water supplies. By their very nature, predictions about climate change and sea level rise are associated with a high degree of uncertainty. This is compounded by uncertainty about the actual effects of climate change and sea level rise on water supplies.</p> <p>Uncertainty is inherent to any modeling exercise. However, there is no discussion of the uncertainty associated with CALSIM results as they relate to CM 1alternatives. To quote from the DEIR/EIS, "Time will tell whether current predictions of conditions in 2060 (as they relate to climate change and sea level rise) will prove to be too optimistic or pessimistic." This is hardly reassuring. Much of the justification for the BDCP is predicated on the results of these CALSIM scenarios. Yet the reader is left with no idea about the uncertainty that may accompany these results.</p> <p>What if the increased operational flexibility and water deliveries promised by the BDCP do not materialize because we were too "optimistic" in our CALSIM model assumptions? While some of the consequences are obvious (e.g. reduced water deliveries compared to existing conditions despite massive taxpayer investment), some may be less obvious.</p> <p>Considering the issue of water transfers; the project most certainly will increase the physical capacity for water transfers and may also facilitate transfer and allow project operators to more easily sidestep Biological Opinions that partially keep transfers in check. Further, CALSIM predictions could prove too "optimistic" and climate change and sea level rise could largely negate any gains in operational flexibility and water deliveries. Given BDCP promises under the current set of model assumptions, is there a benefit resulting from an increased ability to transfer water, but less water available for delivery? What might this mean for agriculture in the Sacramento Valley that supplies much of the habitat for waterfowl and other wetlands dependent birds? The demand for water transfers will be very high under such a scenario if the facilities exist to do so, regardless</p>	<p>The EIR/EIS analysis is based upon comparison of conditions under the action alternatives and conditions under the Existing Conditions and the No Action Alternative. The basis of the hydrologic and water quality model is the CALSIM II model is a monthly model that incorporates assumptions about daily operational changes. These types of models are the most appropriate to analyze potential changes due to different operational assumptions for the SWP and CVP. However, as described in Appendix 5A of the Final EIR/EIS, these models cannot be used in a predictive manner to define absolute values. Rather, they must be used in a comparative manner to indicate basic changes between alternatives or scenarios and understand the sensitivity of changes that could occur from the Existing Conditions and the No Action Alternative.</p> <p>The EIR/EIS climate change analysis is not required to, nor would it be possible to analyze all potential future conditions that are possible as the climate changes. The lead agencies have used an ensemble approach to modeling future conditions that considers over 30 different climate models and 3 different possible future emissions scenarios. From this ensemble of 112 projections of possible future conditions the EIR/EIS use a central tendency projection that is considered a reasonably foreseeable future condition as described in Final EIR/EIS Appendix 5A. The No Action Alternative and the action alternatives were compared the Existing Conditions which included a "0 percent reduction" Delta outflow condition. Also, during the preparation of the EIR/EIS, a sensitivity analysis was completed, as presented in Appendix 5A, Section D.3, Climate Change Modeling, to simulate conditions under the No Action Alternative and Alternative 1 under the five climate change scenarios. The operations results from these simulations were analyzed to understand the range of uncertainty in the incremental changes that would occur with a range of climate change scenarios. The sensitivity analysis indicated that Alternative 1 results would change with climate change scenarios; however, the incremental differences between the No Action Alternative under a specific climate change scenario and Alternative 1 under the same specific climate change scenario were consistent. Because the EIR/EIS only evaluates the incremental differences, and not absolute values, between the Existing Conditions and the No Action Alternative and the action alternatives, the incremental changes appear to be similar under a range of climate change scenarios.</p> <p>The EIR/EIS alternatives do not include assumptions for water transfers except for the continuation of transfers associated with the Lower Yuba River Accord. The EIR/EIS does include a general analysis of potential capacity that could be used in drier years due to reduced CVP and SWP water deliveries. Total cross-Delta water transfers could be greater under some alternatives considered in the EIR/EIS than under Existing Conditions or the No Action Alternative, as shown in the analyses presented in Final EIR/EIS Appendix 5D, Water Transfer Analysis Methodology and Results. As indicated in Appendix 5D, the analyses are conservative because it is not known if adequate water would be available from other water users for transfer. As shown in Table 5D-8, the maximum cross-Delta transfers under the action alternatives would</p>

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		<p>of the policy or biological implications and current decision points adopted at the time of project investment and development.</p> <p>The DEIR/EIS must do a better job of informing the reader about the uncertainty associated with the CALSIM results, and explore the possible consequences associated with this uncertainty.</p>	<p>be greatest under Alternative 8 because there would be the most available capacity. However, the EIR/EIS addresses long-term operations, including water transfers under the Lower Yuba River Accord, and not short-term operations under which individual transfers occur. Each of the short-term water transfers is unique and must be considered using project-specific analyses. The EIR/EIS indicates the overall opportunities to transfer water across the Delta, but does not consider the specific sources or users of the transferred water. For more details about proposed mitigations and bird habitat considerations, please see also Master Response 17, Biological Resources and Master Response 18, Agriculture.</p>
1687	9	<p>Further evaluation must be conducted to determine the potential increase of private water transfers that would be made available as a result of the proposed project, including pre-1914 rights. As example, water rights that are transferable but currently do not have mechanisms to export south of the Delta that would then be made available as a result of the Alternatives and/or Conservation Measures must be evaluated. Specifically, impacts to Sacramento Valley habitats and agriculture as a result need to be identified and addressed.</p>	<p>Because specific agreements have not been identified for water transfers and other non-project voluntary water market transactions, project- level analysis of impacts upstream of the Delta is highly speculative and this EIR/EIS does not constitute the CEQA/NEPA coverage required for any specific transaction. Rather, it provides an analysis of how transfers relate to proposed project facilities. Any future water transfers will require separate approvals as outlined below. The analysis of any potential upstream impacts is not a part of this EIR/EIS and must be covered pursuant to separate laws and regulations once the specific transfer has been proposed. For more information, please see section 5.1.2.7 in Chapter 5, Final EIR/EIS. Indirect effects of changes in water transfers and Delta exports are addressed in Chapter 30, Growth Inducement, and other chapters addressing specific resources. For more information regarding changes in delta exports please see Master Response 26. For more details about proposed mitigations and bird habitat considerations, please see also Master Response 17, Biological Resources and Master Response 18, Agriculture.</p> <p>For more information regarding the proposed project enabling water transfers please see Master Response 43.</p>
1687	10	<p>Implementation of the BDCP will result in a loss of 4,956 acres of protected managed wetlands in the Plan Area. Although conservation easements are beneficial, they do not provide the functions and values (services) of wetlands, and therefore do not provide adequate mitigation for loss of habitat. Adequate mitigation measures (such as restoration and enhancement) and monitoring protocols must be provided for loss and increased mitigation ratios for temporal loss. Many species protected under the Migratory Bird Treaty Act (MBTA) rely heavily on managed wetlands within the Suisun Marsh and Sacramento-San Joaquin Delta. Therefore, any reduction of functions and as a result of habitat reductions could be a violation of the MBTA. We recommend a no net loss of habitat acreage and a no net loss of functions and services.</p>	<p>The commenter indicates that the mitigation measures contained in Chapter 12 of the Draft EIR/EIS do not fully mitigate for the net loss of protected managed wetlands in Suisun Marsh and the Sacramento-San Joaquin Delta. The commenter is seeking no net loss of acres or functions and values related to managed wetland available to migratory birds.</p> <p>The discussion of this issue for Alternative 4 begins on page 12-2559 of the Draft EIR/EIS. The analysis recognizes the net loss of acres of managed wetland in the Plan Area, but proposes conservation actions (CM4, wetland restoration; CM11, habitat protection and enhancement) that are capable of offsetting the loss of values for wintering and nesting waterfowl and shorebirds. To insure that these measures provide the necessary food value for wintering species, MM-BIO179a and MM-BIO-179b (page 12-2563) propose following studies, with performance standards, that would measure and monitor food production in lands being converted to tidal wetland prior to and after conversion. The monitoring would also characterize food production for managed wetland that would remain available to birds and would be managed to increase food production. MM-BIO-180 (page 12- 2565) proposes performance standards on efforts to replace values lost for waterfowl nesting. Through implementation of these conservation measures and mitigation measures, the Plan will insure that functional values of wetlands to migratory birds will not be diminished. For further discussion of wetland habitats and the current status of the BDCP, see Master Response 5. See also Master Response 24, Alternative 4A (proposed project) Evaluation of Delta as a Place (Habitat).</p>
1687	11	<p>Several chapters speak to the potential effects of changes of salinity within the DEIR/EIS project area. The close correlation between aquatic species, terrestrial species and agriculture relies heavily on a fundamental understanding of freshwater and salt water mixing. The analysis on salinity changes in the plan area, as well as the lack of discussion of salinity outside the plan area, fall short of providing any confidence that adequate analysis has been completed.</p>	<p>The models used to support the water quality impact analysis are publicly available models that have been verified and used by the state and federal agencies for years for water project planning and analysis. Final EIR/EIS Appendix 5A provides extensive information regarding the models used to support the water quality assessment. Regarding modeling uncertainty, text has been added to Section 8.3.1.1, Models Used and Their Linkages, and “Quantitative Assessments” within Section 8.3.1.3, Plan Area, of Final EIR/EIS Chapter 8, Water Quality, describing validation of the models used for the assessment, and modeling limitations and uncertainty.</p>

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1687	12	Section 3.4.1.2.1- If there is uncertainty in the "biological consequences" of outflow variability, how can this be monitored and measured, then adaptively managed? Monitoring protocols need to be identified.	Monitoring protocols would be established with the goal of reducing the uncertainty associated with biological consequences from outflow variability. Please note that the preferred alternative is now Alternative 4A and no longer includes an HCP or Conservation Measures. Alternative 4A would no longer pursue a 50-year permit. Alternative 4A contemplates ESA compliance through Section 7 of the ESA and Section 2081 of CESA, rather than through ESA Section 10 and NCCPA Section 2835. Restoration would still occur under 4A in the form of environmental commitments, but on a more limited scope than the conservation measures. However, the basic point remains valid, in that there is outflow variability and uncertainty in biological consequences. For this reason, certain aspects related to outflow would be specifically targeted for additional research under the preferred alternative (Alternative 4A, California WaterFix), with a good example being a proposed longfin smelt research program that would examine whether periods within the overall winter-spring period have greater importance for determining the outflow-abundance relationship observed for this species. See also Master Response 33, Adaptive Management and Monitoring.
1687	13	The BDCP envisions impacts to Delta water quantity and quality, but water supply to the Delta was not analyzed. The BDCP analysis shows a change in Delta water elevations, but does not analyze the impacts of this change on Delta agricultural water diversions, or recreational fishing and boating. Agricultural water quantity is mentioned as a significant and unavoidable impact. The DEIR/EIS acknowledges that water losses related to construction dewatering may not be replaced with supplies sufficient to meet the preexisting demands or planned demands of the affected parties. In addition, the feasibility and effectiveness of phased actions to reduce salinity levels is uncertain.	<p>The CalSim II modeling included the same deliveries to in-Delta senior water rights users under the Existing Conditions, No Action Alternative, and all action alternatives. There are differences in Delta water elevations in the various action alternatives as compared to the No Action Alternative due to implementation of the proposed water conveyance facilities. Considerations of adverse impacts to agricultural water users due to implementation of the action alternatives (not climate change, sea level rise, or projected population growth that would have occurred with or without the proposed project) are discussed in Chapter 14, Agricultural Resources in the Final EIR/EIS.</p> <p>The impacts to agricultural production due to temporary construction activities that could result in disruption of irrigation or drainage infrastructure, and could jeopardize agricultural production. Implementation of Mitigation Measures AG-1, GW-1, GW-5, and WQ-11 will reduce the severity of these impacts by implementing activities such as siting project footprints to encourage continued agricultural production; monitoring changes in groundwater levels during construction; monitoring seepage effects; relocating or replacing agricultural infrastructure in support of continued agricultural activities; identifying, evaluating, developing, and implementing feasible phased actions to reduce EC levels; engaging counties, owners/operators, and other stakeholders in developing optional agricultural stewardship approaches; and/or preserving agricultural land through off-site easements or other agricultural land conservation interests. However, these impacts remain significant and unavoidable and adverse to agricultural resources.</p> <p>Final EIR/EIS Chapter 15, Recreation, states that the action alternatives are not expected to result in a substantial decrease or increase in Delta surface water levels; therefore, surface water elevations are not discussed further in the chapter. Please refer to Final EIR/EIS Appendix 5A, Section C, CALSIM II and DSM2 Modeling Results, EIR/EIS, for more information. Also, as discussed in Final EIR/EIS Chapter 6, CALSIM modeling results indicate that effect to Sacramento and San Joaquin river flows are less than significant. Additionally, the project would result in a reduction of reverse flow conditions in the Old and Middle rivers, creating a positive change, in the majority of months on a long-term average basis compared to Existing Conditions and the No Action Alternative. Therefore, these are not discussed further in Final EIR/EIS Chapter 15. See also Master Response 14, Water Quality.</p>
1687	14	Water quality impacts to Delta water supplies include both an increase in dissolved organic carbon (affecting municipal supplies pumped from the Delta) and salinity (affecting both agriculture and municipal supplies). These impacts are listed as significant and unavoidable, and the only mitigation suggested is a vague description of assistance that, "may take the form of financial contributions, technical contributions or partnerships." This suggested mitigation is inadequate. Further analysis must be performed to either revise the alternative or provide a full range of detailed mitigation measures. Additionally, the significant unavoidable impacts should be further evaluated	<p>Alternative 4A would have substantially less effect on Delta water quality such that significant impacts were only identified for electrical conductivity (EC) at Emmaton and Prisoners Point, and mercury associated with the limited tidal habitat restoration that would be implemented. The significant impacts to EC 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> <p>Salinity in the Delta is a function of the amount and timing of freshwater input from the major tributaries, tidal action from San Francisco Bay, and exports from the Delta. During the late winter and spring months of</p>

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		to provide additional quantifying elements.	seasonally elevated flows, and in wet years, seawater intrusion is limited and the Delta has mostly low salinity. During low-flow summer and fall months, and during dry years, lower freshwater flows result in greater amounts of seawater intrusion. Staff from DWR and USBR constantly monitor Delta water quality conditions and adjust operations of the SWP and CVP in real time as necessary to meet water quality objectives set by the State Water Resource Control Board protection of agricultural water supply, municipal and industrial drinking water supply, and fish and wildlife beneficial uses. Effects of the alternatives on salinity levels are described in Final EIR/EIS Chapter 8, Water Quality, and Appendix 8H, Electrical Conductivity, and Appendix A of the Final EIR/EIS. Modeling results indicate that the implementation of the water conveyance facilities may positively or adversely affect in-Delta water quality, depending on a number of factors including location, time of year, and hydrologic conditions. See tables in Appendices 8E through 8N for specific results related to various water quality constituents (including bromide and chloride).
1687	15	<p>Changes in salinity in the Bay, Suisun, Delta, North of Delta and South of Delta are discussed in various locations within several chapters in the DEIR/EIS. Changing salinity appears to be most prevalently covered in Chapter 5, Chapter 8 and Chapter 29 of the DEIR/EIS, while also noted in Chapters 6 (Surface Water), Chapter 11(Fish and Aquatic Resources), Chapter 12 (Terrestrial Biological Resources), Chapter 14 (Agriculture), and Chapter 15 (Recreation) to a minimal extent. Salinity should be discussed as a component of Chapter 7 (Groundwater) as well.</p> <p>Given the multi-parameter effects of salinity as described in the above chapters, Ducks Unlimited has serious concerns for the persistence of agricultural and freshwater managed seasonal wetlands within the Suisun Marsh and Delta. These freshwater habitats are critical to support listed species in addition to non-listed terrestrial species such as waterfowl that rely upon them. Impacts and related mitigation measures should be identified in the final document.</p>	<p>The EIR/EIS modeling results for the No Action Alternative indicate that, with or without the project, due to the reduction in rainfall and increased sea level rise, western Delta salinity could become greater than under the No Action Alternative and action alternatives. Water would be released from the SWP and CVP reservoirs to reduce the Delta salinity, however, in some years, adequate water supplies may not be available to reduce the surface water salinity, as described in Final EIR/EIS Chapter 8, Water Quality. In those times, groundwater salinity under adjacent Delta islands also could increase. This would occur with or without the Proposed Project. Effects due to climate change are provided for informational purposes only and do not lead to mitigation.</p> <p>Alternative 4 and other action alternatives analyzed in the Draft EIR/EIS included large-scale tidal restoration which increased the extent of salinity in the Delta. In response to comments received during the 2013-2014 public comment period, State and Federal agencies decided to change the approach. Instead, a modified Proposed Project (Alternative 4A/California WaterFix) is being considered as the preferred alternative. Please see Master Response 5 related to the status of the BDCP and Master Response 8 related to analysis of Alternative 4A.</p> <p>Without implementation of large-scale habitat restoration, the effects on salinity under the action alternatives as compared to the No Action Alternative would be less than with large-scale restoration. For example under Alternative 4A, salinity generally would be similar or less than under No Action Alternative in the central Delta (e.g., near Jersey Point, Rock Slough, and along Sacramento River downstream of Steamboat Slough). Therefore, it is not anticipated that groundwater quality in these areas would substantially change due to operations of the conveyance facilities. However, salinity would increase under Alternative 4A as compared to the No Action Alternative in July through September along the Sacramento River near Collinsville and Emmaton; and generally decrease or be similar in remaining months, as presented in Final EIR/EIS Appendix 5A, Section C, of the EIR/EIS. Please see Chapter 8 and associated appendices in the Final EIR/EIS and Master Response 14.</p>
1687	16	Modeling and analysis should clearly identify salinity levels, location, and duration for all scenarios in one cohesive manner. The analysis should include baseline levels in both flow and salinity and critical thresholds for agriculture and species thresholds. If elements are to be adaptively managed to reduce either flow or salinity below a threshold, specific details as to how it will be accomplished should be included.	<p>The assessment of salinity-related parameters in Final EIR/EIS Chapter 8, Water Quality, and its supporting appendices address changes at specific Delta locations relative to specific thresholds. Chloride is fully discussed in Impact WQ-7 and WQ-8 and EC is fully discussed in Impact WQ-11 and WQ-12. Eleven Delta assessment locations are evaluated for chloride, with tables presented in Final EIR/EIS Appendix 8G presenting monthly average changes in concentrations and frequency of exceedance of applicable objectives, including Bay-Delta Water Quality Control Plan objectives. For EC, the Bay-Delta Water Quality Control Plan compliance locations are evaluated for compliance with EC objectives for protection of agricultural and fish & wildlife.</p> <p>The details of the proposed adaptive management and monitoring program are presented in Section 3.6 of the 2013 public draft BDCP as they relate to the covered species and conservation measures. The implementation structure proposed to oversee and implement the adaptive management program is</p>

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			presented in BDCP Chapter 7; see also Master Response 33, Adaptive Management and Monitoring. For more information about water quality analysis and modeling, see Master Response 14. See also Response to Comment 1687-2.
1687	17	<p>Ducks Unlimited recommends the Appendices of Chapter 8 directly correlate to the content of the chapter and should utilize consistent units. As an example, from Chapter 8.4.3.9 ... Effects of the Alternative on Delta Hydrodynamics:</p> <p>"Long-term average annual Delta outflow is anticipated to decrease under Alternative 4 by between 864 (scenario H1) and 5 TAF (scenario H4) relative to the No Action Alternative, due only to changes in operations. The result of this is increased sea water intrusion in the west Delta. The increase in sea water intrusion (represented by an increase in San Francisco Bay (BAY) percentage) can be seen, for example, in Appendix 8D, ALT 4, H3-Sacramento River at Mallard Island for ALL years {1976-1991}."</p> <p>This statement documents the changes in reduction of Delta outflow in thousand acre feet (TAF) and then asks the reviewer to understand that as a percentage of existing conditions as it relates to an increase of "Bay" as the source water of reduced Delta outflow in Appendix 8D. It is inappropriate to use TAF as an output of data, when the data provided to the reviewer is a percentage of existing conditions without giving the Existing Conditions actual flow data in TAF.</p>	<p>The units used are consistent – there are two parameters being described that are different but related. The Delta outflow values are presented here as a general indicator of the range of changes in Delta outflow to provide context for salinity changes (from sea water intrusion) observed for the Alternative. Further Delta outflow data is shown in Final EIR/EIS Chapter 5, Water Supply, and is referenced as a source of more information immediately preceding the commenter's cited text. The water quality analysis estimated the change in salinity as a result of a change in Delta outflow. The Bay percentage serves as an indicator of sea water intrusion estimated by the modeling. See also response to comment 1687-6.</p>
1687	18	<p>As a reviewer, Ducks Unlimited has not seen the modeling data assumptions and does not understand, in detail, the limitations. As an example, "Therefore, DSM2 results may show an exceedance of D- 1641standards when, in these cases, this is a modeling anomaly and not reflective of an actual violation." This statement is unsubstantiated as to why the results are a modeling anomaly and not a real affect. Please explain why this is an anomaly and not a real affect and site the model assumptions/data that support such a statement.</p>	<p>The EIR/EIS analysis is based upon comparison of conditions under action alternatives and conditions under the Existing Conditions and the No Action Alternative. The basis of the hydrologic and water quality model is the CALSIM II model is a monthly model that incorporates assumptions about daily operational changes, and the model results should not be used in a predictive manner to determine absolute values. The DSM2 model uses the monthly model results from CALSIM II and disaggregates the values using historical patterns for smaller time steps and assumptions for tidal conditions. These types of models are the most appropriate to analyze potential changes due to different operational assumptions for the SWP and CVP. However, as described in Appendix 5A of the Final EIR/EIS, these models cannot be used in a predictive manner to define absolute values. Rather, they must be used in a comparative manner to indicate basic changes between alternatives or scenarios and understand the sensitivity of changes that could occur from the Existing Conditions and the No Action Alternative. Therefore, the modeling results do not reflect absolute values that would be observed in the future, but rather a trending pattern to be used in the comparison of alternatives.</p>
1687	19	<p>Salinity Units vary in the document between practical salinity unit, Total Dissolved Salts, parts per thousand, Electrical Conductivity, grams per liter, milligrams per liter, microsiemens per centimeter and a % of Bay. Salinity measurements should be standardized throughout the document and the document should provide a conversion table for the reader.</p>	<p>Different salinity units are used in different parts of the document intentionally. For example, total dissolved salts (generally expressed in parts per thousand, grams per liter, or milligrams per liter) is generally used in the aquatic resources assessment because that is the convention in that field. Electrical conductivity (expressed as mS/cm, uS/cm, or umhos/cm) is used in the Water Quality assessment because that is how salinity is typically measured for water quality purposes, and water quality standards applicable in the Plan Area are in these units. More discussion of relationships between salinity-related parameters and units used to represent them is included in Final EIR/EIS Chapter 8, Water Quality, Section 8.2.3.7 of the Draft EIR/EIS (Section 8.1.3.7 of the Final EIR/EIS).</p>
1687	20	<p>Relatively small changes in salinity could result in large scale changes across the San Pablo Bay and Delta as species communities shift from peat forming freshwater cattails and tules to more saline species with less above and belowground biomass. In both Suisun and San Pablo Bays, the reduction in below ground organic matter inputs related to increased salinities resulting from the project, coupled with accelerating rates of sea level rise could seriously impede the ability of wetlands to develop and/or keep pace with sea level rise. This should be addressed in the cumulative effects section. Chapter 29, Climate</p>	<p>The water quality assessment of the diversion of Sacramento River water under the project alternatives addresses effects on salinity-related parameters in the Delta, including EC and compliance with related agricultural and fish and wildlife objectives in the Bay-Delta Water Quality Control Plan and degradation relative to these uses in Impact WQ-11 in Final EIR/EIS Chapter 8, Water Quality. Where significant impacts to agricultural and fish and wildlife beneficial uses would occur due to the alternative, as opposed to other forces including climate change and sea level rise, mitigation to lessen those impacts is provided.</p>

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		<p>Change, should also include areas beyond the identified plan area that may be affected by plan implementation, such as San Pablo Bay, and that resiliency with and without the project should be assessed for San Pablo Bay.</p>	<p>The effects of salinity changes on tidal freshwater emergent wetlands are discussed in Impact BIO-8, which also acknowledges that the salinity changes would be complicated by the anticipated sea level rise and the effects of downstream tidal restoration. The effect of salinity on Delta waterways and wetlands in light of climate change is discussed in the cumulative effects section (Section 12.3.5 Cumulative Effects) of Final EIR/EIS Chapter 12.</p> <p>No revisions to Chapter 29 have been made to the Final EIR/EIS because climate change resiliency is already adequately evaluated in this chapter.</p>
1687	21	<p>Salinity should be addressed in Chapter 14. Slight variations in salinity can have a dramatic effect on crop types. Although it is difficult to determine what the future cropping will be within the timeline of the 50 year plan, it is possible to determine whether there are salinity thresholds that would impact existing crop uses in the Delta. An economic analysis as well as terrestrial species impact analysis should be conducted for existing agricultural land uses and the likely change in agricultural production.</p> <p>In addition, many species covered under the Migratory Bird Treaty Act (MBTA) rely heavily on crops within the Delta. Therefore, any significant changes to cropping patterns as a result of salinity or water diversion reductions or as a production of water transfers could be a violation of the MBTA. We recommend further evaluation to determine what these thresholds could be and to determine if the project as proposed would exceed them.</p>	<p>Discussion of effects from changes in salinity is presented in Final EIR/EIS Chapter 14, Agricultural Resources, Section 14.3.3.2, Impact AG-2. Crop yields and crop selection on lands in the Delta affected by changes in salinity of agricultural water supply during operation and maintenance activities are described under this impact as well. Water quality modeling results indicate that it is unlikely that there would be increased frequency of exceedance of agricultural EC objectives in the western, interior, or southern Delta. However, there could be increased long-term and drought period average EC levels during the summer months in the Sacramento River at Emmaton under Alternative 4A relative to the No Action Alternative (ELT), which could adversely affect agricultural beneficial uses. Implementation of Mitigation Measure AG-1 would develop an Agricultural Lands Stewardship Plan maintain agricultural productivity and mitigate for loss of Important Farmland and land subject to Williamson Act contracts or in Farmland Security Zones, and Mitigation Measure WQ-11 (including Mitigation Measure WQ-11e) would avoid or minimize reduced water quality conditions and adaptively manage diversions at the north and south Delta intakes to reduce or eliminate water quality impacts in Western Delta.</p> <p>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. The water supply environmental consequences in the Delta of water transfers for all alternatives are considered in Final EIR/EIS Chapter 5. Please see Master Response 43 for additional detail about the analysis done on water transfers in the FEIR/FEIS.</p> <p>Agricultural lands in the Delta are undergoing rapid conversion from wildlife compatible crop types such as grain and hay to permanent agriculture such as orchards and vineyards. In addition to the implementation of MM AG-1 which would develop a plan to maintain agricultural productivity, the proposed project would protect and manage agricultural lands in perpetuity for terrestrial wildlife including many species of migratory birds (Environmental Commitment 3 under Alternative 4A). Without the proposed project these lands may also otherwise be converted to incompatible crop types, substantially reducing their value for wildlife.</p>
1687	22	<p>Ducks Unlimited agrees with the following comment from the Delta Protection Commission and adopts this comment as our comment 20.</p> <p>The primary mitigation measure for agricultural impacts is the proposed Agricultural Lands Stewardship Plan (ALSP - Mitigation Measure AG-1). While the recent draft version of the ALSP includes a variety of useful and well-thought mitigation strategies that would benefit agriculture, it also includes measures that appear designed more to facilitate restoration of agricultural land for the benefit of listed species. The Commission recommends that the Delta agricultural community be invited to select a preferred administrator for the agricultural mitigation funding, and allow this administrator to work with the full range of Agricultural Land Stewardship Planning strategies to determine the best measures to mitigate for the loss of Delta farmland.</p>	<p>Please refer to Master Response 18 regarding agricultural mitigation.</p>

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1688	1	<p>The San Joaquin Tributaries Authority (SJTA) provides the following comments on the Bay Delta Conservation Plan (BDCP) Environmental Impact Report/Statement (EIR/EIS). The SJTA generally supports projects that increase water reliability and benefit the ecosystem. The SJTA's primary concerns regarding the BDCP is the potential impacts it may have upon SJTA member operations and their respective water supply reliability. Despite the volume of the EIR/EIS, it remains unclear how the BDCP will affect the members of the SJTA. The BDCP EIR/EIS does not provide a sufficient description of the BDCP project or the impacts the BDCP project will have on upstream water right holders. The SJTA requests the EIR/EIS be revised to include the analysis more fully described below and recirculate the EIR/EIS for public review.</p>	<p>The action alternatives do not change operations of facilities on the San Joaquin River tributaries or on the San Joaquin River upstream of Vernalis. The results of the modeling analysis presented in Appendix 5A, Section C, Modeling Results, in the Final EIR/EIS indicates that the New Melones Reservoir storage and San Joaquin River flows at Vernalis would be similar under the No Action Alternative and the action alternatives (see Figures C-6-1 and C-6-2, Figures C-23-1 through C-23-6, Tables 6-14 through 6-25, and Tables 23-14 through 23-25).</p>
1688	2	<p>Chapter 1 - Introduction:</p> <p>The role and the responsibility of the Bureau of Reclamation (Reclamation) in participating, benefiting and funding the BDCP is unclear. The introduction states Reclamation is a necessary party to the implementation of the BDCP. (EIR/EIS, at 1-26.) However, Reclamation is not a project proponent, despite the fact that many Central Valley Project (CVP) contractors are project proponents. (Id., at 1-1, fn. 1.) Furthermore, the BDCP Implementation Agreement states that "Reclamation will enter into a Memorandum, or similar agreement, with the Parties that sets out Reclamation's roles and responsibilities pursuant to the BDCP and establishes processes to ensure that Reclamation's actions are implemented in a manner consistent with the Plan," but does not disclose what actions Reclamation will take, what role Reclamation will play in the BDCP or how Reclamation will be bound to the Agreement. Without this information, the public cannot meaningfully understand and consider the issues raised by the proposed project. The failure to disclose and analyze Reclamation's role violates the California Environmental Quality Act (CEQA) disclosure requirements. (See Laurel Heights Improvement Assn. v. Regents of University of California [1988] 47, Cal.3d 376,405.)</p>	<p>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. The Please also Master Response 5 for information about the BDCP.</p> <p>This comment addresses the 2014 Draft Implementing Agreement (IA), a document detailing the roles and responsibilities of the various agencies under the BDCP (Alternative 4). For detailed responses on the primary issues being raised with regard to the IA, as well as a discussion of the current status of the IA, please see Master Response 5. Please note Alternative 4A does not include an Implementing Agreement.</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. If an HCP alternative is selected for implementation, 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 to complete biological opinions or a joint biological opinion prior to federal action to carry out the proposed project.</p> <p>If a non-HCP alternative is selected for implementation, the USFWS and NMFS will complete an ESA section 7 consultation with the United States Bureau of Reclamation to complete biological opinions or a joint biological opinion prior to issuance of incidental take permits (ITPs).</p>
1688	3	<p>The Plan Area is too narrow. It is clear that Reclamation will be required to modify its operation of the CVP as part of the BDCP project. Despite this, CVP facilities upstream of the Plan Area are not included within the Plan Area and, thus, are not analyzed by the EIR/EIS. The failure to include areas upstream of the Delta in the Plan Area prevents the public from meaningfully understanding and considering the issues raised by the BDCP, as many potential environmental impacts will be overlooked.</p>	<p>Please see Master Response 25 for information on upstream reservoir operations under the BDCP/CWF.</p> <p>Figure 1-4 is correct. Public Draft EIR/EIS Chapter 1 figures are available in the link immediately below Chapter 1 (Introduction). Figure 1A-4 identifies the major components of the SWP and CVP, along with an outline of the Plan Area. For a description of the Project Area, please see Section 1.5 in the FEIR/EIS.</p>

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		<p>The Project Area is unclear, rendering the project description inadequate. The EIR/EIS notes that "the project area consists of the following three geographic regions, as shown in Figure 1-4." (EIR/EIS, at 1-11.) First, no "Figure 1-4" is included with the Draft BDCP EIR/EIS. This statement likely refers to "Figure 1A-4;" and if so, the text should be corrected. Second, Figure 1A-4 includes a map of most of the State of California, with no boundary lines for the Project Area. It is unclear if the whole map is included, just the highlighted waterworks, or the highlighted water works and certain areas surrounding them. Furthermore, the project description does not include a written description of boundaries for the Project Area, such that a member of the public cannot understand whether they are inside or outside the Project Area with any degree of certainty. The map should be changed so that it accurately shows the Project Area, or an adequate written description should be included. "An accurate, stable, and finite project description is the Sine quo none of an informative and legally sufficient EIR." (County of Inyo v. City of Los Angeles (1977) 71 Cal.App.3d 185, 193.) As it stands, the current description of the Project Area is not legally adequate.</p>	
1688	4	<p>Chapter 2 - Project Objectives and Purpose and Need:</p> <p>The EIR/EIS does not disclose which water right permits will need to be modified in order to facilitate the operation of the BDCP. In addition, the EIR/EIS does not analyze whether such permit changes will cause injury to other legal users of water. The EIR/EIS notes that one of the objectives of the BDCP is to increase water supply reliability. (EIR/EIS, at 2-6.) The Department of Water Resources (DWR) and Reclamation will be required to modify their water right permits in order to alter their project operations to provide additional water supply reliability and water to diverters. To the extent the EIR/EIS will be relied upon as the environmental analysis sufficient to support the State Water Resources Control Board's (State Water Board) review and potential change to DWR and CVP water right permits, this analysis must be included. The EIR/EIS should disclose which permits will be required to be modified to operate the BDCP. The EIR/EIS should be revised to include the impact of the changes to water right permits, including the analysis of injury to other legal water users.</p>	<p>Refer to 1688-#1 regarding the change in preferred alternative to Alternative 4A. 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>For more information regarding changes in delta exports please see Master Response 26.</p> <p>For more information regarding permitting please see Master Response 45.</p>
1688	5	<p>The EIR/EIS does not disclose what changes to water quality control objectives or other regulations would be necessary for the implementation and operation of the BDCP. The EIR/EIS recognizes the State Water Board will be reviewing the existing water quality objectives. The EIR/EIS must explicitly disclose the changes it anticipates for the water quality objectives and how these changes will affect the BDCP. To the extent the implementation or operation of the BDCP relies upon increased flows from the changes to water quality objectives, the EIR/EIS must analyze the impacts of these changes to the upstream water users. Without this information, the public cannot meaningfully understand and consider the issues raised by the proposed project, as the future regulatory regime under which the State Water Project (SWP) and CVP will be operated is unclear.</p>	<p>The BDCP does not seek to change the water quality objectives established under the State Water Resources Control Board Decision. The FEIR/EIS models simulate operations of the SWP and CVP facilities to meet the existing water quality Water rights of, and actions by, other water users are not altered to meet the water quality objectives currently the responsibility of the SWP and CVP Refer also to Master Response 14, Water Quality.</p>
1688	6	<p>Chapter 3 - Description of Alternatives:</p> <p>It is unclear from the information presented in the EIR/EIS how the BDCP will function after it is built and implemented. For instance, it is not disclosed as to how much additional water will be available for export, how much additional water will actually be exported, which parties will benefit from the additional water, and to what extent, if at all, the south Delta intakes will continue to be used. Without this information the public</p>	<p>Refer to 1688-#1 regarding the change in preferred alternative to Alternative 4A. The Draft BDCP EIR/EIS compares model simulations for the action alternatives to model simulations for the Existing Conditions and the No Action Alternative in order to analyze the change in conditions, including exports. The results of the model simulations are indicative of actual operations; however, actual operations will be determined by actual hydrologic conditions, water quality and ecosystem conditions, and water demands in specific months. Refer to Master Response 28, Operational Criteria.</p>

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		cannot meaningfully understand and consider the issues raised by the proposed project.	Changes in total exports under the action alternatives as compared to the Existing Conditions and the No Action Alternative are presented in Tables C-10-2-1 through C-10-2-25 in Appendix 5A, Section C, Modeling Results, in FEIR/EIS. The model uses all water available for export as limited by export facility capacities and operational criteria, and by downstream demands and storage capacities. The exported water will be used by existing SWP and CVP water contract users. The amounts of water diverted between the north Delta intakes and south Delta intakes under the action alternatives are summarized in Figures C-10-8 through C-10-10, in Appendix 5A, Section C.
1688	7	The EIR/EIS discusses two categories of actions that are occurring under the BDCP -- covered activities and associated federal actions. (EIR/EIS, at 3-17.) It is unclear whether the environmental impacts from both of these categories of actions are covered by the EIR/EIS. Without this information, the EIR/EIS is confusing and unclear.	Refer to 1688-#1 regarding the change in preferred alternative to Alternative 4A. This Final EIR/EIS addresses the effects of covered actions and conservation measures for 15 alternatives that involve implementing an HCP/NCCP. References to federal actions refer to actions by Federal agencies with actions that trigger compliance with NEPA and ESA.
1688	8	The EIR/EIS is unclear as to whether it analyzes the environmental impacts of the proposed alternatives under the regulations affecting the export of water alone or in addition to expected changes to these regulations. The EIR/EIS discusses the various regulations impacting the export of water from the Delta. (Id., at 3-31 through 3-33.) However, the EIR/EIS indicates these regulations are likely to change in the future. (See Id., at 3-34; 5-34.) Furthermore, the 2009 National Marine Fisheries Service Biological Opinion (NMFS BiOp) discussed in the EIR/EIS is currently on appeal; it is likely the requirements in the BiOp will change substantially. The EIR/EIS should state whether it is analyzing environmental impacts under the regulations as they currently stand, or under the regulations as they are likely to be once the BDCP is approved and implemented. If it is not analyzing environmental impacts under the probable future regulatory regime, the EIR/EIS must be revised to include this analysis. Without this information, the public cannot meaningfully understand and consider the issues raised by the proposed project, because they will not understand how the BDCP will be operated, and the environmental impacts that operation will cause in the regulatory environment that will exist when the BDCP is actually implemented.	<p>Refer to 1688-1 regarding the change in preferred alternative to Alternative 4A. Although the commenter refers to "regulations affecting the export of water", it is assumed that s/he is referring to the bypass rules because the commenter refers to text in Chapter 3, Description of Alternatives, of the EIR/EIS that indicates the bypass rules may be modified in the future, as needed, as part of the Adaptive Management and Monitoring Program. Specifically, the bypass rules described in Chapter 3 of the EIR/EIS may be modified in the future under the adaptive management program as the results of fish monitoring in the vicinity of the new intakes are evaluated. For a description of the BDCP Adaptive Management and Monitoring Program, see Section 3.6 of the BDCP. For more information regarding the collaborative science and adaptive management program of the preferred alternative please see Chapter 3 of the FEIR/EIS.</p> <p>For the evaluation of alternatives in the EIR/EIS, the north Delta intake bypass rules are assumed to be identical for Alternatives 1A through 6C, with</p> <p>a different set of rules applying to Alternatives 7 and 8 (none are needed for Alternative 9 [Scenario 27 G]), and those rules are as described in Chapter 3.</p> <p>The water operations of the existing CVP and SWP Delta facilities and the operation of the proposed new conveyance facilities are described in Section 3.4.1.2 of the BDCP EIR/EIS.</p> <p>On December 22, 2014, a federal appeals court ruled that the 2009 NMFS BiOp would stand in its entirety.</p>
1688	9	The adaptive management and monitoring program is neither formal, nor transparent, and thus fails to meet the requirements of the Water Code. The Delta Plan will incorporate the provisions of the BDCP, including the adaptive management plan. (See Water Code, [Section] 85320; See also http://deltacouncil.ca.gov/delta-plan-and-bdcp .) The Water Code requires that the adaptive management strategy in the Delta Plan be "science-based, transparent, and formal". (Water Code, [Section] 85308(f).) The adaptive management program is not described in any detail in the EIR/EIS. Furthermore, the BDCP document, itself, does not describe a formal process by which adaptive management will take place, nor does it describe with any level of certainty what actions will be taken in response to certain events or conditions precedent, and thus the program is not transparent. The EIR/EIS must be modified to include a full description and analysis of the adaptive management program, and the adaptive management program must be more fully fleshed out to meet the Water Code's requirements of transparency and formality.	<p>Refer to 1688-1 regarding the change in preferred alternative to Alternative 4A. Please see the 2013 Draft BDCP document, Section 3.4, Conservation Measures, which discusses adaptive management and monitoring for each conservation measure. Please see Master Responses 5 and 33 regarding BDCP conservation measures and the adaptive management and monitoring program, respectively. Alternative 4A alters the structure of the adaptive management and monitoring program relative to the BDCP proposal.</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</p>

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			<p>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 biological opinion and 2081b 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>Refer to Master Response 45 for more information on permitting and Chapter 3, Description of Alternatives in the FEIR/EIS for more information on adaptive management.</p>
1688	10	<p>Chapter 5 - Water Supply:</p> <p>It is unclear how DWR and Reclamation will coordinate operations of the SWP and CVP under the BDCP. The EIR/EIS discusses the Coordinated Operations Agreement (COA), under which the SWP and CVP are currently operated. (EIR/EIS, at 5-20 and 5-33.) It is unclear whether the changes to these systems based on the construction and implementation of the BDCP will require the COA to be modified or replaced. Without this information, the public cannot meaningfully understand and consider the issues raised by the proposed project.</p>	<p>The BDCP EIR/EIS assumes no changes in the Coordinated Operations Agreement (COA). If through a separate process the COA is modified in the future, following adoption of the modified COA by the Federal and State legislatures, DWR and Reclamation will need to determine if their operations of the SWP and CVP require modifications.</p>
1688	11	<p>It is unclear whether water transfers are part of the BDCP or planned future actions, and the degree to which these transfers are considered in the environmental analysis. The EIR/EIS indicates that water transfers are planned after the implementation of the BDCP. (See Id., at 5-40 and 5-41.) The EIR/EIS also indicates that more water will be exported by the SWP and CVP after construction and implementation of the BDCP. (See Id., at 8-408.) However, the EIR/EIS states that any potential transfer will have its own separate EIR/EIS. (Id. at 5-40 and 5-41.) If the potential transfer of water is necessary for the implementation or operation of the BDCP, the impact of the transfers should be analyzed in the EIR/EIS. In the alternative, the EIR/EIS should make clear how the environmental analysis would be tiered from the EIR/EIS. Without this information the public cannot meaningfully understand and consider the issues raised by the proposed project.</p>	<p>Because specific agreements have not been identified for water transfers and other non-project voluntary water market transactions, project-level analysis of impacts upstream of the Delta is highly speculative and this EIR/EIS does not constitute the CEQA/NEPA coverage required for any specific transaction. Rather, it provides an analysis of how transfers relate to the BDCP/CWF facilities. Any future water transfers will require separate approvals as outlined below. The analysis of any potential upstream impacts is not a part of this EIR/EIS and must be covered pursuant to separate laws and regulations once the specific transfer has been proposed. For more information, please see section 5.1.2.7 in Chapter 5, FEIR/EIS. Indirect effects of changes in water transfers and Delta exports are addressed in Chapter 30, Growth Inducement, and other chapters addressing specific resources. Refer also to Master Response 43, Water Transfers.</p>
1688	12	<p>The EIR/EIS discusses the 2006 Bay-Delta plan, but does not discuss the ongoing review of the Bay-Delta plan; these impending regulations should be discussed and analyzed. The State Water Board has released a draft modification and draft environmental documentation for the first phase of the ongoing review of the Bay-Delta Plan. This draft modification will have significant impacts on the Sacramento and San Joaquin Rivers, and the Delta systems, and would potentially provide more water for export. The consideration of these modified regulations in the EIR/EIS's analysis could substantially change the conclusions of that analysis. Without this information, the public cannot meaningfully understand and consider the issues raised by the proposed project because it will not understand how the BDCP will likely operate, and the environmental effects of that operation, in the regulatory environment that will exist when the BDCP is actually</p>	<p>As discussed in Section 6.3.4 of Chapter 6, Surface Water, of the Draft BDCP EIR/EIS, It is recognized that the State Water Resources Control Board is preparing an updated to the Bay-Delta Water Quality Control Plan which is considering reasonable protection of beneficial uses, including municipal and industrial uses, agricultural uses, and environmental uses. 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>

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		implemented.	
1688	13	The EIR/EIS must be revised to analyze impacts to water users upstream of the Delta. The EIR/EIS states, "the water supply analysis addresses impacts to DWR, Reclamation, and SWP and CVP contractors, as opposed to other water right holders, as the BDCP does not include any regulatory actions that would affect any such water right holders." (Id., at 5-43.) This conclusion is not supported by information and analysis included in the EIR/EIS. Construction and implementation of the BDCP will, according to the EIR/EIS, allow for increased exports of water. It is unclear where this increased supply will come from. Assuming it could decrease the amount of water available to upstream water right holders, the EIR/EIS must be modified to discuss and analyze these potential impacts to upstream water users. Without this information, the public cannot meaningfully understand and consider the issues raised by the proposed project.	The citation from Chapter 5, Water Supply, in the Draft BDCP EIR/EIS included in this comment is accurate because the action alternatives do not affect non-SWP and non-CVP water rights. Under the action alternatives, the increased monthly annual exports as compared to the No Action Alternative are related to reduced Delta outflows. Refer to Master Response 26, Area of Origin and Master Response 32, Water Rights.
1688	14	The EIR/EIS should include a separate analysis, considering and explaining the effects of climate change, alone, on the project area. The EIR/EIS notes that climate change is expected to significantly change the hydrology and ecosystem of the Plan Area. (See Id., at 5-48.) Many of the environmental impacts found under the proposed alternatives are attributed solely to climate change. (See /d., at 7-85.) It is unclear why these impacts are identified as solely caused by climate change. If the EIR/EIS included the environmental analysis on the effects of climate change alone, readers would be able to compare this analysis to the analysis of the alternatives, and understand why the EIR/EIS found a significant impact to be the result of climate change alone. The methodology for this analysis should also be included in the EIR/EIS. Without this information, the public cannot meaningfully understand and consider the issues raised by the proposed project.	Comparison of model simulation results of the No Action Alternatives as compared to the Existing Conditions represent changes due to climate change, sea level rise, and projected growth in the Delta watershed (primarily in the American River watershed). Comparison of model simulation results of the action alternatives as compared to the No Action Alternative represent changes due to the action alternatives. Comparison of model simulation results of the action alternatives as compared to the Existing Conditions represents combined changes due to climate change, sea level rise, projected growth, and the action alternatives. Refer to Master Response 19 for more information on how climate change is considered in the EIR/EIS.
1688	15	The alternatives considered all improperly include the Vernalis Adaptive Management Plan (VAMP) flows, which renders the EIR/EIS's environmental analysis incorrect and inadequate. Table B-18 in the EIR/EIS shows VAMP flows being a part of each alternative's modeling assumptions. The VAMP ended and the regulatory requirements of that program are no longer in effect. Including VAMP flows in the modeling assumption for environmental impacts renders this analysis incorrect and inadequate, as these flows are no longer being met and, thus, the projected environmental impacts may be more or less severe.	The assumptions under Alternatives 1 through 9 include continued water acquisition on the San Joaquin River watershed as was implemented during the Vernalis Adaptive Management Plan.
1688	16	The BDCP increases reliance on the Delta, and thus is inconsistent with the terms of Water Code section 85021. Water Code section 85021 states, in part, that "[t]he policy of the State of California is to reduce reliance on the Delta in meeting California's future water supply needs..." The EIR/EIS, however, indicates that after construction and implementation of the BDCP the SWP and CVP will likely export more water from the Delta. (See Id., at 8-408.) Increasing exports from the Delta appears to place greater reliance on the Delta region for California's water supply. The EIR/EIS should be modified to explain how increasing exports from the Delta region is reducing reliance on the Delta region, and thus, how the BDCP is consistent with Water Code section 85021.	<p>The range of action alternatives includes Alternatives 6, 7, 8, and 9 which would result in less Delta exports on an average annual basis as compared to Existing Conditions and the No Action Alternative (see Figure C-10-8, Appendix 5A, Section C, CALSIM II and DSM2 Model Results, of the EIR/EIS).</p> <p>The proposed project aims 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 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 Delta Reform Act states that the regions that use water from the Delta watershed should reduce their reliance on the Delta and improve regional self-reliance. The EIR/EIS recognizes 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, storage, recycling, desalination, treatment of contaminated aquifers, or other measures to</p>

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			<p>expand supply and storage (as described in Section 1.C.3 of Appendix 1C, Water Demand Management). It is assumed that the State and local agencies will invest in future water supplies to replace reduced surface water and groundwater supplies and to meet future growth, as described in Chapter 30, Growth Inducement and Other Indirect Effects. Refer also to Master Response 3 (Purpose and Need) and Master Response 6 (Demand Management) and Master Response 31 regarding the Delta Reform Act.</p>
1688	17	<p>Chapter 6 - Surface Water:</p> <p>Neither Chapter 5 nor Chapter 6 analyzes the impact to entities upstream of the Delta resulting from the depletion or reduction of surface water that could occur due to the implementation of the BDCP or changes in DWR or Reclamation's water right permits. If no impact to these entities of this kind will occur, the EIR/EIS should state so, and explain the reason no such impact will occur. Without this information, members of the public cannot meaningfully understand and consider the issues raised by the proposed project.</p>	<p>All of the alternatives evaluated in the EIR/EIS would only divert water under existing water rights which were issued to DWR and Reclamation by the State Water Board with consideration for senior water rights and Area of Origin laws and requirements. The amount of water that can be diverted from the new north Delta facilities is set by Federal regulating agencies, ESA compliance and project design, and not by the water contractors.</p> <p>As described in Chapter 3, Description of Alternatives, the alternatives considered in the EIR/EIS do not include specific water transfers. The EIR/EIS acknowledges that water transfers would continue in a similar manner as historic transfers and in accordance with State and Federal laws and regulations. The EIR/EIS also acknowledges that the use of water transfers between agencies could increase in the future as SWP, CVP, and other surface water supplies are reduced due to climate change, sea level rise, and increased water demand in the Delta watershed, as described in Appendix 1E, Water Transfers in California: Types, Recent History, and General Regulatory Setting, and Appendix 5D, Water Transfer Analysis Methodology and Results, of the Draft BDCP EIR/EIS. Because specific agreements have not been identified for water transfers and other non-project voluntary water market transactions, project level analysis of impacts upstream of the Delta is highly speculative and this EIR/EIS does not constitute the CEQA/NEPA coverage required for any specific transaction. Rather, it provides an analysis of how transfers relate to the BDCP facilities. As indicated in Appendix 5D, the analyses are conservative because it is not known if adequate water would be available from other water users for transfer. As shown in Table 5D-8, the maximum cross-Delta transfers under the action alternatives would be greatest under Alternative 8 because there would be the most available capacity. Any future water transfers will require separate approvals. The analysis of any potential upstream impacts is not a part of this EIR/EIS and must be covered pursuant to separate laws and regulations once the specific transfer has been proposed.</p> <p>Refer also to Master Response 43, Water Transfers.</p>
1688	18	<p>Chapter 7 - Groundwater:</p> <p>Over the past six months, the California Legislature has been working to develop legislation to regulate the management and extraction of California's groundwater resources. Legislation will be finalized in a matter of months. This legislation will have a great impact on all water users, all water systems operations and, most significantly, the operation of the SWP and CVP under the BDCP. This great impact could lead to environmental impacts. The EIR/EIS docs not identify or analyze potential environmental impacts of the BDCP cumulatively with groundwater regulation. In addition, the BDCP does not analyze the impacts that future groundwater legislation will have on the viability of the BDCP project. Without this analysis the public cannot meaningfully understand and consider the issues raised by the proposed project.</p>	<p>Subsequent to the release of the DEIR/EIS, the California Legislature enacted the Sustainable Groundwater Management Act of 2014 (SGMA), which became law on January 1, 2015. (The SGMA was comprised of three separate bills: Senate Bill 1168, Senate Bill 1319, and Assembly Bill 1739. All three bills were signed into law by the Governor on September 16, 2014.) By enacting the SGMA, the Legislature provided local agencies with the authority and the technical and financial assistance necessary over time to sustainably manage groundwater within their jurisdiction (Cal. Wat. Code, § 10720.1).</p> <p>Pursuant to SGMA, any local agency that has water supply, water management, or land use responsibilities within a groundwater basin may elect to be a "groundwater sustainability agency" for that basin (Cal. Wat. Code, § 10723). Local agencies have until January 1, 2017, to elect to become or form a groundwater sustainability agency. In the event a basin is not within the management area of a groundwater sustainability agency, the county within which the basin is located will be presumed to be the groundwater sustainability agency for the basin. The county, however, may decline to serve in this capacity (Wat. Code, § 19724).</p> <p>Any established groundwater sustainability agency would have additional powers under the SGMA to manage groundwater within the basin, including, for example, the powers to conduct investigations of the basin; to require registration of groundwater extraction facilities and metering of groundwater extractions; to regulate groundwater extractions from individual groundwater wells or wells generally; and to assess fees</p>

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			<p>on groundwater extractions. (See generally Cal. Wat. Code, § 10725 et seq.) In exercising its authority under the SGMA, a groundwater sustainability agency must consider the interests of holders of overlying groundwater rights, among others, and may not make a binding determination of the water rights of any person or entity. (Cal. Wat. Code, §§ 10723.2, 10726.8.) The SGMA also provides local agencies with additional tools and resources designed to ensure that the state’s groundwater basins are sustainably managed.</p> <p>The SGMA also requires DWR to categorize each groundwater basin in the state as high-, medium-, low-, or very low priority (Cal. Wat. Code, §§ 10720.7, 10722.4.) All basins designated as high- or medium-priority basins must be managed by a groundwater sustainability agency under a groundwater sustainability plan that complies with Water Code Section 10727 et seq. In lieu of preparation of a groundwater sustainability plan, a local agency may submit an alternative that complies with the SGMA no later than January 1, 2017. (Wat. Code, § 10733.6.)</p> <p>Over time, the existence of these new requirements will help stabilize groundwater basins throughout California, including in areas currently receiving surface water imports from the SWP and CVP. To the extent that groundwater management efforts will require agricultural operations in the San Joaquin Valley to stop overdrafting their aquifers, such an outcome will only heighten the economic and social importance of stable surface water imports from the SWP and CVP. In short, as groundwater supplies are reduced over time as groundwater users in overdrafted basins work to stabilize their aquifers, exports from the SWP and CVP to areas south of the Delta will become even more important than they are today to the affected regions.</p> <p>As described in Section 7.3 of Chapter 7, Groundwater, of the Draft EIR/EIS, increases in SWP and CVP deliveries from the implementation of Alternatives 1, 2, 3, 4, and 5 as compared to conditions under the Existing Conditions and the No Action Alternative are anticipated to result in a corresponding similar or reduced groundwater use rates in the SWP and CVP service areas. However, Alternatives 6, 7, 8, and 9 which would result in less Delta exports on an average annual basis as compared to Existing Conditions and the No Action Alternative (see Figure C-10-8, Appendix 5A, Section C, CALSIM II and DSM2 Model Results, of the EIR/EIS), and groundwater use and overdraft potential are anticipated to increase, as shown in Figures 7-32 through 7-37 in Chapter 7.</p>
1688	19	<p>Chapter 8 - Water Quality:</p> <p>The EIR/EIS assumes that San Joaquin River outflow will increase as a result of the BDCP or concurrent with the implementation of the BDCP. (See EIR/EIS, at 8-408.) The statement that San Joaquin River flows will increase into the Delta is not explained or supported, and the impacts of this assumption are not analyzed. Providing the environmental analysis for the effects of climate change, for example, may demonstrate to readers whether or not climate change will actually play a role in increasing San Joaquin River outflow. Because the EIR/EIS does not contain an explanation for this projected increase in San Joaquin River outflow, the environmental analysis based on increased San Joaquin River outflow is not supported. Without this analysis the public cannot meaningfully understand and consider the issues raised by the proposed project.</p>	<p>The characterization of San Joaquin River flow changes are based on the results of CALSIM and DS2M modeling, which are based on the assumptions described in Appendix 5A, and includes the effects of the alternative’s operations scenario, climate change, and increased water demands.</p>
1688	20	<p>The EIR/EIS indicates that Reclamation will unavoidably violate chloride and electrical conductivity (EC) water quality objectives under Alternative 4. (Id., at 8-428 and 8-439.) These water quality objectives are legally binding on Reclamation, and their ability to divert water pursuant to their water right is conditioned upon their meeting these objectives. The EIR/EIS cannot simply assume Reclamation will violate these standards as a long-term method of operating. Instead, the EIR/EIS must discuss what steps it will take</p>	<p>Please refer to Master Response 14 Salinity, for a discussion of any exceedances of water quality objectives for EC and chloride shown in the modeling data.</p>

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		to modify these water quality objectives or consider the impacts to service providers resulting from Reclamation being prohibited from diverting water because they are failing to meet the chloride and EC water quality objectives. Without this analysis the public cannot meaningfully understand and consider the issues raised by the proposed project.	
1688	21	<p>Chapter 11 - Fish and Aquatic Resources:</p> <p>The EIR/EIS contains no analysis concerning the estimated effectiveness of habitat restoration. In addition, the EIR/EIS fails to disclose or outline the actions that will be taken if the habitat restoration activities are not fully effective. The EIR/EIS assumes that habitat restoration activities will be fully effective. (See EIR/EIS, at 11-5.) The EIR/EIS also analyzes the environmental impacts if the habitat restoration was completely ineffective. (See Id., at 11-265.) Despite the fact that the EIR/EIS acknowledges some reasonable possibility that habitat restoration will fail, the EIR/EIS does not analyze the possibility of this occurring, nor what actions will be taken if it does. Without this analysis the public cannot meaningfully understand and consider the issues raised by the proposed project, because the public will not know how likely the environmental analysis is to be correct, nor what actions will be taken, if any, if it is not.</p>	<p>Refer to 1688-#1 regarding the change in preferred alternative to Alternative 4A. The preferred alternative, 4A, does not include largescale habitat restoration. The restoration proposed is consistent with standard mitigation ratios applied for projects in the Delta. As with all Delta restoration projects, careful design and siting, combined with adaptive management, will help DWR and Reclamation properly implement the restoration mitigation. For information on the effectiveness on habitat restoration if an HCP option is selected see Master Response 5 (BDCP). For information on adequacy of mitigation measures see Master Response 22.</p>
1688	22	<p>Chapter 21 - Energy:</p> <p>The EIR/EIS is deficient because it does not analyze the impacts to energy based upon season or timing. The EIR/EIS's analyses impacts to energy resources based on the net energy used on a monthly or annual basis. (EIR/EIS, at 21-26.) This analysis fails to take into account the realities of California's energy grid, and patterns in the public's usage of energy. Energy usage peaks during particular times of year and during particular times of the day. The EIR/EIS should be modified to contain the impacts to energy resources during these peak periods. Without this analysis, the public cannot meaningfully understand and consider the issues raised by the proposed project.</p> <p>The EIR/EIS's analysis of impacts to energy resources is inadequate because it only considers impacts caused by additional energy consumption, and fails to consider impacts caused by changes in river flows and hydrogenation. The EIR/EIS only considers impacts to energy resources caused by additional pumping by the SWP and CVP. (Id., at 21-26.) There are many other factors affecting the production of energy resources. As recognized by the EIS/S, a great deal of energy in the State is generated via hydroelectric power. Hydroelectric plants depend on river flow and hydrogenation to operate. The BDCP will likely impact the stream flow and hydrogenation of the rivers, but it's not considered as a factor impacting energy resources in the EIS/S. Without this analysis the public cannot meaningfully understand and consider the issues raised by the proposed project, because the environmental analysis does not consider factors which could potentially have a substantial impact on energy resources.</p>	<p>The changes in runoff and reservoir operations caused by climate change are described in the setting; these changes may reduce the electrical energy generated at the SWP and CVP hydroelectric facilities. The monthly patterns of electrical generation and use are described with the monthly cumulate distribution tables in Chapter 21. The alternative Delta conveyance facilities will change the water exports and energy use, but they did not change reservoir operations substantially (see Chapter 5, Water Supply), and would not change the energy generation substantially. The major differences in electric energy use for each alternative were clearly described (Summary Table 21-9).</p>
1688	23	<p>Level of Environmental Analysis is inconsistent:</p> <p>The EIR/EIS provides a program level analysis of some impacts, and a project level analysis to others; this inconsistency obscures the true impacts of the project. The EIR/EIS must be amended to analyze all impacts at a project level.</p>	<p>For more information regarding project and program level analysis please see Master Response 3.</p>
1688	24	<p>Funding Disclosure and Analysis is Deficient:</p> <p>The EIR/EIS fails to provide any disclosure regarding how the BDCP project will be funded.</p>	<p>The funding strategy for BDCP is outlined in Chapter 8 of the 2013 BDCP, not the 2013 EIR/EIS. Please see Master Response 5 regarding the proposed project's funding strategy. The EIR/EIS is not required to describe or disclose the funding or financing of the proposed project. The schedule of implementation of each</p>

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		<p>It has been reported recently that the BDCP could be funded through property tax revenues without a public vote. (See http://www.mercurynews.com/science/ci_26198239/property-taxes-could-pay-25-billion-delta-tunnels.) The EIR/EIS must be amended to disclose and explain how each component of the BDCP will be funded. Included in this analysis, the EIR/EIS must disclose which parts of the project will be funded by the specific project proponent, the general schedule, the method of funding and which project components will be funded by bond or other public funding mechanisms.</p>	<p>component of BDCP is outlined at the beginning of Chapter 6 of the 2013 BDCP (not the EIR/EIS).</p> <p>Numerous comments were received that focused on various elements of the BDCP. 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.</p> <p>Refer to 1688-#1 regarding the change in preferred alternative to Alternative 4A.</p>
1690	1	<p>It is proposed that the Plan be implemented and managed through a process known as "adaptive management ". This process relies on the review of data and results, exploring new alternatives, predicting new outcomes, and implementing one or more of the alternatives and continuing this review as an iterative process. Many of the parties outside the project, including Bella Vista Water District, are skeptical of this approach because it does not appear to address the impact of unintended consequences well beyond the physical boundaries of the project. An example is the loss of "carriage water" that was to be presumably made available for other uses but has been lost to other areas by adaptive management.</p>	<p>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 (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 Public Draft EIR/EIS may be utilized by other programs for implementation of the long term conservation efforts.</p> <p>Please see also Master Response 5 for discussion of the BDCP effects analysis. Please see Master Response 33 for discussion of adaptive management and monitoring for the proposed project.</p>
1690	2	<p>The river flow modeling software uses reservoir Dead Pool [footnote 1: Dead Pool refers to water in a reservoir that cannot be drained by gravity through a dam's outlet works. Water that is in the Dead Pool cannot be considered part of the conservation pool.] level as the cutoff for its computations. Dead Pool at Lake Shasta is elevation 737.75 feet which is below the lowest freshwater intake for the City of Shasta Lake (750 elevation), Mountain Gate Community Services District (intake at elevation 916 feet), and Jones Valley County Service Area (intake at 802 feet). There is no discussion of the impacts of this probability in the plan for these agencies and the Redding region. There are other surface diverters immediately below Shasta Dam, including, but not necessarily limited to, Bella Vista Water District, the City of Redding , and the Anderson-Cottonwood Irrigation District that would be impacted by the dramatically reduced flows brought about by the reservoir drawdown needed to meet proposed bypass flow requirements. Clearly, there are domestic and irrigation water users that will be impacted at much higher upstream water elevations outside of the BDCP plan boundaries, and this needs to be factored into the analysis.</p>	<p>The No Action Alternative and all of the EIR/EIS alternatives include climate change and sea level rise assumptions. These changes would result in "dead pool" conditions in SWP and CVP reservoirs upstream of the Delta even without action alternatives. The "dead pool" conditions presented in the CALSIM II model results in the EIR/EIS are developed from calculated monthly average reservoir volumes. Because the model only calculates and reports SWP and CVP water operations at an average monthly basis, the model cannot simulate changes that occur on a weekly basis by water users and SWP and CVP operations. In addition, the model cannot make decisions that occur in real-time, such as drought operations during the ongoing drought. Instead the model includes average operating criteria for all dry periods, and does not reflect specific changes. The dead pool conditions occur in the No Action Alternative as compared to the Existing Conditions because the model includes changes in precipitation without making changes in water diversion patterns. The EIR/EIS analysis considers changes between the frequency of dead pool conditions under the alternatives and the No Action Alternative (both with the same climate change assumptions) to determine if the changes are adverse or beneficial. The results are presented in the tables with end-of-month storage for the SWP and CVP reservoirs in Appendix 5A, Section C, Modeling Results, in the Final EIR/EIS.</p> <p>Comparison of conditions under the action alternatives to conditions under the No Action Alternative indicate the changes associated with the action alternatives (without the effects of climate change, sea level rise, and population growth). As shown in Tables C-2-14 through C-2-25, Tables C-3-14 through C-3-25, and Tables C-4-14 through C-4-25 in Appendix 5A, Section C, Modeling Results, in the Final EIR/EIS, changes in end of September storage in Shasta Lake would be similar or higher storage in the 10 percent driest years (90th percentile) under the action alternatives as compared to the No Action Alternative without the effects of climate change, sea level rise, and population growth which would occur under the No Action Alternative with or without the proposed project implementation.</p> <p>Please also note that Appendix B of the RDEIR/SDEIS shows supplemental modeling results for the new</p>

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			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).
1690	3	The minimum Lake Shasta lake level at which water can be safely taken into the penstocks for electric generation is 840 feet. Below that level vortexing begins at the penstock intakes which can cause cavitation and damage the turbine runners. Loss of hydropower generation will have a significant financial impact on the CVP and the Western Area Power Administration (WAPA) customers that have Base Energy allocation. At "no- generation" operation at Shasta Dam, these entities will not only have to procure replacement power on the open market for their own use, they will have to pay for any supplemental energy needed for Project Use facilities such as pumps and the like. WAPA energy allocations provide that Project Use facilities have first priority for any CVP generation. If there is no generation or not sufficient generation to serve Project Use loads, Base Resource Customers must pay for the purchase of the replacement power as a condition of their contracts.	As described in the response to Comment 1690-2, the reduction in Shasta Lake elevations would occur under the No Action Alternative without implementation of the proposed project due to climate change, sea level rise, and population growth in the northern Delta watershed. Furthermore, as presented in RDEIR/SDEIS Appendix B 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) and; therefore would not be anticipated to effect hydropower generation
1690	4	Nearly half of Shasta County's population is dependent in one way or another on the United States Bureau of Reclamation (USBR) for water. The Bella Vista Water District is almost entirely dependent on USBR surface diversions and transfers. The Plan is silent to the issue of water rights and Area of Origin principles. It sets requirements for river flows to meet the environmental, ecological, and natural resource goals of the plan within the plan area, without regard to the upstream consequences. The Butte County Board of Supervisors have stated: "We appreciate the commitment that, "implementation of the BDCP will not result in any adverse effects on water rights of those in the watershed of the Delta, nor will it impose any obligations on water users upstream of the Delta to supplement flows in and through the Delta. These principles honor the importance of water rights and area of origin water rights to the northern Sacramento Valley region. Future circumstances and other considerations could undermine the commitment made to the region. We recommend the BDCP lead agencies develop an enforceable means to ensure that these principles will be honored by BDCP lead agencies. Additionally, BDCP lead agencies should aggressively promote these operational principles to other agencies that have authority over water rights including the state Water Resources Control Board. " We concur.	Senior water rights holders are not affected by implementation of BDCP action alternatives. The CALSIM II model assumptions provide the same deliveries to senior water rights holders under the No Action Alternative and Alternatives 1 through 9; although climate change, sea level rise, and population growth in the northern Delta watershed are anticipated to effect senior water rights holders (as shown in the comparison between the Existing Conditions and the No Action Alternative model runs). Deliveries of SWP and CVP water are summarized in Tables C-13-1 through C-13-25 in Appendix 5A, Section C, Modeling Results of the Final EIR/EIS. Please also see Master Response 26 for additional discussion of area of origin water rights.
1690	5	Agriculture, recreation, and tourism are significant economic drivers in Shasta County. The BDCP does little to assess the economic impact of the changes in river flow patterns and reservoir levels outside the plan area caused by changes imbedded in the plan. In a 1997 analysis, CH2M Hill determined that recreational opportunities afforded by Shasta Lake add \$45 to 50 Million to the local economy. With the loss of much forest and mining based industry, the value of recreation today is far greater, yet it apparently does not rise to a level of significance worth examination in the Plan.	As described in the response to Comment 1690-2, the reduction in Shasta Lake elevations would occur under the No Action Alternative without implementation of the proposed project due to climate change, sea level rise, and population growth in the northern Delta watershed. Furthermore, as presented in RDEIR/SDEIS Appendix B 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) and; therefore, would not be anticipated to effect recreational opportunities.
1690	6	The cumulative impacts of the BDCP and other projects, including the Shasta Lake Water Resources Investigation (enlargement of Shasta Dam and reservoir), other planned reservoir projects (Sites Reservoir, and Upper San Joaquin River Basin Storage), and the State Water Resources Control Board's proposed revised flow criteria for the Sacramento-San Joaquin Delta have not been adequately analyzed on the DEIR/DEIS. Few disagree regarding the importance of having a healthy and vibrant Bay Delta.	The Cumulative Impact Analyses that was 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. Please see Master Response 9 regarding the cumulative impact analysis and FEIR/EIS Appendix 3D for updates defining existing conditions, no action alternative, no project alternative and cumulative impact analysis for the proposed project.

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1691	1	<p>However, its return to health should not be at the expense of the north state.</p> <p>I oppose all alternatives in the BDCP that propose construction of new diversions and tunnels under the Delta, particularly the "Twin Tunnels", which are not mentioned by name, interestingly, but maybe I missed that in the 40K pages of documentation.</p> <p>Before I convey my objections, let me tell you my suggestion for a viable alternative:</p> <p>Desalinization.</p> <p>While most of the users of the Delta (and northern CA) water are the San Joaquin irrigators who are not on the Coast, I think it would be more viable to have Central Coast desal plants and build a pipeline or tunnels or whatever water conveyance that makes sense via or through the Coast Range. While building anywhere of course has environmental consequences, I think it would be less devastating there than to the fragile Delta, which has been suffering for decades. This State has already spent billions studying the water and environmental issues in the Delta; let us utilize what we have learned, or could or should have learned, from examining or re-examining the data that has already been collected and analyses that have already been done by projects/studies there, going back to those from the CalFED years and subsequent incarnations.</p>	<p>This comment letter is in part a form letter that has been submitted by many commenters. To locate the response to the form letter portion of the comment, please refer to the index of commenters in Chapter 4 of Volume II of the Final EIR/EIS, and cross reference the Form Master letter number shown there with the index of Form Masters also provided in Chapter 4 of Volume II of the Final EIR/EIS. The text below responds to the specific substantive portions of the comment letter that were submitted by the commenter.</p> <p>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/S.</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.</p> <p>DWR strived to use the best available science throughout the planning process, consistent with regulatory requirements. Public and agency comments on the public draft have led to further refinement of the proposed project, as evidenced in the RDEIR/SDEIS.</p>
1692	1	<p>El Dorado Irrigation District has vital interests at stake in this proceeding. In addition to very senior water rights associated with its upstream reservoirs and diversions in both river basins, EID relies heavily on Folsom Reservoir for multiple supplies. Specifically, at Folsom Reservoir EID has a water service contract for up to 7,550 acre-feet annually of Central Valley Project ("CVP") water supplies, a Warren Act contract to take up to 4,560 acre-feet annually of its own supplies, and water rights permit issued under state area-of-origin laws for 17,000 acre-feet annually. Also, EID expects to be the beneficiary in the near future of a subcontract for all or a portion of the El Dorado County Water Agency's pending 15,000 acre-foot water service contract for CVP water supplies. Like the North State Water Alliance ("NSWA"), EID is closely monitoring and assessing the BDCP's development and environmental analysis for their conformance to the core principles of regional self-reliance, the protection of senior and area-of-origin water rights, avoidance of redirected impacts upstream of the Delta, and promotion of the co-equal goals.</p> <p>Regrettably, we conclude that as currently formulated, the BDCP and Draft EIR/EIS either do not conform to these core principles, or fail to provide sufficient information by which to judge their conformance. EID calls on the BDCP's proponents and coordinating agencies to address the fundamental flaws and omissions in the documents, and to recirculate them for public comment, before proceeding further toward implementing this massive and enduring undertaking.</p> <p>EID adopts and incorporates by reference the concurrent and detailed comments of NSWA [BDCP 1597] and the American River Water Agencies ("ARWA") [BDCP 1511]. To avoid repetition, EID's comments in this letter focus on summarizing the NSWA and ARWA comments about issues that bear most directly upon EID's interests</p>	<p>Please note that the BDCP is no longer the preferred alternative. The preferred alternative is now Alternative 4A and 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>This comment letter addresses Alternative 4 (known also as the BDCP) or analysis contained within the draft BDCP Effects Analysis. Alternative 4 remains a viable alternative. However, a modified proposed project (Alternative 4A/California WaterFix) also is being considered. For detailed responses 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> <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 elements of Alternatives 2D, 4A, or 5A (e.g., CM1 as it comprises 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's and NEPA's requirements to analyze a reasonable range of alternatives to the proposed project (e.g., issues regarding the BDCP Effects Analysis of financial feasibility), response are presented generally in Master Response 5. Where comments submitted on 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>The water resources / water supply analysis of the project and alternatives in both the 2013 Draft EIR/EIS and the Recirculated Supplemental EIR/EIS use the CALSIM II model. The CALSIM II model delivers water to the American River CVP water users in accordance with senior water rights and CVP water contracts, including water deliveries of El Dorado County Water Agency, although engineering and environmental documents have not been completed to define the amount of water used by several agencies, including the</p>

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			<p>El Dorado Irrigation District.</p> <p>The proposed 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 under the No Action Alternative. The proposed 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, 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).</p> <p>Please see also responses to the other comment letters referenced: letter from NSWA (BDCP 1597) and letter from ARWA (BDCP 1511). All comments received during the 2013 and 2015 public comment period are included in the FEIR/EIS. Please refer to the table of commenters to locate the letter of interest.</p>
1692	2	<p>The operational and hydrologic modeling in the BDCP and Draft EIR/EIS are fundamentally flawed. Because this modeling serves as the cornerstone of the documents' analyses of surface water, socioeconomic, and in-Delta aquatic impacts these impact analyses are deficient under the California Environmental Quality Act ("CEQA") and the National Environmental Policy Act ("NEPA").</p> <p>As explained by both NSWA [BDCP 1597] and AWRA [BDCP 1511], the modeling does not employ the most current and correct methodologies. Nor does it realistically forecast future Folsom Reservoir operations, because (contrary to common sense and actual events in 2014) it assumes that CVP operations would not adapt to changing hydrological conditions. Projections of future water demands in the American River basin are inconsistent with both state-generated population projections and local water supply plans. Further, the in-Delta operations actually modeled differ from the narrative descriptions of those operations. These differences fail to meet CEQA's standard of an accurate, stable, and finite project description, which has long been understood to be the sine qua non of a legally adequate EIR. (See, e.g., County of Inyo v. City of Los Angeles (1977) 71 Cal.App.3d 185, 192.)</p>	<p>Please see also responses to the other comment letters referenced: letter from NSWA (BDCP 1597) and letter from ARWA (BDCP 1511). All comments received during the 2013 and 2015 public comment period are included in the FEIR/EIS. Please refer to the table of commenters to locate the letter of interest.</p> <p>Please see Master Response 30 for a discussion of the water resources / water supply modeling. The SWP and CVP operations prioritize meeting federal and state regulatory requirements and deliveries to senior water rights holders prior to deliveries of water to CVP and SWP water contractors. The modeling analyses presented in the Draft EIR/EIS include these prioritizations for long-term operation of the CVP and SWP without inclusion of changes that could be developed for specific extreme flood or drought events.</p> <p>The water demands for the American River water users are presented in Table 5A B.19 in Appendix 5A, Section B, CALSIM II and DSM2 Modeling Simulations and Assumptions. The water demands were compared to the water demands presented in urban water management plans submitted to DWR by 2005. The modeling approach for Delta operations are also presented in Appendix 5A, Section B.</p>
1692	3	<p>The virtually unbounded agency discretion and lack of defined performance standards in the BDCP's plan for adaptive management is an equally fundamental failure to provide an adequate project description or adequate impacts analysis. While adaptive management is a beneficial concept, the BDCP's and Draft EIR/EIS's over-reliance on future adaptations improperly "assumes away" reasonably foreseeable project impacts (see Laurel Heights Improvement Ass'n v. Regents of the University of California (1988) 47 Cal.3d 376, 396), and the failure to define adequately the "triggers," performance standards, and "bookends" of future adaptations improperly defers the formulation of feasible and effective mitigation measures for those impacts. (See CEQA Guidelines [Section] 15126.4(a)(1)(B); Endangered Habitats League v. County of Orange (2005) 131 Cal.App.4th 777, 793.)</p>	<p>As noted in response to comment 1692-1, Master Response 5 provides additional information in response to comments on the BDCP.</p> <p>Adaptive management is not a required element of the proposed project or the EIR/EIS. However, DWR and Reclamation are providing a description of the proposed Adaptive Management and Monitoring program to provide a more complete picture of the proposed action. Monitoring is expected to be a requirement of the California Fish and Game Code's Section 2081(b) incidental take permit. Adaptive management is a recommended component of any long-term mitigation program. DWR and Reclamation have included local agencies in the decision-making process through the extensive public outreach and involvement program of BDCP and California Water Fix. This has included numerous outreach meetings with local public agencies directly. DWR and Reclamation intend to continue this outreach to local agencies during the rest of the CEQA/NEPA process as well as during project implementation.</p> <p>The adaptive management and monitoring program will be further developed during project implementation. As part of this development, more specific and detailed goals and objectives may be developed that are based on the final requirements of the Biological Opinion, state 2081(b) incidental take permit, and other relevant permits and regulatory requirements. Because those requirements are not final, such goals and objectives are premature. DWR and Reclamation will be held accountable to the requirements of the Biological Opinion and state 2081(b) incidental take permit through the permit</p>

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			requirements and the enforcement authority of the U.S. Fish and Wildlife Service and National Marine Fisheries Service (through the Endangered Species Act) and the California Department of Fish and Wildlife (through the California Endangered Species Act).
1692	4	The failure to model BDCP operations both without climate change assumptions compounds the inadequacy of the project's impacts analysis (and therefore, its mitigation measures), because it makes it impossible to differentiate between impacts caused by the project, and impacts caused by climate change. (See <i>Neighbors for Smart Rail v. Metro Line Construction Authority</i> (2013) 57 Cal.4th 439, 456; <i>Environmental Planning and Information Council v. County of El Dorado</i> (1982) 131 Cal.App.3d 350.)	As noted in response to comment 1692-1, Master Response 5 provides additional information in response to comments on the BDCP. Please see Master Response 30 that discusses the modeling of project operations and also Master Response 19 that discusses climate change.
1692	5	The ill-defined decision-tree mechanism for determining Delta flows creates a mathematical multiplicity of potential project alternatives, yet the BDCP and Draft EIR/EIS confine their analysis to a fraction of those scenarios (focused on preferred Alternative 4), despite the acknowledgement that hybrid scenarios are also possible. This too-narrow focus stultifies and analysis of potential project impacts and again betrays that the project description is uncertain.	As noted in response to comment 1692-1, Master Response 5 provides additional information in response to comments on the BDCP. The preferred alternative, 4A, does not include a decision tree. Instead, it includes specific operating criteria that have been fully evaluated in the EIR/EIS. However, for additional information regarding decision tree, please see Master Response 44.
1692	6	El Dorado Irrigation District is greatly troubled by the prospect of redirected impacts, and particularly impacts on its senior, upstream, area-of-origin water rights. Tellingly, the Draft EIR/EIS does not even attempt to assess the BDCP's socioeconomic impacts outside of the statutory Delta. This voluntary donning of analytical blinders bodes ill for a plan that is supposed to avoid redirected impacts. Likewise, the BDCP and Draft EIR/EIS take a speculative and dismissive approach to project funding, notwithstanding the Endangered Species Act's requirement that there be assured funding sufficient to implement a habitat conservation plan. Both of these approaches suggest that, inevitably, upstream interests will be called upon to bear a share of the BDCP's burdens, in the form of CVP contract charges, water foregone, or both. Indeed, the BDCP states, at page 8-82, that "[t]he financial support of the state and federal contractors is essential in order to implement the plan," even though neither the United States Bureau of Reclamation, EID, nor many other federal contractors are parties to the draft Implementation Agreement. Further, the BDCP assumes that state funds earmarked for regional watershed projects will be redirected toward the BDCP. (See BDCP at p. 8-89.) EID participates in two Integrated Regional Water Management (IRWM) Plans; in neither does EID or any other member entity propose to dedicate any IRWM funds to implement the BDCP.	As noted in response to comment 1692-1, Master Response 5 provides additional information in response to comments on the BDCP. Master Response 5 discusses costs of implementation and funding for the project.
1692	7	By providing overreaching regulatory assurances to its water-purveyor participants, the BDCP inevitably ensures that non-participants like El Dorado Irrigation District will have to make up any shortfalls in, for example, environmental water flows, through subsequent water-right, endangered-species, and other regulatory processes after the BDCP is adopted and in place. In other words, the BDCP's proposed regulatory assurances under the Endangered Species Act clearly set the stage for the future usurping senior and area-of-origin water rights, because the junior, export water-right interests will have acquired immunity to further regulatory impacts.	As noted in response to comment 1692-1, Master Response 5 provides additional information in response to comments on the BDCP.
1692	8	El Dorado Irrigation District fully recognizes the need for a comprehensive, fair, and lasting solution to the myriad problems associated with the Delta. EID is committed to the co-equal goals. EID can and will support a program that advances those goals, and that supports regional self-reliance, protects senior and area-of-origin water rights, and	As noted in response to comment 1692-1, Master Response 5 provides additional information in response to comments on the BDCP. The proposed project would not affect upstream water rights. It aims to allow the federal and state water

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		<p>avoids redirecting impacts to third parties. As currently formulated, the BDCP and the Draft EIR/EIS are emphatically not that program. Even if the documents were not marred by numerous and fatal analytical flaws, they would not detail a program that EID could support. The remedy, therefore, is not simply to attempt to correct the technical flaws and maintain the current course. EID calls on the BDCP participants to step back, reconsider, redraft, and recirculate for public review a plan and environmental documentation that can earn the support of upstream, area-of-origin interests</p>	<p>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 refer to Master Response 32, which addresses water rights issues. With regards to Area of Origin, please see Master Response 26.</p>
1693	1	<p>The City of Ripon is writing in opposition to the Bay Delta Conservation Plan.</p> <p>The Bay Delta Conservation Plan (BDCP) states it is being developed as a 50-year habitat conservation plan with the goals of restoring the Sacramento-San Joaquin Delta ecosystem and securing California water supplies. The BDCP would secure California's water supply by building new water delivery infrastructure and operating the system to improve the ecological health of the Delta. The BDCP also would restore or protect approximately 150,000 acres of habitat to address the Delta's environmental challenges.</p>	<p>The commenter's opposition to the BDCP is noted. 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 (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 Public Draft EIR/EIS may be utilized by other programs for implementation of the long term conservation efforts.</p> <p>Please see also Master Response 5 for discussion of the BDCP effects analysis.</p>
1693	2	<p>After reviewing the BDCP website and materials, reports from other agencies, plus having discussion amongst our City Council, the City of Ripon feels the BDCP building high capacity tunnels to remove large amounts of fresh water from the Delta will have significant damaging impacts to our region.</p> <p>BDCP negatively impacts the economy in our region. The San Joaquin County Delta covers over 730,000 acres and is one of the most productive agricultural regions in the United States, with 80% of the Delta being prime farmland, compared to 20% for all of California. The Delta also has a large economic impact providing over 9,700 jobs and \$1.4 billion in economic output from the five surrounding counties. The recreation in the Delta generates over \$250 million in visitor spending yearly, with recreation and tourism supporting 3,000 jobs in the five Delta counties.</p>	<p>As noted in response to comment 1693-1, Alternative 4A is now the preferred alternative (proposed project). The proposed project aims 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 about the same to 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>Chapter 16 of the EIR/EIS and RDEIR/SDEIS Appendix A (Socioeconomics) identifies the unique features of the Delta and describes the potential effects on Delta communities. Impacts to agriculture are identified and discussed in Chapter 14 and associated appendices; the lead agencies 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 and Master Response 24 for information on the Delta As a Place.</p> <p>Under the proposed project, increased water delivery reliability could result in beneficial impacts on minority or low income communities. These beneficial impacts could occur in areas where a large proportion of economic activity is dependent on agricultural production and in which the agricultural labor force is primarily composed of minority or low income workers. Increased water delivery reliability to San Joaquin Valley and Tulare Basin would result in stabilization of employment opportunities. Because agricultural-related employment within the San Joaquin Valley and Tulare Basin is predominantly composed of low income and minority workers, the increase in reliability of water deliveries could result in a beneficial effect on these worker's employment and income levels. 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.</p>
1693	3	<p>After reviewing the BDCP website and materials, reports from other agencies, plus having</p>	<p>As noted in response to comment 1693-1, Alternative 4A is now the preferred alternative. The proposed</p>

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		<p>discussion amongst our City Council, the City of Ripon feels the BDCP building high capacity tunnels to remove large amounts of fresh water from the Delta will have significant damaging impacts to our region.</p> <p>BDCP diminishes water supplies in our region. The Delta water supply is not easily or cheaply replaced. The California Department of Water Resources estimate that roughly 24 percent of the California's economic activity is connected to the water supplied by the federal and state water projects in the Delta.</p>	<p>project was developed to meet the 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, the proposed project is designed to improve native fish migratory patterns and allow for greater operational flexibility. The project would stabilize water supplies, and exports could only increase under certain circumstances. Water deliveries from the federal and state water projects under a fully implemented project would 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. As identified in response to comment 1693-2, a Draft BDCP Statewide Economic Impact Report was published, which indicates that the BDCP would result in a substantial economic net benefit to the State of California.</p>
1693	4	<p>After reviewing the BDCP website and materials, reports from other agencies, plus having discussion amongst our City Council, the City of Ripon feels the BDCP building high capacity tunnels to remove large amounts of fresh water from the Delta will have significant damaging impacts to our region.</p> <p>BDCP will destroy the ecosystem and fisheries. The building of the twin tunnels will cause further decline of native Delta fish species towards extinction, increased water pollution in the Delta, and the loss of tens-of-thousands of acres of rich Delta farmland and wildlife habitat. Moving more water out, will not help replenish what is existing or protected.</p>	<p>Please see responses to comments 1693-1 through 1693-3. Furthermore, the proposed project does not increase the amount of water to which DWR holds water rights or for use as allowed under its contracts (refer to Master Response 26 and 32).</p> <p>Please see also Chapter 8 and associated appendices of the Final EIR/EIS and Master Response 14 for discussion of water quality. Regulatory water quality objectives (or guidance values) exist for these constituents for protection of agricultural water supply, municipal and industrial drinking water supply, and fish and wildlife beneficial uses. In addition to potential effects associated with the project and action alternatives, modeling results for the No Action Alternative indicate that, with or without the project, rising sea levels will bring saline tidal water further into the Delta than occurs at present. 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>
1693	5	<p>The BDCP has a vague plan for financing the project. The estimated price tag for the BDCP is nearly \$25 billion, but reports of hidden costs take that number to \$64 billion over a 50 year span. The federal government and taxpayers will be responsible for much of the BDCP's habitat restoration costs in the long run. There are less expensive and more effective ways than the twin tunnels and BDCP to address the legitimate water needs in the State of California without needlessly sacrificing the Delta and surrounding counties.</p>	<p>As noted in response to comment 1693-1, Alternative 4A is now the preferred alternative. Please refer to Master Response 5 regarding the BDCP effects analysis and financial feasibility. See also responses to comments 1693-1 through 1693-4.</p>
1694	1	<p>Banta-Carbona Irrigation District respectfully submits the following comments on the BDCP Draft documents. Banta-Carbona Irrigation District did not find any discussion in the document that seriously considered using control structures to minimize the waste of fresh water outflows in order to control salinity intrusion into the Delta. Banta-Carbona Irrigation District believes that the use of control structures in the Carquinez Strait could greatly expand the freshwater habitat for delta smelt into the Suisun Bay area and provide higher velocity fresh water outflows for migrating salmon at the appropriate times of day and year. By using control structures in the Carquinez Strait such as the Dutch Gates used in Holland or tidal gates, or some other such appropriate control structure, salt water from the bay can be blocked from entering the Delta. By using physical features to control salinity intrusion stored water already in reservoirs would be conserved not only in drought years but in all years. In addition, the freshwater habitat for delta smelt and salmon smolts would be greatly increased thus enhancing the preservation of both species if not allowing for increased populations for both species over time. By using tidal control structures in the Carquinez Strait a higher quality of fresh water would be mixed in San Pablo Bay thus expanding the area for delta smelt to use for the part of their life cycle where they prefer a more brinish solution to live in.</p> <p>Delta smelt and salmon smolt survival as well as salinity control in the Delta are three</p>	<p>Appendix 3A, Identification of Water Conveyance Alternatives, Conservation Measure 1, of the Final EIR/EIS, describes the range of conveyance alternatives considered in the development of the EIR/EIS. Appendix 3A explains why various alternative proposals were not analyzed in the EIR/EIS, including the NRDC Portfolio-Based Proposal, Congressman Garamendi's Water Plan, and other similar concepts that would require actions that are beyond the scope of the proposed project. For more information regarding alternatives to the proposed project please see Master Response 4.</p> <p>Salinity in the Delta is a function of the amount and timing of freshwater input from the major tributaries, tidal action from San Francisco Bay, and exports from the Delta. During the late winter and spring months of seasonally elevated flows, and in wet years, seawater intrusion is limited and the Delta has mostly low salinity. During low-flow summer and fall months, and during dry years, lower freshwater flows result in greater amounts of seawater intrusion. Staff from DWR and USBR constantly monitor Delta water quality conditions and adjust operations of the SWP and CVP in real time as necessary to meet water quality objectives set by the State Water Resource Control Board protection of agricultural water supply, municipal and industrial drinking water supply, and fish and wildlife beneficial uses.</p> <p>Effects of the alternatives on salinity levels are described in Chapter 8, Water Quality, and Appendix 8H, Electrical Conductivity, EIR/EIS of the Final EIR/EIS. Modeling results indicate that the implementation of the water conveyance facilities may positively or adversely affect in-Delta water quality, depending on a number</p>

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		<p>major issues that limit the ability of the pumps on the CVP and the State Water Project to operate in accordance to their respective water rights. These three issues currently require an excessive amount of fresh water to be released from storage and be wasted to the ocean. To manage these issues we believe that increased water delivery reliability can be attained for both Projects through the use of tidal control structures or some other engineered control structure in the Carquinez Strait. We believe that the above proposed alternative was not given appropriate attention or addressed at all in evaluating alternatives to increase delta smelt habitat, enhancing salmon smolt migration or for controlling salinity intrusion into the Delta. The tidal control structure alternative would provide a mechanism to imitate a more natural fresh water condition that existed before the 1920s in the Suisun Bay and San Pablo Bay.</p> <p>For the above reasons we believe that the current Draft BDCP documents are incomplete and should be expanded to include the above recommended alternative before a decision is made by lead agencies to select a preferred alternative.</p>	<p>of factors including location, time of year, and hydrologic conditions. See tables in Appendices 8E through 8N for specific results related to various water quality constituents (including bromide and chloride). See also Master Response 14 for additional discussion of water quality.</p> <p>In addition to potential effects associated with the project and alternatives, modeling results for the No Action Alternative indicate that, with or without the proposed project, rising sea levels will bring saline tidal water further into the Delta than occurs at present.</p>
1695	1	[ATT 1: List of e-signatures for petition to stop twin tunnels at https://takeaction.takepart.com]	<p>The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.</p> <p>This comment letter is in part a form letter that has been submitted by many commenters. To locate the response to the form letter portion of the comment, please refer to the index of commenters in Chapter 4 of Volume II of the Final EIR/EIS, and cross reference the Form Master letter number shown there with the index of Form Masters also provided in Chapter 4 of Volume II of the Final EIR/EIS. The text below responds to the specific substantive portions of the comment letter that were submitted by the commenter.</p>
1696	1	<p>California Waterfowl has reviewed the BDCP Plan and the Draft EIR/EIS. As proposed in the current drafts, the BDCP will have significant and unavoidable impacts on wetland and waterfowl resources in the Suisun Marsh, Delta, and Yolo Bypass. The BDCP would also have significant impacts on water quality in the Suisun Marsh. California Waterfowl cannot support a project that will destroy tens of thousands of acres of publicly and privately owned managed wetlands, which provide habitat for migratory waterfowl and other wetlands-dependent species, including many species covered by the BDCP. California Waterfowl will provide comments below that express our concern that the conversion of up to 23 percent of the managed wetlands in the Suisun Marsh to tidal wetland habitat will disadvantage waterfowl without providing greater benefit to species covered by the BDCP.</p>	<p>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> <p>Please see Master Response 5 for discussion of the BDCP effects analysis. Please see also Chapter 11, Fish and Aquatic Resources, and Chapter 12, Terrestrial Biological Resources, Final EIR/EIS, for description of the effects of the proposed project and several alternatives on fish and wildlife species in the Plan Area. Although Alternatives 4A, 2D, and 5A include only those habitat restoration measures needed to provide mitigation for specific regulatory compliance purposes, habitat restoration is still recognized as a critical component of the state's long-term plans for the Delta. Such larger endeavors, however, will likely be implemented over time under actions separate and apart from these alternatives. The primary parallel habitat restoration program is called California EcoRestore (EcoRestore), which will be overseen by the California Resources Agency and implemented under the California Water Action Plan.</p>
1696	2	Landowners and government agencies in the Yolo Bypass, Delta and in the Suisun Marsh have entered into long-term plans and agreements to achieve ecological goals that are	See response to comment 1696-1. Please also note that additional priority restoration projects will be identified through regional and locally-led planning processes likely facilitated by the Delta Conservancy.

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		<p>beneficial to migratory birds and other species of concern. These include the Central Valley Joint Venture Implementation Plan, federal and state funded and held conservation easements, the Suisun Marsh Plan, the Yolo Bypass Wildlife Area Land Management Plan, and plans relating to the Stone Lakes National Wildlife Refuge and the Cosumnes River Preserve. To the extent possible, BDCP habitat projects should further the goals and objectives of these plans and agreements or, at the very least, not conflict with them.</p>	<p>Plans will be completed for the Cache Slough, West Delta, Cosumnes, and South Delta. Planning for the Suisun Marsh region is already complete and a process for integrated planning in the Yolo Bypass is underway. The Delta Conservancy will lead the implementation of identified restoration projects, in collaboration with local governments and with a priority on using public lands in the Delta.</p>
1696	3	<p>California Waterfowl is primarily concerned with the effects of Conservation Measures 2, as they relate to managed wetlands. California Waterfowl recommends the following changes to this conservation measure.</p> <p>Conservation Measure 2</p> <p>Conservation Measure 2 -Yolo Bypass Fisheries Enhancement -calls for increasing the frequency and duration of flooding in the Yolo Bypass for fish habitat. BDCP Chapter 5- Effects Analysis - at Section 5.4.9.1.2, describes the effects of increased inundation on managed wetlands. Increased inundation, depending on timing, depth of flooding, and seasonality, can have adverse impacts on managed wetlands and food resources for wintering waterfowl.</p> <p>Conservation Measure 2 would include adding operable gates to the Fremont Weir that would allow water to be diverted from the Sacramento River at an elevation of 17.5 feet, rather than at the current elevation of 32.8 feet. This water could be diverted into the Yolo Bypass at rates of from 3,000 cubic feet per second (cfs) to 6,000 cfs. The operable gates would allow inundation of the Yolo Bypass at times and during years when there is not sufficient water in the Sacramento River for the river to naturally overtop the Fremont Weir and inundate the Bypass.</p> <p>According to Chapter 5, adverse impacts will range from flooding managed wetlands to depths that are incompatible with dabbling ducks to lessening the germination of seeds that provide feed for over- wintering ducks. California Waterfowl, the State of California, and local landowners have made significant investments in creating managed wetlands for the benefit of migratory waterfowl. California Waterfowl is concerned that not only will these investments be lost, but that waterfowl will suffer yet another diminution of their habitat, after having already lost 95 percent of the historical wetlands that they once enjoyed.</p>	<p>As described in response to comment 1696-1 the preferred alternative is now Alternative 4A which does not include an HCP. Please note that Alternative 4A does not propose any actions in the Yolo Bypass and thus none of the provisions of CM2 would be implemented. However, as also described in response to comment 1696-1, Alternative 4 remains a potentially viable because it represents the original 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>
1696	4	<p>California Waterfowl believes that managed wetlands can be compatible with improvements in habitat for fish and other covered species. The 57,000 acre Yolo Bypass is an example of a multi-benefit approach to water management. First and foremost, the Yolo Bypass is a flood protection structure for the Sacramento region. Yolo Bypass is also a significant agricultural area. Agriculture is beneficial for waterfowl, as well as other species. Yolo Bypass provides recreational opportunities, including waterfowl hunting. Managed wetlands on state and private lands in the Bypass provide important habitat for migrating waterfowl in the winter. Current water flows and channels provide habitat for fish, including BDCP covered species.</p> <p>Landowners and wetlands managers have adapted to the natural flooding that occurs in most years when the Sacramento River overtops the Fremont Weir or when tributary creeks on the west side of the Bypass empty their storm flows into the Bypass. Increased flooding for fish habitat could upset this adaptation and cause significant difficulties for</p>	<p>Please see responses to comments 1696-1 and 1696-3. As noted in response to comment 1696-3, Alternative 4A does not propose any actions in the Yolo Bypass and thus none of the provisions of CM2 would be implemented.</p>

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		<p>farmers trying to plant their crops and for wetlands managers trying to provide seasonal waterfowl habitat. Plant species that are valuable to waterfowl, such as watergrass and smartweed, could be adversely affected by increased flooding at the wrong times.</p> <p>Conservation Measure 2 could have broader support and lower cost if adverse effects that are identified in Chapter 5 are minimized. Use of the operable gates to increase inundation of the Yolo Bypass must be timed to avoid adverse effects on agriculture and migratory waterfowl, as well as to benefit the fish.</p>	
1696	5	<p>California Waterfowl recommends that Conservation Measure 2 include an adaptive management component that funds monitoring and research into the most minimally invasive means of using the operable gates at Fremont Weir to avoid impacts on agriculture and on waterfowl habitat, while providing the best possible habitat for fish, as well. If this monitoring and research includes cooperation with farmers, duck clubs, and other wetland managers, the multiple benefits already served by the Yolo Bypass could expand to provide fish habitat.</p>	<p>Please see responses to comments 1696-1 and 1696-3. As noted in response to comment 1696-3, Alternative 4A does not propose any actions in the Yolo Bypass and thus none of the provisions of CM2 would be implemented. Please refer to Master Response 33 for discussion of adaptive management and monitoring.</p>
1696	6	<p>Conservation Measure 3</p> <p>California Waterfowl generally supports the actions identified in Conservation Measure 3, particularly as they relate to managed wetlands. California Waterfowl has interests in Conservation Zones 1-5, 7, and 11. California Waterfowl owns managed wetlands in Conservation Zone 11 that could be considered for inclusion as components of the reserve system contemplated by Conservation Measure 3.</p> <p>These properties have been used as study areas by researchers from UC Davis and the studies are being used to develop a theory of reconciliation ecology. The UC Davis researchers have been studying the benefits that wetlands managed for waterfowl habitat can provide to fish species, including species covered by the BDCP.</p> <p>Conservation Measure 3 involves creating a natural communities preserve through acquisition of land in fee title and through conservation easements. The purpose of Conservation Measure 3 is to create linkages and connectivity among natural communities within and adjacent to the overall plan area, as well as protection and restoration of natural communities. This is generally consistent with California Waterfowl's mission of conserving waterfowl habitat and wetlands.</p> <p>California Waterfowl has considerable expertise and experience in the protection and restoration of natural communities. The organization should be a primary candidate to assist in carrying out the projects and programs associated with Conservation Measure 3.</p>	<p>Please see responses to comments 1696-1 and 1696-3. As described in response to comment 1696-1, the preferred alternative, Alternative 4A, does not include an HCP; however, Alternative 4 remains a potentially viable because it represents the original HCP/NCCP alternative approach. 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>
1696	7	<p>Conservation Measure 4</p> <p>The Suisun Marsh is identified in the BDCP as Conservation Zone 11. Managed wetlands in the Suisun Marsh, mainly private duck clubs and state wildlife areas, constitute approximately 50,000 acres. These properties are primarily managed for the benefit of migratory waterfowl, but provide benefits to other wetland-dependent species as well, including species covered by the BDCP. The Suisun Marsh comprises approximately 10 percent of the remaining wetland waterfowl habitat in California. New research currently being conducted by UC Davis (on property owned and managed by California Waterfowl) suggests that covered fish may also be benefitting from managed wetlands. The current value of managed wetlands to fish hasn't been fully evaluated or quantified, but it isn't</p>	<p>Please see responses to comments 1696-1 and 1696-3. As described in response to comment 1696-1, the preferred alternative, Alternative 4A, does not include an HCP; however, Alternative 4 remains a potentially viable because it represents the original HCP/NCCP alternative approach. 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>

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		<p>correct to assume that managed wetlands have no positive benefits to fish.</p> <p>The BDCP discusses managed wetlands in Section 3.3.6.9. The section correctly identifies managed wetlands as a natural community. The section identifies stressors to managed wetlands as invasive plants and aging floodgate structures. The main threat is identified as flooding from breaching of levees. However, Conservation Measure 4 proposes to restore 13,746 acres to tidal natural communities. To do so will require the flooding of thousands of acres of currently managed wetlands through the breaching of levees.</p> <p>In Chapter 5, Effects Analysis (BDCP Section 5.4.9), the conversion of these acres is identified as an adverse effect of the BDCP on managed wetlands. Migratory and resident breeding waterfowl, including ducks and geese, as well as other wetlands-dependent species, will suffer an absolute loss of habitat in these restored natural communities. Furthermore, the conversion of portions of the Suisun Marsh to tidal natural communities will have adverse impacts on the surrounding managed wetlands and associated uplands, through alterations to the physical infrastructure of water management levees and conveyance systems, and through degradation of water quality. Also, many of the existing tidal wetlands in Suisun Marsh have become completely invaded by non-native and noxious weeds that are now unmanageable.</p> <p>Tidal conversions will have local effects on the tidal prism. Increased tidal inundation will mute the total tidal stage, decreasing the height of high tides and increasing the height of low tides. This will decrease drainage capacity of neighboring lands which could increase soil salinity (and therefore decrease waterfowl food plant production) and/or increase pumping costs. This will likely be a larger problem once several projects have been implemented and begin to have multiple cumulative effects. Tidal conversion will have effects on neighboring properties and land-use types beyond the expected effects on converted lands.</p>	
1696	8	<p>Although they are not yet candidates for protected status under the state and federal endangered species acts, waterfowl populations have been affected by the loss of 95 percent of their wetland habitat in California. Remaining wetland habitats have been managed over the past hundred years or so, to provide optimum habitat conditions on the remaining wetlands to make up, as best as possible, for the loss of so much habitat. Waterfowl and their wetland habitat are protected by the Migratory Bird Treaty Act, the North American Waterfowl Management Plan, the Tripartite Agreement between Canada, the United States, and Mexico, and the North American Wetlands Conservation Act. The destruction of 13,746 acres of managed wetlands would violate the spirit, if not the letter, of these international obligations and existing conservation agreements and easements. For the BDCP to utilize the full benefits of managed wetlands, while restoring tidal wetlands in a way that does not threaten waterfowl habitat will require a system of cooperation with existing stakeholders in the Suisun Marsh and a rigorous system of adaptive management and mitigation.</p>	<p>Please see responses to comments 1696-1 and 1696-3. As described in response to comment 1696-1, the preferred alternative, Alternative 4A, only includes those habitat restoration measures needed to provide mitigation for specific regulatory compliance purposes does not include an HCP. Therefore, Alternative 4A would have less effect on managed wetlands, including those in Suisun Marsh and the Yolo Bypass. Please refer to Final EIR/EIS Chapter 12, Terrestrial Biological Resources for a discussion of managed wetlands and Impacts BIO -178 to BIO-183 for a discussion of effects on waterfowl and shorebirds. Please see Master Response 17 Biological Resources and Master Response 33 Adaptive Management for more information.</p>
1696	9	<p>California Waterfowl recommends that the covered parties under the BDCP continue to investigate and pursue a managed wetlands system that takes fish into account. UC Davis research indicates that the habitat needs of covered fish species and waterfowl are really not that different. A project of this nature and magnitude should not proceed in the absence of science, but instead should invest in new science to ensure that the effects of tidal marsh conversion will provide greater benefits to covered species than managed</p>	<p>Please see responses to comments 1696-1 and 1696-3. As described in response to comment 1696-1, the preferred alternative, Alternative 4A, only includes those habitat restoration measures needed to provide mitigation for specific regulatory compliance purposes does not include an HCP. The Lead Agencies strived to use the best available science throughout the effects analysis. 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</p>

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		<p>wetlands, before irreversible damage will be done to the existing waterfowl habitat.</p> <p>At this time, there is no research or published data that "proves" or otherwise supports the assumption that tidal restoration will be substantially beneficial to fish, salt-marsh harvest mouse, or any of the other BDCP covered species. UC Davis is currently conducting a study that is beginning to document that managed wetlands are or can be beneficial to BDCP covered species. Basically, there isn't enough data that accurately quantifies the value of tidal marsh restoration to fish in Suisun Marsh in relation to the value of managed wetland. There is no way to substantiate the assumption that tidal restoration will meet the biological goals of the BDCP. Additional research must be conducted before any major changes are made to the landscape.</p>	<p>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>
1696	10	<p>Managed wetlands in the Suisun Marsh can be, and are being, managed in ways that avoid the loss of habitat for waterfowl, while providing benefits to species covered by the BDCP. An array of stakeholders in the Suisun Marsh, including the U.S. Fish and Wildlife Service (FWS), National Marine Fisheries Service (NOAA Fisheries), U.S. Bureau of Reclamation (BOR), California Department of Fish and Wildlife (CDFW), California Department of Water Resources (DWR), Delta Stewardship Council (DSC) and the Suisun Resource Conservation District, adopted a Record of Decision on April 24, 2014, for a Suisun Marsh Management Plan. The Management Plan proposes a 30-year process that would include tidal restoration of from 5,000 to 7,000 acres and the enhancement of 40,000 acres of managed wetlands. The Management Plan is carefully balanced to protect private ownership and stewardship of the Suisun Marsh's wetland and wildlife resources.</p>	<p>The comment does not raise any issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS. Please see response to comment 1696-10.</p>
1696	11	<p>The California Waterfowl Association requests that Conservation Measure 4 be amended to include the following provisions:</p> <ol style="list-style-type: none"> 1. The conservation measure for restoration of tidal natural communities is conducted according to the Suisun Marsh Management Plan over the life of that plan. 2. The conservation measure is conducted in accordance with a rigorous adaptive management process that restores tidal natural communities only as needed under actual conditions, such as sea-level rise or levee failure, in order to meet biological objectives. 3. Under the adaptive management process, the use and enhancement of existing managed wetlands to achieve BDCP biological objectives shall be the preferred method over restoration of tidal natural communities in a way that reduces or damages waterfowl habitat. 4. The adaptive management process will include funding for research to develop and formalize a sound project model that minimizes habitat loss to waterfowl before any lands are restored to tidal flows. 5. The conservation measure include investments in improving infrastructure for managed wetlands, such as exterior levee improvements, management of invasive plants, replacement of aging floodgates, and provision of pumps to facilitate seasonal draining of managed wetlands. 6. The conservation measure must require protection of existing water quality (low 	<p>Please see responses to comments 1696-1 and 1696-3. As described in response to comment 1696-1, the preferred alternative, Alternative 4A, does not include an HCP; however, Alternative 4 remains a potentially viable because it represents the original HCP/NCCP alternative approach. 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>

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		<p>salinity) standards for continued management of managed wetlands.</p> <p>There is a potential for achieving the BDCP's biological objectives for its covered species, but it should not come at the expense of California's waterfowl and other wetland-dependent species. Conforming the restoration of tidal natural communities to the Suisun Marsh Management Plan will help to achieve the BDCP's biological objectives, without unduly disrupting this extremely important remnant of California's historic waterfowl habitat.</p>	
1697	1	<p>California Waterfowl Association has reviewed the BDCP Plan and the Draft EIS/EIR. As proposed in the current draft, the BDCP will have significant and unavoidable impacts on wetland and waterfowl resources in the Suisun Marsh, Delta, and Yolo Bypass. The BDCP would also have significant impacts on water quality in the Suisun Marsh. California Waterfowl cannot support a project that will destroy tens of thousands of acres of publicly and privately owned managed wetlands, which provide habitat for migratory waterfowl and other wetlands-dependent species, including many species covered by the BDCP.</p>	<p>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. Please see Master Response 4 for further discussion of alternatives and Master Response 5 for further discussion of the effects of the BDCP.</p> <p>Please see also Table 31-1 in Chapter 31 of the Final EIR/EIS, which was updated in the RDEIR/SDEIS. It lists the updates to the proposed project's (Alternative 4A) significant and unavoidable impacts, including updates to significant and unavoidable water quality and biological resource impacts.</p>
1697	2	<p>In Chapter 12 -Terrestrial Biological Resources -the EIS/EIR describes impacts of Alternative 4 and other alternatives on the managed wetlands natural community, but does not describe the impacts on migratory waterfowl. This is a significant omission, because migratory waterfowl are an important part of the natural communities that will be affected. Chapter 12 must describe impacts on migratory waterfowl, as described in the Chapter 5 - Effects Analysis - of the BDCP.</p>	<p>Chapter 12 of the Draft EIR/EIS describes effects on migratory waterfowl beginning at page 12-2559 for Alternative 4. Similar analyses are included in the chapter for Alternatives 1A, 1B, 1C and 9. The analysis includes effects on both nesting and wintering waterfowl and shorebirds.</p> <p>For impacts analyses on waterfowl for the new preferred alternative, 4A, please see Chapter 12 in the Final EIR/EIS.</p>
1697	3	<p>For a description and explanation of California Waterfowl's concerns with the BDCP plan and its effects on managed wetlands, please refer to California Waterfowl's comments on the draft BDCP, addressed to yourself and also dated July 29, 2014. Due to the concerns expressed in those comments, California Waterfowl would urge the adoption of Alternative 5 identified in the EIS/EIR, and will strongly oppose the adoption of Alternative 4 or any other option that would result in the loss of managed wetlands or other habitat for migratory waterfowl and other wetlands-dependent species.</p>	<p>As described in response to comment 1697-1, the preferred alternative (Alternative 4A) no longer includes an HCP; however, Alternative 4 remains a potentially viable alternative and is being carried forward in this RDEIR/SDEIS. 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>For more information regarding impacts to aquatic and terrestrial resources please see Chapters 11 and 12 and associated appendices of the Final EIR/EIS. Please refer to Master Response 4 for further discussion of alternatives.</p>
1697	4	<p>In the event that Alternative 4 or other options are selected that result in the loss of managed wetlands or other habitat for migratory waterfowl, the waterfowl will lose not just food resources, but also nesting cover and brood water for birds that remain and</p>	<p>The potential for loss of fresh water and cover for nesting waterfowl is addressed in the Draft EIR/EIS beginning on page 12-2563 for Alternative 4. The analysis recognizes the overall reduction in acres of managed wetland, but proposed managed wetland conservation and enhancement actions contained in the</p>

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		breed locally. Some species of ducks require fresh water for raising ducklings, which would be lost in a conversion of managed wetlands to tidal wetlands.	BDCP, along with proposed mitigation, are expected to avoid a significant adverse effect. For impacts analyses on waterfowl for the new preferred alternative, 4A, please see Chapter 12 in the FEIR/EIS. See also responses to comments 1697-1 and 1697-3.
1697	5	<p>Mitigation for adverse impacts to waterfowl habitat (including direct loss or degradation of managed wetlands, associated uplands/nesting habitat, and decreased corn production due to BDCP-related land conversion to non-waterfowl purposes) must include the following:</p> <ol style="list-style-type: none"> 1. Mitigation must be undertaken, to the extent possible, in the specific geographic areas in which the impacts occur; 2. Enhancement of remaining managed wetlands to increase waterfowl food production; 3. Restoration of upland habitats associated with managed wetlands to increase waterfowl nesting habitat; 4. Creation of waterfowl brood ponds; and for off-site mitigation measures, 5. Incentives to private landowners to maintain nesting cover on fallowed lands, particularly in rice-growing areas where ample waterfowl brood water is available during the late spring and summer. 	<p>BDCP Conservation Measure 11 and Draft EIR/EIS mitigation measures BIO-179a, BIO-179b and BIO-180 contain actions 1-4 listed in this comment to offset effects of converting cropland and managed wetland in the Plan Area. The mitigation measures for Alternative 4 are contained on Draft EIR/EIS pages 12-2563 and 12-2565. Conservation Measure 11 is described beginning on page 3.4-202 of the BDCP. BDCP Conservation Measure 3 provides for establishment of reserves through purchase of land or establishment of conservation easements with private landowners. This includes establishment of reserves in Suisun Marsh and other areas to maintain wintering and nesting habitat for waterfowl (see pages 3.4-72 and 3.4-80 of the BDCP).</p> <p>For impacts analyses on waterfowl for the new preferred alternative, 4A, please see Chapter 12 in the FEIR/EIS. See also responses to comments 1697-1 and 1697-3.</p>
1698	1	<p>It had been hoped that in my lifetime there would be positive change contributing to the restoration of the Delta, its tributaries, its fisheries, and its people - a legacy for my grandchildren. Instead, conditions have worsened and there is now a proposed 50 year incidental take permit - a 50 year "get out of jail free card" - for the DWR, the USBR, and their contractors.</p> <p>The BDCP appears as yet another smoke-screen to continue excessive diversions.</p> <p>Rather than improve conditions, the inexorable path of the BDCP is to build a new diversion facility with twin tunnels with yet more assurances to remain unfulfilled.</p> <p>Under the proposed BDCP, there is now little likelihood that my grandchildren will have any better legacy for their grandchildren, than do I.</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. However, a modified proposed project (Alternative 4A/California WaterFix) also is being considered. For detailed responses 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> <p>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 project is designed to establish a more natural east-west flow for migratory fish, improve habitat conditions, and allow for greater operational flexibility. The proposed project 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 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 proposed project's facilities, including water intakes and pumping plants, would be operated in accordance with permits issued by, U.S. Fish and Wildlife Service, National Marine Fisheries Service, State Department of Fish and Wildlife, and the State Water Resources Control Board, among other agencies. The proposed project 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>

DEIRS Ltr#	Cmt#	Comment	Response
1699	1	<p>San Diego County's \$191 billion economy and 3.1 million people depend upon the San Diego County Water Authority for approximately 75 percent of all water used in the region. Water is crucial for businesses that operate in the San Diego area as it is a key resource in sectors such as biofuel, biotech, and process manufacturing.</p> <p>While CONNECT cannot comment on specifics of the draft environmental impact report, we do support the Water Authority's position that any solution to Delta conflicts must be: right- sized; cost-effective; that the costs be shared equitably among beneficiaries of the improvements; and that beneficiaries be required to make firm commitments to pay their share of constructing and maintaining improvements to the Delta.</p> <p>Additionally, given that San Diego regional ratepayers may be asked to pay the second largest share of the costs in the state, we also strongly support the Water Authority's request to participate directly in the BDCP cost allocation discussions and negotiations process.</p>	<p>The commenter does not raise an issue on the adequacy of the EIR/EIS or related analyses. However, DWR and Reclamation will need to work with their participating water contractors, including MWD, to develop such cost allocations and agreements regarding funding responsibility.</p> <p>Please see Master Response 5 regarding funding for the proposed project.</p>
1699	2	<p>The draft BDCP EIR/EIS consideration and its preferred alternative is, and always has been, an empty charade making a complete mockery of both CEQA and NEPA. The entire process has never been about saving the Delta and the "fix" has always been in for the twin tunnels and the restoration of excessive exports. Submitted herewith are the following.</p>	<p>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.</p>
1699	3	<p>The attachments to this letter show that improper, predecisional commitments to the new diversion, twin tunnel facility of Conservation Measure 1 ("CMI ") have been made. Accordingly, I urge you to stand up for something, as did U.S. Fish and Wildlife Service's Felix Smith at the Kesterson National Wildlife Refuge, when he reported the selenium poisoning of birds from agricultural drainage. Do your duty and reject the draft EIS/EIR for its numerous deficiencies as pointed out by other commenters, deny approval of any take permits, deny HCP status, and begin anew with a genuine effort to restore the Delta and its many species. The Delta and its many species and residents deserve as much.</p>	<p>The commenter provides their opinion on constructing the water conveyance facilities and does not provide a specific comment about the content of the EIR/EIS.</p> <p>Please note that the BDCP is no longer the preferred alternative. The preferred alternative is now Alternative 4A and 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>
1699	4	<p>Att 1: High Country News Tunneling under California's Bay Delta water wars</p>	<p>The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.</p>
1699	5	<p>Att 2: Letter from 38 interest groups including but no limited to Environmental Water Caucus, Sierra Club California, and California Sportfishing Protection Alliance</p>	<p>The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.</p>
1699	6	<p>Att 3: Sacramento Bee Article: Meral retires but Delta plan endures</p>	<p>The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.</p>
1699	7	<p>Att 4: Memorandum Establishment of the DWR BDCP Office and the Delta Habitat Conservation and Conveyance Program Design and Construction Enterprise</p>	<p>The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.</p>
1699	8	<p>Att 5: Letter from Kern County Water Agency Board President Terry Rogers regarding the Agency's participation in the BDCP process</p>	<p>The comment describes an attachment to the comment letter. The attachment does not raise any additional issues related to the environmental analysis in the 2015 RDEIR/SDEIS or the 2013 DEIR/EIS that are not already addressed in the comment referencing the attachment or the Final EIR/EIS.</p>

